

Harsukhram S/O Shri Pema Ram vs State Of Rajasthan Through The ... on 14 May, 2026

Item No.07

BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL
THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

Original Application No.77/2025(CZ)

Harsukhram & Ors.

Applicant(s)

Vs.

State of Rajasthan & Ors.

Respondent(s)

Date of Hearing: 14.05.2026

CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. A SENTHIL VEL, EXPERT MEMBER

For Applicant(s):

Mr. Himanshu Chaudhary, Adv.

For Respondent(s) :

Mr. Rohit Sharma, Adv. for State of Rajasthan
& RSPCB

ORDER

1. By means of filing this application, the Petitioners/Applicants have prayed the following reliefs:-

"i. Constittue a Committee comprising of members from MOEF&CC, CPCB and Rajasthan SEIAA to file a comprehensive Report on the issues raised in the Present Original Application ii. Quash and set aside the District Survey Report (DSR) 2022-23 for Nagaur District, Rajasthan for being in violation of the 2020 guidelines of MoEF&CC and the judgment of the Hon'ble Supreme Court in Civil Appeal Nos. 3661-3662 of 2020; and iii. The NIT dated 01.07.2024 whereby the Department of Mines & Geology, Government of Rajasthan invited applications for the auction of mining leases in the State of Rajasthan with its subsequent effects which includes allotment/grant of mining leases, including and not limited to plot no. 5 of village Jhintia Suriyas, Tehsil Riyan Bari, along with other leases in District Nagaur which has been initiated on the basis of a faulty District Survey Report of 2022-23 which is not in consonance with the guidelines issued by the MOEF&CC and O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

judgments pronounced by the Hon'ble Supreme Court, be kept in abeyance till the time the issue involved in the present Original Application is adjudicated;

iv. Restrict any further grant/execution of mining lease taken place in furtherance of mining activity or e-auction in Nagaur District based on the impugned DSR until a fresh DSR is duly prepared and approved; and v. Direct the State of Rajasthan to reinstate the process of DSR preparation in accordance with the 2020 guidelines, including constitution of a Sub-Divisional Committee, site-specific visits, public consultation and scientific data analysis etc.;

vi. Direct the Respondent authorities to immediately refrain from granting Environmental Clearance or commencing any mining activity in the subject area, considering its extreme environmental sensitivity; and/or vii. Impose environmental compensation or penalty on erring officials/agencies responsible for the non-compliance with statutory guidelines;

viii. Restitution of the environment degraded due to wrong implementation of DSR 2022-23;

ix. Any other relief which the Hon'ble Tribunal may deem fit and appropriate in the interest of justice, equity and good conscience may also be passed in favour of the humble Petitioners."

2. Notices were issued to the Respondents to submit the reply. Replies have been filed.

3. Heard the learned Counsel for the parties and perused the records.

4. Submissions of the learned Counsel for the Applicants are that District Survey Report (DSR) 2022-23 for Nagaur District was prepared in complete violation of the directives and guidelines given below:-

"a. No Sub-Divisional Committee was constituted or documented to have conducted mandatory site visits as prescribed.

O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

b. There is verbatim reproduction of general recommendations and conclusions from the earlier DSR 2017-18 in the DSR 2022-23, which demonstrates non-application of mind and lack of scientific reassessment of environmental conditions over a five-year period.

c. No public consultation process appears to have been followed, as required under the guidelines, including publication of DSR for public comments for at least one month.

d. The DSR lacks proper site-specific data and scientific analysis. It appears to have been drafted in a templated and superficial manner, which undermines the core objective of identifying environmentally sustainable mining areas."

5. It is argued that the Petitioners/Applicants is challenging the veracity of District Survey Report (DSR) followed by the NIT dated 01.07.2024 whereby the Department of Mines and Geology, Government of Rajasthan invited applications for the auction of mining leases in the State of Rajasthan which has been initiated on the basis of a faulty District Survey Report of 2022-23 which is not in consonance with the guidelines issued by the MOEF&CC and judgments pronounced by the Hon'ble Supreme Court. The Applicant came to know about per se errant process from the issuance of LOI for mining plot no. 5 of village Jhintia Suriyas, District Nagaur measuring 77.80 hectare having capacity of 150744.96 metric ton on a yearly basis because the plot no.

5 falls within the vicinity of the Petitioner's villages and that too process of Environmental Clearance (EC) took place. After completion of auction process, by virtue of the order dated 25.09.2024, the mining plan of plot no.5 was approved in favour of the LOI holder i.e. Mr. Naman Choudhary S/o Shri Ramesh Choudhary.

6. It is further submitted that in the present matter the Petitioners/Applicants came to know about issuance/grant of mining lease for plot no.5 from the publication of Aam Suchna regarding O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

issuance of EC for the mining plot bearing no. 5 of village Jhintia (Khasra No. 739, 765, 868, 837) Suriyas (Khasra No. 510, 511 & 512).

After knowing about the proposed mining lease, the villagers submitted their written objections to the District Collector. That subsequently, on 27.03.2025, a public hearing was conducted for the purpose of environmental clearance for the said project, during which all the points were reiterated by the villagers. In addition to the above stated objections, further it was also objected that, in the proposed area of plot no.5 in 2013 around 10,000 trees were planted by the Forest Department and handed over to local panchayat and if mining gets done in this area it would affect the plantation along with flora and fauna of the local area and the same gets removed it would adversely affect the ecological system of this area. It was further highlighted that, extensive afforestation efforts have been undertaken in the area, which would also suffer due to the proposed mining operations. Notably, after a gap of 44 years, the river had once again seen a regular flow of water during the rain, leading to the much needed recharge of tubewells and wells essential for the livelihood of the residents. Despite these serious concerns, no effective action was taken by the authorities. Additionally, every local region contains its flora and fauna and accordingly the State of Rajasthan has its own wildlife which includes desert foxes, monitored lizards, caracal, sandgrouse birds etc. in the meantime, the Petitioners obtained District Survey Report (DSR) of District Nagaur for 2022-23 from the office of Mining Engineer, Nagaur by preferring RTI application.

A bare reading of the report makes it clear that, same is contrary to the guidelines of MOEF&CC and after that local persons/petitioners came to know with regard to adverse effect of the environmental

conditions of the mining and obtained certain information through RTI and came to O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

know that the mining may disturb the natural landscape and disproportionately adverse and irreparable impact on the local environment, thus, the present case.

7. It is further argued that through the notification dated 25.07.2018 by exercising the powers conferred under sub-section (1) and clause (v) of sub-section (2) of Section 3 of the Environment (Protection) Act, 1986 (29 of 1986), read with sub-rule (4) of rule 5 of the Environment (Protection) Rules, 1986. Through this, the Central Government made further amendments to the notification of the Government of India in the erstwhile Ministry of Environment and Forests vide number S.O. 1533(E), dated 14 September 2006. Clause 1 of the amended notification titled "PROCEDURE FOR PREPARATION OF DISTRICT SURVEY REPORT FOR SAND MINING OR RIVERBED MINING" specifies that a Sub-Divisional Committee shall be constituted comprising: The Sub-Divisional Magistrate, officers from (a) the Irrigation Department,

(b) the State Pollution Control Board or Committee, (c) the Forest Department, and (d) the Geology or Mining Department and further that the enforcement and monitoring guidelines for sand mining categorically assert the importance of the District Survey Reports (DSR).

It states that the preparation of the DSR is imperative in curbing the unplanned grant of the mining leases. The preparation of DSR includes multiple norms that have to be followed. The guidelines emphasize detailed procedure to be followed for the purpose of identification of areas of aggradation/deposition where mining can be allowed and identification of areas of erosion and proximity to infrastructural structures and installation where mining should be prohibited.

Calculation of annual rate of replenishment, allowing time for replenishment after mining, identification of ways of scientific and O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

systematic mining; identifying measures for protection of environment and ecology and determining measures for protection of bank erosion.

8. It is also argued that the NIT issued based on the report of 2022-23 would be per se illegal.

9. In response to the above contentions, learned Counsel for the Respondents has submitted that the application is time barred secondly, in place of filing the appeal against the DSR or the Environmental Clearance, the Applicant has filed this application at a belated stage with ulterior motives and thirdly, any decision taken on the point of DSR of the year 2022-23 may adversely and automatically cancel the mining lease, auction proceedings, allotment, grant of mining and Environmental Clearance with Consent conditions. The present DSR which was approved by the competent authority on 21.09.2023 contains more than 16 districts including the present District of Nagaur and if the said order dated 21.09.2023 is taken into account and any adverse order has been passed, thus, in that condition it may adversely affect the right, title and interest of all the persons of

16 districts of State of Rajasthan. This application contains indirectly the following reliefs:-

- (i) Cancellation of DSR,
- (ii) Cancellation of Mining Lease of all the Districts of Rajasthan,
- (iii) Cancellation of Grant of Mining,
- (iv) Cancellation of Environmental Clearance,
- (v) Cancellation of NIT, and
- (vi) Cancellation of Consent Conditions,

10. It is further submitted that the appropriate relief available to the Applicants is to file an appeal against specific order.

11. Learned Counsel for the SEIAA, Rajasthan, has argued that the State Environment Impact Assessment Authority (SEIAA) is a statutory O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

authority constituted Environment, Forest Government of & the by Ministry of Climate Change (MOEF&CC), India, under the Environment Protection Act, 1986 read with the Environment Impact Assessment (EIA) Notification, 2006. The SEIAA is mandated to and appraise grant Environmental Clearance (EC) for projects falling under its purview at the State level. It is further submitted that EC is invariably granted only after due consideration of the applicable provisions and guidelines under the EIA Notification, 2006. To ensure that environmental safeguards are duly incorporated while carrying out river sand mining, the MOEF&CC has issued Notification dated 15.01.2016, duly substituted by Notification dated 25.07.2018, along with mandatory guidelines namely the Sustainable Sand Mining Management Guidelines, 2016 (SSMMG, 2016) and the Enforcement & Monitoring Guidelines for Sand Mining, 2020 (EMGSM, 2020). The SEIAA considered the District Survey Report (DSR) for District Nagaur (Prepared and submitted by the Department of Mines and Geology, Rajasthan) after appraisal by the State Level Expert Appraisal Committee (SEAC). During its meeting held on 10.08.2023, the SEAC observed that the DSR submitted was not in consonance with the guidelines stipulated by the MoEF&CC vide Notifications dated 15.01.2016 and 25.07.2018. Accordingly, queries were raised with the Additional Director, Department of Mines and Geology, Government of Rajasthan (GoR), vide letter dated 11.08.2023, a DSR as seeking revised procedure. The submitted Mining Department thereafter submitted compliance with the queries and incorporated the necessary changes in the DSRS, which were re-examined by SEAC-1 in its meeting held on 05.09.2023. The SEAC has forwarded the DSRS to SEIAA for their consideration on dated 06.09.2023.

O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

Subsequently, SEIAA in its meeting held on 12.09.2023 deliberated upon the recommendations of SEAC in respect of the DSR prepared by the Mining Department for consideration mining for 16 districts of Rajasthan. For this purpose, Authority co-opted the Additional Director (Jaipur Region), Department of Mines and Geology, GOR, designated the Nodal Officer for Bajri/Sand mining matters, including all legal and regulatory issues pertaining thereto, as an expert member. The minutes of meeting issued on dated 13.09.2023.

12. Thereafter, SEIAA, in accordance with the provisions of the OMS dated 15.01.2016 and 25.07.2018 issued by MoEF&CC, after detailed deliberations, took final view in its meeting dated 18.09.2023 and approved the DSR for District Nagaur. The said DSR was formally approved by SEIAA vide letter dated 21.09.2023. It is submitted that every DSR approved by SEIAA is comprehensive and conditional. The conditions are designed to ensure sustainability and compliance with environmental safeguards. The DSRs have been approved subject to the following conditions:-

"I. The Mining Department shall ensure compliance with all the directions of the Hon'ble Courts and the guidelines of the Sustainable Sand Mining Management Guidelines, 2016 and the Enforcement & Monitoring Guidelines for Sand Mining, 2020 (EMGSM, 2020) before the auction/e-auction/grant of Mining Lease/Letter of Intent.

II. As per MoEF&CC Notification dated 25.07.2018, all DSRs shall be updated once in every five years.

III. All environmental concerns shall be duly addressed, and no damage shall be caused to the environment."

13. It is further submitted that the SEIAA is a statutory authority constituted by the Ministry of Environment, Forest & Climate Change (MoEF&CC), Government of India, under the Environment (Protection) O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

Act, 1986, read with the E□□Notification, 2006. The SEIAA is mandated to appraise and grant Environmental Clearance (EC) for projects falling under its purview at the State level. It is further submitted that EC is invariably of the granted only after due consideration applicable provisions and guidelines of the EIA Notification, 2006, including mandatory verification of Lease documents, Approved District Survey Report (DSR), Approved Mining Plan by the Mining Engineer, Aravalli Certificate issued by the Mining Engineer, Assessment Detailed Environment Impact (EIA) Report, certificate from the concerned officers of the Forest Department, Environment Management Plan (EMP), and other requisite documents. In the present case, SEIAA considered the proposal for grant of EC to Shri Naman Choudhary S/o Shri Ramesh Choudhary on the basis of the aforesaid submissions. Accordingly, EC was granted on 19.06.2025, subject to strict compliance with the terms and conditions stipulated therein. It is imperative to clarify that the role of SEIAA is limited to appraisal and grant of EC along with the stipulation of enforceable conditions. Once an EC has been granted, the responsibility of implementation, compliance monitoring, and enforcement shifts to the

concerned and competent regulatory agencies.

14. The matter of appraisal of the District Survey Report of riverbed sand mining was placed before the State Level Expert Appraisal Committee on 11.08.2023 and certain information was sought. Vide order dated 06.09.2023, the recommendation of 16 DSRs were approved by the SEAC and were sent and submitted to the SEIAA for further necessary action. The details of the meeting are enumerated below:-

"SEIAA forwarded the 13 DSRs to SEAC-1 for examination and submission of recommendations after consideration of the recommendations of SEAC-2 as per the decision taken in SEIAA meeting dated 27.07.2023. The Committee (State Level Expert O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

Appraisal Committee 1) examined the District Survey Report (DSR) for Sand or River Bed Mining of 13 districts and additional 03 districts in its 5A.81th meeting held on 10th Aug 2023. Shri B S Sodha, Nodal Officer for Sand Mining and Additional Director (Jaipur Region), Department of Mines and Geology, Government of Rajasthan, Jaipur participated from the Department of Mines and Geology for the examination of District Survey Report (DSR) in the meeting.

After deliberations held during the meeting dated 10.08.2023, SEAC- 1 asked Additional Director (Jaipur Region), Department of Mines and Geology, Government of Rajasthan to submit clarifications cited during meeting along with revised DSRs accordingly vide letter dated 11.08.2023. ADM, Department of Mines and Geology submitted the reply and revised DSRs to SEAC-1 vide letter dated 16.08.2023 received on 18.08.2023.

All the revised documents and DSRs enclosed with reply have been scrutinized at office level and found in order as per the observations of the committee.

The SEAC-1 examined the reply and revised DSRs of 16 districts in its meeting held on 05.09.2023. Shri B S Sodha, Nodal officer for sand mining & ADM Department of Mines and Geology, Government of Rajasthan, Jaipur participated as an expert from the Department of Mines and Geology for the Examination of District Survey Report (DSR).

After detailed deliberation, the Committee resolved that revised DSRs for Sand or River Bed Mining for all the 16 districts (13 districts namely Rajsamand, Tonk, Barmer, Ajmer, Jodhpur, Baran, Jhalawar, Chittorgarh, Alwar, Pali, Jalore, Sawaimadhopur, Jhunjhunu and 3 districts namely Banswara, Bundi, Nagaur) are recommended for approval with certain conditions. The minutes of the meeting approved by the committee, along with revised DSRs is being submitted to SEIAA for further necessary action."

15. The members who attended the proceedings has also been filed and the proposal of the DSR was considered by the SEAC according to rules. On 13.09.2023 a meeting was held with the Chairman of the SEIAA and matter was deliberated upon the recommendations sent by the SEAC-I O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

in respect of District Survey Report prepared by the Mining Department for sand or riverbed mining for 16 districts including District of Nagaur.

It was discussed that based on the appraisal done by the SEAC-I in its comprehensive recommendation, recommendation has been sent to approve the DSR for 16 districts. The relevant parts of the approval of the DSR by the SEIAA is quoted below:-

"A meeting was held in the chamber of Chairman SEIAA, Rajasthan under the Chairmanship of Sh. Rajeeva Swarup, (IAS Retd.), on 18.09.2023 to deliberate upon the recommendations sent by SEAC-I and SEAC-II in respect of the District Survey Reports (DSRs) for Sand or River Bed mining for 16 districts of Rajasthan namely, Rajsamand, Tonk, Barmer, Ajmer, Jodhpur, Baran, Jhalawar, Chittorgarh, Alwar, Pali, Jalore, Sawai Madhopur, Jhunjhunu, Banswara, Bundi and Nagaur prepared by the Mining Department. The SEIAA Rajasthan had co-opted Sh. B.S. Sodha, Additional Director (Jaipur Region), Department of Mines and Geology, Government of Rajasthan, and who has been designated as the Nodal Officer for Bajri/Sand mining related matters, all legal and regulatory issues pertaining to the same, in the State by the Mining Department, as an expert member.

The Mining Department had sent the DSRs of these 16 districts namely Rajsamand, Tonk, Barmer, Ajmer, Jodhpur, Baran, Jhalawar, Chittorgarh, Alwar, Pali, Jalore, Sawai Madhopur, Jhunjhunu, Banswara, Bundi and Nagaur to the Authority for approval in the last few months. All the DSRs were sent to SEAC I and II, for appraisal and each of these DSRs have been examined by both SEACs.

SEAC-I has found them to be compliant with the provisions of Ministry of Environment, Forest and Climate Change Notification dated 15/01/2016 and 25/07/2018, the Sustainable Sand Mining Management Guidelines, 2016 and Enforcement & Monitoring Guidelines for Sand Mining, 2020 (EMGSM-2020) and the DSRs for Sand or River Bed Mining for all the above 16 districts are recommended for approval with following conditions:

1. Mining Department will ensure compliance of all the directions of the Hon'ble Courts and Guidelines of Sustainable Sand Mining O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

Management Guidelines, 2016 and Enforcement & Monitoring Guidelines for Sand Mining, 2020 (EMGSM-2020) before the auction/e-auction/grant of mining lease/ Letter of intent (LOI). -

2. As per MoEF & CC Notification dated 25.07.018, all DSRs shall be updated once in five years.
3. All environmental concerns shall be taken care of and no damage is caused to the environment.

SEAC-II has appraised the revised/updated DSRs and suggested that: -

- a. DSR of Tonk district is in conformity with notifications and guidelines issued by the MoEF&CC.
- b. DSRS of remaining 15 districts are by and large is in conformity with notifications and guidelines issued by the Ministry. Catchment Yield/ Estimation of bed load transport computed using different standard empirical formulas (e.g. Strange's Monsoon runoff curves for runoff coefficient/Ackers and White Equation/Arc SWAT or similar) relevant to the geographical and river attribute to estimate the volume of the replenished material along with the particle size distribution and bulk density of the deposited material to estimate the weight of replenished material (section 5.2 Methodology for Replenishment Study of The Enforcement & Monitoring Guidelines for Sand Mining- 2020) is required to be incorporated in these DSRS for proper assessment of extractable sand resources.

In view of the recommendations of SEAC I and II, the District Survey Reports for Sand or River Bed Mining of these 16 districts of Rajasthan namely, Rajsamand, Tonk, Barmer, Ajmer, Jodhpur, Baran, Jhalawar, Chittorgarh, Alwar, Pali, Jalore, Sawai Madhopur, Jhunjhunu, Banswara, Bundi and Nagaur are approved subject to the following conditions: -

.....X.....X.....X.....X....." "

16. Vide order dated 21st September, 2023, the SEIAA communicated the Director of Mines for approval of DSRs of 15 districts including Nagaur.

17. After that the Project Proponent applied for the Environmental Clearance and the SEIAA vide order dated 19.06.2025 considered the report submitted by the SEAC, Rajasthan, and approved the O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

Environmental Clearance which was communicated to the Project Proponent.

18. Submissions of the learned Counsel for the Mining Department, District-Nagaur, Rajasthan, are that vide letter No. 799-807 dated 24.06.2022 from the Directorate, Department of Mines and Geology, Udaipur, directions were issued to prepare District Survey Reports for districts in accordance with the Enforcement Monitoring Guidelines for Sand Mining 2020 issued by the Government of India. In pursuance thereof, order No. 1458 dated 01.07.2022 and order No. 1569 dated 23.09.2022 were issued from this office regarding preparation of District Survey Report through Consultants accredited by NABET/NABL, and a committee was constituted for approval of

quotation rates, and quotations were invited. In response, out of quotations from 3 Consultants (accredited by NABET/NABL), the lowest quotation was submitted by M/s N.K. Enkayrons Service Pvt. Ltd. Thereafter, the District Survey Report was prepared by M/s N.K. Enkayrons Service Pvt. Ltd. The draft of the District Survey Report for Nagaur District was uploaded on the district website, and the Information and Public Relations Department, Nagaur was written to vide this office letter No. 1650 dated 23.12.2022 for objections/suggestions. After keeping it in the public domain for 21 days on the district website and notice board, and upon no objections being received from any person/institution, it was forwarded to the Member Secretary, SEIAA vide this office letter No. 1769 dated 07.06.2023 for approval. Thereafter, a meeting regarding approval of the District Survey Report for Nagaur District was held by SEAC Jaipur on 13.07.2023. In compliance with the directions given in the meeting, necessary amendments were made, and the District Survey Report for mineral Bajri was again forwarded to the Member O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

Secretary, SEIAA vide this office letter No. 1810 dated 12.07.2023 for approval, which was approved by the State Environment Impact Assessment Authority, Jaipur (SEIAA) on 21.09.2023. Thus, the District Survey Report 2022-23 was prepared in accordance with the rules, kept in the public domain, and upon no objections being received, approved at the competent level.

19. It is further submitted that the allotment of mining leases for mineral Bajri in Tehsil Riyanbari under the jurisdiction of the Office of Assistant Mining Engineer, Gotan, delineation proceedings were undertaken, plots were prepared and proposed to the Directorate, upon which the Directorate issued Notification No. Nide/A.Kha.A.Nilami/Nilami (ML Bajri IV)/2024/E07159/Rajkaj Reference No. 8482884 dated 01.07.2024 under Chapter-III of the Rajasthan Minor Mineral Concession Rules, 2017 for allotment of minor mineral Bajri mining leases through e-auction (E-Auction). Under the said notification, e-

auction for Delineated Plot No. 05 of mineral Bajri in Khasra Nos. 739, 866, 868, 873, and 510 of Revenue Villages Jhitniya and Suriyas, Tehsil Riyanbari, District Nagaur, falling within the jurisdiction of the Office of Assistant Mining Engineer, Gotan, was conducted on 23.07.2024, wherein against the reserved amount of Rs.31,12,000/-, the highest bid amount of Rs. 10,21,02,000/- was received from Shri Naman Choudhary S/o Shri Ramesh Choudhary, R/o Near Transport Company, Kharia Khangar, Tehsil Bhopalgarh, District Jodhpur. Upon the highest bidder depositing 40% premium amount of Rs.

4,08,40,800/- on the highest bid amount of Rs. 10,21,02,000/- by 05.08.2024 and submitting other necessary documents in the office, the same was proposed to the Additional Director (Mines), Jaipur, based on which Letter of Intent was issued in favour of the applicant vide orders O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

of the Superintending Mining Engineer, Ajmer dated 22.08.2024. Public hearing for environmental clearance in the matter was held on 17.03.2025. On the Letter of Intent holder complying with the conditions stipulated in the Letter of Intent, submitting the Mining Plan approved at the competent level from 25.09.2024 and EC (Environmental Clearance) from SEIAA, Jaipur dated 19.06.2025 in

the office, the mining lease was approved in favour of the applicant under Rule 16 of the Rajasthan Minor Mineral Concession Rules, 2017, vide orders of the Additional Director (Mines), Jaipur dated 24.06.2025. In compliance with the approval order, the applicant deposited 20% premium amount of Rs. 2,04,20,400/-, completed other formalities, executed the lease deed on 24.06.2025, and the mining lease was registered w.e.f. 24.06.2025. Upon the lease holder depositing Rs.

1,86,45,000/- in the office of the Deputy Conservator of Forests, Nagaur, the Deputy Conservator of Forests, Nagaur submitted Forest Non-Objection Certificate w.e.f. 25.06.2025. The lease holder has submitted CTO and CTE issued by Rajasthan State Pollution Control Board, Jaipur w.e.f. 27.06.2025 in the Office of Assistant Mining Engineer, Gotan. Thus, permission for mining was granted only after the lease holder obtained various approvals at the competent levels. The petitioners have filed the aforesaid Original Application No.77/2025, Harsukhram Vs. State of Rajasthan and Others before the National Green Tribunal, Bhopal against the District Survey Report for Nagaur District and the notification issued by the Directorate dated 01.07.2024. As per Sand Mining Guidelines, 2016, there is a provision to keep mining operations closed during the monsoon session. As per records of the Office of Assistant Mining Engineer, Gotan, the lease holder has kept O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

mining operations closed during the monsoon session, whereby no adverse impact has been caused on groundwater and well water levels.

20. As described in the Enforcement and Monitoring Guidelines for Sand Mining, 2020, Mining Plan is an important document to assist the mine owner to operate the mine in a scientific manner. There is no practice for regular replenishment study to ascertain the rate of depositing, plan and section needs to be prepared based on the restrictions provided in letter of intent and provisions of Sustainable Sand Mining Management Guidelines 2016. Considering the importance of district survey report, the Ministry of Environment Forest and climate change, after consultation with experts dealing with mining-related matters, formulated the guidelines for the preparation of comprehensive District Survey Report for sand mining. It accordingly, prescribed that District Survey Report for sand mining should be prepared before the auction/e-auction/grant of the mining lease/Letter of Intent (LoI) by Mining department or department dealing the mining activity in respective states. DSR is to be approved at the level of SEIAA with the help of SEAC.

21. The matter of procedure for DSR was considered by Principal Bench of this Tribunal in O.A. No. 360/2015 vide order dated 26.02.2021 and necessary directions and the method of implementation were discussed in the following manner:-

"Procedure for DSR/EC

13. Vide order dated 14.10.2020 in O.A. No. 40/2020, Pawan Kumar v. State of Bihar & Ors., the issue of preparation of District Survey Report (DSR) by Experts was considered. Vide Notification dated 25.07.2018 issued by the MoEF&CC, under Section 3(2)(v) of the EP Act, 1986 amending EIA Notification dated 14.09.2006, procedure for preparation of DSR for sand mining/riverbed mining was laid down.

The DSR is crucial as it contains Environment Management plan, O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

including the replenishment study and other safeguards and is the basis to consider the environment impact of mining based on which decision to grant the Environmental Clearance is taken. The Tribunal held that for such crucial exercise, the Experts should be out of those accredited by the National Accreditation Board of Education and Training/ Quality Control Council of India (NABT/QCCI) in terms of O.M. of MoEF&CC dated 16.03.2010. Verification by the District Magistrate and evaluation by the SEAC was also necessary. Accordingly, following directions were issued in relation to a matter arising from the State of Bihar:- "(ii) As the DEIAA is not functioning as a consequence of the decision of the Tribunal in Satendra Pandey (supra), the DSR shall be prepared through a consultant(s) accredited by the National Accreditation Board of Education and Training/ Quality Control Council of India in terms of O.M. of MoEF&CC dated 16.03.2010.

14. The DSR so prepared shall be submitted to the District Magistrate who shall verify the DSR only in respect of the relevant facts pertaining to the physical and geographical features of the district which shall be distinct from the scientific findings based on the parameters prescribed in the SSMMG2016. After such verification, the District Magistrate shall forward the DSR for examination and evaluation by the State Expert Appraisal Committee (SEAC) having regard to the fact that the SEIAA comprises of technical/scientific experts. The SEAC after appraisal of the report shall forward it to the SEIAA for consideration and approval if it meets all scientific/technical requirements. (iv) While preparing the DSR, the MoEF&CC Accredited Agency/Consultant shall scrupulously follow the procedure and the parameters laid down under the SSMMG-2016 and EMGSM2020 read in sync with each other."

15. Considering the above, vide order dated 04.11.2020 in O.A. No. 726 of 2018, Rupesh Pethe v. State of M.P. & Ors., the Tribunal directed that the above direction ought to be followed pan India, as follows:-

"5. The above direction may be followed by the State of MP also for the sake of uniformity. Further information required to be furnished is about the extent of illegal mining, extent of action taken, including the compensation recovered, vehicles seized and other coercive measures and impact of such action. The State of M.P. may compile relevant directions on the subject O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

including the binding order of any Courts or Tribunal. This exercise may be undertaken jointly by the Secretary Geology and Mining, Member Secretary State PCB and Member Secretary SEIAA. In light of above, the State may further revise its policy and exercise. Let further compliance status be furnished before the next date by e-mail at judicialngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. 6. We are of the view that the above

directions need to be followed by all other States where the issue of mining is relevant. 7. A copy of this order be forwarded to the Chief Secretaries of all the States and UTs by e-mail for compliance."

Adverse impact of unscientific/unregulated Sand Mining It is undisputed that there is huge degradation of environment on account of unregulated sand mining remains which is otherwise lucrative activity. It poses threat to bio-diversity, could destroy riverine vegetation, cause erosion, pollute water sources, badly affecting riparian ecology, damaging ecosystem of rivers, safety of bridges, weakening of riverbeds, destruction of natural habitats of organisms living on the riverbeds, affects fish breeding and migration, spell disaster for the conservation bird species, increase saline water in the rivers. It has direct impact on the physical habitat characteristics of the rivers such as bed elevation, substrate composition and stability, in-stream roughness elements, depth, velocity, turbidity, sediment transport, stream discharge and temperature. Increase in demand of sand has placed immense pressure in the supply of sand resource and mining activities were going on illegally as well as legally without requisite restrictions. Lack of proper planning and sand management disturbs marine ecosystem and upset the ability of natural marine processes to replenish the sand. The Hon'ble Supreme Court (in Deepak Kumar, supra) noted that core group was constituted by the MoEF&CC to examine the impact of minor minerals on riverbeds and ground waters. A draft report was prepared recommending mandatory preparation of mining plan on the pattern of mining plans for major minerals. Further recommendations are reclamation and rehabilitation of abandoned mines, proportion of hydro geo- logical balance for minerals below ground water table limiting depth of mining to 3 meter and identification on locations where O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

mining should be permitted was required. There is need for identifying safety zones in the proximity of intendments. Thus, strict regulatory parameters were required for regulating mining of minor minerals. It was noted that instream mining lowers the stream bottom of rivers which may lead to bank erosion. Depletion of sand in the stream bed causes deepening of rivers which may result in destruction of aquatic and riparian habitats. It has impact on stream's physical habitat characteristics.

16. In State (NCT of Delhi) v. Sanjay, (2014) 9 SCC 772, at page 790, it was observed:

"32. The policy and object of the Mines and Minerals Act and Rules have a long history and are the result of an increasing awareness of the compelling need to restore the serious ecological imbalance and to stop the damages being caused to the nature. The Court cannot lose sight of the fact that adverse and destructive environmental impact of sand mining has been discussed in the UNEP Global Environmental Alert Service Report. As per the contents of the Report, lack of proper scientific methodology for river sand mining has led to indiscriminate sand mining, while weak governance and corruption have led to widespread illegal mining. While referring to the proposition in India, it was stated that sand trading is a lucrative business, and there is evidence of illegal trading such as the case of the influential mafias in our country."

33. The mining of aggregates in rivers has led to severe damage to rivers, including pollution and changes in levels of pH. 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. The removal of more than 12 million tonnes of sand a year from Vembanad Lake catchment in India has led to the lowering of the riverbed by 7 to 15 cm a year. Incision can also cause the alluvial aquifer to drain to a lower level, resulting in a loss of aquifer storage. It can also increase flood frequency and intensity by reducing flood regulation O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

capacity. However, lowering the water table is most threatening to water supply exacerbating drought occurrence and severity as tributaries of major rivers dry up when sand mining reaches certain thresholds. Illegal sand mining also causes erosion. Damming and mining have reduced sediment delivery from rivers to many coastal areas, leading to accelerated beach erosion.

34. The Report also dealt with the astonishing impact of sand mining on the economy. It states that tourism may be affected through beach erosion. Fishing, both traditional and commercial, can be affected through destruction of benthic fauna. Agriculture could be affected through loss of agricultural land from river erosion and the lowering of the water table. The insurance sector is affected through exacerbation of the impact of extreme events such as floods, droughts and storm surges through decreased protection of beach fronts. The erosion of coastal areas and beaches affects houses and infrastructure. A decrease in bed load or channel shortening can cause downstream erosion including bank erosion and the undercutting or undermining of engineering structures such as bridges, side protection walls and structures for water supply.

35. Sand is often removed from beaches to build hotels, roads and other tourism-related infrastructure. In some locations, continued construction is likely to lead to an unsustainable situation and destruction of the main natural attraction for visitors--beaches themselves. 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, instream roughness of the bed, flow velocity, discharge capacity, sediment transportation capacity, turbidity, temperature, etc. Alteration or modification of the above attributes may cause hazardous impact on ecological equilibrium of riverine regime. This may also cause adverse impact on instream biota and riparian habitats. This disturbance may also cause changes in channel configuration and flow paths.

O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

17.Today, demand for sand and gravel continues to increase. Mining operators, instead of working in conjunction with cognizant resource agencies to ensure that sand mining is conducted in a responsible manner, are engaged in full-time profiteering. Excessive in-stream sand and gravel mining from riverbeds and like resources causes the degradation of rivers. In-stream mining lowers the stream bottom, which leads to bank erosion. Depletion of sand in the stream- bed and along coastal areas causes the deepening of rivers and estuaries and enlargement of river mouths and coastal inlets. It also leads to saline water intrusion from the nearby sea. The effect of mining is

compounded by the effect of sea level rise. Any volume of sand exported from stream-beds and coastal areas is a loss to the system. Excessive in-stream sand mining is a threat to bridges, river banks and nearby structures. Sand mining also affects the adjoining groundwater system and the uses that local people make of the river. Further, according to researches, in-stream sand mining results in the destruction of aquatic and riparian habitat through wholesale changes in the channel morphology. The ill effects include bed degradation, bed coarsening, lowered water tables near the streambed and channel instability. These physical impacts cause degradation of riparian and aquatic biota and may lead to the undermining of bridges and other structures. Continued extraction of sand from riverbeds may also cause the entire stream-bed to degrade to the depth of excavation."

22. Mining within the State is required to be regulated not only by the Mining Department but also by the State Pollution Control Board under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 and by the MoEF&CC under the Environment (Protection) Act, 1986. The Environmental Laws override other laws and any provision contrary in the Mines Act, 1952 will not stay in the way of enforcing environment norms. The Enforcement and Monitoring Guidelines for Sand Mining, 2020 (EMGSM-2020) seeks to provide effective enforcement and monitoring from the stage of identification of source to its dispatch and in use which requires environment of all stakeholders, Central Government, O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

State Government, Lease Holders, Mine Owners, Distributors, Dealers, Transporters and Consumers. The guidelines issued from the MoEF&CC makes EC mandatory irrespective of the area of mining lease, followed by monitoring in terms of the Environment Management Plan, using IT and IT enabled services.

23. The Hon'ble the Supreme Court of India in State of Bihar and Ors. vs. Pawan Kumar and Ors etc. (Civil Appeal No. 3661-3662 of 2020) decided on 10th November, 2021, considered the essentiality and prerequisite of DSR and held as follows:-

"7. It cannot be in dispute that though the developmental activities are not stalled, the environmental issues are also required to be addressed. A balanced approach of sustainable development ensuring environmental safeguards, needs to be resorted to. At the same time, it also cannot be ignored that when legal mining is banned, it gives rise to mushroom growth of illegal mining, resulting into clashes between sand mafias, criminalization and at times, loss of human lives. It also cannot be disputed that sand is required for construction of public infrastructural projects as well as public and private construction activities. A total ban on legal mining, apart from giving rise to illegal mining, also causes huge loss to the public exchequer.

8. Taking into consideration these aspects of the matter, we propose to issue certain interim directions.

9. The Tribunal, in the case of Satendra Pandey (supra), has found that the notification dated 15th January 2016, which provided Environmental Clearance to be

given by the District Environment Impact Assessment Authority (hereinafter referred to as the "DEIAA") was not in consonance with the judgment of this Court in the case of Deepak Kumar v. State of Haryana and Others². The Tribunal therefore in Satendra Pandey (supra), had directed Ministry of Environment, Forest and Climate Change (hereinafter referred to as "MoEF and CC) to take steps to revise the procedure laid down in the notification dated 15th January 2016. It is to be noted that MoEF and CC, in accordance with the directions of the Tribunal, had issued Enforcement and Monitoring Guidelines for Sand Mining (hereinafter O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

to referred to as "the 2020 guidelines") in the month of January 2020. Chapter 4 of the 2020 guidelines deals with identification of possible sand mining sources and preparation of DSR. It will be relevant to refer to Clause 4.1.1 (a), (o) and (p) of the 2020 guidelines:-

"4.1 Identification of possible sand mining sources and preparation of District Survey Report (DSR) 4.1.1 Preparation of District Survey Report.

District Survey Report for sand mining shall be prepared before the auction/e-auction/ grant of the mining lease/Letter of Intent (Loi) by Mining department or department dealing the mining activity in respective states.

o) Potential site for mining having its impact on the forest, protected area, habitation, bridges etc, shall be avoided. For this, a sub divisional committee may be formed which after the site visit shall decide its suitability for mining. The list of mining lease after the recommendation of the Committee needs to be defined in the following format given in as Annexure II. The Sub Divisional Committee after the site visit shall make a recommendation on the site for its suitability of mining and also records the reason for selecting the mining lease in the Patta land. The details regarding cluster and contiguous cluster needs to be provided as in Annexure III. The details of the transportation need to be provided as in Annexure IV.

p) Public consultation- The Comments of the various stakeholders may be sought on the list of mining lease to be auctioned. The State Government shall give an advertisement in the local and national newspaper for seeking comments of the general public on the list of mining' lease included in the DSR.

The DSR should be placed in the public domain for at least one month from the date of publication of the advertisement for obtaining comments of the general public. The comments so received shall be placed before the sub divisional committee for active consideration. The final list of sand mining areas [leases to be granted on riverbed & Patta land/Khatedari location land, de-siltation (ponds/lakes/dams), M-Sand Plants (alternate source of sand)) after the public hearing needs to be defined in the final DSR in the format as per Annexure-V. The details regarding cluster and contiguous cluster needs to be provided in O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of

Rajasthan & Ors.

Annexure-VI. The details of the transportation need to be provided in Annexure- VII."

10. It could thus be seen that in accordance with the 2020 guidelines, the DSR is required to be prepared before the auction/e-auction/ grant of mining lease by Mining Department or Department dealing with mining activity in the respective States. It is further provided that the potential site for mining having its impact on the forest, protected area, habitation and bridges should be avoided. For this, a sub divisional committee is required to be formed which, after the site visit, is required to decide regarding the suitability of the sites for mining. The sub divisional committee is further required to record its reasons for selecting the mining lease in the patta land. Various details are required to be given in the annexure appended to the said policy.

11. It is further to be noted that Appendix-X of the notification dated 15th January 2016, issued by MoEF and CC also provides for composition of the sub divisional committee:

"A Sub Divisional Committee comprising of Sub Divisional Magistrate, Officers from Irrigation department, State Pollution Control Board or Committee, Forest department, Geology or mining officer shall visit each site for which environmental clearance has been applied for and make recommendation on suitability of site for mining or prohibition thereof."

12. It is to be noted that with the advent of modern technology, various technological gadgets like Drones and satellite etc. can be used for identification of the potential sites and preparation of the DSR and also to check misuse and unauthorized mining.

13. We further find that when the 2020 guidelines as well as the notification issued by MoEF and CC of 2016 itself provide for constitution of sub divisional committees comprising of the officers of the State Government from various Departments for identification of the potential sites for mining, there would be no necessity of the DSRs being prepared through private consultants as directed by the Tribunal in the impugned order. The sub divisional committee consists of various officers from Revenue Department, Irrigation Department, State Pollution Control Board, Forest Department and Geology Mining Department of the State Government. They are better equipped to visit the sites and prepare the draft DSR for concerned O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

district. Apart from that, preparation of DSR through private consultants would also unnecessarily burden the public exchequer. We are therefore of the view that the direction in that regard issued by the Tribunal requires to be modified. We are further of the considered view that until the DSRs are finalized and granted approval by SEAC and SEIAA, it is appropriate that certain necessary arrangements are permitted so that the State can continue with legal mining activities. This apart from preventing illegal mining activities, would also ensure that the public exchequer is not deprived of its share in legalized mining.

14. We therefore find it appropriate to substitute the directions issued by the Tribunal vide judgment and order dated 14th October 2020, with the following directions:-

(i) The exercise of preparation of DSR for the purpose of mining in the State of Bihar in all the districts shall be undertaken afresh. The draft DSRs shall be prepared by the sub divisional committees consisting of the Sub-Divisional Magistrate, Officers from Irrigation Department, State Pollution Control Board or Committee, Forest Department, Geological or mining officer. The same shall be prepared by undertaking site visits and also by using modern technology. The said draft DSRs shall be prepared within a period of 6 weeks from the date of this order.

After the draft DSRS are prepared, the District Magistrate of the concerned District shall forward the same for examination and evaluation by the SEAC. The same shall be examined by the SEAC within a period of 6 weeks and its report shall be forwarded to the SEIAA within the aforesaid period of 6 weeks from the receipt of it. The SEIAA will thereafter consider the grant of approval to such DSRs within a period of 6 weeks from the receipt thereon;

(ii) Needless to state that while preparing DSRs and the appraisal thereof by SEAC and SEIAA, it should be ensured that a strict adherence to the procedure and parameters laid down in the policy of January 2020 should be followed;

(iii) Until further orders, we permit the State Government to carry on mining activities through Bihar State Mining Corporation for which it may employ the services of the contractors. However, while doing so, the State Government shall ensure that all environmental concerns are taken care of and no damage is caused to the environment."

O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

24. The matter is in public domain and also finds place in Civil Writ Petition filed before the Hon'ble High Court of Judicature Rajasthan at Jodhpur (which was again challenged in O.A. No.194/2024(CZ) and it was decided vide order dated 30.09.2024). On the basis of above, it reveals that the same DSR of all the districts of Rajasthan including the District-Nagaur was challenged before the Hon'ble High Court of Judicature Rajasthan at Jodhapur in S.B. Civil Writ Petition No.5291/2024 challenging e-Auction NIB/Advertisement dated 15.02.2024 on the ground that preparation/approval of DSR of Bhilwara District including all the districts was not duly made in accordance with the Sustainable Sand Mining Management Guidelines, 2016, and Enforcement and Management Guidelines for Sand Mining, 2020. The petition was disposed of and rejected vide order dated 22.03.2024 by the Court. The objections are reproduced hereunder:-

"Learned counsel for the respondents submits that in similar controversy, this Court after hearing the matter on stay vacation application, has dismissed the same vide order dated 21.03.2024 :

Satya Swaroop Singh Jadon Vs. State of Rajasthan & Ors. passed in SBCWP No.3666/2024 The said order is reproduced hereunder:-

1. Heard learned counsel for the parties on stay petition.

2. This writ petition has been filed by the petitioner challenging the e-

auction advertisement dated 15.02.2024 (Annex. 11), issued by the respondents for auction of the plots in order to grant mining lease for mineral river sand/Bajri in the State of Rajasthan. The petitioner has also sought a direction to the respondents not to conduct the auction until the District Survey Report ('DSR') is duly made and approved by the competent authority i.e. State Environment Impact Assessment Authority ('SEIAA'). The petitioner has also prayed that until the replenishment study is conducted and guidelines meant under the Sustainable Sand Mining Management Guidelines, 2016 and Monitoring Guidelines for Sand Mining, 2020 are adhered, the auction O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

may not be allowed to be conducted. Certain other ancillary relief(s) have also been sought by the petitioner.

3. As an interim measure, the petitioner has prayed that during pendency of the writ petition, operation of the e-auction advertisement dated 15.02.2024 (Annex.11) be stayed.

7. It is submitted that in the meanwhile the Hon'ble Apex Court vide order dated 16.11.2017 passed in the case of Naveen Sharma v. The State of Rajasthan & Ors. : Special Leave to Appeal (C) No.34811/2013 proceeded to direct that no mining activity shall be undertaken till environmental clearance is granted. Learned counsel for the petitioner further contended that a dispute arose between the Bajri LoI Holders and the State Government with regard to certain conditions of the LoI and the litigation went up to Hon'ble Apex Court and the Hon'ble Apex Court vide order dated 19.02.2020 after considering factual historical background for excavation of mineral Bajri appointed Central Empowered Committee to look into the issue of river sand mining in the State of Rajasthan.

8. Counsel for the petitioner submitted that the respondents thereafter issued an advertisement dated 06.12.2023 for e-auction of 22 plots for mineral Bajri, wherein two plots which are sought to be auctioned qua Jalore district, lie within the earlier lease hold area of the petitioner. The aforesaid advertisement dated 06.12.2023 was assailed by the petitioner by filing a writ petition being SBCWP No.19297/2023, as the said advertisement was issued in contravention to mandatory guidelines of 2016 and 2020 and the provisions of law. Since, the respondents withdrew the advertisement dated 06.12.2023, the writ petition preferred by the petitioner was dismissed with liberty to file fresh petition.

11. Mr. Vikas Balia, learned Senior Advocate vehemently contended that the auction advertisement has been issued by the respondents without adhering to the mandatory prerequisites provided for issuance of the advertisement for grant of mining lease as also in violation of settled position of law. Counsel for the petitioner contended that while issuing the e-auction advertisement (Annex.11), the

guidelines viz. Enforcement and Monitoring Guidelines for Sand Mining, 2020 issued by the Ministry of Environment, Forest & Climate Change and Sustainable Sand Management Guidelines, 2016 respectively have not at all been taken into consideration. It is further contended that while issuing the e-auction advertisement, the O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

respondents have not even taken into consideration the directions issued by Hon'ble Apex Court in the case of Bajri Lease LoI Holders Welfare Society v. The State of Rajasthan & Ors. : Special Leave Petition (Civil) No. 10587 of 2019, vide order dated 11.11.2021, whereby the recommendations made by the Central Empowered Committee ('CEC') have been approved by the Hon'ble Apex Court.

12. Learned counsel for the petitioner contended that SEIAA made a communication dated 21.09.2023 (Annex.15) to the Director, Mines and Geology in which it was specifically mentioned that DSR of remaining 15 districts (other than Tonk) had to be incorporated with certain data within a period of six months, whereas the respondents without incorporating the said details in the DSR for 15 districts have proceeded while issuing the fresh advertisement dated 15.02.2024 (Annex.11)

14. Learned Advocate General while justifying the issuance of e- auction advertisement dated 15.02.2024 (Annex.11) vehemently contended that the fresh e-auction advertisement has been issued in compliance of the directions issued by the Hon'ble Apex Court vide order dated 11.11.2023 and in pursuance of the Guidelines of 2016 and 2020. It is submitted that DSR(s) for 15 districts were approved by the State Environment Assessment Committee ('SEAC') in its meeting dated 05.09.2022 and recommendation was made by SEAC to SIEAA to grant approval. It is submitted that the approval to DSR(s) was granted by SIEAA on 21.09.2023 qua 15 districts in relation to mineral Bajri with Condition 'd' incorporated in the approval, which was required to be complied with within a period of six months, which has duly been complied with within the times prescribed i.e. six months.

16. Learned Advocate General submits that SEIAA had issued approval to the DSR(s) for Sand/River Bed Mining for districts Jalore, Tonk, Bhilwara, Nagaur, Rajsamand and Pali on 21.09.2023. He also submitted that the said approvals are also placed on record as Annex.R/1. It is further contended that the respondents in pursuance of the approval so accorded, also fulfilled the condition 'd' and the same was duly forwarded to SEIAA. Learned Advocate General further submitted that State Environment Assessment Committee held a meeting on 10.08.2023 and fifteen days' time was given for submitting the clarification and revised DSR(s) and accordingly, the same was done and the Committee held its meeting on 05.09.2021, O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

in which after considering the revised DSR(s), which was in consonance with the Guidelines of 2016 and 2020 recommendation for approval of DSR(s) of 16 district. It was also contended that while preparing the DSR(s), the respondents have complied with the directions and requirements and also refuted the contention of the petitioner that representatives of the respective Departments were not present and the averred that the same is misplaced, as the Sub Divisional Committee consisting of representatives of Department of Revenue, Department of Mines and Geology, Department of Water

Resources and Pollution Control Board were very much present.

19. Upon perusal of Annex.R/1 dated 21.09.2023 placed on record by the respondents, it is seen that the Member Secretary, SEIAA granted approval of the DSR(s) for Sand or River Bed mining for respective districts. The Secretariat, State Level Expert Appraisal Committee held a meeting on 10.08.2023 (Annex.R/3) for the purpose of examination of DSR(s) for Sand or River Bed Mining. The said Committee examined the DSR(s) of 13 districts and 9 members attended the said meeting. In the said meeting, it was observed by the Committee that the Nodal Officer for Sand Mining and ADM, Department of Mines and Geology shall submit clarification on the issues cited above as discussed in the meeting alongwith due rectification of the shortcomings/deficiencies in the DSR(s) accordingly and for that purpose, a time period of fifteen days was given.

20. On 05.09.2023, another meeting was held, which was duly attended by nine members. The Nodal Officer for Sand Mining and ADM, Department of Mines and Geology submitted the reply and point wise compliance regarding recommendations made by CEC for preparation of DSR(s). The Department also submitted a detailed note in respect of main provisions related to the procedure to be adopted for preparation of DSR(s) as per the Guidelines of 2016 and 2020 alongwith revised DSR(s) to SEAC-1. The Mining Department had also submitted a reply and the revised DSR(s). The Committee after going through the reply and revised DSR(s) submitted by ADM, Department of Mines and Geology noted that the Mining Department has revised the DSR(s) as per the observations of the CEC.

21. The Committee thereafter observed that SEAC-1 examined the DSR(s) of 16 districts in its meeting held on 05.09.2023, which was attended by the Nodal Officer for Sand Mining and ADM, Department O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

of Mines and Geology, Government of Rajasthan, Jaipur, who had participated as an expert from the Department of Mines and Geology for examination of DSR(s). The Committee had observed that the Mining Department has accepted that all the DSR(s) that have been prepared in accordance with the provisions of Ministry of Environment, Forest and Climate Change Notifications dated 15/01/2016 and 25/07/2018 as well as the Guidelines of 2016 and 2020; and that the representative of the Mining Department has ensured the compliance of the directions of the Hon'ble Apex Court as well as Guidelines of 2016 and 2020 prior to auction/e-auction of the grant of mining lease/letter of intent by the Mining Department. The Committee after detailed deliberations resolved that revised DSR(s) for Sand or River Bed Mining for all the 16 district (13 districts, namely, Rajsamand, Tonk, Barmer, Ajmer, Jodhpur, Baran, Jhalawar, Chittorgarh, Alwar, Pali, Jalore, Sawaimadhopur, Jhunjhunu and three districts viz. Banswara, Bundi and Nagaur) are recommended for approval with certain conditions. The relevant part of the resolution of the meeting is reproduced herein below:

"Observations of the committee:

The SEAC-1 examined the DSRs of 16 districts in its meeting held on 05.09.2023.
Shri B S Sodha, Nodal Officer for sand mining & ADM Department of Mines and

Geology, Government of Rajasthan, Jaipur participated as an expert from the Department of Mines and Geology for the Examination of District Survey Report (DSR). The Mining Department has accepted that all the DSR/s have been prepared in accordance with the provisions of Ministry of Environment, Forest and Climate Change Notification dated 15/01/2016 and 25/07/2018, the Sustainable Guidelines for Sand Mining Management Guidelines, 2016 and Enforcement & Monitoring Guidelines for Sand Mining, 2020 (EMGSM-2020).

The representative of the Mining Department has mentioned that department will ensure compliance of all the directions of the Hon'ble Courts and Guidelines of Sustainable Sand Mining Managing Guidelines, 2016 and Enforcement & Monitoring Guidelines for Sand Mining, 2020 (EMGMS-2020) before the auction/e-auction/grant of mining lease/Letter of intent (LOI) by the Mining Department. The actual mining area will be selected as per O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

DSR at the time of preparation of mining blocks for auction by sub divisional committee as provided in MoEF & CC Notification dated 28.07.2015 and all the conditions will be taken care of.

Resolution:

After detailed deliberation, the Committee resolved that revised DSRs for Sand or River Bed Mining for all the 16 districts (13 districts namely Rajsamand, Tonk, Barmer, Ajmer, Jodhpur, Baran, Jhalawar, Chittorgarh, Alwar, Pali, Jalore, namely Banswara, Bundi, Nagaur) are recommended for approval with following conditions:

1. Mining Department will ensure compliance of all the directions of the Hon'ble Courts and Guidelines of Sustainable Sand Mining Managing Guidelines, 2016 and Enforcement & Monitoring Guidelines for Sand Mining, 2020 (EMGMS-2020) before the auction/e-auction/grant lease/Letter of intent (LOI). of mining
2. As per MoEF & CC Notification dated 15/01/2016, DSR shall be updated once in five years.
3. All environmental concerns shall be taken care of and no damage is caused to the environment."

25. It is further submitted that the Special Appeal Writ No. 420/2024 and 421/2024 were filed before the Division Bench High Court of Rajasthan at Jodhpur against above quoted order which was rejected vide order dated 06.05.2024, which is as follows:-

1. "Since these three appeals arise out of order passed by the learned Single Judge rejecting the stay application and vacating the interim order, with the consent of the

parties, the appeals were finally heard together and decided by this common order. For brevity and convenience, the records of D.B. Special Appeal Writ No.429/2024, which have been referred to by the learned counsel for the parties, are being considered for deciding these appeals.

2. Assailing correctness and validity of the order passed by the learned Single Judge by which prayer for grant of stay has been rejected, learned senior counsel appearing for the appellant would submit that the learned Single Judge has failed to appreciate that a very strong prima facie case was made out by the appellant O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

inasmuch as it is apparent from the record that the so called District Survey Report ('DSR' for short) (Annexure.A15) dated 21.09.2023 cannot be said to be an approved DSR in respect of the Districts in view of para (d) contained therein. It only shows that the authority was in the process of collecting various data for being analyzed and scrutinized by the competent authority i.e. the State Environment Impact Assessment Authority, Rajasthan ('SEIAA' for short), therefore, the so called DSR could not be said to be validly approved vide letter dated 21.09.2023. Further submission is that even though various information, as received under Clause (d) of the letter dated 21.09.2023, have been collected and placed on record, there is no independent analysis of the same by SEIAA and, therefore, it cannot be said to be a case of approved DSR. Unless there is an approved DSR, even the environment clearance cannot be granted and, therefore, the entire exercise of identifying extractable area for mining purposes and initiating the process for auction is in patent violation of not only the governing rules and guidelines, but also the directions of the Hon'ble Supreme Court in the case of Bajri Lease LOI Holders Welfare Society Vs. State of Rajasthan & Ors. [SLP (Civil) No. 10587/2019). The next submission is that even the requirement of Clause 4.1.1(p), which mandates invitation of objections and consideration of the same, has also not been followed. No objection was published/invited and, therefore, the DSR cannot be said to be validly approved.

3. Further submission is that no NOC was obtained in terms of the directions of the Supreme Court in the case of Bajri Lease LOI Holders Welfare Society(supra). It is submitted that constituting a joint inspection team on the spot instead of obtaining individual report from the departments, is illegal. In any case it is argued that constitution of committee is illegal as it did not involve a representative of the forest department. Lastly, it is submitted that coordinates for DSR auction are different and the plots were also overlapping as per the map.

4. On the other hand, learned counsel for the official respondents would submit that the District Survey Report has been prepared after a detailed examination and strictly in accordance with the applicable rules and regulations and directions of the Supreme Court in the case of Bajri Lease LOI Holders Welfare Society(supra). Learned counsel for the State would further submit that the letter granting approval on 21.09.2023 is quite clear and it is not a case where no relevant data O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

was collected or analyzed. He would also submit that during pendency of the writ petition, various information, as contained in Clause (d) of the letter dated 21.09.2023, have been collected and

placed on record which satisfy the requirement of a proper survey, to identify the extractable area for mining as also the area which is to be excluded from the purview of mining activity. Further referring to the document (Annexure. R3) filed along with the return, it is also submitted that all the conditions, as incorporated in Clause (d) of letter dated 21.09.2023, have been fulfilled and necessary caution and care have also been taken after detailed consideration before granting approval. Condition (d) applies to few districts only relating to 11 plots of Rajsamand, Jalore, Nagaur and Pali. Referring to various letters in respect of the aforesaid districts, it has been argued that all the conditions, as contained in the approved District Survey Report dated 21.09.2023, are fulfilled. Learned counsel for the State would further submit that as there is no forest area involved, there was no necessity of including any representative from the forest department. Even the petitioner has not placed any material to show that the disputed area is covered wholly or partially with forest. He would also submit that all these departments, from whom NOC was required, provided their representative and a joint inspection team was constituted which inspected the area. There is no malafide alleged against the authority individually or collectively. He would further submit, referring to the report annexed along with the reply, that the procedural requirement of inviting objections has also been duly fulfilled and the objections were not only invited but also duly considered. The allegations of overlapping are disputed as factually incorrect referring to maps annexed along with the reply.

5. Learned counsel appearing for LOI holders would also submit that the present petition is not bonafide but is filed by the petitioner, who himself is the mining operator and is operating some of the mines in question, only to forestall the process of auction so that due to delay and failure of auction process, the department again reverts back to him to continue his mining lease over the parts of the disputed area. It is submitted that the sole object of the petitioner is to monopolize the mining activity in the disputed area.

6. We have heard learned counsel for the parties, perused the records, pleadings and the documents available on record before us so also the order passed by the learned Single Judge.

O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

7. Though it is only a matter regarding consideration of prayer for stay, we find that the learned Single Judge has considered, in great detail, not only the submissions of learned counsel for the parties, but also recorded prima facie observations in the detailed order to conclude that present is not a case for grant of stay.

8. The exercise of jurisdiction by the writ Court in the matter of grant of interim relief is ordinarily not open to interference in intra-court appeal, unless an exceptional case is made out. If there is possibility of more than one view while deciding the application for grant of stay, a view taken in exercise of discretion by the writ Court would ordinarily not be interfered with. Detailed consideration made by the learned Single Judge speaks for itself that parties were heard at length and thereafter the order was passed.

9. The dispute is sought to be raised by the appellant, who himself operates some of the mines on part of the area covered under the dispute. His period of lease has expired. Though the process of auction was initiated, he did not choose to participate but seeks to challenge the auction proceedings mainly on the ground that there is no approved DSR and also on the other grounds such as non-invitation of objections, non-inclusion of representatives of forest department in the joint inspection committee etc.

10. It is not a case that there is no approval of District Survey Report. Present is a case where correctness and validity of the approval granted to the District Survey is under challenge. Along with the report, various materials with regard to information as required under Clause (d) of letter dated 21.09.2023 as also information with regard to various plots situated in districts of Nagaur, Pali, Jalore and Rajsamand have been placed on record. There are also material placed on record by the respondents to indicate regarding inviting of objections. There is specific stand taken that there is no forest area covered, therefore, a representative of the forest department was not considered necessary to be included in the joint inspection team. Moreover, petitioner has not come out with the clinching material that the disputed area is under forest coverage. Therefore, it is not a case where no inspection has been held. Representatives of various departments from which NOC was required to be taken have provided their representatives to facilitate the join inspection. This is only intended to expedite the process.

O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

11. Keeping in view the aforesaid facts and circumstances and the material on record, the learned Single Judge has vacated the stay in exercise of her discretion. We do not find any ground to interfere with the detailed order passed by the learned Single Judge.

12. Before parting with the case, to dispel the apprehension on the part of the appellant that the learned Single Judge has recorded findings on merits of the case, we would hasten to add and also clarify that whatever has been observed by the learned Single Judge in the impugned order are only prima facie observations, limited and confined to the stage of consideration of interim application. It will be open for the appellant to raise all the grounds, as are available to it, at the time of hearing of the writ petitions.

13. Furthermore, we give liberty to the appellant to pray before the learned Single Judge for expeditious hearing of the writ petitions.

14. All the appeals are accordingly dismissed."

26. It is further argued that, aggrieved by the order of this Tribunal passed in Original Application No. 171/2013, NGT Bar Association vs. Ministry of Environment, Forest and Climate Change, the State of Rajasthan preferred Civil Appeal No. 9703/2013 before the Hon'ble Apex Court and Hon'ble the Court, stayed the further proceeding and directed for further proceedings. The issue of sand mining, its control on illegal mining was further raised before Hon'ble the Supreme Court of India in SLP No. 10587/2019 and vide order dated 19.02.2020, Hon'ble the Supreme Court of India passed

an order as follows:-

"We find that the issue of sand mining in the State of Rajasthan has become extremely complicated and probably chaotic. The parties before us blame each other for the present situation. In these circumstances, we consider it appropriate to accept the suggestion of Shri Naveen Sharma, the petitioner appearing in person in C.P. No. 674/2019 in SLPO No. 34811/2013, that the CEC should be empowered to go into this issue and submit a report to this Court on the problems relating to sand mining that are faced by the traders, the consumers, the transporters, the State and other stakeholders. It O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

would be necessary for the CEC to also go into the question of illegal mining and suggest measures for stopping such illegal mining.

Shri Mahendra Vyas, who is a member of the CEC is present before us and suggest that the CEC will carry out the mandate of this Court and submit a report along with recommendations within six weeks. The CEC shall have the power to summon any person, including, Government officials for the purpose of making the aforesaid enquiry for preparing the report. The CEC shall also hear the representatives of the State Government, Dastak NGO, the LOI holders, the stakeholders and Shri Naveen Sharma. The CEC shall be entitled to obtain copies of any court proceedings on the subject.

It is not disputed by anybody, including the State, that illegal sand mining is rampant in the State of Rajasthan. This cannot be allowed to continue. We, therefore, direct the State of Rajasthan and in particular, the Collector and the Superintendent of Police for each District in Rajasthan to take immediate steps for stopping illegal sand mining as there is no doubt that such unbridled sand mining is likely to damage the environment irreparably. The State of Rajasthan shall submit an action taken report to this Court within a period of four weeks from today.

Put up on a non miscellaneous day in end of April, 2020 along with SLPO Nos. 34811/2013, 34134/2013 and Civil Appeal No. 9703/2013.

Permission is granted to learned counsel for the petitioners in SLPO Nos. 30739, 30740, 30741 and 30742/2019 to file spare copies in the respective matters."

27. The matter of sand mining in river bed has been raised before Hon'ble the Supreme Court of India in SLP No. (C) 10587/2019, in I.A. No. 29984/2021 namely Bajri Lease Lol Holders Welfare Society Vs. The State of Rajasthan with SLP No. 10670/2019 and the Hon'ble Court has constituted CEC and directed to comply with the recommendation to allow river sand mining. Relevant portion of the order is quoted below:-

"1. Realising the damage caused to lakes, riverbeds and groundwater on account of quarry/ mining leases, the Ministry of O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

Environment, Forest and Climate Change constituted a Core Group by its order dated 24.03.2009, to look into the following points:

"(i) To consider the environmental aspects of mining of minor minerals (quarrying as well as riverbed mining) for their integration into the mining process.

(ii) Specific safeguard measures required to minimise the likely adverse impacts of mining on environment with specific reference to impact on water bodies as well as groundwater so as to ensure sustainable mining.

(iii) To evolve model guidelines so as to address mining as well as environmental concerns in a balanced manner for their adoption and implementation by all the mineral-producing States".

2. A report was submitted by the Core Group on the basis of which several recommendations were made by the MoEFCC relating to sand mining in March, 2010. Later, Model Guidelines on "Environmental Aspects of Quarrying of Minor Minerals" were formulated in 2010 for sustainable mining of minor minerals, along with draft rules titled Minor Minerals Conservation and Development Rules, 2010. In Deepak Kumar V. State of Haryana, this Court directed the State Governments and Union Territories to implement the recommendations made by the MoEFCC in its report of March, 2010 and the Model Guidelines framed by the Ministry of Mines within a period of six weeks from the date of the judgment. The State Governments and Union Territories were also directed to frame necessary rules under Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957 ("MMDR Act"). The above directions were issued by this Court after recording the deleterious effects of sand mining on biodiversity, such as destabilization of the soil structure of river banks and loss of habitat, to name a few.

3. Pursuant to the directions issued by this Court in Deepak Kumar (supra), the Rajasthan Minor Mineral Concession Rules, 1986 ("1986 Rules") were amended by notifications dated 23.05.2012, 19.06.2012 and 21.06.2012. By the said notifications, mining leases for sand were to be given by tender/auction for a period of five years. Letters of Intent ("Lols") were to be issued to the eligible applicants by the competent authority and the eligible applicants were required to submit the requisite No Objection Certificates, Environmental Clearance ("EC") and approved mining plan. As the grant of EC was likely to be delayed, the State of Rajasthan incorporated a provision O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

in the 1986 Rules by way of the amendment dated 21.06.2012, permitting sand mining through the then existing system of Royalty Collection Contract and issue of Temporary Work Permit, till EC is granted.

4. A total of 130 mining plots were identified for conduct of auction for sand mining. Tenders were received for 105 plots. Lols were issued to each of the successful bidders with respect to the 105 plots, who were further directed to submit a mining application and obtain EC under the notification dated 14.09.2006 issued by the MoEF&CC ("EIA Notification, 2006") and submit the same within a period of 12 months. Between November, 2013 and March, 2016, 65 out of the 82 Lol holders presented final Environment Management Plan (EMP) after Environment Impact Assessment (EIA) study and public hearing. The Expert Appraisal Committee (EAC) constituted under the EIA Notification, 2006 by the MoEFCC recommended grant of EC to these 65 Lol holders. As EC was not granted by the MoEFCC to most of the Lol holders within a period of six months, the State of Rajasthan sought for extension of time for continuing the then existing system of sand mining by way of Royalty Collection Contract. The High Court refused the request made by the State Government by an order dated 21.10.2013. Aggrieved thereby, the State Government filed SLP (C) No. 34134 of 2013 before this Court. This Court passed an interim order dated 25.11.2013 permitting the 82 Lol holders, who had submitted their applications for obtaining EC to the MoEFCC, to carry on mining operations in accordance with the notification dated 21.06.2012 amending the 1986 Rules. Temporary Work Permits were issued to 80 out of the 82 Lol holders to carry on mining operations pursuant to the said interim order. The interim order dated 25.11.2013 was extended by this Court on 24.02.2014 and 27.03.2014. Ultimately, by an order dated 16.11.2017, this Court restrained all the 82 mining lease /quarry holders from carrying on mining of sand and bajri, unless a scientific replenishment study is completed and EC is granted by the MoEFCC. This Court was concerned about the continuation of mining without EC. The State Government stopped the mining activities pursuant to the order passed by this Court on 16.11.2017.

5. Shortly after, a notification was issued by the State of Rajasthan on 28.12.2017 with respect to Rule 51 of the Rajasthan Minor Mineral Concession Rules, 2017, permitting grant of short-term permits for excavation of sand in Khatedari lands only for Government-related O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

works or organisations aided by the Government. The 2017 Rules were amended on 25.06.2018 by which Rule 17A was inserted, enabling the Government to grant mining lease in Khatedari lands to Khatedars.

6. On 28.02.2018, sub-rule (4) of Rule 5 of the 2017 Rules was amended. By the said amendment, the time period of one year for fulfilment of the conditions of the Lols, including execution and registration of mining lease, was extended to 13 months from the date of commencement of the 2017 Rules, failing which the rights of the applicants would stand forfeited. According to the State Government, the Lols of 74 members of the Bajri Lease Lol Holders Welfare Society had lapsed owing to non-fulfilment of conditions within the period of 13 months. The remaining 8 Lol holders, who had been issued EC and subsequently granted mining leases, could not continue with mining operations without the requisite replenishment study reports.

7. The Bajri Lease Lol Holders Welfare Society challenged the vires of sub-rule (4) of Rule 5 of the 2017 Rules in the High Court of Rajasthan. On 09.04.2019, the High Court dismissed the writ petitions. Thereafter, the Petitioner-Society filed SLP (C) No.10587 of 2019 assailing the judgment

of the High Court. Notice was issued in the matter and an interim order was passed on 10.05.2019 restraining cancellation of the Lols of the members of the Petitioner- Society. On 19.02.2020, this Court, taking note of the scale of the issue of illegal sand mining in the State of Rajasthan, directed the Central Empowered Committee to submit a report on the problems relating to sand mining that are faced by traders, consumers, transporters, the State and other stakeholders and also on measures to stop illegal sand mining.

8. The CEC submitted its report to this Court dated 23.12.2020, in which the following recommendations have been made:

a) All the Khatedari leases located within 5 kms from the river bank as well as leases where violation of the lease conditions including misuse of e-ravannas are detected are terminated forthwith and the State Government shall not issue fresh Khatedari leases except for Palaeo deposits in the District of Binaker without the approval of this Hon'ble Court.

b) The State Government shall dispense with the Excess Royalty Collection Contract system in respect of any kind of sand mining O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

leases forthwith and the royalty shall be paid on line by the lessee to the State Government and generate royalty paid e- ravanna before transporting of sand from the mining site;

c) The MoEF&CC will issue EC in respect of all the valid Lol holders recommended by the EAC in its meeting held during 2014-2016 without insisting on submission of scientific study report as a precondition for grant of EC within a period of three months. MoEF&CC shall also prescribe detailed methodology in consultation with CMPDI for undertaking replenishment study during the course of mining as discussed in para 11 (ii) of this Report.

d) River sand mining in Rajasthan is permitted to be conducted after obtaining all statutory clearances and payment of dues and applicable taxes following the procedure listed in para 11

(iii) of this report.

e) The MoEF&CC shall arrange for scrutiny of the DSR prepared as provided in MoEF&CC Guidelines of 2016 and 2020 and the production figures approved in the DSR are scrupulously followed by the authorities under the EP Act 1986 while issuing the EC.

f) The period of actual mining of sand under TWP should be adjusted against the five-year lease period.

g) Government of Rajasthan will constitute an Empowered Committee headed by the Chief Secretary to consider and settle claims of excess payments collected from the Lol holders during the period of working under TWP. The Committee shall examine each of the cases and take a decision in

this regard within a period of six months from the date of orders. Monthly progress reports in this regard may be sent to CEC.

h) The State Government will auction the sand mining leases after proper ground demarcation and after assessing the extractable sand resources as given in the approved DSR and after obtaining no objection certificates from all concerned authorities. The sale of mining blocks objected to by any of the government departments shall not be put up for tender/auction.

i) State Government to review the amendments to Rule 5(4) of RMMCR, 2017 so that it will not be an impediment for execution of sand mining lease.

J) For brazen violation of this Hon'ble Court order dated 16.11.2017 exemplary penalty of Rs.10 lakhs per vehicle and Rs.5 lakhs per cum of sand seized may be imposed as a O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

deterrent. This will be in addition to what has already been ordered/collected by the State agencies as penalty/compensation.

k) State Government of Rajasthan is directed to conduct drone survey in respect of all the remaining Khatedari leases and complete the same within the next four months to assess the irregularities if any committed by them. A copy of this Report may also be made available to CEC."

9. The State of Rajasthan has filed Interlocutory Application No. 29984 of 2021 requesting this Court to accept the recommendations made by the CEC in respect of all points, except recommendations 'A' and 'J'. Recommendation 'A' relates to termination of Khatedari leases within 5 km of the river bank and restriction on the State Government to grant fresh Khatedari leases without the approval of this Court. Recommendation 'J' pertains to exemplary penalty of Rs. 10 lakh per vehicle and Rs.5 lakh per cubic metre of sand seized for violation of the order passed by this Court on 16.11.2017.

10. The reasons given by the State of Rajasthan for its objection to the recommendation made by the CEC for cancellation of Khatedari leases is that mineral wealth lying in agricultural land should also be utilized. The State Government has brought to the notice of this Court that a request was made to the MoEFCC to revisit the Enforcement & Monitoring Guidelines for Sand Mining, 2020 regarding excavation of sand within the periphery of 5 km from the river bed. In view of scanty rain fall patterns in the State, the submission of the State is that mining leases in agricultural fields should be permitted. Insofar as additional penalty recommended by the CEC for the illegal sand mining and transportation is concerned, the State is of the opinion that the penalties recommended are excessive and their recovery would be difficult.

11. Interlocutory Application No. 54981 of 2021 seeking intervention has been filed on behalf of 10 Khatedars who asserted that no illegal sand mining is being carried on by them. It was argued on their behalf that these Khatedars have been acting in accordance with the conditions of their lease. It was contended that the CEC committed an error in recommending cancellation of their mining

leases. The said Khatedars found fault with recommendation 'C' of the CEC in favour of the Lol holders.

O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

12. The CEC, in its report, has highlighted the delay in the grant of EC by the MoEFCC to the Lol holders as the cause for widening the gap in demand and supply of sand, which has resulted in proliferation of illegal sand mining activities to meet the shortfall in supply. The recommendation made by the CEC is that the MoEFCC will issue EC in respect of all the valid Lol holders recommended by the EAC, within a period of three months, without insisting on submission of the scientific replenishment study report as a pre- condition for the grant of EC, with the replenishment study due to be undertaken during the course of mining.

13. In spite of the order passed by this Court on 16.11.2017 that no river sand shall be permitted unless a scientific replenishment study is completed and EC is granted, 194 mining leases of Khatedari lands have been granted in the State of Rajasthan, with most of these lands being in close proximity of the river banks of the State. 114 Khatedari leases are within a distance of 100 metres or less from the river bank and only 23 Khatedari leases have been granted beyond a distance of 5 km from the river bank. The CEC has stated in its report that the agricultural lands do not have deposits of quality sand suitable for construction, being a mixture of sand, silt and clay. The Khatedars have been exploiting the locational proximity to the river banks by excavating sand from the river bed, instead of restricting the mining to their leasehold areas, completely in violation of the mining plan. The quantity of sand is in excess of the permissible limit which is transported by being shown as having been mined in the Khatedari lands. The CEC has commented upon the involvement of sand mafia in the trade of sand illegally mined by the Khatedars as well as the involvement of authorities in the State of Rajasthan. Therefore, the CEC has recommended the cancellation of all Khatedari leases located within 5 km from the river banks as well as those leases where violation of lease conditions including misuse of e-ravannas are detected. The CEC further recommended that no fresh Khatedari leases shall be granted, except for Palaeo deposits, without the approval of this Court.

14. Section 23C of the MMDR Act empowers the State Governments to make rules for preventing illegal mining, transportation and storage of minerals. This Court in Deepak Kumar (supra) directed the State Governments / Union Territories to formulate rules in accordance with the Model Guidelines. Pursuant to the directions issued by this Court and the National Green Tribunal, the Sustainable Sand Mining O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

Management Guidelines, 2016 were issued. The responsibility for implementation of the said Guidelines was placed on the State Governments which had to create a mechanism to measure the mined-out mineral and its transportation and also to ensure that the amount of mineral mined does not exceed the quantity permitted in the EC. The 2016 Sand Mining Guidelines recommended use of Transport Permits with bar codes, for generation of reports showing the daily lifting of and user performance reports. Transport Permits with bar codes would also enable vehicles carrying sand to be tracked from source to destination. Dissatisfied with the ineffective monitoring mechanism,

failure of the Mines Surveillance System as well as lack of an effective institutional monitoring mechanism not only at the stage of the grant of EC but at subsequent stages with respect to illegal sand mining, the NGT, in an order dated 05.04.2019 in National Green Tribunal Bar Association v. Virender Singh in OA No. 360 of 2015 and connected matters, directed the MoEFCC and the State Governments to review extant monitoring mechanisms and consider revision of the 2016 Sand Mining Guidelines. Consequently, the MoEFCC issued the 2020 Sand Mining Guidelines.

15. The damage caused to the environment due to rampant unscientific illegal mining needs no reiteration. Unabated illegal mining has resulted in the emergence of sand mafia who have been conducting illegal mining in the manner of organized criminal activities and have been involved in brutal attacks against members of local communities, enforcement officials, reporters and social activists for objecting to unlawful sand excavation. The statistics provided by the State Government highlights the magnitude of the problem as about 2411 FIRs have been registered in relation to illegal mining in the State of Rajasthan, between 16.11.2017 and 30.01.2020. When this Court has restrained 82 mining lease / quarry holders from carrying on mining of sand and bajri unless a scientific replenishment study is completed and EC is issued by the MoEFCC, the State of Rajasthan ought not to have issued mining leases in favour of the Khatedars. It is clear from the report of the CEC that the majority of the Khatedari leases are within 100 metres from the river bed. The 2020 Sand Mining Guidelines prescribe that mining plan for mining leases on Khatedari lands shall only be approved if there is a possibility of replenishment of the mineral or when there is no possibility of river bed mining within 5 km of the patta land /Khatedari land. Agreeing with the CEC's conclusions on the issue of mining leases in Khatedari lands facilitating legalisation of O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

transportation and sale of illegally extracted sand, we approve the recommendation of the CEC that all Khatedari leases which are located within 5 km from the riverbed and those leases where lease conditions have been violated have to be terminated forthwith and that Khatedari leases shall be granted only with the permission of this Court.

16. The CEC has recommended imposition of exemplary penalty of Rs. 10 lakh per vehicle and Rs.5 lakh per cubic meter of sand seized, which would be in addition to what has already been ordered / collected by the State agencies as compensation. Compensation / penalty to be paid by those indulging in illegal sand mining cannot be restricted to the value of illegally-mined minerals. The cost of restoration of environment as well as the cost of ecological services should be part of the compensation. The "Polluter Pays" principle as interpreted by this Court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of "Sustainable Development" and as such the polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology.

17. The scale of compensation by those who are involved in illegal mining has been dealt with by the NGT in National Green Tribunal Bar Association v. Virender Singh (supra). In its order dated 26.02.2021, the NGT considered and approved the Report submitted by the Central Pollution Control Board dated 30.01.2020, in pursuance of its earlier orders, on scale of compensation to be

recovered for violation of norms for mining on "Polluter Pays"

principle. Additionally, para 9.2 of the 2020 Sand Mining Guidelines provides as follows:

"The environmental damages incurred or resulting due to illegal mining shall be assessed by a committee constituted by District Administration having expertise from relevant fields, and also having independent representation of locals and State Pollution Control Board. Guidelines for assessment of ecological damages prescribed by the State Government or Concerned Pollution Control Boards or any other authority shall be applicable and compensation as fixed shall be paid by the project proponent, in light of Hon'ble National Green Tribunal orders."

O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

18. Section 21(5) of the MMDR Act empowers the State Government to recover the price of the illegally-mined mineral, in addition to recovery of rent, royalty or tax. The penalty recommended by the CEC for illegal sand mining is in addition to the penalty that can be imposed by the State Government in terms of Section 21(5) of the Act. However, the basis for imposition of exemplary penalty of Rs. 10 lakh per vehicle and Rs. 5 lakh per cubic metre of sand has not been stated by the CEC in its report. The CEC is directed to follow the directions given by the NGT in respect of imposition of penalty /determining scale of compensation for illegal mining and the provisions of the 2020 Sand Mining Guidelines and determine the penalty/compensation afresh and submit a report to this Court within a period of eight weeks from today.

19. The recommendations made by the CEC, except recommendation 'J', are approved for implementation forthwith. IA No. 29984 of 2021 and IA No. 54981 of 2021 are disposed of.

20. SLP (C) No. 10587 of 2019 and SLP (C) No. 10670 of 2019 are directed to be listed after eight weeks."

28. Learned Counsel for the State has submitted that all the recommendations submitted by the CEC have been accepted by the Hon'ble Court and directed for implementation and the State Government is implementing the directions issued by Hon'ble the Supreme Court of India. It is further submitted that the matter is still pending before Hon'ble Court and it requires no interference.

29. It is further argued that sand mining in river bed following proper procedure and guidelines has not been banned by any court or MoEF&CC. NIB also provides that mining will be allowed only after getting EC by successful bidder, strictly following condition of EC and Enforcement and Monitoring Guidelines for Sand Mining, 2020.

Whereas, the desilting process also have same environmental impact as in the case of river bed mining but EC is not required for production/dispatch of sand during the desilting/dredging

process. The State of Rajasthan has issued Standard Operating Procedure dated O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

07.10.2023, whereby a policy was formulated for grant of bajri leases in the state delineating plots of maximum 100 ha. areas along rivers. The objective is to allot maximum number of plots by transparent auction process to avoid monopoly of certain persons or group of persons. It was also mandated that the lease holders will not be allowed to sell bajri at pit mouth at a price more than four times of the royalty, i.e. Rs. 200 per tonne in case of Bhilwara District and the objective is to make sand available to common people at a cheaper rates.

30. Further contention of the learned counsel for the respondent are that the Hon'ble Apex Court vide its order dated 10.11.2021 passed in the matter Civil Appeal no 3661-3662 of 2020 State of Bihar versus Pawan Kumar held that:-

"7. it cannot be in dispute that though the developmental activities are not stalled, the environmental issues are also required to be addressed. A balanced approach of sustainable development ensuring environmental safeguards, needs to be resorted to. At a time, it also cannot be ignored that when legal mining is banned, it gives rise to mushroom growth of illegal mining, resulting into clashes between sand mafias, criminalization and at times, loss of human lives. It also cannot be disputed that sand is required for construction of public infrastructural projects as well as public and private construction activities. A total ban on legal mining apart from giving rise to illegal mining also causes huge loss to the public exchequer."

The rivers in Bhilwara and Tonk districts are non-perennial flowing in monsoon season only. If legal mining is not allowed, since the river flows to hundreds of Kilometer in length and mining of river sand being easy will lead to illegal mining. Illegal mining will cause not only law and order problem but also cause huge loss of Revenue to the State Government.

The demand of the state is nearly more than 75 Million tonnes of Bajri per annum. The desilting permission for Bisalpur Dam has been granted for a quantity of 153.3 million tonne for a period of 20 years. Meaning thereby that annual dispatch capacity of nearly 7.65 million tons only. This quantity also includes silt and gravel apart from the O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

sand. The desilting contractor has so far dispatched only 0.3 Million tons of sand after issuance of permit in the month of December 2023. This clearly shows that the demand of the state cannot be met by the projects of desilting only. It is also to mention here that the transportation cost will be very higher from the Bisalpur Dam to other districts for supply of sand which will lead to high cost to common people for purchase of Bajri."

31. While the question raised by the respondents are that the matter of e-

auction has been raised before Hon'ble the High Court and the Hon'ble High Court has dismissed the application filed by the applicant and the same matter cannot be reagitated before this Tribunal.

32. Learned Counsel for the Applicant relied on the decision taken by Hon'ble the Supreme Court of India in *Deepak Kumar v. State of Haryana (2012)*, 4 SCC 629 where Hon'ble Court observed as follows:-

"8. We have no materials before us to come to the conclusion that the removal of minor minerals, boulders, gravel, sand quarries, etc. covered by the auction notices dated 3-6-2011 and 8-8-2011, in the places notified therein and also in the riverbeds of Yamuna, Ghaggar, Tangri, Markanda, Krishnavati River basin, Dohan River basin, etc. would not cause environmental degradation or threat to the biodiversity, destroy riverine vegetation, cause erosion, pollute water sources, etc. Sand mining on either side of the rivers, upstream and instream, is one of the causes for environmental degradation and also a threat to the bio-diversity. Over the years, India's rivers and riparian ecology have been badly affected by the alarming rate of unrestricted sand mining which damage the ecosystem of rivers and the safety of bridges, weakening of riverbeds, destruction of natural habitats of organisms living on the riverbeds, affects fish breeding and migration, spells disaster for the conservation of many bird species, increases saline water in the rivers, etc.

9. Extraction of alluvial material from within or near a streambed has a direct impact on the stream's physical habitat characteristics. These characteristics include bed elevation, substrate composition and stability, Instream roughness elements, depth, velocity, turbidity, sediment transport, stream discharge and temperature. Altering these habitat characteristics can have deleterious impacts on both instream O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

blota and the associated riparian habitat. The demand for sand continues to increase day by day as building and construction of new Infrastructures and expansion of existing ones is continuous thereby placing Immense pressure on the supply of the sand resource and hence mining activities are going on legally and illegally without any restrictions. Lack of proper planning and sand management cause disturbance of marine ecosystem and also upset the ability of natural marine processes to replenish the sand".

Hon'ble Supreme Court of India in *State (NCT of Delhi) v. Sanjay*, (2014) 9 SCC 772 has observed that:

"32. The policy and object of the Mines and Minerals Act and Rules have a long history and are the result of an increasing awareness of the compelling need to restore the serious ecological imbalance and to stop the damages being caused to the nature. The Court cannot lose sight of the fact that adverse and destructive environmental Impact of sand mining has been discussed in the UNEP Global

Environmental Alert Service Report. As per the contents of the Report, lack of proper scientific methodology for river sand mining has led to indiscriminate sand mining, while weak governance and corruption have led to widespread illegal mining. While referring to the proposition in India, it was stated that sand trading is a lucrative business, and there is evidence of illegal trading such as the case of the influential mafias in our country.

33. The mining of aggregates in rivers has led to severe damage to rivers, including pollution and changes in levels of pH. 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. The removal of more than 12 million tonnes of sand a year from Vembanad Lake catchment in India has led to the lowering of the riverbed by 7 to 15 cm a year. Incision can also cause the alluvial aquifer to drain to a lower level, resulting in a loss of aquifer storage. It can also increase flood frequency and intensity by reducing flood regulation capacity. However, lowering the water table is most threatening to water supply exacerbating drought occurrence and severity as tributaries of major rivers dry up O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

when sand mining reaches certain thresholds. Illegal sand mining also causes erosion. Damming and mining, have reduced sediment delivery from rivers to many coastal areas, leading to accelerated beach erosion.

34. The Report also dealt with the astonishing impact of sand mining on the economy. It states that tourism may be affected through beach erosion. Fishing, both traditional and commercial, can be affected through destruction of benthic fauna. Agriculture could be affected through loss of agricultural land from river erosion and the lowering of the water table. The insurance sector is affected through exacerbation of the impact of extreme events such as floods, droughts and storm surges through decreased protection of beach fronts. The erosion of coastal areas and beaches affects houses and infrastructure. A decrease in bed load or channel shortening can cause downstream erosion including bank erosion and the undercutting or undermining of engineering structures such as bridges, side protection walls and structures for water supply.

35. Sand is often removed from beaches to build hotels, roads and other tourism-related infrastructure. In some locations, continued construction is likely to lead to an unsustainable situation and destruction of the main natural attraction for visitors-beaches themselves. 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, temperature, etc. Alteration or modification of the above attributes may cause

hazardous impact on ecological equilibrium of riverine regime. This may also cause adverse Impact on instream blota and riparian habitats. This disturbance may also cause changes in channel configuration and flow paths.

60. There cannot be any two opinions that natural resources are the assets of the nation and its citizens. It is the obligation of all concerned, including the Central and the State Governments, to conserve and not waste such valuable resources. Article 48-A of the Constitution requires that the State shall endeavour to protect and Improve the environment and safeguard the forests O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

and wildlife of the country. Similarly, Article 51-A enjoins a duty upon every citizen to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for all the living creatures. In view of the constitutional provisions, the doctrine of public trust has become the law of the land. The said doctrine rests on the principle that certain resources like air, sea, water and forests are of such great importance to the people as a whole that it would be highly unjustifiable to make them a subject of private ownership".

33. It is further argued that in compliance to the orders of Hon'ble Supreme Court of India in Deepak Kumar (supra) and by this Hon'ble Tribunal in Himmat Singh Shekhawat, the Government of India In the Ministry of Environment, Forest & Climate Change issued Notification dated 15.01.2016, wherein Paragraph 7(III) was Inserted, which is reproduced below: -

"7(iii) Preparation of District Survey Report for Sand Mining or River Bed Mining and Mining of other Minar Minerals:

(a) The prescribed procedure for preparation of District Survey Report for Sand Mining or River Bed Mining and Mining of other Minor Minerals. (Appendix-X)

(b) The prescribed procedure for Environmental Clearance for Mining of Minor Minerals including Cluster situation. (Appendix-XI) Accordingly, the Appendix-X was inserted inter-alia prescribing procedure for preparation of DSR and Appendix-XI was inserted inter-

alia prescribing procedure for Environmental Clearance. A copy of Notification bearing No. S.O. No. 141(E) dated 13.03.2016 has been annexed.

34. It is further argued that the preparation of District Survey Report for sand mining or river sand mining was prescribed under Appendix-X vide notification quoted above which was substituted vide notification dated 25.07.2018. Learned counsel for the applicant has further raised the question of mandatory requirement of preparation of DSR and O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

appraisal by the SEAC and SEIAA and strict adherence to the procedure and parameter laid down in Enforcement and Monitoring Guidelines for Sand Mining, 2020 and that consequent upon the decision taken at the United Nation Conference on Human Environment held in Stockholm, the Parliament enacted the Environment (Protection) Act, 1986 in September, 2006. The parent EIA Notification dated 14.09.2006 was issued by the MoEF&CC under Section 3 of the EP Act with an endeavor to provide a substantive legal framework and comprehensive procedural mechanism for evaluation, assessment and monitoring of the Environmental Impact on the land, air and water due to various projects undertaken by person in all sectors throughout the territory of India. The EIA Notification dated 14.09.2006, regulated certain activities including mining of minor mineral as laid down in the schedule therein and provided that a prior environmental clearance is mandatory for such regulated and specific projects across all sectors.

The notification provided for constitution of central and state level environmental impact assessment authorities, SEIAA manned by professional, experts and technical individuals that shall screen, scope and appraise projects from an environmental prospective and further monitor the same from time to time, in order to achieve much desired goals of sustainable development. The MoEF & CC issued notification dated 15.01.2016 which amended the EIA Notification, 2006 by introducing clause 7 (III) (A) which mandated for the preparation of DSR for sand mining or River Bed Mining and mining of other mineral. Vide another notification dated 20.01.2016, the MoEF & CC constituted the DEIAA and the DEAC. The DEIAA comprised of 04 members and headed by District Magistrate whereas DEAC comprised of 11 members, who were mostly the government officer's bureaucrats. Further, MoEF & O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

CC issued the Sustainable Sand Mining Management Guidelines, 2016 with an endeavor to ensure that sand and gravel mining is done in an environmentally sustainable and socially responsible manner, and to further ensure the conservation of river equilibrium and its natural environment by protection and restoration of the ecological system. One of the key and nodal objectives enumerated in the SMMG, 2016 was the preparation of the DSR report that would identify the areas of aggradations/deposition where mining can be allowed, and identification of areas of erosion and proximity to infrastructural structures and installation wherein mining should be prohibited.

35. The Tribunal, in the case titled Anjani Kumar v. State of U.P. 2017 SCC Online NGT 979 vide its judgment dated 8.12.2017 held that a District Survey Report (DSR) is a pre-requisite and conditional precedent before the grant of any mining leases of sand and bajri. The Relevant portion is extracted below:-

"31. From the extracted portion, it could well be understood that to begin with the process prescribed for preparing of survey document mapping the status of the sand sources in a District is an integral but an essential part. The Survey has to be conducted and report be prepared for each District. It must also be noticed that while taking into consideration the fact that rivers cut across districts and States and every river is an ecosystem in itself but keeping in mind the fact that district is a most established unit of administration conduct of survey, planning and monitoring can be

ensured effectively, the scheme proposed that every district will prepare this document (District Survey Report) taking river stretch in that district as an ecological and inventorising other sources of sand in the district...

65. Thus there is merit in the contention of the applicant that the District Survey Report is not only an important act but it should be conducted prior permission/concession. to sanctioning of the

71. In other words, it is evident that absence of the factual District Survey Report after due inspection grant of mining lease will be in O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

conflict of the environmental laws as sand mining lease could be granted in an area only when aspect of replenishment of miner mineral especially in river sand is clearly established.

96. It is true that under the Mining Policy, Rules the State is empowered to conduct survey for the purpose of inviting bids opine. The preparation of DSR and obtaining if Environmental Clearance is also a conditional precedent to carrying on mining activity. It is for the State Government to ensure that there is no conflict between two and they are balanced so as to ensure that neither there is scope for illegal mining nor there should be environmental degradation."

36. The present litigation consists of cases where procedure adopted by mining department for allotment of mining lease by issuing Notice Inviting Tender (NIT) is a preliminary process and is not a concern of SEIAA. Once the mining lease is allotted and mining plan is prepared and approved by the mining department, the EC application is filed before SEIAA for grant of EC. It has further mentioned that as provided in rule the mining plan shall be prepared only on the basis of actual quantity available/estimated and all the mining operations shall be carried out in accordance with the approved mining plan. It has further been provided in rule that the mining shall be permitted upto mineable quantity fixed in the mining plan, environmental clearance, water and air consent (whichever is less). SEIAA argues that this rule gives further clarity in the matter as the documents required to be relied upon for determining the permissible quantity are mining plan, EC and Air/Water consent. The tender document is relevant document as per the Rule while determining the permissible mineable quantity. The above mentioned provisions also clarify that the approved mining plan is the basis on which further permissions and approvals are given. The procedure adopted prior to the preparation of mining plan is relevant for SEIAA while dealing with the EC applications.

O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

37. The DSR is to be prepared and followed as per the procedure and parameters laid down in the guidelines of 2020. It is necessary to mention here that Hon'ble Apex Court in the matter of Bajri Lease LOI Holder Welfare's Society vs State of Rajasthan in SLP No. 10587/2019 passed order dated

11-11-2021, accepted recommendations of CEC.

The state started process of auctioning as well as allotment of Bajri Mining Leases as per the recommendations of the CEC.

38. On the point of putting in the public domain it is argued that the DSR has duly been prepared and kept in public domain for objections as well as consultation. After approval from SEIAA, auctioning process of Bajri Plots as per the Standard Operating Procedure laid down by Government of Rajasthan on 07.10.2023 was started. As per the notification of the Ministry of Environment Forest and Climate Change dated 25-07-2018 Sub Divisional level Committees consisting of all concerned departments visited the site and recommended plots for Bajri Mining. Apart from this, quantification of mineral Bajri was also carried out as per the guidelines of the Ministry. Hence, it is clear that conditions are being followed.

39. It is further argued that the Applicant has no locus standi and not came with clean hands and not serious as far as auction is concerned and simply acting as a forum shopping. It is settled law when a person approaches a court of equity in exercise of its power, he should not only come to the tribunal or court with clean hands but also with clean mind, clean heart and clean objectives. Thus, who seeks equity must do equity. Equally, the judicial process should never become an instrument to appreciation or abuse or a means in the process of the court to subvert justice. The power wasted in the tribunal or in the court will be exercised only in furtherance of justice and not merely on O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

the making out of a legal point, the interest of justice and public interest, coalesce. No litigant has a right to unlimited draught on the court time and public money in order to get his affairs settled in the manner he wishes. Easy access to justice should not be misused as a license to file misconceived and frivolous petitions.

Issue of limitation, plural remedies/more than two causes of action:

40. The submissions of the learned counsel for the Applicant are that this application is maintainable because it is against the environmental laws but the submissions of the learned counsel for the Respondents are that there are procedures to file the application and appeal and if the Applicant has to challenge any order then the procedure for challenging is contained in Section 28, 29 and 33B of the Water Act (Prevention and Control of Pollution) Act, 1974. The relevant provisions are quoted below:-

"28. Appeals. (1) Any person aggrieved by an order made by the State Board under section 25, section 26 or section 27 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to such authority (hereinafter referred to as the appellate authority) as the State Government may think fit to constitute:

Provided that the appellate authority may entertain the appeal after the expiry of the said period of thirty days if such authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) An appellate authority shall consist of a single person or three persons, as the State Government may think fit, to be appointed by that Government.

(3) The form and manner in which an appeal may be preferred under sub-section (1), the fees payable for such appeal and the procedure to be followed by the appellate authority shall be such as may be prescribed.

O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

(4) On receipt of an appeal preferred under sub-section (1), the appellate authority shall, after giving the appellant and the State Board an opportunity of being heard, dispose of the appeal as expeditiously as possible.

(5) If the appellate authority determines that any condition imposed, or the variation of any condition, as the case may be, was unreasonable, then,

(a) where the appeal is in respect of the unreasonableness of any condition imposed, such authority may direct either that the condition shall be treated as annulled or that there shall be substituted for it such condition as appears to it to be reasonable;

(b) where the appeal is in respect of the unreasonableness of any variation of a condition, such authority may direct either that the condition shall be treated as continuing in force unvaried or that it shall be varied in such manner as appears to it to be reasonable.

29. Revision. (1) The State Government may at any time either of its own motion or on an application made to it in this behalf, call for the records of any case where an order has been made by the State Board under section 25, section 26 or section 27 for the purpose of satisfying itself as to the legality or propriety of any such order and may pass such order in relation thereto as it may think it:

Provided that the State Government shall not pass any order under this sub-section without affording the State Board and the person who may be affected by such order a reasonable opportunity of being heard in the matter.

(2) The State Government shall not revise any order made under section 25, section 26 or section 27 where an appeal against that order lies to the appellate authority, but has not been preferred or where an appeal has been preferred such appeal is pending before the appellate authority.

33B. Appeal to National Green Tribunal.-Any person aggrieved by,-

(a) an order or decision of the appellate authority under section 28, made on or after the commencement of the National Green Tribunal Act, 2010; or

(b) an order passed by the State Government under Section 29, on or after the commencement of the National Green Tribunal O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

Act, 2010; or

(c) directions issued under section 33A by a Board, on or after the commencement of the National Green Tribunal Act, 2010*, may file an appeal to the National Green Tribunal established under section 3 of the National Green Tribunal Act, 2010, in accordance with the provisions of that Act.]"

41. The Applicant has neither approached the competent authority or never made any revision before the revisionist authority and not filed any appeal before this Tribunal as provided under Section 33B of the Water (Prevention and Control of Pollution) Act,1974.

42. Since the Applicant by means of this application has challenged and sought a relief for cancellation of DSR, Lease Deed, Mining Permission, NIT, Tender Process, Consent Conditions, Environmental Clearance, thus, this effectively renders the Original Application an Appeal against a statutory order issued by the Environmental Authority. It is stated that the Original Application raises "substantial question related to environment" and that an appellate remedy may not be fully constituted, however, a direct challenge to a regulatory approval falls primarily within the appellate jurisdiction of this Tribunal. It is further stated that there is no record demonstrating the fact that the Appellant made any effort to appeal before the legally mandated forums within the period of limitation. It is also stated that the National Green Tribunal Act, 2010, provides for specific appellate mechanism under Section 16 for aggrieved parties to challenge orders passed by prescribed authorities. By framing this challenge as an Original Application, the Applicant circumvents the established legal process and attempts to bypass potential procedural requirements and limitations applicable to appeals, including strict timelines. This Tribunal has repeatedly emphasised the importance of adhering to proper legal avenues and not O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

allowing parties to convert appellate matters into original applications.

Furthermore, the provisions under Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974, have prescribed specific appellate authorities for challenging a Consent to Operate (CTO) order. It is stated that even though the instant application was an appeal in the garb of an Original Application, it is still hopelessly barred by limitation, which as per Section

14(3) of the NGT Act, 2010. Section 14(3) of the NGT Act 2010 reads as follows:-

".....No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose: Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days..."

43. It is further submitted that the cause of action arose in 2023 when the DSR was approved or the NIT was published and it is hopelessly barred by limitation. It is also stated that in case of Athippa Chemicals Pvt.

Ltd. v. Puducherry Pollution Control Board, (O.A. No. 30 of 2011), decided on 14.12.2011, the Hon'ble Principal Bench of the NGT has held that where there is right of appeal under the statutory provision of Act or Rules, Original Application is not maintainable before the Tribunal. The Tribunal in the said case dismissed an Original Application against the order of the Puducherry PCB challenged directly before the Tribunal in OA instead of filing of Appeal U/s 31 of Air Act before the Appellate Authority. The aforementioned judgement clearly covers the present issue.

44. The Respondents, on the threshold, have raised their preliminary objections on the question of maintainability of the application on limitation and jurisdiction. They have raised all the contentions as O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

narrated above. Speaking on the jurisdiction powers and proceedings of the Tribunal, Section 14 of the NGT Act, 2010, reads as follows:-

"14. Tribunal to settle disputes.-(1) The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified on Schedule-1.

(2) The Tribunal shall hear the disputes arising from the questions referred to in sub-section (1) and settle such disputes and pass order thereon.

(3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose:

Provided that the Tribunal may, if it is satisfied that the application was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days."

45. From the very reading of the above provisions of the NGT, it would be quite clear that the Tribunal has jurisdiction over all civil cases only where a substantial question relating to the environment including enforcement of any legal right relating to environment is involved and also the said substantial question should also arise out of the implementation and is included in one of the seven enactments specified under the Schedule-I. Even if the Applicant is able to satisfy the above requisite, the Tribunal can adjudicate the dispute only if it is made within a period of limitation from the date on which the cause of action in such dispute first arose.

46. As in any civil case, to initiate proceedings and to seek relief before the Tribunal, as envisaged under the provisions of NGT Act, one should have the cause of action which consisting of bundle of facts which gives O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

the affected party a right to claim relief. The expression generally means the situation or a set of acts that entitles a party to maintain an action in a Court or a Tribunal:-

"(e) Black's Law Dictionary defines Cause of Action as "Cause of action is stated to be the entire set of facts that gives rise to an enforceable claim; the phrase comprises every fact, which, if traversed, the plaintiff must prove in order to obtain judgment.

(f) In "Words and Phrases", the meaning attributed to the phrase "cause of action" in common legal parlance is existence of those facts, which give a party a right to judicial interference on his behalf.

(g) As per Halsbury Laws of England (Fourth Edition) "Cause of action" has been defined as meaning simply a factual situation the existence of which entitles one person to obtain from the Court a remedy against another person. The phrase has been held from earliest time to include every fact which is material to be proved to entitle the plaintiff to succeed, and every fact which a defendant would have a right to traverse. "Cause of action" has also been taken to mean that particular act on the part of the defendant which gives the plaintiff his cause of complaint, or the subject matter of grievance founding the action, not merely the technical cause of action.

(h) It is judicially settled that the cause of action, in the restricted sense, means forming the infraction of the right or the immediate occasion for the action and in the wider sense, the necessary conditions for the maintenance of the proceedings not only the alleged infraction but also the infractions coupled with the right itself."

47. It would be apt and appropriate to reproduce the following observation made by the Principal Bench, NGT, New Delhi, in Appeal No.01 of 2013 Ms. Medha Patkar & Others Vs. Ministry of Environment & Forest, Union of India & Others, on the point of limitation:-

"The Tribunal must adopt a pragmatic and practical approach that would also be in consonance with the provisions of the Act providing limitation. Firstly, the limitation

would never begin to run and no act would determine when such limitation would stop running as any one of the stakeholders may not satisfy or comply with all its O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

obligations prescribed under the Act. To conclude that it is only when all the stakeholders had completed in entirety their respective obligations under the respective provisions, read with the notification of 2006, then alone the period of limitation shall begin to run, would be an interpretation which will frustrate the very object of the Act and would also cause serious prejudice to all concerned. Firstly, the completely frustrates the purpose of prescription of limitation. Secondly, a project proponent who has obtained environmental clearance and thereafter spent crores of rupees on establishment and operation of the project, would be exposed to uncertainty, dander of unnecessary litigation and even the possibility of jeopardizing the interest of his project after years have lapsed. This cannot be the intent of law. The framers of law have enacted the provisions of limitation with a clear intention of specifying the period within which an aggrieved person can invoke the jurisdiction of this Tribunal. It is a settled rule of law that once the law provides for limitation, then it must operate meaningfully and with its rigour. Equally true is that once the period of limitation starts running, then it does not stop. An applicant may be entitled to condonation or exclusion of period of limitation. Discharge of one set of obligations in its entirety by any stakeholder would trigger the period of limitation which then would not stop running and equally cannot be frustrated by mere non-compliance of its obligation to communicate or place the order in public domain by another stakeholder. The purpose of providing a limitation is not only to fix the time within which a party must approach the Tribunal but is also intended to bring finality to the orders passed on one hand and preventing endless litigation on the other. Thus, both these purposes can be achieved by a proper interpretation of these provisions. A communication will be complete once the order granting environmental clearance is place in public domain by all the modes referred to by all or any of the stakeholders. The legislature in its wisdom has, under the provisions of the Act or in the notification of 2006, not provided any other indicator or language that could be the precept for the Tribunal to take any other view."

48. In construing a statutory provision, the first and foremost rule of construction is the literary construction. All that the Court has to see at the very outset is what does the provision say. If the provision is unambiguous and if from the provision the legislative intent is clear, the O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

Court need not call into aid the other rules of construction of statutes.

The other rules of construction are called into aid only when the legislative intent is not clear. In a more recent judgment, the Supreme Court, in Balwant Singh (Dead) Vs. Jagdish Singh and Ors. (2010) 8 SCC 685, while dealing with the expression 'sufficient cause', elaborately stated the principles of condonation of delay. It also elucidated the approach to be adopted by a Court in such

cases and held as under:-

"It must be kept in mind that whenever a law is enacted by the legislature, it is intended to be enforced in its proper perspective. It is an equally settled principle of law that the provisions of a statute, including every word, have to be given full effect, keeping the legislative intent in mind, in order to ensure that the projected object is achieved. In other words, no provisions can be treated to have been enacted purposelessly. Furthermore, it is also a well settled canon of interpretative jurisprudence that the Court should not give such an interpretation to provisions which would render the provision ineffective or odious. Once the legislature has enacted the provisions of Order 22, with particular reference to Rule 9, and the provisions of the Limitation Act are applied to the entertainment of such an application, all these provisions have to be given their true and correct meaning and must be applied wherever called for. If we accept the contention of the Learned Counsel appearing for the applicant that the Court should take a very liberal approach and interpret these provisions (Order 22 Rule 9 of the CPC and Section 5 of the Limitation Act) in such a manner and so liberally, irrespective of the period of delay, it would amount to practically rendering all these provisions redundant and inoperative. Such approach or interpretation would hardly be permissible in law. Liberal construction of the expression 'sufficient cause' is intended to advance substantial justice which itself presupposes no negligence or inaction on the part of the applicant, to whom want of bona fide is imputable. There can be instances where the Court should condone the delay; equally there would be cases where the Court must exercise its discretion against the applicant for want of any of these ingredients or where it does not reflect 'sufficient cause' as understood in law. (Advanced Law Lexicon, P. Ramanatha Aiyar, 2nd O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

Edition, 1997) The expression 'sufficient cause implies the presence of legal and adequate reasons. The word sufficient means adequate enough, as much as mh999 3153 essay to ansus the purpo purpose intended. It embraces no more than that which provides a plentitude which, when done, suffices to accomplish the purpose intended in the light of existing circumstances and when viewed from the reasonable standard of practical and cautious men. The sufficient cause should be such as it would persuade the Court, in exercise of its judicial discretion, to treat the delay as an excusable one. These provisions give the Courts enough power and discretion to apply a law in a meaningful manner, while assuring that the purpose of enacting such a law does not stand frustrated. We find it unnecessary to discuss the instances which would fall under either of these classes of cases. The party should show that besides acting bonafide, it had taken all possible steps within its power and control and had approached the Court without any unnecessary delay. The test is whether or not a cause is sufficient to see if it could have been avoided by the party by the exercise of due care and attention."

49. According to the Respondents, the Tribunal has no jurisdiction to condone the delay in view of the language of Section 16 of the NGT Act, which reads as under:-

"16. Tribunal to have appellate jurisdiction Any person aggrieved by, - ***** h. an order made, on or after the commencement of the National Green Tribunal Act, 2010, granting environmental clearance in the area in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986;

***** may, within a period of thirty days from the date on which the order or decision or direction or determination is communicated to him, prefer an appeal to the Tribunal:

Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed under this section within a further period not exceeding sixty days."

50. From language of the above provisions, it is clear that the Tribunal loses jurisdiction to condone the delay if the delay is of more than 90 days.

O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

Every appeal has to be filed within 30 days from the date of communication of the order. That is, what an applicant is required to ensure before the appeal is heard on merits. However, the Tribunal has been vested with the jurisdiction to entertain the appeal which is filed after 30 days from the date of communication of an order. This power to condone the delay has a clear inbuilt limitation as it ceases to exist if the appeal is filed in excess of 60 days, beyond the prescribed period of limitation of 30 days from the date of communication of such order. To put it simply, once the period of 90 days lapses from the date of communication of the order, the Tribunal has no jurisdiction to condone the delay. The language of the provision is clear and explicit. It admits of no ambiguity and the legislative intent that Tribunal should not and cannot condone the delay in excess of 90 days in all, is clear from the plain language of the provision.

51. Section 16 of the NGT Act, 2010, provides for prescribed period of thirty (30) day for filing of the Appeal. The proviso appended to Section 16, however, gives discretion to the Tribunal, that if it is satisfied "that the Appellant was prevented by sufficient cause" from filing the Appeal, within the said period, it may allow (the Appeal) to be filed under this Section within a further period not exceeding sixty (60) days. Thus, limitation period can be extended only up to period of sixty (60) days only, if it is demonstrated by the Appellant that there was cause for him, which prevented him from filing of the Appeal, within initial prescribed period of limitation. In Sunil Kumar Samanta, M/s. Samanta Engineering Works, 1, B.T. Road, Barrackpore, North 24-Parganas, v.

West Bengal Pollution Control Board & Ors. (2014 India NGT Reporter (Part 3) 250), the Hon'ble Principal Bench of this Tribunal, elaborately considered the relevant proviso of Section 16 of the NGT Act, 2010. The O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

Hon'ble Principal Bench also considered analogues provisions of the Limitation Act. The Hon'ble Principal Bench, held that:-

"33. Normally, the statutory period of limitation provided in a provision like under the NGT Act, is un-extendable by recourse to provisions of Section 5 of the Limitation Act. While applying the provisions of limitation, besides applying the rule of strict construction, the Tribunal has to keep a balance between rival rights of the parties; appellant who has lost his right or whose remedy is barred by time and other to whom a benefit has accrued as a result of loss of right of the first. At this stage, it may be appropriate to make reference to a recent judgment of the Supreme Court, in the case of Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy and others (JT 2013 (12) SC 450), where the Court was primarily concerned with the condonation of delay in filing an appeal. The Court adverted itself towards the respective rights and obligations of the parties and held as under: "26. The law of limitation is a substantive law and has definite consequences on the right and obligation of a party to arise. These principles should be adhered to and applied appropriately depending on the facts and circumstances of a given case. Once a valuable right has accrued in favour of one party as a result of the failure of the other party to explain the delay by showing sufficient cause and its own conduct, it will be unreasonable to take away that right on the mere asking of the applicant, particularly when the delay is directly a result of negligence, default or inaction of that party. Justice must be done to both parties equally. Then alone the ends of justice can be achieved. If a party has been thoroughly negligent in implementing its rights and remedies, it will be equally unfair to deprive the other party of a valuable right that has accrued to it in law as a result of his acting vigilantly.

vii) The concept of liberal approach has to encapsulate the conception of reasonableness and it cannot be allowed a totally unfettered free play."

52. In light of these principles, the contention of the applicant/appellant that the National Green Tribunal is the forum to which first appeal is provided against the orders specified in Section 16 of the NGT Act and that these provisions should be construed liberally, can hardly be O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

accepted. Also, there is no question of deprivation of right to appellant.

The right of appeal is a statutory right and can be exercised within the prescribed period of limitation. If a party chooses to sleep over its right and permits the remedy available to it to become barred by time, then it can hardly be heard to contend that it has lost a valuable right and the result is unjust. Such interpretation would be a normal corollary of application of rule of 'plain

construction'. This would be in line with the object and purpose of the Act and would also sub serve the cause of justice. This interpretation would not preclude any litigant from taking recourse to an appropriate remedy prescribed in in accordance with law.

53. We cannot and shall not overlook mandate of the proviso appended to Section 16 of the NGT Act, 2010, which carve out exception to the general Rule provided under Section 16 of the NGT Act, 2010. It is well stated that 'proviso' is always an exception to the main Rule, which is set out in the provision of the Rules. Needless to say, the 'proviso will not supersede the main provision. The language of proviso, appended to Section 16, would make it amply clear that the Tribunal "must be satisfied by the Appellant with tangible reasons, which prevented him from filing of the Appeal within prescribed period of limitation, in order to make him eligible to ask for concession for extension of time". True, interpretation of the proviso has to be primarily made and the same cannot be used as cobweb to deprive a genuine litigant from approaching the Tribunal. Still, however, in an appropriate case, where there is absolutely no acceptable explanation given by the Appellant, then extension of period of under the proviso, is unwarranted grant of premium in-spite of absence of satisfactory reason being stated in the O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

delay condonation Application. Such an application cannot be granted just for asking by a litigant, who fails to explain reasons for the delay.

54. There is no provision in the Act to file one appeal against several or more than one orders. The relief as sought by the applicant contains more than one appealable order and appellant had right to file an appeal separately before the competent forum but, he adopted to file complaint/PIL. This takes us to the question of maintainability of the Application in a composite form, which he says is dual- Appeal-cum-

Application, filed in view of availability of plural remedies, in accordance with Rule 14 of the National Green Tribunal (Practices and Procedure) Rules, 2011. We shall deal with his contention, in order to set right the issue once for all, inasmuch as it is likely to be raised in many such cases, on similar ground. Rule 14 of the NGT (Practices and Procedure) Rules, 2011, reads as follows:-

"Rule 14. Plural remedies- An application or appeal, as the case may be, shall be based upon a single cause of action and may seek one or more relief provided that they are consequential to one another."

55. Perusal of Rule 14, without any pre-judicial notions in the mind, will make it amply clear that any Application or Appeal, as the opening words imply are distinct remedies under which the particular relief may be sought on single cause of action. Thus, if properly read, the Rule provides as follows:-

"i There may be either single Application or Appeal. In other words, it cannot be a comprehensive or hybrid type of pleadings like Appeal- cum-Application, as captioned by the Appellant-cum-Applicant, as in the present Application/Appeals.

i) The Appeal or Application, whatsoever it may, be must be filed on single cause of action. Thus, it cannot be filed on several causes of action. In other words, an Appeal cannot be filed with combined challenging different ECs or orders, nor an Application can be filed O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

challenging different orders or different violations under the different Laws.

iii) Still, however, choice given to Appellant/Applicant is to ask for grant of more than one relief in case such reliefs, are of consequential character. In other words, if a relief depends upon grant of another relief, then grant of more than one relief is permissible. For example; in case EC for grant of a project is challenged on the ground that there is no permission from CRZ Authority to the construction carried out, then consequential relief to demolish illegal construction carried out, without CRZ Authority's permission, which falls within CRZ area/NDZ area."

56. We cannot overlook and brush aside main provisions of the NGT Act, which do not provide for any kind of permission to allow filing of two (2) Appeals, one against time barred EC, coupled with another EC for revised plan along with an Application under Sections 14,15 and 18 of the NGT Act, 2010.

57. Once we examine the provision of Section 16 of the NGT Act in the light of the above principle, it is clear that the provision is neither ambiguous nor indefinite. The expressions used by the legislature are clear and convey the legislative intent. The communication of an order granting the Environmental Clearance has to be made by the MoEF/SEIAA as well as the Project Proponent in adherence to law. The communication would be complete when it is undisputedly put in the public domain by the recognised modes, in accordance with the said provision. The limitation of 30 days would commence from that date. If the application is presented beyond the period of 30 days, in that event, it becomes obligatory upon the applicant to show sufficient cause explaining the delay. The delay must be bona fide and not a result of negligence or intentional inaction or mala fide and must not result in the abuse of process of law. Once these ingredients are satisfied the Tribunal shall O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

adopt a balanced approach in light of the facts and circumstances of a given case:-

"36. Trite law it is that the special law of limitation in any given enactment will always exclude the general law of limitation. The NGT Act, 2010, a special enactment specifically provides a period of limitation under section 14(2) and 15(3). The Principal Bench, NGT has already held in *Jesurathinam v. MOEF, Union of India* reported in 2012 (2) FLT 811 NGT that when a specific provision for limitation is provided under the special statute, the general provisions of the Limitation Act, 1963 are inapplicable. Hence, the Tribunal is afraid whether the theory of continuing cause of action can be made applicable to the present factual position of the case for which the specific period of limitation is available under the NGT Act, 2010."

58. Thus, the application is barred by time and instead of filing the appeal against the order in accordance with the provisions, this application has been filed beyond time, and not maintainable.

More than two causes of action or several causes of action:

59. Learned counsel for the Applicant has raised the issue that on the relief which has been claimed in the petition/application is maintainable while the contention of the learned counsel for the Respondent/Project Proponent is that there are more than two different causes of action for which two different applications lies before different forum in accordance with the provisions contained in the National Green Tribunal Act, 2010 and Water (Prevention and Control of Pollution) Act, 1974.

60. We have narrated the provisions in the above paragraphs, thus it would be quite clear that reliefs sought for on two distinct and different causes of action would be repugnant to rule 14 of the NGT Rules, 2011. The words 'consequential' to one another employed in rule 14 of the NGT Rules, 2011 would make the intention of the Legislature explicit that O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

the reliefs sought for by the applicant or appellant can be more than one if they are consequential to one another but certainly not on two different causes of action. 'Consequential relief should flow directly as a natural sequence from the main and substantive relief and it can even be incidental also. But, it should be wholly connected to the main or the substantive relief and thus should arise from the same cause of action.

In the instant case, two different and distinctive reliefs based on two separated causes of action are asked for by the appellant. The submission by the learned counsel for the appellant that the relief was for striking down the 2011 Office Memorandum and setting aside of CTO/EC are intrinsically linked is worth to be ignored. In the face of rule 14 of NGT Rules, 2011 as seen above, it would be futile to contend that the rule 14 does not restrict the jurisdiction of cause of action. The Hon'ble Western Zone Bench of the NGT at Pune had an occasion to consider the question of maintainability of the application in a composite form of application-cum-appeal filed in view of the availability of the plural remedies in accordance with rule 14 of NGT Rules, 2011 in *Vikas K. Tripathi Mumbai v. The Secretary, MoEF* reported in 2014 ALL (I) NGT Reporter (3) (Pune) 95 and has held as follows:-

"21. We shall deal his contention in order to set right issue once for all, in as much as it is likely to be raised in many such cases on similar ground. Rule 14 of the NGT (Practices and Procedure) Rules, 2011 reads as follows:

"Rule 14. Plural remedies.-An application or appeal, as the case may be, shall be based upon a single cause of action and may seek one or more relief provided that they are consequential to one another".

22. Perusal of Rule 14, without any prejudicial notions in the mind, will make it amply clear that any Application or Appeal, as the opening words imply are distinct remedies under which the particular O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

relief may be sought on single cause of action. Thus, if properly read the rule provide as follows:

i) There may be either single Application or Appeal. In other words, it cannot be a comprehensive or hybrid type of pleadings like Appeal-cum-Application, as captioned by the Appellant-cum-

Applicant (Vikas Tripathy) as the present Application/Appeals. in

ii) The Appeal or Application, whatsoever it may be must be filed on single cause of action. Thus, it cannot be filed on several causes of action. In other words, an Appeal cannot be filed with combined causes challenging different ECs or orders, nor an Application can be filed challenging different orders or different violations under the different laws.

Still, however, choice given to the Appellant/Applicant is to ask for grant of more than one relief in case such reliefs are of consequential character. In other words, if a relief depends upon grant of another relief, then grant of more than one relief is permissible.

22.***

23. We cannot overlook and brush aside main provisions of the NGT Act, which do not provide for any kind of permission to allow filing of two Appeals, one against the time barred EC, coupled with another EC for revised construction plan along with an Application under Sections 14, 15 and 18 of the NGT Act, 2010. In case, Vikas Tripathi is genuinely interested in the cause of environment and feels that the project in question has caused violations of EC conditions/deterioration of the environment of the environment, then he is at liberty to file a separate Application under Section 14(1)(2) read with Sections 15 and 18 of the NGT Act, 2010 if so advised and if it is permissible under law. He cannot, however, club all such Appeals and Applications together and explore to examine whether one cap fits on another".

61. Applying the principle laid down as above, we have no hesitation to hold that the appellant on two distinct and independent causes of action cannot maintain the present application. It is argued by the respondent that it is forum hunting and it is intended to continue till the appellant does not achieve a desired goal. The platform of the Tribunal or the O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

Courts cannot be made a platform to compel the opposite party to pass a desired order. The matter cannot be agitated and to be continued till infinity and it should come at rest. The Hon'ble Supreme Court in Dr. Buddhi Kota Subbarao Vs. K Parasaran & Ors., AIR 1996 SC 2687, the Hon'ble Supreme Court has observed as under:-

"No litigant has a right to unlimited drought on the Court time and public money in order to get his affairs settled in the manner he wishes. However, access to justice should not be misused as a licence to file misconceived and frivolous petitions."

Similar view has been reiterated by the Supreme Court in K.K. Modi Vs. K.N. Modi & Ors., (1998) 3 SCC 573.

In Tamil Nadu Electricity Board & Anr. Vs. N. Raju Reddiar & Anr. AIR 1997 SC 1005 the Hon'ble Supreme Court held that filing successive misconceived and frivolous applications for clarification, modification or for seeking a review of the order interferes with the purity of the administration of law and salutary and healthy practice. Such a litigant must be dealt with a very heavy hand.

In Sabia Khan & Ors. Vs. State of U.P. & Ors., (1999) 1 SCC 271, the Hon'ble Apex Court held that filing totally misconceived. petition amounts to abuse of the process of the Court and such litigant is not required to be dealt with lightly.

In Abdul Rahman Vs. Prasoni Bai & Anr., (2003) 1 SCC 488, the Hon'ble Supreme Court held that wherever the Court comes to the conclusion that the process of the Court is being abused, the Court would be justified in refusing to proceed further and refuse the party from pursuing the remedy in law."

"It is well established rule of interpretation of a statute by reference to the exposition it has received from contemporary authority. However, the Apex Court added the words of caution that such a rule must give way where the language of the statute is plain and unambiguous. Similarly, in Collector of Central Excise, Bombay-I & Anr. Vs. M/s. Parle Export (P) Ltd., AIR 1980 SC 644, the Hon'ble Supreme Court observed that the words used in the provision should be understood in the same way in which they have been understood in ordinary parlance O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

in the area in which the law is in force or by the people who ordinarily deal with them. In Indian Metals and Ferro Alloys Ltd., Cuttack Vs. The Collector of Central Excise, Bhubaneswar, AIR 1991 SC 1028, the Hon'ble Supreme Court has applied the same rule of interpretation by holding that "contemporanea expositio by the administrative authority is a very useful and relevant guide to the interpretation of the expression used in a statutory instrument. Same view has been taken by the Hon'ble Supreme Court in State of Madhya Pradesh Vs. G.S. Daal and Flour Mills (Supra); and Y.P. Chawla & Ors. Vs. M.P. Tiwari and Anr., AIR 1992 SC 1360. In N. Suresh Nathan & Ors. Vs. Union of India & Ors, 1992 (Suppl) 1 SCC 584; and M.B. Joshi & Ors. Vs. Satish Kumar Pandey Ors., 1993 (Suppl.) 2 SCC 419, the Apex Court observed that construction in consonance with long-standing practice prevailing in the concerned department is to be preferred."

62. Submission of the learned Counsel for the Applicants is that the report/recommendation of the SEAC is without application of any mind and should not be relied upon.

63. Learned Counsel has relied on State of Bihar & Ors. Vs. Pawan Kumar & Ors.: Civil Appeal No.3661-3662 of 2020, decided on 10.11.2021, and argued that DSR should be prepared in

accordance with the Notification dated 15.01.2016 issued by the MoEF&CC which provides the composition of Sub-Divisional Committee.

64. He has further argued that:

(i) The impugned DSR suffers from fundamental procedural and substantive defects, No Sub-Divisional Committee was constituted in accordance with the statutory scheme. No site inspections, replenishment studies, hydrological assessments or scientific field verifications were conducted prior to identifying mining zones. The DSR 2022-23 substantially reproduces portions of the earlier DSR 2017-18 without any independent scientific reassessment, thereby demonstrating complete non-application of mind.

O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

(ii) The affected area forms part of the Luni river basin, which is ecologically fragile and highly dependent upon groundwater recharge through seasonal river flow. The Applicants have specifically pleaded that after nearly 44 years the river again witnessed natural water flow, resulting in recharge of wells and tube wells and revival of agriculture in approximately 15,000 bighas of land.

(iii) The local population is overwhelmingly dependent on agriculture and groundwater recharge. Sand mining in the riverbed would create deep pits, alter river morphology, obstruct natural percolation, deplete aquifers and reversibly damage the ecology of the region.

(iv) Even the public hearing process was conducted in a wholly illegal and non-transparent manner. According to the Applicants since No effective notice was given to villagers, The Sarpanch and local residents were not informed, Outsiders were allegedly brought to show artificial participation, Genuine objections were suppressed.

The Zila Parishad itself, vide communication dated 01.07.2025, acknowledged deficiencies in the DSR and directed reconsideration and revision of the same, thereby demonstrating that the existing DSR is unreliable and defective.

65. Learned Counsel has further relied on Civil Appeal No.14170 of 2024 (State of Uttar Pradesh Vs. Gaurav Kumar & Ors.) decided on 08.05.2025, Civil Appeal No.8055 of 2022, (Union Territory of J&K (Previously Saet of Jammu & Kashmir) & Anr. Vs. Raja Muzafar Bhai & Ors.): 20525 INSC 1025, decided on 22.08.2025, and Deepak Kumar Vs. State of Haryana & Ors. in SLP(C) No.19628-19629 decided on 27.02.2012.

O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

66. In reply thereof, learned counsel for the Respondent/Project Proponent has submitted that it is valid, since it is expert body of more than 12 members and was deliberated widely and thus binding till it is not declared void or cancelled by the competent authority.

67. In a case reported in 2011 (3) SCC 364, *Krishnadevi Malchand Kamathia v. Bombay Environmental Action Group*, it was held as follows:-

"16. It is a settled legal proposition that even if an order is void, it requires to be so declared by a competent forum and it is not permissible for any person to ignore the same merely because in his opinion the order is void. In *State of Kerala v. Kunhikannan Nambiar Man jeri Manikoth Naduvil*, (1996) 1 SCC 435, *Tayabhai M. Bagasarwalla v. Hind Rubber Industries (P) Ltd.*, (1997) 3 SCC 443, *M. Meenakshi u. Metadin Agarwal and Sneh Gupta v. Devi Sarup*, (2009) 6 SCC 194, this court held that whether an order is valid or void, cannot be determined by the parties. For setting aside such an order, even if void, the party has to approach the appropriate forum.

17. In *State of Punjab V. Gurdev Singh* this court held that a party aggrieved by the invalidity of an order has to approach the court for relief of declaration that the order against him is inoperative and therefore, not binding upon him. While deciding the said case, this Court placed reliance upon the judgment in *Smith v. East Elloe RDC*, wherein Lord Radcliffe observed: (AC pp. 769-70) "...An order, even if not made in good faith, is still an act capable of legal consequences. It bears no brand of invalidity (on) its forehead. Unless the necessary proceedings are taken at law to establish the cause of invalidity and to get it quashed or otherwise upset, it will remain as effective for its ostensible purpose as the most impeccable of orders."

18. In *Sultan Sadik v. Sanjay Raj Subba*, (2004) 2 SCC 1377, this court took a view observing that once an order is declared non est by the court only then the judgment of nullity would operate erga omnes ie. for and against everyone concerned. Such a declaration is permissible if the court comes to the conclusion that the author of the order lacks inherent jurisdiction/competence and therefore, it comes O.A. No.77/2025(CZ) *Harsukhram & Ors. Vs. State of Rajasthan & Ors.*

to the conclusion that the order suffers from patent and latent invalidity."

68. The SEAA members are expert in their domain fields and apprised the proposal, through scrutiny and detailed deliberations are done by the members. Therefore, the deliberations taken place in the meeting are always of technical nature. The objections and clarifications of the Project Proponent have been complied on various issues raised by the SEAC members and the proposal was recommended. The expert finding cannot be questioned and this can be relied on the following law points:-

"A. *Rajeev Suri v. Delhi Development Authority* [2021 SCC OnLine SC 7 "494. The minutes of the two meetings of EAC are self-explanatory and reveal due application

of mind, in light of the principles relating to application of mind enunciated above. We do not wish to repeat the same to avoid prolixity. EAC is an expert body and it is amply clear that it has been made aware of all relevant information relating to the project and it has applied its mind to the proposal. Even on settled principles of judicial review, it is clear that relevant material has been considered by the committee and no reliance has been pointed out on any irrelevant material. The specific recommendations given by the committee do indicate that the committee was aware of the need for precautionary measures in environmental matters and accordingly, it suggested requirement of further permissions on certain counts.

495. Once an expert committee has duly applied its mind to an application for EC, any challenge to its decision has to be based on concrete material which reveals total absence of mind. Absent that material, due deference must be shown to the decisions of experts. The facts of the case do not reveal any deliberate concealment of fact/information from the EAC or supply of any misinformation....

515. We, therefore, upon a thorough examination, decline to interfere in the grant of EC. The expertise developed by the EAC cannot be undermined in a light manner and as noted above, due deference O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

must be accorded to expert agencies when their 384 decisions do not attract the taint of legal unjustness".

B. N.D. Jayal & Anr. vs. Union of India (2004 (9) SCC 362]:

A 3-Judge Bench of the Hon'ble Supreme Court emphasized the exercise of judicial restraint in matters involving technical expertise.

20. This Court cannot sit in judgment over the cutting edge of scientific analysis relating to the safety of any project. Experts in science may themselves differ in their opinions while taking decisions on matters related to safety and allied aspects. The opposing viewpoints of the experts will also have to be given due consideration after full application of mind. When the Government or the concerned authorities after due consideration of all viewpoints and full application of mind took a decision, then it is not appropriate for the Court to interfere. Such matters must be left to the mature wisdom of the Government or the implementing agency. It is their forte. In such cases, if the situation demands, the Courts should take only a detached decision based on the pattern of the well settled principles of administrative law. If any such decision is based on irrelevant consideration or non consideration of material or is thoroughly arbitrary, then the Court will get in the way. Here the only point to consider is whether the decision making agency took a well informed decision or not. If the answer is yes then there is no need to interfere.

The consideration in such cases is in the process of decision and not in its merits.

21. In this context, reliance is sought to be placed on the decision of this Court in *A.P. Pollution Control Board v. Prof. M.V. Nayudu (Retd.) and Ors.*, 1999 (2) SCC 718. In that decision, this Court viewed that in scientific matters of complex nature resulting in uncertainty, reference has to be made to a specialised technical/expert body and not merely decide the matter on well known principles of administrative law of court not reexamining the matter if all relevant considerations have been taken note of. In the present case when once a decision had been given by this Court on safety aspects on an earlier occasion and thereafter the matter was again examined by the Government through different agencies and had taken a decision as to the necessity of further test by way of abundant caution should be relevant or not, we do not think, we can sit in judgment over such O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

decision, particularly when there is no difference of opinion among the Experts as to the safety of the dam.

C. Sam Built Well Private Limited vs Deepak Builders [2018 (2) SCC 176]: This judgement was rendered by the Hon'ble Supreme Court in the context of judicial review of tenders. However, several observations were made qua exercising judicial restraint in matters involving technical expertise.

12. We have already noticed that three expert committees have scrutinized Respondent No. Is tender and found Respondent No. 1 to be ineligible. The impugned judgment of the Division Bench of the High Court expressly states that no malafides are involved in the present case. Equally, while setting aside the judgment of the learned Single Judge, the Division Bench does not state that the three expert committees have arrived at a perverse conclusion. To merely set aside the judgment of the learned Single Judge and then jump to the conclusion that Respondent No.1s tender was clearly eligible, would be directly contrary to the judgments aforesaid. Not having found malafides or perversity in the technical expert reports, the principle of judicial restraint kicks in, and any appreciation by the Court itself of technical evaluation, best left to technical experts, would be outside its ken. As a result, we find that the learned Single Judge was correct in his reliance on the three expert committee reports. The Division Bench, in setting aside the aforesaid judgment, has clearly gone outside the bounds of judicial review. We, therefore, set aside the judgment of the Division Bench and restore that of the learned Single Judge.

D. Bombay Environmental Action Group vs State of Maharashtra (1990 SCC OnLine Bom 357): The Hon'ble High Court of Bombay made several observations discouraging judicial interference in technical matters pertaining to the environment.

16. The, petitioners, as public spirited organisations and citizens, have, through their respective Counsel, done their duty by invoking this Courts writ jurisdiction and placing before us all such facts and circumstances as considered best by them. We in our turn, have done our duty by carefully examining all the facts and circumstances in the context of the rival contentions advanced before us on either side. In the course of this elaborate exercise and at every stage of the judicial process, we

have kept asking ourselves the question Have the O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

authorities shown such lack of awareness or have they been so oblivious of the needs of environment as to warrant Courts interference? We do not think so. On the contrary, considerable though deliberation, consultation and application of mind by all concerned authorities and experts has gone into the decision making process. We find on the part of the authorities, and experts all the seriousness while considering and deciding upon the varied factors and circumstances including environment in relation to this project. The indepth analysis, the conditions imposed and the precautions taken inspire Courts confidence and, if, at the end of it all, the Court finds that a very conscious decision has been taken in the light of all possible pros and cons, it would then not interfere. The decision of the authorities cannot be said to be arbitrary or capricious or one not in good faith or actuated by improper motive or extraneous considerations.

17. Environmental issues are relevant and deserve serious consideration. But the needs of the environment require to be balanced with the needs of the community at large and the needs of a developing country. If one finds, as in this case, that all possible environmental safe-guards have been taken, the check and control by way of judicial review should then come to an end. Once an elaborate and extensive exercise by all concerned including the environmentalists, the State and the Central authorities and expert- bodies is undertaken and effected and its end result judicially considered and reviewed, the matter thereafter should in all fairness stand concluded. Endless arguments, endless reviews and endless litigation in a matter such as this, can carry one to no end and may as well turn counterproductive. While public interest litigation is a welcome development, there are nevertheless limits beyond which it may as well cease to be in public interest any further."

69. The Principle of Sustainable Development indicates that while applying the concept of Sustainable Development, one has to keep in mind the principle of proportionality based on the concept of balance. It is an exercise to which we have to balance the priorities of development on one hand and environmental protection on the other hand. The application as filed, though it relates to validity of DSR but the same has further consequences regarding cancellation of Lease Deed, O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

cancellation of NIT, Tender Proceedings, LoI, Lease Deed, Consent Conditions, Environmental Clearance and hereafter a gap of three or four years, doctrine of waiver applies and all the applications and reliefs which are quoted above and prayed in this application, requires a fresh filing of appeal and now it is time barred, though it is an application.

The persons affected in the districts may be several in whose favour mine has been allotted, lease has been granted and participated in the NIT, Tender process and on the basis of LoI, the amount has been deposited. Without impleading the affected persons, the cancellation of DSR of the whole district affecting the persons who are not party, without giving them an opportunity of hearing, would not be justified.

The application is defective for non-joinder of necessary parties.

70. The matter of DSR has been decided by the Hon'ble High Court, in addition to that whatever has been discussed above in the orders of the Hon'ble High Court which may be pending, and have not been placed before this Tribunal. The SEAC and the SEIAA, members of the Expert Body, having special knowledge in the field who have examined the matter and necessary orders have been issued against which any aggrieved may file an appeal which has not been done by the Applicants. The Applicants have proper and efficacious remedy by way of filing an appeal or revision against the mining lease, tender process, lease deed, consent conditions, Environmental Clearance and failed to file appropriate application before the appropriate forum. The order under challenge is appealable and the Applicants may approach the appropriate forum.

71. There are several causes of action and further the application is barred by time. There is no provision to entertain appeal-cum-application. The National Green Tribunal Practice and Procedure Rules, 2011, provides O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.

that an application or appeal, as the case may be, shall be based upon a single cause of action. There may be either single application or appeal. Several causes of action and reliefs as sought are not maintainable, by means of filing of this application.

72. In view of the above discussions, alternate and efficacious remedy is available, the application is barred by time, the matter has been considered by the members of the SEAC and SEIAA, a statutory body under the environmental law and it would not be proper to interfere with the independent expert decision unless a cogent ground has been placed and, thus, the application is devoid of any merit and deserves to be dismissed as not maintainable.

73. Accordingly, the Original Application No.77/2025(CZ) alongwith pending I.As., if any, stands dismissed and disposed of.

Sheo Kumar Singh, JM Dr. A. Senthil Vel, EM 14th May, 2026, Original Application No.77/2025(CZ) AK O.A. No.77/2025(CZ) Harsukhram & Ors. Vs. State of Rajasthan & Ors.