

Item no. 02

(Court No. 2)

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

(Through Physical Hearing with Hybrid V.C. Option)

Original Application No. 581/2022
(IA NO 681/2024, IA NO 586/2024, IA NO 728/2023, IA NO 595/2023)

Vikas Kumar

...Applicant

Versus

State of Haryana & Ors.

...Respondents

Date of hearing: 10.01.2025

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER.
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER.**

Applicant: None for the applicant.

Respondents: Mr. Rahul Khurana, Advocate for Respondents No. 1 to 4.
Mr. Gi. Gi. George and Mr. Sunil Dhami, Advocates for NMCG and Ministry of Jal Shakti.
Ms. Anjali, Proxy Counsel for Mr. Narender Pal Singh, Advocate for Respondent No. 5
Mr. Prasenjeet Mohapatra, Advocate for respondent no. 6 (through VC)
Mr. Saurabh Rajpal and Mr. Vinay Kumar Singh, Advocates for respondents no. 8, 9 and 10.
Mr. Soni Singh, Advocate for Respondent no. 11-CPCB.

Application is registered based on a letter petition received by Post.

ORDER

1. Mr. Vikas Kumar resident of village and post office Jainpur, District Sonipat, Haryana had sent the present letter petition dated 13.05.2022, which was treated and registered as O.A. No. 581/2022, complaining that Mr.

Sandeep Ahlawat is indulging in illegal mining in the name of Yodha Mines and Minerals in the river bed of river Yamuna and has diverted course of the river by constructing illegal bridge on river Yamuna.

2. The relevant part of the letter petition sent by the applicant in vernacular reads as under:-

“विषय :- बहती यमुना की धारा मोड़कर अवैध पुल बनाकर, अवैध रूप से खनन करना।

श्रीमान जी,

महोदय मे विकास कुमार S/o बलराज गांव व डा० जैनपुर जि०-सोनीपत निवासी आपके सज्ञान में गंभीर पर्यावरण हानि का विषय दिलाना चाहता हूँ।

मेरे गांव में योद्धा माईन्स व मिनरल नाम से प्रदीप अहलावत नामक व्यक्ति खनन कार्य कर रहा है तथा खतरनाक स्तर पर पर्यावरण का उल्लंघन कर रहा है। यमुना नदी पर गाँव जैनपुर के सामने अवैध पुल बनाकर यमुना का प्राकृतिक बहाव मोड़ दिया है। जिसका फोटो मैं साथ में सलग्न कर रहा हूँ। इस कारण यमुना को गंभीर नुकसान हुआ है व आस-पास सैंकड़ों एकड़ जमीन यमुना में कट गई है।

अतः जनाब से प्रार्थना है कि उपरोक्त तथ्यों को ध्यान में रखकर सज्ञान लेने की कृपा करें।”

3. English translation of the relevant part of the letter petition reads as under:-

“Subject:- Illegal mining by diverting the flow of the Yamuna river by building an illegal bridge.

Sir,

I, Vikas Kumar S/o Balraj R/o of village and Post Office Jainpur, Distt. Sonipat, want to bring to your notice the matter of serious environmental damage.

In my village, a person named Pradeep Ahlawat is doing mining work under the name of Yoddha Mines and Minerals and he is violating the environment at a dangerous level. He has diverted the natural flow of Yamuna by building an illegal bridge in front of village Jainpur on the Yamuna river. I am attaching a photo of the same. Due to this, Yamuna has suffered serious damage and hundreds of acres of land around it has been eroded into Yamuna.

Therefore, I request you to please take cognizance keeping in mind the above facts.”



4. Vide order dated 12.09.2022, this Tribunal constituted a Joint Committee comprising of representative of Ministry of Jal Shakti, State of Haryana, Director, Mines and Geology, State of Haryana, State PCB and Deputy Commissioner, Sonipat with direction to meet within two weeks, undertake visits to the site, look into the grievances of the applicant, associate the applicant and representative of the concerned project proponent, verify the factual position and submit its report within one month.

5. By the above said order this Tribunal also impleaded State of Haryana through Chief Secretary, Government of Haryana, the Director, Mines and Geology, State of Haryana, Haryana State Pollution Control Board (HSPCB), Deputy Commissioner, Sonipat and Project Proponent-Yodha Mines and Minerals as respondents no. 1 to 5 and ordered issuance of notices to them.

6. In compliance thereof Joint Committee comprising of Shri Gulshan Kumar, XEN, Sonipat W/S Division, Sonipat, Shri Vikas Chauhan, Mining Inspector, Mines and Geology Department, Sonipat, Shri Shivraj, Nayab Tehsildar, Ganaur, Sonipat and Shri Ravinder Yadav, AEE, Haryana SPCB, Regional Office, Sonipat inspected the site on 16.11.2022 and 19.11.2022. Action Taken Report of the Joint Committee was filed by the Regional Officer, HSPCB, Sonipat vide email dated 19.11.2022.

7. Replies were filed by respondent no. 1 vide email dated 23.02.2023, respondent no. 2 vide email dated 18.11.2022, respondent no. 3 vide email dated 27.01.2023, respondent no. 4 vide email dated 30.01.2023 and respondent no. 5 vide email dated 19.11.2022.

8. In view of the significant nature and impact of the questions involved this Tribunal, vide order dated 21.11.2022, appointed Mr. Raj Panjwani, Senior Advocate as amicus curiae who submitted his report dated 17.04.2023 and Note dated 03.10.2023.

9. Vide order dated 23.02.2023 this Tribunal impleaded MoEF & CC and Ministry of Jal Shakti as respondents no. 6 and 7. Replies were filed by respondent no. 6 vide email dated 20.05.2023 and by respondent no. 7 vide email dated 18.04.2023.

10. Vide order dated 25.05.2023 this Tribunal constituted another Joint Committee comprising of Dr. Mukesh Kumar Sinha, Chairperson, Godavari River Management Board as Chairman, representatives of Secretaries MoEF & CC and MoJS not below the rank of Joint Secretary/Director as Member and the Member Secretary, CPCB as Member and to carry out the requisite study and submit its report regarding the aspects mentioned therein.

11. Report of the Joint Committee was filed vide email dated 25.08.2023. The Joint Committee recommended grant of permission for construction of

temporary bridges for carrying out mining and allied activities across channels of river Yamuna with conditions/environmental safeguards as mentioned therein.

12. I.A. NO. 594/2023 was filed by Mr. Prashant for impleading him as co-applicant which was dismissed vide order dated 25.05.2023.

13. I.A. No. 728/2023 was filed by M/s. M.P. Traders, M/s. Elite Mining Corporation and M/s. Kawaljeet Singh Batra for impleading them as respondents on the ground of being affected by the orders passed by this Tribunal which was allowed vide order dated 26.09.2023 and they were impleaded as respondents no. 8, 9 and 10.

14. Vide order dated 05.10.2023 respondent no. 3-HSPCB was directed to file additional report mentioning status of compliance of respondent no. 5-M/s. Yodha Mines and Minerals with EC/consent conditions and respondent no. 5-M/s. Yodha Mines and Minerals was directed to file additional reply giving details of CSR/CER activities undertaken by it. Respondent no. 7 was also directed to file response to the report of the Joint Committee.

15. Responses to the report of the Joint Committee were filed by HSPCB vide email dated 17.10.2023, by NMCG vide email dated 18.10.2023 and by Irrigation and Water Resources Department, Haryana vide email dated 19.10.2023.

16. In compliance of order dated 05.10.2023 additional report by respondent no. 3-HSPCB has been filed vide email dated 17.10.2023. However, additional response was not filed by respondent no. 5-M/s. Yodha Mines and Minerals.

17. In the course of hearing none appeared for the applicant. On 01.11.2023 arguments were heard and order was reserved.

18. While going through the material on record, it was observed that some material documents were not furnished to this Tribunal and material aspects of the case were not referred to and specific arguments in respect thereof were not addressed during hearing of the case and further hearing was essential for just and proper adjudication of the questions involved in the case.

19. Accordingly, vide order dated 29.04.2024 the matter was relisted for further hearing and the Registry was directed to inform the learned Counsel for the parties.

20. In its order dated 30.04.2024 this Tribunal noticed that vide interim order dated 23.12.2015 passed in OA No. 550/2015 and in OA No.517/2015 this Tribunal directed for removal of unauthorized bridges and Hume pipelines installed in the river or river bed in the States of Haryana and Uttar Pradesh. OA No. 550/2015 and OA No.517/2015 were disposed of alongwith other OAs vide order dated 05.09.2018 but the question of permissibility of temporary bridges was not considered and no directions against unauthorized bridges, hume pipelines etc. were given as after removal of the unauthorized bridges and hume pipelines etc. the question of permissibility thereof was not raised and was not required to be adjudicated upon. This Tribunal observed that the issue of construction of temporary bridges across river channels for carrying of mining and allied activities is not confined only to the State of Haryana but, in the very nature of things, extends to other States and UTs also and is essentially required to be considered in its applicability to all the States and the UTs. This Tribunal referred to another **O.A. No. 176/2022 titled as Aman Choudhary Vs. State of U.P. and others** where the applicant complained about construction of temporary bridge on river Ganga obstructing its flow and the Joint Committee constituted by this Tribunal reported that road had been

constructed in river Ganga for carrying out mining which obstructed flow of river Ganga. This Tribunal observed that construction of temporary bridge or road on riverbed for carrying out mining will have adverse environmental impact on river morphology and ecology and, therefore, appropriate remedial measures have to be taken immediately to mitigate the same but at present such prompt action is not taken due to absence of statutory/policy framework and guidelines and there is urgent need for due consideration of the matter for suggesting framing of requisite statutory/policy framework and guidelines for adoption and implementation of remedial measures for mitigating adverse environmental impacts on river morphology and ecology.

21. Accordingly, vide order dated 30.04.2024 this Tribunal widened the scope of proceedings in the present case to consider the question of “permissibility of temporary bridge across river channels for carrying out mining and allied activities” in its applicability to all the States and the UTs.

22. Vide order dated 30.04.2024, CPCB was impleaded as respondent no. 11 and was directed to obtain and compile information from all the States and UTs regarding framing of statutory/policy framework and issuance of any guidelines permitting construction of temporary bridge across river channels for carrying out mining and allied activities and also any alternative practice adopted in all the States/UTs and file its report within two months. Respondents no. 6 and 7 were directed to file their specific response to the question of permissibility of mining across river channels and construction of temporary bridges for carrying out mining and allied activities. Respondent no. 6-MoEF &CC was also directed to file its response regarding the requirement of appropriate modification of Sustainable Sand Mining Management Guidelines (SSMMG), 2016 and Enforcement and Monitoring Guidelines for Sand Mining (EMGSM), 2020.

23. Respondent no. 5-M/s. Yodha Mines and Minerals was directed to file copies of the EC modified by SEIAA, Haryana and mining plan. Respondent no. 4-Deputy Commissioner, Sonipat was directed to file response giving details of agricultural land affected by change of course of river in the area where the temporary bridge was constructed.

24. Report dated 02.08.2024 was filed by Respondent no. 4-Deputy Commissioner, Sonipat vide email 03.08.2024. Report dated 02.08.2024 was filed by NMCG vide email dated 02.08.2024. Additional response dated 03.08.2024 was filed by respondent no. 6-MoEF & CC vide email dated 04.08.2024. Report dated 02.08.2024 was filed by respondent no. 11-CPCB vide email dated 02.08.2024. Response dated 22.08.2024 was filed by Mines and Geology Department, Haryana vide email dated 22.08.2024. Respondents no. 8, 9 and 10 filed their consolidated response/objections dated 02.10.2024 vide email dated 03.10.2024. Reply dated 20.11.2024 was filed by Irrigation and Water Resources Department, Haryana vide email dated 20.11.2024. Documents dated 18.12.2024 has been filed by respondent no. 5- M/s. Yodha Mines and Minerals.

25. Vide order dated 13.12.2024 respondent no. 5- M/s. Yodha Mines and Minerals was directed to produce documents-copy of Form I and Mining Plan. In compliance thereof documents- Form I and Mining Plan were filed by respondent no. 5- M/s. Yodha Mines and Minerals on 09.01.2025.

26. I.A. No. 586/2024 has been filed by respondent no. 9-M/s. Elite Mining Corporation seeking directions for consideration of the application for permission of construction of temporary path/structure for accessing the entire lease area and for seeking relaxation in lease amount/contract money on account of loss faced due to non-accessibility in the part of the lease area on behalf of respondent no. 9.

27. The application will be considered hereinafter with the substantial questions involved.

28. I.A. No. 681/2024 has been filed by respondent no. 9-M/s. Elite Mining Corporation seeking permission for placing additional documents- Form I, Mining Plan and screen shots of official website on record. For the reasons mentioned the application is allowed and documents are taken on record.

Interim injunctive orders

29. It may also be mentioned here that in the course of hearing ad interim orders granting ad interim injunction/modifying the same were passed by this Tribunal. Initially this Tribunal passed injunctive order dated 23.02.2023 and the relevant part of the order reads as under:-

“Section 20 of the National Green Tribunal Act, 2010 inter alia mandates this Tribunal to apply the precautionary principle. In view thereof, it is ordered that no further permission for construction of any temporary bridge across river Yamuna for facilitating any sand mining and allied activities be granted.”

30. Order dated 23.02.2023 was modified vide order dated 25.05.2023 and the relevant part of order dated 25.05.2023 reads as under:-

“17. In the peculiar facts and circumstances the interim injunctive order dated 23.02.2023 is modified to the extent that all temporary bridges already constructed may continue and temporary bridges may be allowed to be constructed on the basis of permissions already granted or on the basis of the applications submitted before or after this order by the concerned department(s) as may be warranted by the facts and circumstances of each case. Such permission, if applied for, be granted within three days. However, all such temporary bridges already constructed or to be constructed after the date of this order as the case maybe/shall be removed on or before 05.07.2023 or as per directions of the irrigation department and no temporary bridge shall be allowed to continue after 05.07.2023 in any event. Therefore, no permission even shall be granted for construction of any temporary bridge on river Yamuna till further orders to the contrary. It is clarified that

nothing in this order shall be treated as approval of construction of such temporary bridges or expression of any final opinion for the purpose of final adjudication of the questions involved in the case.”

31. Order dated 25.05.2023 was subsequently modified vide order dated 30.04.2024. The relevant part of order dated 30.04.2024 reads as under:-

“31. In view of the fact that respondent no.6-MoEF & CC and respondent no.7-MoJS have not objected to construction of temporary bridge for carrying out such mining and allied activities and recommendations of the Joint Committee regarding permitting of construction of temporary bridge for carrying out mining and allied activities with requisite environmental safe guards and the fact that adjudication of the environmental questions involved including requirement of permission from NMCG is likely to take time, order dated 25.05.2023 passed in respect of State of Haryana is modified to the extent that till further orders to the contrary permission for construction of temporary bridge on river Yamuna in the State of Haryana may be granted by the Irrigation and Water Resources Department as per Haryana Government Policy. In view of urgency explained, application for grant of permission for construction of temporary bridge for carrying out mining and allied activities across channels of river Yamuna during the period preceding forth coming monsoon may be dealt with expeditiously preferably within one week from the date of receipt of the application and permission may be granted depending upon the facts and circumstances of each case with the condition that such temporary bridge will be removed on or before the date as may be mentioned in such permission.”

32. I.A. No. 595/2023 was filed by M/S Darsh Mineral Pvt. Ltd. for its impleadment as respondent on the ground that the applicant in I.A. No. 595/2023 is vitally interested in the issue of construction of temporary bridges which is pending consideration before this Tribunal as it is carrying on sand mining in the State of Haryana and permission is not being granted by the State Authorities to construct temporary bridge due to interim order passed by this Tribunal in this case. Subsequently, the applicant in I.A. No. 595/2023 did not appear and I.A. is dismissed in default for non-appearance.

33. It may be observed here that the applicant did not appear before this Tribunal in the course of hearing of this case.

34. We have heard submissions made by learned Counsel for the respondents and learned Amicus Curiae and we have gone through the material on record carefully.

35. Learned Counsel for the respondents have reiterated the factual and legal submissions made in their respective replies/reports and learned Amicus Curiae has reiterated his report and note which are deliberated upon hereinafter.

36. In the present case the applicant raised the following three grievances in the letter petition:-

- (i) Mr. Sandeep Ahlawat is carrying on illegal mining in the name of M/s. Yodha Mines and Minerals in violation of environmental laws/norms.
- (ii) The Project Proponent has constructed illegal bridge on river Yamuna and thereby diverted natural flow of river Yamuna.
- (iii) The construction of temporary bridge and consequent diversion of flow of river Yamuna has resulted in damage to river Yamuna and also resulted in erosion of hundreds of acres of adjacent land.

37. Vide order dated 12.09.2022, this Tribunal constituted a Joint Committee comprising of representative of Ministry of Jal Shakti, State of Haryana, Director, Mines and Geology, State of Haryana, State PCB and Deputy Commissioner, Sonipat with direction to meet within two weeks, undertake visits to the site, look into the grievances of the applicant, associate the applicant and representative of the concerned project proponent, verify the factual position and submit its report within one month.

38. In compliance thereof Joint Committee comprising of Shri Gulshan Kumar, XEN, Sonipat W/S Division, Sonipat, Shri Vikas Chauhan, Mining Inspector, Mines and Geology Department, Sonipat, Shri Shivraj, Nayab

Tehsildar, Ganaur, Sonipat and Shri Ravinder Yadav, AEE, Haryana SPCB, Regional Office, Sonipat inspected the site on 16.11.2022 and 19.11.2022. Action Taken Report of the Joint Committee was filed by the Regional Officer, HSPCB, Sonipat vide email dated 19.11.2022. Subsequently corrected copy of Action Taken Report of the Joint Committee was filed vide email dated 19.11.2022. The relevant part of the corrected Action Taken Report of the Joint Committee reads as under:-

“Action taken report in compliance of Hon'ble NGT (Principal Bench) order dated 12.09.2022 in the matter of O.A. No. 581/2022 titled as Vikas Kumar Vs State of Haryana.

X X X X
Findings /Observations of the Joint Committee:

- a) *During the site inspection, mining activities were not in operation due to excess flow in river Yamuna.*
- b) *The erosion of the field area has occurred due to meandering nature of river Yamuna.*
- c) *The temporary pipe crossing was constructed by M/s Yodha Mines & Minerals, Sand Unit Jainpur-2, Sonipat with permission given by XEN, Sonipat Water Services Division, Sonipat vide letter No. 5544-46/Permission dated 23.11.2021(copy enclosed as Annexure-II) and same was removed by M/s Yodha Mines & Minerals on 30.06.2022 as per terms and conditions of permission. Hence, the temporary pipe crossing constructed by M/s Yodha Mines & Minerals was neither illegal and nor diverted the course of river Yamuna. Photographs have been taken during inspection which are enclosed as Annexure-III.*
- d) *Apart from this it is submitted that M/s Yodha Mines & Minerals, accepting the terms and conditions of the auction notice dated 29.01.2015 offered highest bid of Rs. 08.70 Crore per annum against the reserve price of Rs. 07.035 Crore per annum in the auction held on 23.02.2015, in order to obtain the mining contract for extraction of sand from Jainpur-2 Sand Mining Unit district Sonipat having total area of 44.40 hectares (34.40 hectares falling in the riverbed and 10.00 hectares of area falling outside river bed). The highest bid was accepted and LOI was issued in the favour unit on 09.03.2015. The Contract firm executed contract agreement with the state on 07.10.2015. The period of contract is 09 years. The MoEF&CC, Govt. of India after examining the proposal accorded the environmental clearance for mining of sand with the production capacity of 14.40 Lakh MT per annum from 34.40 hectare of river bed area.*
- e) *The unit has obtained Environmental Clearance (EC) vide no. F. No. J-11015/112/2015-IA-II(M) dated 28.01.2016 from Ministry of Environment, Forest and Climate Change,*

Government of India. After obtaining Consent to Operate from the Board unit had started mining operation w.e.f. 20.04.2016

f) The unit was lying non-operational from 30.06.2022 to 15.09.2022 as per the condition of environmental clearance granted to the unit. Consent to Operate under Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981 was obtained by the unit upto 30.09.2022 from Haryana State Pollution Control Board, but Consent to Operate applied by the unit for renewal was refused by the Board due to non-submission of complete documents and required Consent to Operate fees under Water Act and Air Act.

Recommendations of the Joint Committee

a) The unit will not start mining activities without obtaining Consent to Operate under Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981 from Haryana State Pollution Control Board.

b) The unit will comply the terms and conditions of Environmental Clearance granted to the unit for mining activities.”

39. In its reply filed vide email dated 23.02.2023, respondent no. 1 has mentioned the factual background for issuance of policy dated 19.10.2021 by Government of Haryana and has also mentioned about construction of temporary bridge by respondent no. 5-M/s. Yodha Mines and Minerals in accordance with permission granted to it. The relevant part of the reply filed by respondent no. 1 is reproduced below:-

“REPLY ON BEHALF OF RESPONDENT No. 1 THROUGH Sh. Pankaj Agarwal) Commissioner & Secretary to Government of Haryana)IRRIGATION AND WATER RESOURCES DEPARTMENT, HARYANA

X X X X

4. That it is humbly submitted that **the Irrigation and WR Department issued a policy dated 19.10.2021 for carrying out mining activities in river Yamuna after due consideration of all relevant aspects, i.e., Environmental Safeguards, unrestricted flow of river Yamuna without diversion, extraction of sand mineral from sandy loom(s) created between creeks & their transportation to stocks site. It is pertinent to mention here that said policy does not permit any type of construction in entire breadth of the river except only in between creeks developed due to natural flow of river.** The background of issuing the above policy is as follow:-

(i) That as a matter of practice, the mining contractor/lease holders had been using bridges to extract the sand mineral from river bed area as allocated vide respective mining contracts.

(ii) That vide interim order dated 23.12.2015 passed in OA No. 550/2015 and in OA No.517/2015 this Hon'ble Tribunal directed for removal of unauthorized bridges and Hume pipelines installed in the river or river bed in State of Haryana and State of Uttar Pradesh. Copy of Order dated 23.12.2015 passed in OA No. 550/2015 and in OA No.517/2015 are annexed herewith as ANNEXURE-R/3.

(iii) That finally these OA No. 550/2015 and OA No.517/2015 were disposed of alongwith other OAs vide order dated 05.09.2018 where in no restrictive direction against installing Hume pipelines etc. was passed. Copy of order dated 05.09.2018 passed in OA No. 550/2015, OA No.517/2015 and other original applications is annexed herewith as ANNEXURE-R/4.

(iv) That mining contractors submitted their representation to the Government submitting that the Environmental Clearance and other permissions have been granted to them for mining from the riverbed. The area beyond the water flow remains unutilized for mining of mineral. Therefore, it was prayed to allow to cross the flowing water and to transport mineral excavated from that area.

(v) That a meeting was held under the chairmanship of Hon'ble CM, Haryana on 20.08.2020 to review the working of Mining Department and for finalizing of action plan for the modernization of the department. After detailed deliberation it was decided that mining operation in riverbed areas required the crossing over the river channel to access different areas included in the mining block. It was also decided that the Irrigation Department may undertake the construction of appropriate structures required for the crossing over the river channel by the excavators, transport vehicle etc. Such construction work may be executed as deposit work for the contractors with due consideration for environmental safe guard.

(vi) The Director General, Department of Mines & Geology, Haryana vide letter dated 24.11.2020 submitted and requested to the Additional Chief Secretary to Government Haryana, Irrigation and Water Resources Department as follow:-

"It is informed that the State of Haryana awards contracts for mining of minor minerals in river bed areas of river Yamuna and other rivers/tributaries in the State. The mining of mineral from the riverbed is being allowed only after prior Environmental Clearance (EC) by the Competent Authority. Furthermore, the Department has formulated specific conditions for river bed mining after detailed consultation with the Irrigation Department and the same have been incorporated in the Haryana Minor Mineral Concession Stocking and Transportation of Minerals and Prevention of illegal Mining rules 2012. Furthermore, the environmental clearance for mining in riverbed areas invariably includes a clear stipulation that no mining is permissible during rainy/monsoon season [1st July to 15 September].

2. It is further relevant to note that in the State of Haryana all rivers/drainage systems other than river Yamuna are seasonal rivers. The water flow of river Yamuna is controlled at the Hathnikund Barrage, Yamuna Nagar and water is released from time to time

into the downstream Canal Systems for irrigation purposes. Thus, water flows through the river channel mainly during the rainy season and whenever it is released from the Barrage by the Irrigation Department. The river channel thus remains intermittently active during the entire year. It is further pertinent to mention that the channel of water flow in river Yamuna follows a meandering course and is subject to frequent changes.

3. The year-round flow of water through a meandering river channel poses practical problems for the mining contractors for accessing different parts of their mining area as this requires the crossing over the meandering water streams. The mining contractors have tried to solve this problem in the past by deploying Hume pipes for creating temporary cross-over/access points across river streams for excavators and transport vehicles in order to maintain un-interrupted river flow and to meet with the EC stipulation of not interfering with the flow of river. The aforesaid practice came to the notice of Hon'ble NGT when a case was filed alleging diversion of water by some of the river bed contractors. The Hon'ble NGT directed the removal of all such temporary cross-over points/bridges that had been created without authorization.

4. The problem posed by the meandering river streams to the mining contractors for accessing different parts of the mines was, however, left unresolved posing problems for sustainable mining of mineral. The resultant confusion also leads to generation of complaints and unwanted litigation that is not in the interest of healthy regulation of mining activities.

5. The above said issue was discussed at length in a meeting held under Chairmanship of Hon'ble Chief Minister Haryana on 20.08.2020 at 4:00 PM to review the working of the Mining Department and for finalizing an action plan for the modernization of the Department and for effective regulation of mining activities in the State of Haryana and other allied issues. It was decided during the meeting that " the mining operations in river- bed areas requires the crossing over of the river channel to access different areas included in the mining block. The Irrigation Department may undertake the construction of appropriate structures required for the crossing over of the river channel by the excavators' transport vehicles etc. such construction work may be executed as deposit works for the contractors with due consideration for environmental safe guards". Copy of the minutes of the meeting is enclosed for ready reference.

6. In the light of the above said decision of the State Government, you are requested to issue necessary directions to the concerned officers for taking appropriate steps for setting-up of appropriate cross-over points as deposit work with requisite safeguards without diverting the river flow. Such works may be undertaken only in case of receipt of request in this regard by the authorized reviver be contractor. The department may likewise charge the contractor for dismantling of any such temporary structure when required to be removed."

Copy of letter dated 24.11.2020 issued by the Director General, Department of Mines & Geology, Haryana to the Additional Chief Secretary to Government Haryana, Irrigation and Water Resources Department is annexed herewith as ANNEXURE-R/5.

(vii) That after further deliberations on the issue, the Director General, Department of Mines & Geology, Haryana vide letter dated 15.04.2021 submitted and requested to the Engineer-in-Chief, Irrigation and Water Resources Department as follow:

"2. Vide letter under reference, the Additional Chief Secretary to Government Haryana, Department of Irrigation & Water Resources was requested to issue necessary directions to the concerned officers for taking appropriate steps for setting-up of appropriate cross-over points as deposit work with requisite safeguards without diverting the river flow. Such works may be undertaken only in case of receipt of request in this regard by the authorized river-bed contractor. Further you may charge the contractor for dismantling of any such temporary structure when required to be removed.

3. You are also aware that a meeting under the Chairmanship of the Hon'ble Chief Minister, Haryana was held on 09.02.2021 to review the mining related issues in which the officers of this department, the Haryana State Pollution Control Board and your department were also present. During the deliberations, some of the Mining Contractors having Mineral Concessions in the Yamuna Riverbed raised the issue regarding difficulties faced in construction of temporary cross - over points in riverbed required for transport of the machinery and vehicles to the actual mining site in the riverbed. The mining contractors requested to the Hon'ble CM that they may be allowed to construct the cross - over points themselves as per the design, specifications and others conditions as may be directed by the Irrigation Department.

4. The Hon'ble CM during meeting observed that the constructions of the crossover points by the Irrigation Department as deposit works takes a longer time and the utility of such point at a delayed period becomes null. Therefore, it was decided that such crossover points may be allowed to be constructed by the mining contractors themselves in accordance with the design and specifications provided by your Department. You shall issue NOC to the contractors in this behalf and the you may also impose conditions regarding removal of the crossover points before the start of each rainy seasons etc.

5. Accordingly, you are requested to take necessary steps for implementation of the above decision taken in the meeting held on 09.02.2021 under the Chairmanship of Hon'ble CM Haryana, so that smooth functioning in the riverbed mine may not be hampered."

Copy of letter dated 15.04.2021 issued by the Director General, Department of Mines & Geology, Haryana to Engineer-in-Chief, Irrigation and Water Resources Department is annexed herewith as ANNEXURE-R/6.

(viii) That taking holistic view of all facts and circumstances, finally vide letter dated 18.10.2021 a policy was framed with terms and conditions as under:

- "1. Temporary path should be constructed on river creeks by laying RCC pipes. The diameter of RCC pipes should be taken by considering two to three times of the discharge passing at that point, so that flow of water may not obstruct. RCC pipes should be taken of NP-4 category having minimum 1500 MM/E, as heavy machineries are to be passed over these pipes. These RCC pipes should be laid in such a way that natural flow of river water may not obstruct discharge passing at that point should be specifically defined and certified by XEN Incharge.*
- 2. In case water is found accumulated 8' to 10' deep in river stretch from river bank to mining area, then RCC pipes should not be laid.*
- 3. Design and drawing of these temporary paths will be approved by the irrigation & Water resources Department, Haryana, Panchkula. The crossover points may be allowed to be constructed by mining contractors themselves with the design and specification approved by the concerned XEN, SE, CE of Irrigation & Water Resources Department, Haryana, Panchkula as per their competency defined in PWD code. The Irrigation & Water Resources Department, Haryana, Panchkula shall issue NOC to the contractors in this behalf and also impose conditions regarding removal of the crossover points before the start of each rainy season etc.*
- 4. Insurance of mining workers must be got done by the mining contractor.*
- 5. Existing level of mining area and level of adjoining area of mining are not considered due to which it become difficult up to which level the mining is allow during the year. As per mining policy permission of extraction of mining is up to maximum depth of nine feet from the natural ground level of said area. Mining department should fix the level of extraction of mining up to maximum depth and power should be given to the officers to check the same.*
- 6. Mining agencies have to inform the Irrigation & Water Resources Department, Haryana, Panchkula about machinery to be used for carrying the mining material over these paths/ bridges so that designs & drawings of these paths/ bridges can be checked accordingly by the Irrigation & Water Resources Department, Haryana, Panchkula*
- 7. To construct the works of temporary paths Mining agencies have to apply to Irrigation & Water Resources Department, Haryana, Panchkula through mining department before 1st July of every year along with site plan showing proposal on Sazra Plan duly countersigned from the concerned Mining Officer of the area. Construction of all these works will be got completed upto 31st December of every year by mining contractors themselves as per the drawing and specifications approved by the Irrigation & Water Resources Department, Haryana, Panchkula.*
- 8. The mining agencies can use temporary paths only for mining purpose. Mining agency should ensure that no illegal activities or transportation of other than mining material would take place through these temporary paths. Failing which, these structures would be dismantled by the Irrigation & Water Resources Department, Haryana, Panchkula after recovering cost of the same from the concerned mining agencies.*
- 9. Due to rainy/ monsoon season, no mining is permissible w.e.f 1st July to 15th September of every year. So, works of temporary paths already constructed would be removed/*

dismantled by the contractors before 30th June, of every year. The Irrigation & Water Resources Department, Haryana, Panchkula would charge the Mining agencies for dismantling of any such temporary structure when required to be removed.

10. During non — monsoon period, minimum 352 cusec discharge is released in the river Yamuna for ecology of E - flow. But sometimes, situation may arise in non- monsoon season when more water is received at HKB in river Yamuna and same is to be released, because this is an unpredictable situation. Therefore, damage (if any) occurred to these temporary paths the Irrigation & Water Resources Department, Haryana, Panchkula/Govt. would not be responsible for the same and the Mining agency has to deposit the cost of the work to get it done again.

11. In case any damage is occurred to any Irrigation structure by a mining agency, then it would be repaired by the concerned agency. Failing which, the same would be repaired by the Irrigation & Water Resources Department, Haryana, Panchkula at the cost of the concerned mining agency.

12. For loss of property, human, machinery during mining material crossing through temporary path etc. the mining agency would be solely responsible for the same.

13. In case length of a mining block in river is 1.00 km. or more, than temporary paths can be constructed by the Mining agencies after every 500 mtr. Length/distance after obtaining NOC from Irrigation and Water Resources Department Haryana Panchkula as per design and specifications approved by Irrigation & Water Resources Department, Haryana, Panchkula.

14. Maintenance of these temporary paths would be done by the mining agencies at their own cost.

15. All rules and instructions issued by the Govt. from time to time should be followed by the mining agencies.

16. All rules/ regulations of mining department and irrigation and water recourse department, Haryana, Panchkula under Haryana canal and drainage act should be followed.

17. Any dispute arising between the Mining agency and Irrigation & Water Resources Department, Haryana, Panchkula under this policy mining agency can file appeal if any, in this regard to the Superintending Engineer of Irrigation & Water Resources Department, Haryana, Panchkula of the concerned district and the same will be settled by the CE concerned.

18. The charges/Fees for issue NOC to Mining Contractors will be levied off as per Annexure-D of Haryana Govt. Gazette notification No. 2/175/2011-11W dated 25th July 2017 regarding policy guidelines for considering the proposals of the private/Govt./Public Sector bodies/undertakings for allowing construction of Road Bridges, Roads and laying of various utility lines (pipelines/cables etc) across along the canals/drains and rivers/rivulets of Irrigation & Water Resources Department, Haryana, Panchkula and Water Resources Department, Haryana."

Copy of Memo dated 18th 119th October, 2021 issued by the Additional Chief Secretary to Govt. of Haryana, Irrigation and Water Resources Department is annexed herewith as ANNEXURE-R/7.

5. That in the present OA under consideration, an application was made by M/s Yodha Mines & Minerals, to the Mining Officer, District Sonipat and it was requested to allow mining contractor to lay RCC pipes to cross river flow for Mining

Activities. The Mining Officer, District Sonipat forwarded request of M/s Yodha Mines & Minerals to Executive Engineer, Sonipat Water Services Division, Sonipat vide Memo No. MO/SNP/3549 Dated 17.11.2021 to construct the temporary paths for crossing the creek of river Yamuna so that the mining agency may be able to extract minor mineral left over across the flow of water in their contact area. Copy of Memo No. MO/SNP/3549 Dated 17.11.2021 issued by Mining Officer, District Sonipat to the Executive Engineer, Sonipat Water Services Division, Sonipat is annexed herewith as ANNEXURE-R/8.

6. That the request of mining agency was examined in terms of policy dated 19.10.2021. Considering quantum of water in flow, geographical conditions and site specifications etc, a design was approved by Chief Engineer, YWS(S), I&VVR Deptt. Haryana vide No. IVVRD-220008/162/2021-WS-DIVN-SONEPAT-Irrigation & WR Department-I/76909/2021 Dated 23.11.2021 and accordingly permission was granted to M/s Yodha Mines & Minerals by the Competent Authority vide File No. IVVRD-220008/162/2021-WS-DIVN-SONEPAT-Irrigation & W.R. Department/76909/2021 dated 23.11.2021. The same was informed vide Executive Engineer Water Services Division, Sonipat to the Mining Officer vide letter No. 5544-46/Permission Dated 23.11.2021. Copy of letter No.5544-46/Permission Dated 23.11.2021 alongwith approved design is annexed herewith as ANNEXURE-R/9.”

7. That as such a temporary pipe crossing was constructed in entire creek of river Yamuna by M/s Yodha Mines & Minerals which was removed on dated 30.06.2022, i.e., before the start of rainy season. **It is further submitted that the installation of the said pipe neither cause any danger to the natural flow of water of river Yamuna nor diverted the natural path of Yamuna as in the lean season there was very small flow of water in river and temporary pipe crossing constructed by M/s Yodha Mines & Minerals was approximate 3 times the discharge running into river. There is no obstruction to the natural flow in river and no diversion thereto. Erosion of land in river flood plain is a natural process as river meandering is continuous process.**

8. That apart from the approval in question, two other approvals have been sanctioned under Yamuna Water Services Circle, Sonipat and at present construction for 01 No. Crossing has been done at site. There are 06 No. of permissions have been given by Hathinikund Barrage Circle, Yamuna Nagar and 05 No. crossings have been constructed at site. (Approved Drawing and photographs are attached at Annexure 10). **In view of the submissions made herein above, the environmental safeguards have been duly considered while finalizing the policy dated 19.10.2021.”**

40. In its reply filed vide email dated 18.11.2022 respondent no. 2-the Director, Mines and Geology, State of Haryana submitted that temporary bridge was constructed by respondent no. 5-M/s. Yodha Mines and Minerals

with permission granted vide letter dated 23.11.2021 under Haryana Government Policy dated 19.10.2021 which was demolished before 30.06.2022 and that no natural course of Yamuna river was thereby diverted and erosion of soil from adjacent agricultural land was due to the natural flow of Yamuna river.

41. In its reply respondent no. 3 has referred to grant of EC dated 28.01.2016 and CTE dated 20.02.2016 and CTO dated 31.03.2016 in favour of the Project Proponent. Respondent no. 3 has also referred to previous orders dated 21.08.2022 and 07.11.2022 refusing grant of CTO. Respondent no. 3 has also referred to grant of CTO valid upto 30.09.2023 vide order dated 10.12.2022 by HSPCB in favour of the Project Proponent and submission of six monthly compliance report dated 11.10.2022 by the Project Proponent. In its reply HSPCB has also reiterated that temporary bridge was constructed by the Project Proponent under permission dated 23.11.2021. In its report respondent no. 3 has also mentioned that the site was inspected on 24.01.2023 by Field Officer, HSPCB, Sonipat Region and during inspection, it was observed that mining activity was going on in river bed away from river stream where temporary bridge was not required as area under mining was approachable without need of bridge and that at the time of inspection no temporary bridge had been constructed/installed by the Project Proponent.

42. In his reply respondent no. 4-Deputy Commissioner, Sonipat has merely referred to the observations of the Joint Committee and the replies filed by respondents no. 1 to 3.

43. In its reply respondent no. 5 has also submitted that temporary crossing point in riverbed sand mining area was constructed in accordance with permission granted vide memo dated 25.11.2021.

44. In its reply filed vide email dated 20.05.2023 respondent no. 6-MoEF & CC referred to grant of EC dated 28.01.2016 in favour of respondent no. 5-M/s. Yodha Mines and Minerals and referred to the SSMMG 2016 and EMGSM 2020 and also notification dated 28.02.2014 and 20.04.2022 delegating powers to SEIAA, State Department of Mines and Geology is the Nodal Authority in the State for dealing with the allotment of mining leases under the Mines and Minerals (Development and Regulation) Act (MMDR Act) and is entrusted with the enforcement and regulation of mining operations in a State including illegal mining and State Pollution Control Board being nodal authority in the State for dealing with cases related to pollution and environment management coming within the purview of the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Environment (Protection) Act, 1986.

45. In its reply/report filed vide email dated 18.04.2023 NMCG, MoJS has referred to the issuance of River Ganga (Rejuvenation, Protection and Management) Authorities order 2016, the fact of river Yamuna being tributary of river Ganga requirement of NMCG permission under paragraph 42 of 2016 order for construction of temporary bridge for crossing of river Yamuna and no approval having being approved by the Project Proponent from NMCG. In its reply/report NMCG made the following recommendations:-

“5. Recommendations:

(i) Henceforth grant of permission for any activity which may impact or likely to impact the continuity of flow in the river and disrupt the longitudinal, lateral connectivity should be regulated after studying the impact of same on river ecology, morphological integrity and aquatic life.

(ii) The construction of temporary bridges/roads pathways on/in the stream of river for any purposes including mining shall be considered in details, if necessary and inevitable, keeping in view of the principles enunciated in paragraph 4 and the provisions of paragraph 42 of the Authority's Order, 2016,

studying the impact of the activities on the river ecology, its morphology and aquatic life etc. along with other statutory mandatory environmental clearances from the authority's concerned.

(iii) The permission for sand mining in the flood plain area and /or area abutting the flood plain zone/ area in this matter shall be reviewed by the Haryana State Pollution Control Board/ Department of Mines and Minerals of the State Government of Haryana and permission shall be sought, afresh forthwith, if so required by the project proponent in consultation with the MoEF&CC and NMCG.

(iii) The guidelines viz., the National Framework for Sediment Management, issued by the MoJS shall be scrupulously adhered to and periodically monitored by the Department of Mines and Minerals of the State Government of Haryana and the Haryana State Pollution Control Board.”

Constitution of Joint Committee

46. This Tribunal observed in its order dated 25.05.2023 that learned senior counsel for respondent no. 5-project proponent had argued that construction of temporary bridge across creeks of river Yamuna for carrying out mining does not have any adverse environmental impact while learned counsel for respondent no. 7 had submitted that no temporary bridge can be constructed on river Yamuna without obtaining permission of National Mission for Clean Ganga (NMCG). However, learned counsels for respondents no. 6 and 7 did not object to the same as being prohibited activity. In the facts and circumstances of the case, this Tribunal considered it necessary to constitute a Joint Committee to examine the issue and submit its report in this regard.

47. Accordingly, vide order dated 25.05.2023 this Tribunal constituted another Joint Committee in the case. The relevant part of the order dated 25.05.2023 is reproduced below:

“14. In the facts and circumstances of the case, we consider it necessary to constitute a Joint Committee to examine the issue and submit its report in this regard. Accordingly, we constitute a Joint Committee comprising of (i) Dr. Mukesh Kumar Sinha, Chairperson, Godavari River Management Board as Chairman; (ii) Representatives of Secretaries MoEF&CC and MoJS not

below the rank of Joint Secretary/ Director as Member and (iii) The Member Secretary, CPCB as Member Secretary. The Joint Committee shall be entitled to seek/receive response from the applicant, project proponent, concerned departments of the Haryana Government and also to associate any other expert with it as may be considered necessary, undertake visits to the sites where bridges have been constructed/were constructed, carry out the requisite study and submit its report regarding the following aspects.

- a) Whether any mining activity be allowed across different streams of river, if more than one at any place and any temporary bridge be allowed to be constructed for facilitating extraction/transportation of the mined material and other allied activities;*
- b) Whether permitting such mining activity and construction of such temporary bridge has any adverse environmental impact on the river morphology, ecology, discharge and aquatic life, etc.;*
- c) Whether construction of any such temporary bridge across river for facilitating mining/allied activities be completely prohibited or permitted by imposing conditions to ensure minimum impact on river ecology and aquatic life, and*
- d) In case construction of any such temporary bridge is to be kept in the category of regulated activities, by which authority and in which manner the aspects of grant of permission ought to be dealt with.*

15. The CPCB shall be the nodal authority for coordination and compliance and all the expenses of the Joint Committee shall be borne by the CPCB out of Environment Compensation Fund.

*16. Report be submitted by the Joint Committee **within three months** by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR supported PDF and not in the form of Image PDF.”*

48. In compliance thereof, Joint Committee comprising of the following Officers

1. Dr. Mukesh Kumar Sinha, Chairman, Godavari River Management Board, Hyderabad – Chairman,
2. Shri Pankaj Verma, Scientist ‘E’ as representative of Secretary, MoEF & CC
3. Shri Nelapatla Ashok Babu, Director (NRCD) as representative of Secretary, MoJS and
4. Member Secretary, CPCB – Member Secretary

started functioning and had its first meeting on 15.06.2023 at CPCB Office, Parivesh Bhawan, New Delhi and decided to co-opt Dr. S.R. Wate, Ex. Director, NEERI and Dr. R.G. Patil, Scientist-‘E’, Central Water and Power Research Station, Pune.

49. The Joint Committee had four meetings and two site visits as under:-

Date	Meeting/Site	Brief description of activities
15.06.2023	First Meeting	Acquainted with NGT Order, Haryana Govt. Policy, etc., Decided to co-opt Dr. SR Wate and Dr. R.G. Patil
23.06.2023	Site visit	Inspected temporary bridge
23.06.2023	Second Meeting	Acquainted with sand mining leasing policy and practices of Haryana State Government
27.07.2023	Site visit	Inspected Temporary bridge site during normal flow
28.07.2023	Third Meeting	Decided outline and timeline of the Report
24.08.2023	Fourth Meeting	Discussion on the Draft Report and its finalisation

Report of the Joint Committee

50. The Joint Committee submitted its report dated 25.08.2023 and in its report gave its response on the specific issues as under:-

“5. Response on the Specific issues:

Hon’ble NGT had mandated the Joint Committee to submit its Report on the following aspects. The Joint Committee, after deliberations submit its Reports on the specific issues as under;

4.(a) Whether any mining activity be allowed across different streams of river, if more than one at any place and any temporary bridge be allowed to be constructed for facilitating extraction/transportation of the mined material and other allied activities;

*There are adverse impacts of sand mining but considering ban would result into illegal sand mining and destruction of hills/mountains to obtain construction material, which would be far more damaging, The Joint Committee submits that mining activity be allowed with certain regulatory measures. During lean season, river may flow in different streams with islands in between. **Sand mining near the banks, especially towards convex bends would attract flood flows causing bank erosions, which needs to be avoided. Naturally access either through river bed/boats need to be provided to approach islands or sand mining area. The excavation/transportation of mined material may be resorted to with different methods, but most efficient, cost effective and less environment damaging would be through temporary bridges with following regulatory measures;***

(i) Construction of temporary bridge should not restrict waterways and natural streams and entire range of expected river flows can flow uninterruptedly without any constriction.

(ii) Temporary bridges must be removed before monsoon so that flood flows uninterrupted and sections be stacked away from river banks

(iii) Temporary bridge may be preferably built using **removable box sections so that integrity of natural river bed can remain intact and aquatic movement across remain uninterrupted.**

(iv) Absolute riverbank/ riverbed/ sand mining levels be determined and periodically monitored to ensure no excessive sand mining.

4.(b) Whether permitting such mining activity and construction of such temporary bridge has any adverse environmental impact on the river morphology, ecology, discharge and aquatic life, etc.;

Yes. But as explained in part 4(a) above **non permitting would result into more damaging scenario. More detailed study on the impact of temporary bridge is required** and Hon'ble NGT may consider directing State Government instituting a detailed study on impact of temporary bridges for sand mining with following Terms of References;

(i) Collection of Baseline data on physical regime of the river (river discharge, flow depth/velocity, sediment load, aquatic flora and fauna, etc.) during pre-monsoon (April-May)

(ii) Construction of temporary bridge where valid license/permission hold good with **half width with circular hume pipe, another one half width removable box sections to study hindrances in aquatic movement** and river regime (river discharge, flow depth/velocity, sediment load) under two scenarios.

(iii) Repeat collection of data mentioned in part 4(b)(i) during post monsoon season (November-December) to see permanent impact, if any.

(iv) Evaluate impacts on river regime and on aquatic flora/fauna

The above study may be carried out through reputed National Institutes. The study would provide authentic data/evidence to review existing guidelines for construction of temporary bridges for sand mining. State Governments may review their existing policies accordingly.

4.(c) Whether construction of any such temporary bridge across river for facilitating mining/allied activities be completely prohibited or permitted by imposing conditions to ensure minimum impact on river ecology and aquatic life, and

As explained in part 4(a) above, during lean season, river may flow in different streams with islands in between. These islands (aggraded due to sand deposition and being away from the riverbanks) are most potential sand mining areas. Access may be evolved to approach to avoid river stream channel crossing. In the event of infeasible access otherwise, access either temporary bridge may need to be provided to approach islands and/or sand mining area for transportation of mined material taking adequate environment safeguard measures.

4.(d) In case construction of any such temporary bridge is to be kept in the category of regulated activities, by which authority and in which manner the aspects of grant of permission ought to be dealt with.

As explained above, **construction of such temporary bridges should be considered as a regulated activities and be considered along with appraisal of sand mining proposal(s).** Since sand mining is in the domain of the State Governments, **State Environment Appraisal Committee**

*(with representative from irrigation department to be co-opted, if not otherwise) should be the authority, which should consider the sand mining proposal along with river maps with absolute levels ensuring sand sustainability without river aggradation/degradation, that is, increase or decrease in natural river bed levels. **Procedure prescribed in Sustainable Sand Mining Management Guidelines, 2016 and Enforcement & Monitoring Guidelines for Sand Mining, 2020 of Ministry of Environment, Forest & Climate Change may need to be adopted.***

6. General Recommendation:

It is proposed that sand mining proposals be regulated as under;

A. Permitting Mining Activities/ River management Aspects:

*(i) State Governments (may in association with Central Water Commission and using remote sensing/drone technology) should monitor river profiles and cross sections at regular intervals **periodically to identify areas of aggradation/deposition where mining can be allowed;***

(ii) If possible and feasible, sands deposited in reservoirs and in confluence of tributaries and main rivers be considered first for mining before resorting to in stream sand mining;

(iii) Mining in areas of bank erosion and proximity to environmental vulnerable areas/sanctuaries/reserve forests, infrastructural structures and installations should be prohibited.

(iv) Annual rate of replenishment and allowing time for replenishment after mining in area be calculated.

*(v) **On the basis of annual rate of replenishment and areas of degradation/aggradation, sand mining plans be prepared covering ways of scientific and systematic mining including provision for access through temporary bridge or otherwise be identified.***

(vi) A bench mark (BM) with respect to mean sea level (MSL) should be made essential to in stream mining channel reaches (MCR). Below which no mining shall be allowed.

(vii) Permanent gauging facilities (for discharge and sediment both) should be made compulsory for the sites having excessive mining in consultation with Central Water Commission or any competent State Agency.

(viii) Implementing safeguards for checking illegal and indiscrete mining including periodic inspections

B. Construction of Temporary Bridges:

(i) State Government should institute a detailed study on impact of temporary bridges for sand mining with Terms of References mentioned in part 4(b) above. State Governments may review their existing policies accordingly.

(ii) Removable box sections may be used to maintain integrity of the natural river bed. and full water way.

The natural resources must be utilized in environment friendly manner in scientific and systematic way and with the objective of sustainable development the policy on the subject should have provisions for protection of environment & ecology. These factors can be accounted for in a most efficient manner at district level, though river profiling may be carried out at State level for the entire river/tributary length. These should be carried out by the State Government at regular intervals, say once in five years. The sustainable mining plan needs to be dynamic.

The Joint Committee presents its compliments to Central Pollution Control Board and State Government of Haryana Department of Irrigation and Department of Geology and Mines for extending full cooperation and facilitating fruitful discussions and the site visits. The Joint Committee also extend its gratitude towards Experts, namely, Dr. S.R. Wate and Dr. R.G. Patil for providing valuable Guidance in the matter.

Submissions dated 18.04.2023 filed by Amicus Curiae.

51. Written submissions dated 18.04.2023 have been filed by Amicus Curiae. The relevant part of the written submissions is reproduced below:-

“CONNCISE SUBMISSIONS ON BEHALF OF AMICUS CURIAE

1. That M/s Yodha Mines & Minerals was granted an E.C. dated 28.01.2016 (Page 53) by MoEF&CC for sand mining with production capacity 16.0 Lakh TPA of sand (minor mineral) located at Village Jainpur, Tehsil and District – Sonipat, Haryana. The mine lease area is primarily on the riverbed of Yamuna (34.40 ha.) and partly outside the riverbed (10.0 Ha.) over a total area of 44.40 Ha. in Dist. Sonipat. The Letter of Intent was issued to the project proponent on 9th March, 2015 for 9 years. As per the mining plan, the proposed production in the riverbed is 14.40 Lakh TPA and outside the riverbed is 1.60 Lakh TPA.

2. Method of mining and depth of mining

That the relevant extracts of the clauses of the EC governing method and depth of mining are reproduced hereunder:-

“4. Proposed method of mining is manual opencast method in riverbed and opencast mechanized outside riverbed.

The maximum depth of mining in the riverbed will not exceed 3m from the un-mined bed level at any point of time with mining restricted to the central 3/4th width of the river. A safety margin of 2m will be maintained above the ground water table and no mining operation will be permitted below this level.

...

11 A. Specific Conditions:

...

(xi) Excavation will be carried out up to a maximum depth of 3 meters from surface of mineral deposit and not less than one meter from the water level of the River channel whichever is reached earlier.

...

B 1: Special Conditions

Impact Category	S. No.	Environmental Condition
Sustainable Mining Practices	9	The depth of mining in Riverbed shall not exceed one meter or water level whichever is less, provided that where the Joint Inspection Committee certifies

		<i>about excessive deposit or over accumulation of mineral in certain reaches requiring channelization, it can go up to 3 meters on defined reaches of the River.</i>
	19	<i>Depending on the location, thickness of sand, deposition, agricultural land / Riverbed, the method of mining may be manual, semi-mechanized or mechanized; however, manual method of mining shall be preferred over any other method.”</i>

(i) That from a cogent reading of the above EC conditions, it is manifest that only manual open cast mining is permitted in the river. Further, even in areas outside the riverbed, manual method is to be preferred.

(ii) Secondly, the depth of mines in the riverbed cannot be more than one meter unless and until, on a prior inspection by and consent of a Joint Inspection Committee, which certifies that there are excessive deposits of sand in specified parts of the mining lease, subject to the condition that such excessive deposits of sand are required to be removed for channelization of the river. It is only in such specified areas that mining in the riverbed beyond one meter but up to 3 meters is allowed under the E.C. In the present case, no material or documents have been placed on record to demonstrate that such an exercise had been undertaken.

(iii) Director of Mines in his reply dated 18.11.2022 (Para 6 - Page 6) has stated as under:

“6. That M/s Yodha Mines and Minerals got their EC modified from the SEIAA on 22.09.2020 for undertaking mechanical mining in the riverbed.”

It is submitted that the modified EC by SEIAA nor the Minutes of Meeting of SEIAA nor the application with its supporting documents have been placed on record. SEIAA had no jurisdiction or authority to modify an EC granted by the MoEF&CC. Any change in the procedure for modification of a condition imposed by the MOEF in an EC issued by it, than such change can only be prospective, unless it is otherwise specifically provided for.

3. Construction of bridges / roads by laying Hume pipes or otherwise

(i) The cardinal principle is that a mining activity can be carried on only in strict conformity of the conditions mandated under the EC. In other words, any activity, which is prohibited or has not been specifically permitted by the EC cannot be undertaken in the mining lease area. This would be in consonance with the precautionary principle.

(ii) In the present case, there is no material on record to demonstrate that the mining plan and/or the EC had considered and approved the setting up of a bridge.

(iii) The policy dated 18/19.10.2021 (Page 159 r/w page 196) as framed by the Govt. of Haryana and the consequent approval dated 23.11.2021 to the project proponent for constructing a bridge is without authority of law and a nullity.

(iv) Grant of permission by the Irrigation Department, State of Haryana is violative of the precautionary principle inasmuch as it is not a body which can be considered to have an expert grasp on environmental concerns.

(v) The Environment (Protection) Act, 1986 has been enacted by the Parliament under Schedule I, Entry 13 of the Constitution. The Central Government in exercise of the power under Section 3 of Environment (Protection) Act, 1986 has notified the EIA Notification, 2006. The said notification makes it mandatory to seek prior environmental clearance before undertaking mining activity, which includes removal and transportation of excavated minerals. In other words, the "environmental consequences" arising out of mining and all its physical related activities impacting the environment are exclusively covered by the Central Legislation and the State Government would not have the constitutional mandate to enact a policy for setting up temporary bridges for the sole purpose of mining across the river Yamuna.

(vi) The EC (Page 59) in Para 11 (B1) (17) mandates that "No natural water course and/or water resources are obstructed due to mining operations". Setting up of a hume pipe bridge and the part of the road connecting the road to the bridge, admittedly blocks the minimum e-flow of the river besides causing damage to the natural ecology of the riverine system. Further, the project proponent deployed 10 Nos. of JCB Excavators and 40 Nos. of 25 tons of Tippers/Trucks (Page 201) for riverbed mining as per enclosure to the letter dated 18.11.2021 of the project proponent (Page 200) for permission to construct a bridge. Consequently, construction of a bridge for mining is in violation of the EC.

4. Impacts of construction of bridges on rivers:

i) That construction of temporary bridges on the Yamuna River for transportation of mined material, not only damages the riverine ecology but also affects the e-flow of the river. As per this Hon'ble Tribunal's decision in the **Vikrant Kumar Tongad v. Delhi Tourism and Transportation Corp. & Ors. [2015 SCC OnLine NGT 3]**, by order dated 12.02.2015, this Hon'ble Tribunal observed that:

"24. Rivers can be polluted directly or its ecology, biodiversity or flow can be adversely affected by developmental activities, thus, causing environmental hazards. Structures like bridges can cause a series of impacts both in immediate time and extended over a long duration. Impact is not only limited to the specific physical development, but, it also gives rise to several other interlinked elements which can cumulatively impact the environment which replenishes the resources in long run. These environmental hazards may result from flooding, narrowing of embankments and endangering of aquatic life. Any development project or activity upon the floodplain, river bank or across the river is bound to have some impact upon the ecology and biodiversity of the river. It is an established fact that such projects, whether part of a comprehensive developmental activity or independently, would narrow the water course or environmental flow of the river. Such activity may have adverse impacts on aquatic flora and fauna. In some

cases, it may adversely affect the floodplain and may amount to affecting the terrestrial ecology.”

Note dated 03.10.2023 filed by Amicus Curiae.

52. Note dated 03.10.2023 has also been filed by Amicus Curiae. The relevant part of the note is reproduced below:-

“Note of Amicus Visit on 23.06.2023 to the Mining Site in Question

The Amicus in order to familiarize with the ground reality of the mining site in issue and as opined by the Hon’ble Tribunal during the course of hearing, decided to visit the said site on 23.06.2023. Accordingly, Mr. Rahul Khurana, Advocate for Respondent Nos. 1 to 4 was requested to inform all the concerned officers of the State of Haryana about the proposed inspection and to make the required arrangements as ordered by the Hon’ble Tribunal vide order dated 19.04.2023.

Mr. Rahul Khurana and the Amicus reached Murthal at about 11:00 a.m. and thereafter left for the site along with the officials. The list of the eight officials who were present at the site at the time of inspection have been mentioned in the note prepared by the officials and forwarded by Mr. Khurana to the Amicus. A representative of M/s. Yodha Mines, Shri Sandeep Shokeen was also present during the entire visit.

*The said note along with the map and the photographs forwarded by Mr. Khurana to the Amicus is annexed herewith as **ANNEXURE-I**.*

Bridge:

*i. Mining site was mainly on the riverbed of river Yamuna. In order to access the main of the mining area of the mining lease, a bridge has been constructed. **The bridge was about 3 meter in width laid over 18 large hume pipes.** As the monsoon has commenced, the flow / current of the river under the bridge was good. **However, the natural flow of the water was positively being substantially obstructed.** The bridge has been constructed as a channel of the river bifurcates the mining lease into sections. That as per the Environmental Clearance, the total area of the mining lease is 44.40 ha. out of which 34.40 ha. is on the riverbed and the remaining 10 ha. is outside the riverbed.*

Lease area and mining pits

i. Amicus noticed that the mining lease area before the bridge and a large section of the mining area after crossing the bridge had been levelled out. Earth leveler machine / vehicle tracks could be spotted on the entire stretch of this area. An excavator was also found filling up the mining pits. A leveler machine/vehicle having tracks similar to the ones spotted on the lease area was found parked further away from the mining area.

ii. The mining pit, which was in the process of being filled up with sand on measurement, measured a depth of approx. 7 ft.

The photographs / video taken by the Amicus are annexed as **ANNEXURE - II.**

The visit was concluded approx. at about 3.00 p.m.

It may be mentioned that at about 3:55 p.m., Mr. Narender Pal Singh, learned Advocate for Respondent No.5 sent a WhatsApp message to the Amicus objecting for undertaking the said visit without informing him.”

Response on behalf of NMCG

53. Response on behalf of NMCG has been filed vide email dated 18.10.2023. The relevant part of the response filed by NMCG is reproduced below:-

“RESPONSE ON BEHALF OF THE NATIONAL MISSION FOR CLEAN GANGA(NMCG) TO THE REPORT FILED BY THE JOINT COMMITTEE IN OA NO 581/2022- VIKAS KUMAR VS STATE OF HARYANA & ORS.

X X X X
4. In the above context it is stated that the Central Government, vide S. O. 3187(E) dated 07.10.2016 has issued the River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016[herein after referred to as Authority's Order, 2016 and constituted authorities at Central, State and District levels to take measures for prevention, control and abatement of environmental pollution in River Ganga and to ensure continuous adequate flow of water so as to rejuvenate the River Ganga to its natural and pristine condition.

X X X X
6. That as per para 33 and 35 the National Mission for Clean Ganga(NMCG) is constituted as "National Agency" and nodal agency for the nationwide implementation of the provisions of the Order and for effective abatement of pollution and rejuvenation, protection and management of the River Ganga and its tributaries.

7. That it is mentionable that as per paragraph 42 of the Authority's Order, it is specifically mandated that prior approval shall be obtained, for the matters mentioned in the said para, by every person, the State Ganga Committees, District Ganga Protection Committees, local authorities and other authorities from the National Mission for Clean Ganga with respect to the matters, relating to River Ganga and any area abutting River Ganga or its tributaries:

(a) engineered diversion and storage of water in River Ganga without affecting the flow of water downstream of the River Ganga;

(b) **construction of bridges and associated roads and embankments over the River Ganga or at its River Bank or its flood plain area;**

(c) construction of Ghats or extension of any existing Ghat;

- (d) construction of jetties;
- (e) construction of permanent hydraulic structures for storage or diversion or control of waters or channelisation of River Ganga or its tributaries;
- (f) deforestation of hill slopes and notified forest and other eco-sensitive areas;
- (g) any other activity which contravenes the principles laid out in paragraph 4 which the National Mission for Clean Ganga may specify

8. That the views expressed by the Joint Committee in its report, as extracted in para 3 of this Note, are absolutely contrary to the scope and mandate of the provisions provided in Authority's Order and may not be conceded to in its totality

9. That the NMCG submits as under: -

(a) That while the state governments, if so advised (also as recommended by the NMCG in its response dated 18th April, 2023 and the committee in its report) may undertake studies of its own or in association with the central government or any other expert agencies/institutions for mining in accordance with the statutory rules/notifications, issued from time to time by the central and the state government.

(b) Permission for construction of temporary structures should be given keeping in view of the principles enunciated in paragraph 4 and the provisions of paragraph 42 of the Authority's Order, 2016 and only after studying the impact of the activities on the river ecology, its morphology and aquatic life etc.

(c) That to take up any work, attracting the provisions of paragraph 42 of the Authority's Order, including the construction of bridges, even if of temporary or seasonal character but situated in the areas in the flood plain or making embankments near the River Ganga or at its River Bank, shall mandatorily require prior approval from the NMCG. NMCG has already evolved a mechanism (a web-based portal) to examine and consider the proposals attracting paragraph 42 of the Authority's Order, 2016

(d) NMCG reiterates its stand in response to the Hon'ble NGT on 18th April, 2023 that no permission shall be granted for activity which may impact or likely to impact the flow of the river.

(e) That any deviations and /or contravention of the provisions of the Authorities Order shall attract consequences provided therein.

Comments on behalf of Irrigation & Water Resources Department, Haryana

54. This Tribunal, vide order dated 30.04.2024, inter-alia, directed Respondent no. 6-MoEF&CC and respondent no. 7-MoJS to file their specific response within two months on the following aspects:

- (i) The question of permissibility of mining across river channels and construction of temporary bridges for carrying out mining and allied activities; and
- (ii) the requirement of appropriate modification of Sustainable Sand Mining Management Guidelines, 2016 (SSMG, 2016) and Enforcement & Monitoring Guidelines for Sand Mining, 2020 (EMGSM, 2020).

Response on behalf of NMCG

55. Response on behalf of NMCG has been filed vide email dated 02.08.2024. The relevant part of the response filed by NMCG is reproduced below:-

“RESPONSE OF THE NATIONAL MISSION FOR CLEAN GANGA (NMCG), DEPARTMENT OF WATER RESOURCES, RIVER DEVELOPMENT & GANGA REJUVENATION (DoWR, RD & GR) MINISTRY OF JAL SHAKTI - IN COMPLIANCE OF THE ORDER DATED 30.04.2024 IN OA NO 581- VIKAS KUMAR VS STATE OF HARYANA & ORS.

X X X X

5. That as regards the issue of permissibility of mining across rivers channels, the power to grant of environmental clearance is vested with the State Environment Impact Assessment Authority (SEIAA), constituted by the MoEF & CC in accordance with the provision of the Environment (Protection) Act, 1986 and rules framed there under.

6. That as regards while undertaking mining activities in the river bed, for construction of Temporary bridges, the provisions contained in paragraph 6(3) of the Authorities order, 2016 shall be attracted.

That the NMCG submits that Para 42 of the Authorities Order, 2016 covers the prior permission of NMCG, inter-alia, for bridges and associated roads and embankments over the River Ganga or at its River Bank or its flood plain area. These bridges are constructed to stay for much longer duration to meet other requirements.

That it is relevant to mention that as regards the applicability of the Authorities Order, 2016 is concerned, it is submitted that as per the paragraph 2 of the Authorities Order, the same is applicable to the States comprising River Ganga Basin, namely, Himachal Pradesh, Uttarakhand, Uttar Pradesh, Madhya Pradesh, Chhattisgarh, Bihar, Jharkhand, Haryana, Rajasthan, West Bengal and the National Capital Territory of Delhi and such other States, having major tributaries of the River Ganga.”

Additional Report filed by MoEF & CC

56. Additional affidavit has been filed by MoEF & CC vide email dated 04.08.2024. The relevant part of the additional affidavit is reproduced below:-

9.It is submitted that, the provisions for construction of temporary bridges for carrying out mining and allied activities are not laid down in EIA Notification, 2006 (and its amendments time to time). Enforcement & Monitoring Guidelines for Sand Mining (EMGSM-2020) and Sustainable Sand Management Guidelines 2016 (SSMG 2016). A detailed study is required to determine on the permissibility of mining across river channel and the impact of temporary bridge across river channels, as was also recommended by the Joint Committee (please refer para 5...).

X X X X

11. It is submitted that, the construction of temporary bridges for carrying out mining and allied activities may cause changes in channel configuration and flow-paths impacting 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 transport 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 in-stream biota and riparian habitats. This disturbance may also cause changes in channel configuration and flow-paths.

X X X X

13.It is submitted that in the Sand Mining Management Guidelines, 2016 (SSMG, 2016) it has been recommended that sand & aggregate mining, and quarrying should be done only after sound scientific assessment and adopting best practices to limit the impact on the environment.

14. It is humbly submitted that, keeping in view the fact that, the construction of temporary bridge or road on riverbed for carrying out mining are site specific activities and may have adverse environmental impact on river morphology and ecology as mentioned in para 11 above. Therefore, it may not be appropriate to include such site specific provisions in the Sustainable Sand Mining Management Guidelines, 2016 (SSMG, 2016) and Enforcement & Monitoring Guidelines for Sand Mining, 2020 (EMGSM, 2020).

*15. That, the Ministry vide notification S.O. 1886 (E) dated 20.04.2022 has delegated the power to the State Level Environment Impact Assessment Authority (SEIAA) to grant Environmental Clearances to all minor mineral (including sand) mining leases, irrespective of mine lease area and $\leq$ 250 ha mining lease area in respect of major mineral mining lease other than coal. Further, any site specific Environmental Clearance Conditions may be stipulated by SEIAA after deliberations/appraisal by State Expert Appraisal Committee (SEAC). A true copy of the Notification S.O. 1886 (E) dated 20.04.2022 is marked and annexed herein as **Annexure R6/3**.*

16. That, the Ministry vide notification no. S.O. 637 (E) dated 28.02.2014 has also delegated the power to SEIAA to issue show cause notice to project proponents in case of violation of

the conditions of the environmental clearance issued by the said Authorities to projects or activities within their jurisdiction. A true copy of the notification S.O. 637 (E) dated 28.02.2014 are marked and annexed herein as **ANNEXURE R6/4**.

17. It is submitted that the present reply may kindly be taken on record and into consideration and the Hon'ble Tribunal may pass appropriate Order(s)/ Direction(s) as deemed fit and proper under the facts and circumstances of the present case.”

57. Comments on report of the Joint Committee have been filed by Irrigation & Water Resources Department, Haryana vide email dated 19.10.2023. The relevant part of the comments is reproduced below:-

“Subject:- Comments/Remarks on behalf of Irrigation & Water Resources Department, Haryana on report of the Joint Committee in compliance of Hon'ble NGT order dated 25.05.2023 in OA No. 581 of 2022,Vikas Kumar Vs State of Haryana & Ors.

X	X	X	X
4. (a) Whether any mining activity be allowed across different streams of river, if more than one at any place and any temporary bridge be allowed to be constructed for facilitating extraction/transportation of the mined material and other allied activities;			

X	X	X	X
Remarks by IWRD, Haryana- It has been also recommended by the committee that the temporary bridges for crossings may be allowed on River Yamuna.			

As per point (iii), regarding using removable box sections, it is hereby submitted that (a) Vehicular Load bridges using pipes sections for temporary bridges is better by using Circular pipes as thinner sections can distribute load through Arch effect whereas in case of rectangular box sections, higher thickness will be required for same vehicular load as it distributes load through bending action. So using Circular pipes will be much lighter and more economical for use in temporary bridges. (b) Neither the construction of box sections is easy nor these are easily available in market. Also laying and removal of these removal box sections will be cumbersome task and cost is also very high as compared to circular hume pipes. Hydraulically, water passes through hume pipes easily and without creating any obstructions because circular pipes have better fluid flow efficiency compared to square/rectangular pipes. The reason behind it is that the fluid flows more smoothly through round pipes due to their circular cross-sections, which minimizes turbulence and eddy currents. Sharp corners of square tubes can cause increased turbulence, leading to energy losses and decreased flow efficiency. Thus, using hume pipes for temporary crossings is more feasible and practical.

4. (b) Whether permitting such mining activity and construction of such temporary bridge has any adverse environmental impact on the river morphology, ecology, discharge and aquatic life, etc.;

X	X	X	X
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Remarks by IWRD, Haryana:- It is here by submitted that Irrigation department agree for detailed study on impact of temporary bridges for sand mining through reputed institutes like NIT Kurukshetra, IIT Roorkee or equivalent as per directions of Hon'ble NGT.

4.(c) Whether construction of any such temporary bridge across river for facilitating mining/allied activities be completely prohibited or permitted by imposing conditions to ensure minimum impact on river ecology and aquatic life, and

X X X X

Remarks by IWRD, Haryana:- Irrigation Department is agree with the recommendation of committee and will follow the guidelines of Hon'ble NGT.

4.(d) In case construction of any such temporary bridge is to be kept in the category of regulated activities, by which authority and in which manner the aspects of grant of permission ought to be dealt with.

X X X X

Remarks by IWRD, Haryana:- Irrigation Department is agree with the recommendation of committee and will follow the guidelines of Hon'ble NGT.

6. General Recommendation:

X X X X

A. Permitting Mining Activities/River management Aspects:

X X X X

B. Construction of Temporary Bridges:

X X X X

Remarks by IWRD, Haryana:- I&WR Department has already taken cross sections at every 1000 m throughout the length of Yamuna in Haryana as per directions of CWC and will submit report within 15 days to CWC. CWC will analyze all the technical aspects and will prepare river profile etc., and I&WRD will follow the directions/guidelines given by CWC regarding Yamuna River. Irrigation department will follow the recommendations related to this department as per orders of Hon'ble NGT.

Report/Response filed by Mines and Geology Department, Government of Haryana

58. Report/ response has been filed by Mines and Geology Department, Government of Haryana vide email dated 22.08.2024. The relevant part of the report/response is reproduced below:-

“Report/response of the Mines and Geology Department, Government of Haryana with respect to the Additional Affidavit dated 03.08.2024 submitted by MoEF & CC in OA No. 581 of 2022 - Vikas Kumar v/s State of Haryana and Others.

X

X

X

X

3.2 That the above committee had recommended that a detailed study on the impact of temporary bridges be conducted and accordingly the State Government may review the existing policy. The said recommendation has been derived by the committee on the question (whether permitting such mining activity and construction if such temporary bridges have any adverse environment impact or the river morphology, ecology, discharge and aquatic life, etc.) by stating that in case the same is not permitted then it will result into more damaging scenario- for which a detailed study on impact of temporary bridges is needed.

Hence the above committee has rightly understood the ground situation/reality that the mineral concession holder requires access path to the mine - for which policy was framed by the State Government; and in case the same is not allowed, it would result in more damaging scenario. **Therefore, prohibition on use of temporary passage shall have adverse environmental impact.**

4. That subsequently, the Ministry of Jal Shakti, Department of WR, RD&GR, National Mission for Clean Ganga in their response has also responded that the construction of temporary bridges falls within the ambit of the power to grant the environmental clearance which is vested with the State Environment Impact Assessment Authority (SEIAA). Furthermore, with regards to permitting the constructing of temporary bridges, the same is being permitted as per the para 42 of the Authorities Orders 2016, which requires the prior permission of NMCG, inter-alia, for bridges and associated roads and embankments over the River Ganga or at its River Bank or its Flood Plain area.

With the above response of the Jal Shakti Department, it is clear that in river Ganga, permission is given for construction of temporary bridges and associated roads and embankments.

5. That with regards to the additional affidavit dated 03.08.2024 submitted by MoEF & CC wherein it has been stated by the authority under para no. 11, 13. 14 and 15 that construction of temporary bridges may cause hazardous impact on ecological equilibrium of riverine regime and may also cause adverse impact on in-stream biota and riparian habitats apart from may cause changes in channel configuration and flow-paths. The said authority has also recommended that the sand and aggregate mining should be done only after sound scientific assessment and adopting best practices to limit the impact on the environment.

6. That objecting to the submissions made by the MoEF & CC, GoI in its additional affidavit dated 03.08.2024, it is submitted that the said authority has not quoted/cited any scientific study/data in support of their claim that construction of temporary bridges may cause adverse impact ,so as to prove as to what extent it may cause such harm. Furthermore, the recommendations is contrary to the recommendations of the previous committee consisting of representative of Ministry of

Jal Shakti wherein it was recommended that in case temporary paths are prohibited, it may cause larger adverse impact than in case the same are allowed to be constructed. Hence, it is an admitted position that denial of construction of temporary pass across the river channel shall have greater adverse impact upon the environment than the impact which may be caused by the construction of such temporary pass across the river channel. However, the extent of damage, in either case, is not available.

Secondly, apart from the fact that the recommendations of MoEF and CC by way of additional affidavit dated 03.08.2024 are lacking on account of any scientific analysis, it is submitted that at present only riverbed mining is being allowed for the mining of sand, boulder and Gravel and no outside riverbed mining is being allowed, as no environment clearance is being granted by the competent authority for the same. Beside this, the continuous supply of the building material for the developmental projects is required which otherwise will lead to scarcity of mineral and will also impact the public works. Moreover, it will also give rise to illegal mining which would have greater adverse impact upon the environment.

It is also added here that in case no mining is permitted by constructing temporary pass across a river channel, the same shall result into accumulation of minerals in the riverbed through the process of sedimentation during the monsoon season which shall lead to swelling up of the river; and the water course of river will not find any defined/streamed channel which would result in flood like situations during heavy rain fall. The same shall also have adverse impact on the biodiversity of the area in addition to endangering human lives. Moreover, huge state exchequer is also involved in the mining operations of riverbed area.

In view of the submissions made herein above, it is respectfully submitted that as the NMCG had been granting permission for the construction of temporary bridges and as the same has been recommended by the earlier committee of Jal Shakti, a Committee may be constituted for conducting a detailed scientific study of the impact of temporary bridges, if any, inter-alia giving any specific condition/limitation in order to limit the impact on the environment, so that sustainable scientific mining operations could be undertaken in such a manner that alongwith the development of the State/Country, it could give/generate minimal impact on the environment as well as biodiversity. **It is also requested that the mining operations be not prohibited or usage of temporary bridges be not prohibited till such time, the uniform policy for all the rivers for construction of temporary bridges is instituted by the Government of India in consultation with all the States as well as NMCG..”**

Objections by respondents no. 8 to 10

59. Respondents No. 8 to 10 have raised objections in their consolidated response/objections. The relevant part thereof reads as under:-

“7. It is further reiterated that the Department of Irrigation and Water Resource, Haryana, has its policy, dated 19.10.2021, which **till date has remained unchallenged and even in the present proceedings, there is no challenge to the said policy.** The said policy has been formulated by the State Government after due consideration of all the relevant aspects, i.e., environmental safeguards, unrestricted flow of the river, extraction of sand minerals from sandy looms created between creeks and their transportation to stock sites. The said policy in fact does not permit any type of construction in the entire breadth of river except only in between creeks developed due to natural flow of river and that too of temporary in nature under the supervision of concerned department.

8. It is submitted that in the Reply dated 30.01.2023 filed on behalf of the Irrigation Department, Haryana, [at pg. nos. 154-163], it has been categorically explained the need of temporary bridges in the mining leases and the said reply has also dealt with the restrictions to be imposed so that there is no obstruction in the natural flow of the water. Further, looking into the fact that **mining of minor minerals comes under the state's subject as per Schedule VII of the Constitution of India, the State Govt. is the authority to make policies and regulations keeping in mind the extraction of minerals in a sustainable manner.**

9. It is pertinent to note that as per the MoEF & CC notification, dated 14.09.2006, mining projects as per their area and impact have been categorized into two categories, i.e., “Category A” and “Category B”, and the state authorities have been formed for granting environmental clearance (i.e. SEIAA) with the intention to ease out the process for the mining leaseholders. Hence, in such scenarios, and considering the facts of the present case, **the permission for construction of temporary bridges for mining of minor minerals ought not to be put into the purview of the NMCG, which have no guidelines/procedure for granting the permission of Temporary bridges.** At the risk of repetition, it is crucial to state that no such specific regulations and/or guidelines have been laid down by the agencies (NMCG or MoEF & CC) for bringing the construction of temporary bridges under the purview of these bodies. In fact, in Reply, dated 20.05.2023, **(at pg. nos.- 292-297)** and further Additional Affidavit, dated 03.08.2024 **(1202-1210)**, the MoEF & CC has not made any averment with regard to seeking permission from NMCG for construction of temporary bridges across the creeks.

10. It is most humbly submitted that this Hon'ble Tribunal also need to consider the fact that **the State Government are granting mining leases on the river bed for extraction of sand and for the extraction of mineral in the entire allotted area, the permission is required for making the temporary path for having access to other part of the area. Thus, it is the duty of the State Government to**

grant permission so that access can be granted for the entire lease area as the Government is charging lease for the entire area and if there is any prohibition in making the temporary bridges or more time is utilized then the amount of lease shall also be reduced or refunded till the time permission is pending.

RESPONSE TO THE REPORTS OF THE AUTHORITIES:

A. FINDINGS OF THE MOEF & CC: [Pg. No. 1201-1402]

11. That in compliance of the Order dated 30.04.2024, the MoEF & CC, with respect to construction of temporary bridges across the creeks of River Yamuna, has taken a view equally evasive and similar to that of the Joint Committee (in its report dated 25.08.2023). **The MoEF & CC and the Joint Committee are both of the view that a more detailed study on the impact of temporary bridges is required. They have also stated that this Hon'ble Tribunal may direct State Governments to commence a detailed study on impact of these temporary structures formed to aid sand mining.** The relevant extract is as follows:

“9. ...A detailed study is required to determine on the permissibility of mining across river channel and the impact of temporary bridge across river channels, as was also recommended by the Joint Committee (please refer para 5...)”

12. That with respect to the adverse impact on the geography, the MoEF & CC has stated as follows in its report:

“It is submitted that, the construction of temporary bridges for carrying out mining and allied activities may cause changes in channel configuration and flow-paths impacting 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 transport 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 in-stream biota and riparian habitats. This disturbance may also cause changes in channel configuration and flow-paths.”

It is most humbly submitted that in the Joint Committee's report carried out an inspection and observed that the changes made to the nearby geography was due to the natural course of the river and not due to any external factors. Hence, the report of the MoEF&CC is without any basis and merely on assumption.

13. Further, it is evident from the Report of the Public Authority that no in-depth study has been conducted and only wild assumptions have been made, as can be seen from the language of the Report- “...the construction of temporary bridges for carrying out mining and allied activities may cause changes in channel configuration...”. Hence, at this juncture, what is of utmost importance is that an actual, in-depth study be conducted at the state level, to verify whether or not use of temporary structures to aid sand mining actually causes any adverse effect to the ecology and morphology of River Yamuna.

14. That, moreover, the MoEF & CC, with respect to its stand on appropriate modification of the SSMG, 2016, and the EMGSM, 2020, has submitted that the provisions for construction of temporary bridges for carrying out mining and allied activities are not laid down in either in the EIA Notification, 2006; or the EMGSM, 2020; or the SSMG, 2016.

B. FINDINGS OF THE JOINT COMMITTEE IN ITS REPORT DATED 25.08.2023 AND RESPONSE TO THEM:

15. The Joint Committee made two site visits and as per its Report inspected the temporary bridge during normal flow as well. It is evident from the report that the Joint Committee is of the opinion that the permissibility of construction of temporary bridges across the creeks for facilitating sand mining ought to be looked into by the authority authorized by the State Governments. The inference can be drawn from the following extract from the above-said report:

“Sand is a minor mineral under Section 3(e) of the Mines and Minerals (Development & Regulation) Act, 1957. Section 15 of the MMDR Act, 1957, empowers the state Governments to make rules for regulating the grant of minor mineral concessions. Moreover, Section 23C of the MMDR Act, also empowers the State Governments to make rules for preventing illegal mining, transportation, and storage of minerals and for the purposes connected therewith. The administration of the mining of minor minerals is a subject that is completely within the domain of the respective State Governments.”

16. That with respect to the issues raised by this Hon’ble Tribunal, the report of the Joint Committee evidently shows that the Committee, after conducting a thorough study, is of the opinion that the usage of temporary bridges ought not to be stopped and rather “removable box sections may be used to maintain integrity of the natural riverbed and full water way”.

17. Similarly, the answering Respondents appreciate the idea floated by the Joint Committee that in-depth river profiling may be carried out at state level for the length of the entire river by the State Governments at regular intervals, to ensure sustainable mining.

18. That with respect to further analysis and study to be conducted by the States, the Joint Committee, in its report dated 25.08.2023, has been a little evasive when it came to weeding out tangible damage to the shore and the river and has held as follows:

“More detailed study on the impact of temporary bridge is required and Hon’ble NGT may consider directing State Government institution a detailed study on impact of temporary bridges...”

That, however, the Joint Committee, in its abovementioned report dated 25.08.2023, after carefully studying the matter-at-hand has rightfully held as follows:

“...during lean season, river may flow in different streams with islands in between. These islands (aggraded due to sand deposition and being away from the riverbanks) are most potential sand mining areas. Access may be evolved to approach to avoid river stream channel crossing. In the event of infeasible access otherwise, access either temporary bridge may need to be provided to approach islands and/or sand mining area for transportation of mined material taking adequate environment safeguard measures.”

C. FINDINGS OF THE NMCG IN ITS REPORT DATED 18.04.2023 & 17.10.2023 AND RESPONSE TO THEM:

19. That this Hon’ble Tribunal, vide its Order dated 22.03.2023, had directed the National Mission for Clean Ganga (NMCG) to file a detailed report with respect to the present matter. However, the NMCG vide its Report, dated 18.04.2023 and 17.10.2023, has only delved into the theoretical aspect of

the issue-at-hand and has plainly quoted paragraph 42 of the River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016, which states as follows:

“42. Giving of prior approval in certain matters. - Every person, the State Ganga Committees, District Ganga Protection Committees, local authorities and other authorities shall obtain prior approval of the National Mission for Clean Ganga, on the following matters, relating to River Ganga and any area abutting River Ganga or its tributaries, if required to implement the decisions of the National Ganga Council, namely: -

(a) engineered diversion and storage of water in River Ganga without affecting the flow of water downstream of the River Ganga;

(b) construction of bridges and associated roads and embankments over the River Ganga or at its River Bank or its flood plain area;

(c) construction of Ghats or extension of any existing Ghat;

(d) construction of jetties;

(e) construction of permanent hydraulic structures for storage or diversion or control of waters or channelisation of River Ganga or its tributaries;

(f) deforestation of hill slopes and notified forest and other eco-sensitive areas;

(g) any other activity which contravenes the principles laid out in paragraph 4 which the National Mission for Clean Ganga may specify.”

20. **That the NMCG, while stating the abovementioned, erroneously missed out on the crucial part that paragraph 42(b) of the Authorities Order, 2016, refers only to the construction of permanent bridges and not the temporary ones/hume pipes, which are dismantled and put away as soon as the permission exhausts.** The temporary bridges-in-question are put in place after due consideration by the appropriate authorities to make sure that no adverse effect is caused either to the flow of the river or to its course. Even the other structures mentioned in the said paragraph of the 2016 Authorities Order are permanent in nature which shows the intent of bringing the said rule specifically for permanent structures, as the same cannot be altered unlike the temporary structures established for a particular period of time and as per tailored requirements. A true copy of the River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016, is annexed hereto and marked as **Annexure- R3**.

21. It is pertinent to mention that since in the facts and circumstances of the present matter this Hon'ble Tribunal has rightfully taken into consideration the policies of all the States and UTs and since the decision of this Hon'ble Tribunal is bound to affect the nation at large, it is submitted that all the stakeholders spanning over the country be given a fair opportunity and their opinions, views, stances be taken into consideration while deciding the present matter.

22. That the issue in the present matter pertains to erection of temporary bridges by mining agencies across creeks of River Yamuna for mining along the riverbeds. These temporary bridges are constructed to aid movement of heavy machinery and vehicles from one side of the creek to another to facilitate sand mining, mining of minerals. These temporary structures are put in place without causing any adverse effect to the flow

of the water or any effect to the course of the river-in-question. Mining leases for such mining are granted to these mining companies by the respective State Governments.

23. That, in the present case of the State of Haryana, to excavate the minerals on the other side of the creek, temporary bridges are put in place after obtaining all the necessary permissions and clearances from the Irrigation Department of the State of Haryana, which is the authorized body under the Policy, dated 19.10.2021, of the State of Haryana. The said policy oversees carrying out of mining activities in River Yamuna after due consideration of all relevant aspects, i.e., environmental safeguards, unrestricted flow of River Yamuna without diversion, extraction of sand mineral from sandy loom(s) created between creeks and their transportation to stock sites. Under the said policy, upon receiving application for establishing these temporary structures, the Irrigation Department takes into consideration the fact whether the necessary conditions have been complied with by the mining agency, the time of the year, the flow of the river, the fitness of the mining agency to carry out the project, ecology of the river and much more and after due and thorough consideration, grants the permission (for a limited duration) to the applicants.

24. That **with regard to the issue of permissibility of mining across river channels, the power to grant environmental clearance is vested in the State Environment Impact Assessment Authority (SEIAA), constituted by the MoEF & CC in accordance with the provisions of the Environmental (Protection) Act, 1986, and the Rules framed thereunder.**

X X X X

28. That **since the NMCG has not yet conducted any ground-level research/studies at this stage in the present matter and since it has nothing substantial on record to substantiate its involvement in granting permission for erection of temporary bridges across the creeks, the same cannot be granted the power to entertain the applications for temporary erections by the mining agencies. Also, since neither there are any guidelines laid down at the national level pertaining to the issue-at-hand nor is there any mechanism in place (other than the ones at the state level, for instance, the policy dated 19.10.2021 of the State of Haryana) pertaining to the issue. Hence in such scenario, the NMCG may not be given authority for considering the application for temporary bridges.**

29. That, thus, in light of all that is contended hereinabove, it is prayed on behalf of Respondent Nos. 8, 9 and 10 that **until a decision in the present matter is arrived upon by this Hon'ble Tribunal after taking into consideration all the stakeholders and after the States have conducted an in-depth study on whether or not such temporary structures have any adverse effect (as suggested by the authorities hereinabove), no final decision on the said issue may be taken as the same will impact the all the lease holders in the entire State."**

Response filed by Irrigation and Water Resources Department, Haryana

60. Response dated 20.11.2024 has been filed by Irrigation and Water Resources Department, Haryana. The relevant part of the response is reproduced below:-

“RESPONSE OF IRRIGATION AND WATER RESOURCES DEPARTMENT, HARYANA WITH RESPECT TO ADDITIONAL AFFIDAVIT/RESPONSE/OBJECTIONS FILED ON BEHALF OF MOEF&CC, NMCG AND RESPONDNET NO.8, 9, AND 10

X X X X

5. That almost after one year after filing of Joint Committee report as referred above, MoEF&CC has filed an additional affidavit dated 03.08.2024 and NMCG has filed its response dated 02.08.2024. In response thereto, Respondent NO.8,9 and 10 have also filed consolidated response. Considering those affidavits, response and objections, answering respondent seeks to present the following submissions as in succeeding paragraphs.

A. PERMISSIBILITY OF TEMPORARY BRIDGES

6. The Joint Committee has unequivocally recommended that access to islands or cordoned-off sand mining areas is essential for facilitating sand mining operations. It has further concluded that, among the various methods available for the excavation and transportation of minor minerals, the construction of temporary bridges is the most efficient, cost-effective, and least damaging to the environment. The Committee has also emphasized that these temporary bridges must be designed to ensure that waterways and natural streams remain unobstructed and that they must be dismantled and removed prior to the onset of the monsoon season.

7. The Ministry of Environment, Forest and Climate Change (MOEF&CC) has expressed the view that a more detailed study is necessary to assess the impact of temporary bridges. While recognizing the need for such a study to evaluate potential adverse effects, the MOEF&CC has stated:-

"It is submitted that, the construction of temporary bridges for carrying out mining and allied activities may, cause changes in channel configuration and flow paths impacting 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 transport 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 in-stream biota and riparian habitats. This disturbance may also cause changes in channel configuration and flow-paths."

8. It is most respectfully submitted that **the concerns raised by the MOEF&CC are not founded on any actual data, material, or study, but rather on speculative, perceived, or hypothetical adverse consequences. These apprehensions appear to be driven by an outlook of**

abundant caution rather than any concrete evidence/study.

9. In any case, it is pertinent to note that the above submission of MOEF&CC is contrary to that of the Joint Committee has reported that non permitting of temporary bridge would result into more damaging scenario. This Joint Committee was comprised representatives of MOEF&CC as well as MoJS and CPCB. Therefore, it is an acknowledged position that not allowing the construction of temporary paths would result in greater adverse environmental impacts compared to allowing their construction.

10. In response to the submission of the National Mission for Clean Ganga (NMCG), it is respectfully stated that a plain reading of Paragraph 42 of the River Ganga (Rejuvenation, Protection, and Management) Authorities Order, 2016, clearly indicates that the requirement for NMCG's permission applies only to the construction of bridges, associated roads, and embankments over the river Ganga. Furthermore, the Order explicitly permits the construction of bridges, associated roads, and embankments, which signifies that there is no prohibition on such activities. Moreover, **Paragraph 42 specifically deals with permanent structures and does not extend to temporary bridges.** This is evident from a thorough reading of Paragraph 42, where all referenced structures are permanent in nature. The temporary bridges are dismantled and removed upon the expiry of the permission period. These temporary bridges are installed with due consideration in accordance with applicable policy, ensuring that there is no adverse impact on river flow, riverbed, or related environmental factors.

11. Additionally, it is pertinent to note that in the aforesaid Order dated 25/05/2023, it is categorically recorded that even the Ministry of Environment, Forests and Climate Change (Respondent No. 6) and National Mission for Clean Ganga (NMCG) (Respondent No. 7) have not objected to the construction of temporary bridges as being a prohibited activity.

12. It is respectfully submitted that, at present, only riverbed mining is permitted for the extraction of sand, boulder, and gravel, with no mining activities allowed outside the riverbed due to the absence of Environmental Clearance from the competent authority. Furthermore, the uninterrupted supply of building materials is crucial for developmental projects, as any disruption could lead to a **scarcity of essential minerals, adversely affecting public works.** It is humbly submitted that **non allowing construction of temporary paths as allowed vide policy dated 18.09.2021 would greatly impact the mining activity which would result in a surge in illegal mining activities, which would have a far greater negative impact on the environment.**

13. It is further submitted that **if mining is not permitted through the construction of temporary paths across river channels, it would result in the accumulation of minerals in the riverbed due to sedimentation during the monsoon season. This accumulation could cause the river to swell, leaving the watercourse without a defined channel, potentially leading to flood-like situations during heavy rainfall. Such outcomes would not only harm the area's biodiversity but also pose significant risks to human life.**

14. It is most humbly submitted that this Hon'ble Tribunal must also consider that the **State Government grants mining leases over riverbeds for the extraction of sand, and access to the entire allotted area is essential for effective extraction of minerals. To achieve this, permission is required for constructing temporary paths to access different parts of the lease area. As the State Government charges lease fees for the entire area, it becomes their duty to grant the necessary permissions to ensure full access.** Moreover, mining operations in riverbed areas contribute substantially to the state exchequer, underscoring the economic significance of these activities.

15. It is respectfully submitted that the Reply dated 30.01.2023 filed through Irrigation and Water Resources Department, Haryana, comprehensively explains the necessity of temporary bridges within mining leases. The reply also addresses the restrictions to be implemented to ensure that the natural flow of water remains unobstructed.

16. In view of the above, the Answering Respondent respectfully submits that the Policy dated 19/10/2021 has been meticulously designed to safeguard against any adverse environmental impact from the construction of temporary bridges over the river Yamuna for sand mining activities, ensuring the unrestricted flow of the river, the extraction of sand minerals from sandy looms formed between creeks, and their transportation to stock sites. In fact, all the recommendations of the Joint Committee pertaining to construction of temporary bridges are duly addressed in the Policy in question. This policy incorporates comprehensive measures aligned with the recommendations of the Joint Committee, including:-

a. Explicit prohibition on any construction across the entire width of the river, permitting only temporary structures within creeks formed naturally by the river's flow, and that too under the strict supervision of the department.

b. Detailed specifications for the design and the RCC pipes to be used in the construction of temporary bridges.

c. Clear stipulations requiring that the pipes/path should be laid in a manner that ensures the natural flow of water is not obstructed, with the discharge at the relevant point being specifically defined and certified by the concerned SDO and Executive Engineer In-charge.

d. A mandatory provision requiring that the design and drawings of the temporary paths are approved by the Irrigation and Water Resources Department, Haryana on the basis of standard design vetted by the National Institute of Technology, Kurukshetra.

e. A requirement that all temporary paths must be removed or dismantled before the onset of the monsoon season each year.

B. REQUIREMENT OF DETAILED STUDY

17. The Joint Committee has unequivocally recommended that a more detailed study on the environmental impact of temporary bridges is necessary. It is respectfully submitted that recommendation of joint committee for study to evaluate the impact of temporary bridges used for sand mining may kindly be considered. The Joint Committee has also proposed

suggested terms of reference for the study and recommended that it be conducted through reputed National Institutes. Based on the findings of this study, the State Governments may then review and, if necessary, revise their existing policies accordingly.

18. The Answering Respondent respectfully submits that, while the Policy has been meticulously crafted to prevent any adverse environmental impact from the construction of temporary bridges over the river Yamuna for sand mining activities, the Answering Respondent is not averse to a detailed study, as recommended by the Joint Committee. Such a study would enable a comprehensive review of the existing guidelines. It is submitted that **until the study is concluded and the existing guidelines are reviewed, the current policy dated 19/10/2021, along with the permissions granted thereunder for the construction of temporary bridges, may be allowed to remain in operation.**

19. Additionally, it is also pertinent to note that **the scope of the present case was widened by this Hon'ble Tribunal vide order dated 30/04/2024 to assess the permissibility and impact of construction of temporary bridges across river channels for carrying out mining and allied activities in its applicability to all States and UTs. Consequently, any direction passed in the present case will have far-reaching implications, affecting numerous stakeholders nationwide. In the interest of justice and fairness, it is submitted that a comprehensive and detailed study should be conducted by a reputed National Institute to evaluate the permissibility and potential adverse impacts of temporary bridges on river flow, morphology, riverbeds, and related environmental factors, before any final order is passed.**

20. The Answering Respondent further submits that the Joint Committee has unequivocally concluded that a mineral concession holder requires access to the mining area, and the most efficient and environmentally sustainable means of accessing islands or blocked areas is through the construction of temporary bridges. If temporary bridges are not permitted, alternative methods would likely result in greater environmental disruption. Given this established fact, that temporary bridges represent the most practical and eco-friendly approach for undertaking mining and allied activities in areas obstructed by river channels or stream flows.

21. **It is further respectfully submitted that until the detailed study as recommended by the Joint Committee and MOEF&CC is conducted and its findings are concluded, this Hon'ble Tribunal may kindly not render any final adjudication in the matter. In the interim, it is most humbly prayed that the interim order dated 30.04.2024 passed by this Hon'ble Tribunal may be ordered to continue, ensuring that the permissions and policies presently in place remain operational and that no prejudice is caused to the ongoing activities or stakeholders involved.**

C. COMPETENT AUTHORITY FOR GRANTING PERMISSION

22. **The Joint Committee has concluded that since sand mining in the domain of state government, State**

Environment Appraisal Committee along with Irrigation Department should be the competent authority for this purpose.

23. Sand, classified as a minor mineral under Section 3(e) of the Mines and Minerals (Development & Regulation) Act, 1957 (MMDR Act), is subject to rules framed by State Governments under Section 15 of the MMDR Act for granting minor mineral concessions. Furthermore, Section 23C of the MMDR Act authorizes State Governments to enact rules to prevent illegal mining, transportation, and storage of minerals, as well as for other connected purposes. Thus, the administration of mining activities for minor minerals falls squarely within the domain of State Governments.

24. Additionally, as per the MoEF & CC notification dated 14.09.2006, mining projects are categorized based on their area and impact into "Category A" and "Category B," with the latter being managed by State Environmental Impact Assessment Authorities (SEIAA) to streamline the process for granting environmental clearances. In this context, the construction of temporary bridges for mining operations should not fall within the purview of the NMCG, which has no established guidelines or procedures for granting such permissions.

25. In its Reply dated 20.05.2023 and further Additional Affidavit dated 03.08.2024, the MoEF & CC has made no reference to the necessity of obtaining permission from the NMCG for constructing temporary bridges over river creeks.

In view of the facts and circumstances mentioned herein, it is humbly submitted that construction of temporary path as per policy dated 18.10.2021 is in the interest of Environment. The policy may be revisited, if required in view of final come of deliberations pending before the MoEF&CC."

61. Sand, which is classified as a minor mineral under Section 3(e) of the Mines and Minerals (Development & Regulation) Act, 1957 (MMDR Act) and State Governments are empowered under the MMDR Act to frame rules and grant minor mineral concessions. Furthermore, Section 23C of the MMDR Act authorizes State Governments to enact rules to prevent illegal mining, transportation, and storage of minerals, as well as for other connected purposes. Thus, the administration of mining activities for minor minerals falls squarely within the domain of State Governments.

62. The Environment (Protection) Act, 1986 has been enacted by the Parliament under Schedule I, Entry 13 of the Constitution. Section 24 of the Environment (Protection) Act, 1986 provides that the provisions of the Environment (Protection) Act, 1986 and the rules or orders made therein

shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than the Environment (Protection) Act, 1986. In view thereof the Environment (Protection) Act, 1986 and the rules and orders made thereunder have overriding effect over other enactments including the Mines and Minerals (Development & Regulation) Act, 1957. The Central Government, in exercise of the power under Section 3 of the Environment (Protection) Act, 1986 has issued Notification No. S.O.1533(E) dated 14.09.2006 (EIA Notification, 2006) which makes it mandatory to seek prior environmental clearance before undertaking mining activity, which includes removal and transportation of excavated minerals. In other words, the "environmental consequences" arising out of mining and all its physical related activities impacting the environment are exclusively covered by the Central Legislation. The MoEF & CC has, by notification dated 14.09.2006, categorized mining projects based on their area and impact into "Category A" and "Category B," with the latter being managed by State Environmental Impact Assessment Authorities (SEIAA) to streamline the process for granting environmental clearances.

63. It is not disputed that in case the State Government grants mining leases over riverbeds across river streams for the extraction of sand, access to the entire allotted area will be essential for effective extraction of minerals. As the State Government will be charging lease fees for the entire area, it becomes their duty to grant the necessary permissions to ensure full access.

64. It is also not disputed that the year-round flow of water through a meandering river channel poses practical problems for the mining contractors for accessing different parts of their mining area as this requires the crossing over the meandering water streams.

65. In its reply respondent No.1 State of Haryana has submitted that the mining operations in river- bed areas of river Yamuna require the crossing over of the river channel to access different areas included in the mining block.

66. The Joint Committee has mentioned that among the various methods available for the excavation and transportation of minor minerals including boats, the construction of temporary bridges is the most efficient, cost-effective, and least damaging to the river ecology and environment and permission will be required for constructing temporary paths to access different parts of the lease area.

67. In the present case the Joint Committee as well as respondents no. 1 to 4 and 8 to 10 have stated that if mining is not permitted across river streams, it would result in the accumulation of minerals in the riverbed due to sedimentation during the monsoon season. This accumulation may cause the river to swell, leaving the watercourse without a defined channel, potentially leading to flood-like situations during heavy rainfall resulting in erosion of banks and damage to agricultural crops, adversely affecting the area's biodiversity and also posing significant risk to human life and also livelihoods.

68. In case permission is granted for construction of temporary bridges, the same have to be designed to ensure that waterways and natural streams remain unobstructed and their adverse environmental impact is remedied/minimized. Such temporary bridges have also to be dismantled and removed prior to the onset of the monsoon season. Such permission for construction of temporary bridges has to be granted after due consideration of all relevant aspects, i.e., Environmental Safeguards, unrestricted flow of river without diversion, extraction of sand mineral from sandy loam(s) created between creeks & their transportation to stocks site.

69. It may be observed here that in the States of Haryana and Uttar Pradesh the mining contractors tried to solve the problem of access to river creeks by constructing temporary bridges/deploying Hume pipes for creating temporary cross-over/access points across river streams for excavators and transport vehicles in order to maintain un-interrupted river flow and to meet with the EC stipulation of not interfering with the flow of river. The aforesaid practice came to the notice of this Tribunal when cases were filed alleging diversion of water by some of the river bed contractors. This Tribunal had, vide interim order dated 23.12.2015 passed in OA No. 550/2015 and OA No.517/2015, directed for removal of unauthorized bridges and hume pipes installed in the river or river bed in the States of Haryana and Uttar Pradesh but at the time of final disposal of OA No. 550/2015 and OA No.517/2015 alongwith other OAs by order dated 05.09.2018 no restrictive direction against installing of such bridges and hume pipes was passed. Evidently, no such restrictive order was passed at the time of final disposal of above-mentioned cases as such temporary bridges and hume pipes installed in the river or river bed in the States of Haryana and Uttar Pradesh had been removed and no prayer was made by the mining contractors for permitting the same.

70. Since the problem posed by the meandering river streams to the mining contractors for accessing different parts of the mines was left unresolved posing problems for sustainable mining of mineral and the resultant confusion also led to generation of complaints and unwanted litigation, Haryana Government issued Policy dated 19.10.2021 permitting construction of temporary bridges across river streams for carrying out mining activities in river Yamuna.

71. Respondent No.1 State of Haryana has claimed that the above said policy has been issued after due consideration of all relevant aspects, i.e.,

Environmental Safeguards, unrestricted flow of river Yamuna without diversion, extraction of sand mineral from sandy loam(s) created between creeks & their transportation to stocks site. However, Haryana Government did not get any scientific study conducted from any State or National Institute to evaluate the permissibility and potential adverse impacts of temporary bridges on river flow, morphology, riverbeds and related environmental factors.

72. However, in view of the overriding provisions of the Environment (Protection) Act, 1986 and rules and orders under the same, setting up of temporary bridges for the sole purpose of mining and allied activities across river Yamuna will be subject to environmental clearance by MOEF&CC or SEIAA in the same manner in which the mining and allied activities are subjected to the same.

73. The Joint Committee has recommended that since sand mining is in the domain of state government, State Environment Appraisal Committee along with Irrigation Department should be the competent authority for this purpose.

74. In compliance to orders passed by this Tribunal MoEF & CC filed its reply but in its reply MOEF&CC has taken contradictory stands. (i) On the one hand MOEF&CC has taken the stand that the provisions for construction of temporary bridges for carrying out mining and allied activities are not laid down in EIA Notification, 2006 (and its amendments time to time), Enforcement & Monitoring Guidelines for Sand Mining (EMGSM-2020) and Sustainable Sand Management Guidelines 2016 (SSMG 2016) but on the other hand MOEF&CC has taken the stand that keeping in view the fact that the construction of temporary bridge or road on riverbed for carrying out mining are site specific activities which may have adverse environmental impact, it may not be appropriate to include such site

specific provisions in the Sustainable Sand Mining Management Guidelines, 2016 (SSMG, 2016) and Enforcement & Monitoring Guidelines for Sand Mining, 2020 (EMGSM, 2020). Similarly, on the One hand MoEF & CC has taken the stand that the construction of temporary bridges for carrying out mining and allied activities may cause changes in channel configuration and flow-paths impacting 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 transport capacity, turbidity, temperature etc. and alteration or modification of the above attributes may cause hazardous impact on ecological equilibrium of riverine regime, adverse impact on in-stream biota and riparian habitats and changes in channel configuration and flow-paths but MoEF & CC has not advocated for prohibition of mining activities across river streams and construction of temporary bridges across river streams. MOEF&CC has stated that a detailed study is required to determine on the permissibility of mining across river channel and the impact of temporary bridge across river channels but MOEF&CC has neither looked into applicability of the issue to all States and UTs and collection of relevant information and material regarding policies and practices from them nor suggested modalities for conduct of such study for making recommendations for determining the environmental questions involved and review/modification of existing policies and guidelines on the basis of recommendations thereof. Surprisingly, MOEF&CC has submitted that vide notification S.O. 1886 (E) dated 20.04.2022 it has delegated the power to the State Level Environment Impact Assessment Authority (SEIAA) to grant Environmental Clearances to all minor mineral (including sand) mining leases, irrespective of mine lease area and < 250 ha mining lease area in respect of major mineral mining lease other than coal and any site specific Environmental Clearance Conditions may be stipulated by SEIAA after deliberations/appraisal by State Expert Appraisal Committee (SEAC). MOEF&CC has further submitted

that it has vide notification no. S.O. 637 (E) dated 28.02.2014 also delegated the power to SEIAA to issue show cause notice to project proponents in case of violation of the conditions of the environmental clearance issued by the said Authorities to projects or activities within their jurisdiction. Response filed by MOEF&CC seems to be based on and is indicative of operative mindset to delegate its responsibilities and discharge of obligations to protect and improve the environment to the States and UTS and other Statutory Authorities without any active supervision, monitoring and directions from time to time for pro-actively taking measures for suitable modifications for effective protection and improvement of environment. The consequences of such apathy and abdication may be disastrous and may result in incurring of huge costs for remediation of environmental damage caused. Instances thereof abound in the surroundings of river Yamuna itself. Haryana Government failed to protect Badkhal Lake, a natural water body which sustained flora and fauna and was also a great tourist attraction in the vicinity of South Delhi, from drying out due to excessive mining in the area and is now spending hundreds of crores of rupees to fill the same with treated sewage to restore the water body and tourist destination. Posterity will provide the logical answer to the question whether such efforts can completely restore the natural beauty and pristine glory of the lake but at present the same is under cloud of serious doubts. The story of Quiet Flowing Maili Yamuna is no different. Success of all efforts made so far is under cloud of serious doubts. The same has become an issue of political campaigning without becoming a touch stone of the working of MOEF&&CC, Central and all concerned State Governments and their instrumentalities and also Pollution Control Boards/Committees without bringing in focus poor and completely neglected implementation of environmental laws by them. MOEF&CC cannot abdicate its functions and disown its responsibility cast on it under constitutional obligation imposed by Article 48A of the Constitution of India to protect and improve environment.

75. MOJS and NMCG have merely referred to the requirement of permission from NMCG for construction of temporary bridges under paragraph 42 of the River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016 and have not looked into and have not filed any response to the environmental questions of permissibility of construction of temporary bridges and environmental impact thereof applicable to all States and UTs.

76. Respondents No.8 to 10 have objected that the River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016 applies to permanent bridges and does not apply to temporary bridges. We are of the considered view that on literal interpretation and in the absence of qualification of use of word 'bridge' by word 'permanent', the River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016 will apply to construction of temporary bridges also. However, the River Ganga (Rejuvenation, Protection and Management) Authorities Order, 2016 applies to river Ganga and its tributaries and States and UTs through which the same flow and is not applicable to all rivers and States and UTs in the Country.

77. MOEF&CC being instrumentality of State for protection and improvement of environment and MOJS being custodian of rivers in the country have to look into all relevant aspects including (i) applicability of the issues to all States and UTs, (ii) modalities for conduct of such study for making recommendations for determining the environmental questions involved and (iii) review/modification of existing policies and guidelines including SOP for construction of temporary bridges, if any permitted in accordance with the same.

78. No doubt MoEF & CC and the Joint Committee have suggested for conduct of study by Haryana Government but any such study will be

restricted to policy, practice and conditions in State of Haryana without taking into consideration the policies, practices of and conditions in other States and UTs. We are of the considered view that for due consideration of the policies, practices and conditions in all States and UTs and also acceptance by all States and UTs, such study has to be got conducted by MoEF & CC and MoJS.

79. Vide order dated 30.04.2024, CPCB was directed to obtain and compile information from all the States and UTs regarding framing of statutory/policy framework and issuance of any guidelines permitting construction of temporary bridge across river channels for carrying out mining and allied activities and also any alternative practice adopted in all the States/UTs and file its report within two months.

80. Compliance Report has been filed by Mr. Nazimuddin, Scientist F, CPCB vide email dated 02.08.2024. The relevant part of the report is reproduced below:-

“Compliance Report in the matter of Hon’ble NGT (PB) O.A. No. 581/2022 (IAs No. 728/2023 and 595/2023) titled as Vikas Kumar Vs. State of Haryana & Ors.

X X X X
*In compliance to above order, CPCB vide letter dated-14.05.2024 requested SPCBs/PCCs to coordinate with the concerned State Departments (mining/irrigation) and to provide information of respective States/UTs regarding (i) the statutory/policy framework regarding construction of temporary bridge across river channels for carrying out mining and allied activities, (ii) any guidelines permitting construction of temporary bridge across river channels for carrying out mining and allied activities and (iii) any alternative practice adopted regarding construction of temporary bridge across river channels for carrying out mining and allied activities. The copy of CPCB's letter to SPCBs/PCCs is enclosed **(Annexure-1)**. The matter was also followed-up vide emails dated 06.06.2024 and dated 19.06.2024 with SPCBs/PCCs. The responses received from SPCBs/PCCs are enclosed at **Annexure-2**. The summary of responses received from SPCBs/PCCs is as below:*

- *The following SPCBs/PCCs have replied and have not reported any specific policy/guidelines in their state/UT for permitting construction of temporary bridges across river channels for carrying out mining and allied activities.*

1. Assam
2. Bihar
3. Chhattisgarh
4. Dadra & Nagar Haveli and Daman & Diu
5. Jammu & Kashmir
6. Lakshadweep
7. Meghalaya
8. Nagaland
9. Puducherry

(Note-1: Bihar SPCB has informed that permission is required for construction of bridges across the rivers from Department of Water Resources, Bihar as per circulars dt.- 28.05.2018 & 20.01.2020. (It is observed that these circulars are not issued about construction of temporary bridges across rivers for carrying out of mining activities).

Note-2: Chhattisgarh CECB has informed that orders issued by Water Resource Department, Chhattisgarh. (It is observed that these orders are not about construction of bridges)

• *The following SPCBs have also replied that no information received from concerned State Departments.*

10. **Madhya Pradesh**

11. **Mizoram**

12. **Kerala**

13. **West Bengal**

• *Reply is not received from for following States/UTs.*

1. **Andhra Pradesh**

2. **Arunachal Pradesh**

3. **Chandigarh**

4. **Delhi**

5. **Goa**

6. **Gujarat**

7. **Himachal Pradesh**

8. **Jharkhand**

9. **Karnataka**

10. **Ladakh**

11. **Maharashtra**

12. **Manipur**

13. **Mizoram**

14. **Odisha**

15. **Punjab**

16. **Rajasthan**

17. **Sikkim**

18. **Tamil Nadu**

19. **Telangana**

20. **Tripura**

21. **Uttar Pradesh**

22. **Uttarakhand**

• *Haryana SPCB has also not replied to CPCB letter dated 14.05.2024 however the policy issued by Irrigation Department, Haryana for crossing Yamuna by miners for carrying mining activities was informed by Haryana state government in Para 4(viii) of their reply dated 23.02.2023 in this matter and annexed as Annexure R/7.”*

81. CPCB has not obtained further information from all the SPCBs and UTPCCs which had not submitted its response. We fail to understand the

reasons as to how and why other SPCBs and UTPCCs failed to respond as SPCBs and UTPCCs, being instrumentalities of Democratic Republic which is governed by laws established by and under the Constitution of India, are under constitutional as well as Statutory Obligations to protect and improve environment. We also fail to understand how and why CPCB feels contended with such deliberate omissions on the part of SPCBs and UTPCCs to respond to its letters and does not take action under the Environment Protection Act, 1986 and other environmental laws which confer on it ample powers to issue binding direction and take corrective action.

82. CPCB is directed to obtain the requisite information from all the SPCBs and UTPCCs, compile and furnish the same to MoEF & CC and MoJS and also file its report with due analysis of the information so received and compiled by it before this Tribunal at least three days before the date of hearing fixed.

83. We are also constrained to direct that in case of failure to supply such information to CPCB, the Chairman and Member Secretary of the defaulting SPCB or UTPCC shall appear before this Tribunal Physically on the next date of hearing fixed to explain the reasons for their failure to such information to CPCB.

84. It may also be observed here that any mining in sanctioned mining lease area can be carried on in accordance with the Environmental Clearance and Mining Plan. Form I, EIA Report, Mining Plan and EC have to be looked into for determining the question regarding permissibility of construction of the temporary bridges across river streams/channels for carrying out mining and allied activities. Mining across river streams/channels and construction of any temporary bridge across river channels will be permissible only if so provided for in EIA Report and the mining plan and sanctioned in EC.

85. In the present case in compliance of order dated 13.12.2024 respondent no. 5-M/s. Yodha Mines and Minerals and respondent no. 9-M/s. Elite Mining Corporation have filed copies of Form I and Mining Plans. In its Form I respondent no. 9-M/s. Elite Mining Corporation had mentioned that the riverbed sand mining involved mining across river streams. In map on page 1671 of paper book mining lease site has been shown by red colour outlining which shows that parts thereof falls across river streams. However, in the present case, there is no material on record to demonstrate that EC had considered and approved the setting up of a temporary bridge for mining and allied activities across river streams/channels.

86. We have seen the photograph of the temporary bridge constructed by respondent No. 5 on river Yamuna. The bridge was about 3 meter in width laid over 18 large hume pipes. Construction of such hume pipe bridge with filling of the large number of sand bags in between the hume pipes placed with large gaps definitely obstructs natural e flow of the river stream besides causing damage to the natural ecology of the riverine system. Further the project proponent deployed 10 JCB Excavators and 40 tippers/Trucks with 25 ton loading capacity (Page 201) for riverbed mining as per enclosure to the letter dated 18.11.2021 of the project proponent (Page 200) for permission to construct a bridge. Deployment of such heavy machinery for mining across river streams by constructing temporary bridge of the strength to sustain the same without any specific mention in EC is definitely in violation of the EC granted by MoEF & CC which permitted manual open cast method in riverbed and subsequent modification of EC by SEIAA, Haryana which permitted semi mechanized mining.

87. Mining activities have to be conducted in accordance with EC conditions specifying manual, semi mechanized or mechanized methods by use of permitted machinery. There is nothing on record to show that

Haryana Government has issued any order/letter regarding machinery permitted for mining and allied activities. However, Uttar Pradesh Government has issued instructions vide letter dated 21.06.2019 regarding machinery and transport vehicles permitted relevant part of which is reproduced under:-

“विषय - उपखनिज बालू/ मॉरम के खनन व निकासी में मशीनों के प्रयोग के संबंध में।

X X X X

उपर्युक्त विषय के संबंध में अवगत कराना है कि जगपदों में नदी तल में उपलब्ध उपखनिज बालू/ मॉरम के स्वीकृत खनन पट्टा क्षेत्रों का आकस्मिक निरीक्षण के दौरान यह तथ्य प्रकाश में आया है कि खनन पट्टाधारगर्ने द्वारा बालू खनन एवं निकासी में मानक के विपरीत अत्यधिक भारी मशीनी या प्रयोग किया जा रहा है। वन पर्यावरण एवं जलवायु परिवर्तन मंत्रालय भारत सरकार नई दिल्ली के दिशा निर्देश एवं मा० राष्ट्रीय हरित अधिकरण, नई दिल्ली द्वारा पारित विभिन्न आदेशों में यह स्पष्ट किया गया है कि बालू खनन में प्रयुक्त एक्सवेटर कम लोडिंग मशीन की Boom Length तीन मीटर एवं Bucket Capacity एक घनमीटर से अधिक न हो परन्तु खनन पट्टा धारकों द्वारा Poclain आदि कम्पनियों के भारी मशीन का प्रयोग कर अत्यधिक गहराई में बालू का खनन किये जाने से पर्यावरण एवं पारिस्थितिकी पर कुप्रभाव पड़ने की सम्भावना है। अधिक खनन के कारण बालू की ओवरलोडिंग को बढ़ावा मिलता है।

अतः आपसे अपेक्षा है कि नदी तल में बालू एवं मॉरम के खनन में मानक से अधिक Boom Length के एक्सवेटर कम लोडिंग मशीन का प्रयोग न हो, यह अपने स्तर से सुनिश्चित करने का कष्ट करें।”

88. As per current practice transport vehicles are also permitted by the Mining and Geology Departments. It appears that State of Haryana has not issued any instructions regarding use of transport vehicle. In the State of Uttar Pradesh a circular dated **03.06.2019** was issued by Directorate of Geology & Mining mentioning different loading capacities of trucks as summarized under: -

SL.No	Type of Vehicle	Defined Quantity	Quantity in Cubic meter
1	6 Tyre Truck	18500 Kg or 12.5 Ton	8.00
2	10 Tyre Truck	28000 Kg or 18 Ton	12.00
3	12Tyre Truck	35000 Kg or 24 Ton	16.00
4	14 Tyre Truck	42000 Kg or 30 Ton	20.00

89. Vide order dated 05.08.2024 passed in O.A. No. 160/2022 titled as Ompal and others Vs. State of Uttar Pradesh and others MOEF&CC was directed to examine the issue and issue appropriate directions within three months in exercise of its powers under the Environment (Protection) Act, 1986 regarding the machinery which can be used and the machinery which cannot be used for river bed mining/flood plain mining and also regarding the transport vehicles which can be used and the transport vehicles which cannot be used for transportation of mined minor minerals.

90. The scope of the present case was widened by this Tribunal vide order dated 30.04.2024 to assess the permissibility and impact of construction of temporary bridges across river channels for carrying out mining and allied activities and its applicability to all States and UTs. Consequently, any direction passed in the present case will have far-reaching implications, affecting numerous stakeholders nationwide. In view thereof a comprehensive and detailed study needs to be conducted MoEF & CC, MoJS and CPCB through reputed National Institutes/organizations involving multi disciplinary team of experts to evaluate the permissibility and potential adverse impacts of temporary bridges on river flow, morphology, riverbeds, and related environmental factors.

Directions to MOEF&CC, MOJS and CPCB

91. In view of the above, MOEF&CC, MOJS and CPCB are directed to get a detailed study conducted on the questions of permissibility of temporary bridges for sand mining and environmental impact of temporary bridges on the river covering all relevant aspects including flow, depth and velocity, sediment load, aquatic flora and fauna, river ecology, morphology etc., with appropriate Terms of Reference including following terms of reference suggested by the Joint Committee:-

- “(i) Collection of Baseline data on physical regime of the river (river discharge, flow depth/velocity, sediment load, aquatic flora and fauna, etc.) during pre- monsoon (April-May).*
- (ii) Construction of temporary bridge where valid license/permission hold good with half width with circular hume pipe, another one half width removable box sections to study hindrances in movement of aquatic life and river regime (river discharge, flow depth/velocity, sediment load) under two scenarios.*
- (iii) Repeat collection of data mentioned in part 81(b) (i) during post monsoon season (November-December) to see permanent impact, if any and*
- (iv) Evaluate impacts on river regime and on aquatic flora/fauna.”*

92. The above study may be carried out through reputed National Institutes/organizations involving multidisciplinary team of experts to provide authentic data/evidence to review existing policies, guidelines, practices for construction of temporary bridges for sand mining and allied activities. CPCB will be the nodal agency for coordination and compliance for conduct of such study.

Agriculture land affected by change of course of river

93. This Tribunal vide order dated 30.04.2024 directed the Deputy Commissioner Sonipat to file response giving the details of agriculture land affected if any by change of course of river in the area where the temporary bridge was constructed.

REPORT OF DEPUTY COMMISSIONER, SONIPAT

94. Report has been filed by Deputy Commissioner, Sonipat vide email dated 03.08.2024. The relevant part of the report is reproduced below:-

“REPORT OF DEPUTY COMMISSIONER, SONIPAT IN COMPLIANCE OF ORDER DATED 30.04.2024

X	X	X	X
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5. That in order to ascertain the details of agriculture land affected as mentioned report dated 19.11.2022, undersigned constituted a committee comprising following officers for filing replies and compliance of Hon'ble NGT order: -

- i) Sub Divisional Officer (C), Sonipat -Chairman
- ii) Executive Engineer, Irrigation Department, Sonipat -Member
- iii) Deputy Director, Agriculture, Sonipat -Member
- iv) Mining Officer, Sonipat -Member
- v) Regional Officer, Haryana Pollution Control Board, Sonipat -Member

6. The committee visited the site in question on 26.07.2024 and submitted the report with following observations:

"During the site inspection mining activities at the site of M/s Yodha Mines and Minerals, Jainpur-2 Sand Unit is found closed due to the rainy season w.e.f. 01.07.2024. The mining activity will be closed till 15.09.2024 as per the conditions of environment clearance.

a. The area where the temporary bridge was constructed in Revenue Estate of Village Jainpur in Yamuna River during the year 2022 inspected & observed the revenue record and found that approximately 29 Kanal 4 Marla land having Killa/Khasra Nos. 39//14 (8K-OM), 16/1 (4K-OM), 39//16/3 (1K-13M), 15//16 (8K-OM), 14//20/2 (7K-11M) situated at active edge was eroded/affected by the alluvial action of Yamuna River due to heavy/surplus water flow during the monsoon season of year 2022-23.

b. The project proponent didn't construct the temporary crossing/bridge in the year 2024 in Yamuna River as river stream was flowing at the other side of mine."

Copy of Report of Committee is annexed herewith as Annexure-R/3."

95. The District Magistrate, Sonipat is directed to look into the causes for such loss apart from meandering nature of river Yamuna and also take requisite measures for restoration and compensation in accordance with law as the case may be and file his report in this regard at least three days before the date of hearing fixed.

96. Learned Counsel for respondents no. 5, 8, 9 and 10 have submitted that until the study is concluded and the existing guidelines are reviewed and requisite mechanism is evolved, in the State of Haryana, Haryana Government Policy dated 19.10.2021 may be allowed to remain in operation and interim order dated 30.04.2024 passed by this Tribunal permitting grant of permission for construction of temporary bridges may be ordered to continue so that no prejudice is caused to the ongoing activities or stakeholders involved having incurred huge expenditure for the project.

97. These submissions have not been opposed by learned Counsel for respondents no. 1 to 4.

98. Learned Counsels for respondents no. 6 and 7 have opposed the request and submitted that no temporary bridge can be constructed on river Yamuna without permission from NMCG.

99. MoEF & CC, MoJs and CPCB are yet to conduct the study as directed above. NMCG has not looked into the issues and prepared any SOP for grant of permission for construction of temporary bridges for carrying on mining and allied activities across the river streams. Such study and even preparation of SOP are likely to take long time.

100. In the peculiar facts and circumstances of the case and also the fact that submission of the study report, review of the existing policy or guidelines on the basis thereof and evolving of requisite mechanism is likely to take long time, we direct that :-

(i) in the meanwhile permission for construction of temporary bridge on river Yamuna in the State of Haryana may be granted by the Irrigation and Water Resources Department as per Haryana Government Policy;

(ii) In view of urgency explained, application for grant of permission for construction of temporary bridge for carrying out mining and allied activities across channels of river Yamuna during the period preceding forth coming monsoon may be dealt with expeditiously preferably within two weeks from the date of receipt of the application;

(iii) permission may be granted depending upon the facts and circumstances of each case by taking into consideration all relevant factors and environmental impact with the condition

that such temporary bridge will be removed by 30.06.2025 as may be mentioned in such permission; and

(iv) use of machinery and transport vehicles may be permitted for mining and allied activities strictly in accordance with EC conditions.

101. Any further order as to permissibility of construction of temporary bridges for mining and allied activities in future will be subject to the recommendations of the study conducted and policies/guidelines framed/modified on the basis thereof.

102. It is clarified that nothing in this order shall be treated as expression of any opinion for the purpose of final adjudication of the questions involved in the case.

103. Reports as directed above may be filed at least one week before the date of hearing hereby fixed.

104. List on 30.05.2025 for further consideration/orders.

105. A copy of this order be sent to Secretary, MoEF & CC, Secretary, MoJS, Director General, NMCG, Member Secretary, CPCB, Chief Secretary of Government of Haryana, Secretary, Irrigation Department, Haryana, Member Secretary, SEIAA, Haryana, Member Secretaries of all PCBs and PCCs in the Country, Director, Mining and Geology, Government of Haryana, and District Magistrate, Sonapat by email for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

January 10th, 2025.
O.A. No. 581/2022/AG