

Item No. 03 to 06

Court No. 1

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

Original Application No. 412/2023
(IA No. 602/2023 & IA No. 603/2023)

Pradeep Kumar Shukla & Anr. Applicant(s)

Versus

MoEF&CC & Ors. Respondent(s)

With

Original Application No. 462/2023

Raja Ram Singh Applicant

Versus

State of UP & Ors. Respondent(s)

With

Original Application No. 481/2023
(IA No. 153/2025, IA No. 467/2025, IA No. 622/2024, IA No.621/2024,
IA No. 619/2024, IA No. 490/2024, IA No. 93/2024, IA No. 70/2024)

Balbir Sandhu & Ors. Applicant(s)

Versus

State of UP& Ors. Respondent(s)

With

Original Application No. 1222/2024
(I.A. Nos. 492/2024 & 493/2024)

Gaurav Sharma Applicant

Versus

MoEF&CC & Ors. Respondent(s)

Date of hearing: 12.11.2025
Date of uploading: 19.11.2025

**CORAM: HON’BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON’BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Ms. Pushpila Bisht & Mr. Shubham Karnwal, Advocates for Applicant No. 5 in OA 481/2023
Mr. Tanay, Adv. for Applicant in OA 1222/2024

Respondents: Mr. Ankit Verma, Adv. for the State of UP
Ms. Suhasini Sen & Ms. Masooma Rizvi, Advs. for MoEF & CC in OA 481/2023 & OA 412/2023
Mr. Amit Shukla, Adv. for UPPCB in OA 412/2023
Ms. Priyanka Swami, Adv. for SEIAA, UP
Mr. Gaurav Agarwal, Adv. for R - 13 in OA 481/2023
Mr. Mukesh Verma & Ms. Vatsala Tripathi, Advs. for the Mining Department, U.P.
Dr. Sapna Aggarwal Advocate for MoEF & CC in OA 462/2023 (Through VC)
Mr. Pradeep Misra & Mr. Daleep Dhyani, Advs. for UPPCB in OA 462/2023 & OA 481/2023 (Through VC)
Mr. Atif Suhrawardy, Advocate for CPCB in OA 462/2023 & OA 481/2023 (Through VC)
Mr. Rahul Khurana, Advocate for Respondent No. 6 to 10 in OA 481/2023
Mr. Hasil Jain & Mr. Shaiaam Hasan, Advs. in I.A No. 467/2025
Mr. Hem Chandra Joshi & Mr. Ashish Pandey, Advs. for R - 6 in OA 462/2023
Mr. Sharad Chauhan, Adv. for R - 5 in OA 462/2023
Mr. Ajit Sharma, Adv. in I.A. 621-622/2024 (Through VC)

ORDER

1. In these Original Applications, one of the issues under consideration relates to grant of short-term permits to the agricultural field owners/farmers for the removal of sand from the agricultural fields. These short-term permits are extensively misused resulting in illegal sand mining. Hon'ble Supreme Court also in Civil Appeal No. 6037-6038/2024 in the matter of **State of Uttar Pradesh and Ors. v. Raja Ram Singh and Ors.**, wherein the interim orders dated 07.11.2023 and 08.11.2023 passed in OA 462/2023 were under challenge, has observed following while disposing of the appeal by the order dated 03.05.2024: -

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4. We also request the Tribunal to examine the Notification dated 15.01.2016 issued by Ministry of Environment, Forest and Climate Change and such other related governmental instruments which enable removal of sand deposits from agricultural fields. **There is a great scope for misusing of this notification as it may lead to illegal mining and top soil erosion causing enormous damage to the environment. We say no more than request the Tribunal to examine this in close scrutiny.**”

2. When the matter was taken up on 16.12.2024, the Tribunal had considered the affidavit of the Ministry of Environment Forest and Climate

Change (MoEF&CC) dated 03.12.2024 and submission of counsel for the MoEF&CC that the Expert Appraisal Committee (EAC) is in the process of undertaking the exercise and deliberations are in progress. The Tribunal had accordingly directed for placing on record the recommendations of the EAC.

3. In terms of the above direction, the additional affidavit dated 06.03.2025 by the MoEF&CC has been placed on record. The progress made and the deliberations which have taken place between the concerned States and the stakeholders are as under: -

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5. *It is submitted that consequently two meetings were conducted in this regard. The first online meeting was held on 05.03.2025 with five States viz. Haryana, Bihar, Jharkhand, Uttarakhand and Uttar Pradesh (U.P.) in which officials of SEIAA, SPCB, DMG of the states and officials of MoEF&CC participated.*

6. *It is pertinent to mention herein that prior to the second meeting a questionnaire was circulated amongst all the stake holders. The second meeting was held on 11.06.2025. in which Chairman and members of Expert Appraisal Committee (EAC), Non-Coal Mining Sector, MoEF&CC and Representatives/officials from the Departments of Mines and Geology (DMG), State Environment Impact Assessment Authorities (SEIAAs), State Expert Appraisal Committees (SEACs), and State Pollution Control Boards (SPCBs) of different States and UTs participated. A copy of the questionnaire is annexed as Annexure-1 and copy of record of discussion along with the responses received from the States/UTs are compiled and annexed herein as Annexure-2 respectively.*

7. *It is submitted that Expert Appraisal Committee (NCM) again deliberated the issue in its meeting on 25-26th June, 2025 and subsequent meetings on 21st -22nd July, 2025 and 07th-08th August 2025 in which responses received from different states, environmental safeguards and steps to be taken for prevention of illegal mining, etc. were discussed. The recommendation of EAC (NCM) are annexed as Annexure-3.*

8. *It is respectfully submitted that as per direction of Hon'ble Tribunal four main issues were raised and discussed during the meeting supra:*

- a. **Short-term permit-** *The EIA Notification 2006 does not speak about short term permit therefore this Ministry has not allowed short term permit for removal of sand from agricultural field to any state. As per the information received, some of the states viz. Bihar, U.P., Gujarat and Uttarakhand short term permits are issued under state Mineral Concession Rules as the Section 15 of the Mines and Minerals (Development and Regulation) Act, 1957, empowers State Governments to make rules for*

regulating the grant of quarry leases, mining leases, or other mineral concessions in respect of minor minerals. As per Sustainable Sand Mining Management Guidelines 2016, "Removal of sand from the agricultural field by the owner farmer of the land from environment point of view will not be considered as mining operation and its removal and disposal can be allowed without the requirement of environment clearance till it is done only to the extent of reclaiming the agricultural land. The sand deposited after flood only be removed, so no mining/digging below the ground level is allowed." Customary rights to remove and dispose off the sand should be given to the farmer affected by deposition of sand on account of sudden flood in his agricultural land.

As per the responses received from States at present four states viz. U.P. Bihar, Gujarat and Uttarakhand issue short term permits for removing of sand on agricultural land due to flooding using their own environmental safeguard norms. The U.P. state has reported that Rule 52 of the Uttar Pradesh Sub-Mineral (Prevention) Rules, 2021 provides for a period not exceeding three months for the landholder of agricultural land to remove sand or gravel or boulders or any of these in a mixed state deposited on his land. The Bihar state has reported that as per Rule 37 (4) of Bihar Minerals (Concession, Prevention of Illegal Mining. Transportation and Storage) Amendment Rule, 2024, Mineral Disposal Permit is to be given for removal of the Dhush/Sand mixed soil required to convert the raiyat land into agricultural land.

It is further submitted that all these four states viz. UP, Bihar, Gujarat and Uttarkhand are issuing short term permits without requirement of EC for removal of sand from agricultural field. Remaining states have stated that at present no short-term permits are issued in their state. The Mineral Concession Rules of multiple states are framed by state/UTs as per the power delegated under MMDR Act and MCR rules. That during the discussion it was known that there are district committees constituting officers from Mining and Geological department along with officers from Irrigation and revenue departments who are surveying the area and short-term permits are issued on the basis of afore-said survey report. The EAC opined that the District Committees with the officials of Mining, Geology, Irrigation and Revenue departments, etc. are competent enough to determine as to whether the deposited sand is on account of flood or otherwise. These district committees with the help of latest technology like remote sensing, GIS, satellite imagery, drone /photogrammetry and survey equipment like theodolite survey, total station, etc. can determine the nature and quantity of deposition. The District Committee may also examine their District/ Tehsil records of flooding in the area for determination of the above. If the above district committee recommend that the sand deposit is from flooding, adversely affecting the land of farmers, then MoEFCC Sustainable Sand Mining Guidelines, SSMG, 2016 and serial no 3 of Appendix IX of S.O 1224 (E) dated 28.03.2020 will be applicable i.e. short term permits can be issued for sand removal with appropriate environmental safeguards without the requirement of EC. The EAC opined that customary rights to remove and dispose of the sand are available with the affected farmer in terms of the

provisions of the sand mining guidelines SSMG, 2016 and they may be allowed to dispose of the sand so removed as per their customary rights.

In all other cases, the requirement of EC for sand mining will be applicable since it may be concluded as mining. It is pertinent to mention herein that the Hon'ble Courts has also time and again ruled that mining must come under purview of EC.

*b. **Environmental safeguards for removal of sand from agricultural fields:** Based on the review of the measures being taken by different states and as per the provisions of SSMG 2016 and EMGSM 2020, EAC (NCM) recommended following safeguards that can be taken during removal of sand from agricultural fields:*

- i. The depth of sand removal shall be strictly limited to the original topsoil level. At no point shall excavation be carried out below the original ground level to avoid damaging soil profile.*
- ii. During the removal of the sand from agricultural land, Mining Department shall ensure that at no point in time, the depth of sand removal exceeds below.*
- iii. To control air pollution due to dust, constant water sprinkling may be done on all pathways and dust-prone areas within and around the agriculture land. Additionally, all sand-transporting vehicles must be covered with tarpaulin. Transportation of wet sand should be avoided to prevent any spillage.*
- iv. The removal of sand from agricultural land should be undertaken during daylight*
- v. Restricting excavation depth and degree of side slopes are recommended to prevent erosion of adjoining lands and silting of the bottom of sand pits. The excavation depth and degree of slope shall vary from site to site depending upon soil texture and other site characteristics. Temporary barriers may be installed around the agricultural field to prevent erosion during and after sand removal from the agricultural field.*
- vi. Sand removal is strictly permitted only after the cessation of floodwater and the monsoon season. This prevents interference with active hydrological processes and ensures the activity is a genuine post-disaster recovery measure.*
- vii. The deployment of large-scale heavy earth-moving equipment (like excavators typically used in large-scale commercial mining) for deep or extensive excavation beyond surface clearing is generally restricted or disallowed to avoid compacting the remaining soil or damaging roots and also to protect nearby trees, vegetation, and water source, if any. The focus is on clearing the deposited layer. For smaller affected areas,*

manual labour or light machinery is preferred to minimize soil compaction and environmental disturbance.

- viii. While the use of machinery (e.g., JCBs, tractors with trolleys) is often necessary for efficient removal of large quantities of sand, the permits issued by the district authorities will specify the type and capacity machinery allowed.*
- ix. Operators must ensure that adjacent agricultural fields with standing crops, orchards, or natural vegetation (including trees) are not damaged during the sand removal process. Heavy penalties may be imposed if the adjacent agricultural lands of other farmers are damaged in any form.*
- x. The activity must not obstruct or alter the natural course of any river, stream, nala, or existing drainage lines. Care must be taken to prevent sand, silt, or debris from washing back into water bodies.*
- xi. The primary restoration requirement is to return the agricultural land to its original cultivable state after the removal of flood-deposited sand. For areas with significant sand deposition, farmers are encouraged to incorporate organic matter (e.g., farmyard manure, compost) and potentially other soil amendments to improve the water-holding capacity, nutrient retention, and overall fertility of the sandy soil, as recommended by agricultural extension services.*

States/UTs may also follow safeguards as per site specific conditions in consultation with SPCB and DMG.

- c. **Illegal mining**-After reviewing measures taken by different States and provided in the SSMG 2016 and EMGSM 2020, EAC (NCM) recommended the following steps that may be adopted for preventing illegal mining under garb of sand removal from agricultural field:*
 - i. To ensure environmental compliance, States must mandate that short-term permits for removal of sand deposited by floods on agricultural lands are subject to applicable provisions of the Water (Prevention & Control of Pollution) Act, 1974 and the Air (Prevention & Control of Pollution) Act, 1981.*
 - ii. States may adopt dedicated rules, which impose specific environmental safeguards, prohibitions, regulations and restrictions on sand mining activities. These rules can be adapted to regulate short-term permits for flood-affected lands and deter their misuse for commercial mining.*
 - iii. A structured application and inspection process should be institutionalized. For instance, the applicant (farmer/pattadar) should submit the proposal to the district-level authority who shall initiate a joint inspection with Mining, Geology, Revenue, irrigation and other*

concerned departments. The inspecting authority shall capture the geotagged locations of the land in question and capturing the "as is" situation and the situation after removal of the sand deposited to ensure that the top soil is not removed and there is no digging/excavation of the earth. This ensures verification of the claim and safeguards against fraudulent permit use.

- iv. *The team with the help of latest technologies like remote sensing, GIS, satellite imagery, drone/photogrammetry and survey equipments like theodolite survey, Total station, etc. can determine the nature and quantity of deposition. The team should verify the Ground/Surface Level (in meter above MSL) around the area where removal of sand has to be done.*
- v. *v. The District Level Sand Committee (DLSC) can be authorized to issue formal proceedings based on the joint inspection report after which the accountability and sand removal process can start. This centralized execution mechanism adds transparency.*
- vi. *Temporary boundary pillars should be erected at the boundaries of the identified agricultural land.*
- vii. *The process must aim primarily at agricultural land reclamation, with regulatory checks and balances embedded. States should ensure that sand removal under short-term permits is not used as a pretext for unauthorized extraction or commercial gain.*
- viii. *Permits for sand removal should be strictly time-bound and quantity-capped. Farmers may be allowed their customary rights to remove and dispose of the quantity capped sand from their agricultural land, as provided in the sand mining guidelines SSMG, 2016 only for a fixed duration.*
- ix. *States shall maintain electronic weighbridges at the appropriate location identified by the District Mining officer, in order to ensure that all removed sand from the agricultural land is accounted for. The weighing bridge shall have the provision of CCTV camera.*
- x. *The removed sand from agricultural land may be monitored and controlled through the GPS enabled transportation vehicle. The transportation vehicle should be colour coded or may have distinct permit to differentiate the source of sand i.e. from agricultural land or otherwise. State Mining department and district level mining officer shall be responsible for ensuring that there is no illegal mining in the garb of sand removal from agricultural fields.*
- xi. *The movement of minerals shall be reconciled with the data collected from the mines and various Naka/check posts can be installed in the villages where such sand removal is taking place. An electronic log/register should*

be maintained at the check post where transportation details mentioning amount of removed sand from agricultural land and registration number of vehicle should be maintained or any such alternate method may be put in place to capture the quantity of sand being transported and other necessary details to prevent illegal transportation of sand.

- xii. The operational hours of sand quarries and depots shall be during daylight. No sand-transporting vehicles shall be allowed to park overnight on the agricultural land.*
- xiii. After the permitted quantity of sand is exhausted, officials shall ensure that:*
 - o No sand beyond the approved limit is extracted.*
 - o Temporary sheds at the site are dismantled.*
 - o All roads and pathways created for mining are levelled to restore natural flow and avoid obstruction in the river system.*
- xiv. The Mining Department is responsible for ensuring that sand removal operations are conducted in an environmentally friendly and ecologically sustainable manner.*
- xv. Encourage citizens to report illegal mining activities through dedicated mobile apps or web portals.*
- xvi. Involve community leaders and gram panchayat to ensure that no illegal mining is carried out under the garb of short-term permit for agricultural field deposit by flooding.*
- xvii. Ensure better coordination between different government agencies involved in mining regulation and enforcement.*
- xviii. All States and Union Territories should be guided by the Ministry of Mines guidelines, along with binding judicial pronouncements of the Hon'ble Supreme Court, High Courts, and the National Green Tribunal, especially with respect to environmental safeguards for short-term permits.*

States/UTs may take additional steps for prevention of illegal mining and transportation in the states.

- d. **District Survey Report (DSR)-** Majority of States suggested that the inclusion of mining on flood affected agricultural land in DSR is not feasible due to the following reasons:-*
 - i. Floods/ Natural calamities are random and dynamic in nature and cannot be forecasted.*

- ii. *Deposition of minor mineral in agricultural fields as a result of Floods/Natural calamities is not planned or known beforehand.*
- iii. *Many rivers change their direction every year. EAC was also of the opinion that inclusion of mining on flood affected agricultural land in DSR is not feasible.”*

4. The above reply reflects that there is no provision of issuance of short-term permit for sand mining in the EIA Notification, 2006 nor the MoEF&CC has allowed short-term permit for removal of sand from agricultural fields to any State but some of the States, such as Bihar, Uttar Pradesh, Gujarat and Uttarakhand are issuing short-term permit on the basis of rules framed by them under the Mines and Minerals (Development and Regulation) Act, 1957.

5. As per the Sustainable Sand Mining Management Guidelines (SSMMG), 2016 removal of sand from the agricultural fields by the owners/farmers of the land from an environmental point of view is not considered as a mining operation. The SSMMG, 2016 in this regard provides as under:-

“Management of Sand Deposited after flood on Agricultural Field of Farmers

Mining of Sand

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Removal of sand from the agricultural field by the owner farmer of the land from environment point of view will not be considered as mining operation and its removal and disposal can be allowed without the requirement of environment clearance till it is done only to the extent of reclaiming the agricultural land. The sand deposited after flood only be removed, so no mining/digging below the ground level is allowed. Customary rights to remove and dispose off the sand should be given to the farmer affected by deposition of sand on account of sudden flood in his agricultural land.”

6. Under the above guideline, removal of sand from the agricultural field by the owner/farmer of the land from an environmental point of view is not considered as mining and for this activity no environmental clearance (EC) is required. This guideline has been misused resulting in the illegal mining of sand and topsoil. Hence, this guideline is required to be made more

stringent ensuring that it does not result in or promote the illegal sand mining in the name of removal of sand deposit from the agricultural field by the owner/farmer of the land or by any other entity in the name of owner/farmer of the land. The present regulatory framework at the district level has also not proved to be effective.

7. Before framing any guideline, the extent and area of agricultural fields which is affected by sand deposits during the monsoon in different States and the quantity of such sand deposit requiring removal need to be estimated by adopting modern technological means, so that a balance can be drawn between the required protection of such agricultural land and the damage to the environment which is caused on account of misuse of the provision relating to removal of sand deposit from the agricultural fields. The possibility of carrying out such an activity of removal of sand deposit from the agricultural fields through the Mining Department or its agencies can also be explored so that the private project proponents do not misuse the provision and carry out illegal sand mining in the garb of removal of sand from the agricultural field. The regulatory mechanism which is existing presently has not proved to be effective in checking the illegal sand mining based on the short-term permit approach adopted by the States. The MoEF&CC may consider introducing a regulatory framework to plug the present loopholes which are misused by the unscrupulous persons for achieving the objective of illegal sand mining.

8. Learned Counsel for the MoEF&CC submits that the issue can be looked into again keeping in view the apprehension expressed by the Tribunal and the observations made above. Let the fresh report be filed by the MoEF&CC considering the above observations within six weeks.

9. List on 12.02.2026.

Prakash Shrivastava, CP

Dr. A. Senthil Vel, EM

November 12, 2025
OA No. 412/2023, OA No. 462/2023,
OA No. 481/2023 and OA No. 1222/2024
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