

	<p>Video Conferencing Item No. 03</p> <p>September 04, 2018</p> <p>ss & dv</p>	<p>Ministry of Environment, Forest and Climate Change/SEIAA nor consent taken from the Pollution Control Board for such extraction. The applicant contends that such large scale illegal and unscientific mining is directly impacting the ecology of the river <i>Subarnarekha</i>, including its channel geometry, bed elevation, substratum composition and stability, in-stream roughness of the bed, flow velocity, discharge capacity, sediment transpiration capacity, turbidity, temperature, etc. Such indiscriminate mining is stated to be the cause of the river <i>Subarnarekha</i> changing its course every year and made susceptible to flooding during every monsoon threatening the safety of the villages situated along the river bank due to the banks being severely eroded in villages Rajnagar, Mankia, Kanrpur, Totapada, Beherasahi and Praharajpur.</p> <p>3. The applicant contends that the States of Odisha and West Bengal have failed to stop such large scale illegal mining despite repeated complaints by the people and ultimately, when the villagers submitted a representation before the Revenue Divisional Commissioner, expressing their concerns, a meeting was called. It was decided that illegal mining be stopped by the respective authorities and FIRs filed in the local police stations. In another meeting, held on 07th September, 2015 between the Balasore Administration and West Medinapur district, it was decided that a joint exercise would be undertaken to demarcate the boundary soon after the monsoons. Pending such demarcation, transit passes would be issued to individuals for lifting sand from</p>
--	---	--

**Video
Conferencing
Item No.
03**

**September
04, 2018**

ss & dv

their respective areas as an interim measure. It was also decided to impose complete prohibition against the use of sump pumps for lifting the sand.

4. The applicant states that despite such decisions and in spite of being fully aware of the illegalities, the authorities have failed to act in accordance with the decisions. Decision to prohibit mechanical mining by use of pumps also was not acted upon on account of helplessness expressed by the Collector, Balasore, in carrying out such decision due to violent obstructions caused by the sand mafia and likelihood of there being law and order situation. It is stated that although various letters were exchanged between the authorities in the State of Odisha and West Bengal for carrying out demarcation exercise, no such exercise has been carried out. The area where such illegal mining is being carried out is stated to be within 5 kms. distance of inter-state boundary between Odisha on one side of the river and West Bengal on the other side.

5. As already noted, the applicant has highlighted the adverse ecological impact of sand mining from the bed with the use of heavy machineries by the mining operators to extract sand from the river bed. Highlighting the adverse impact of sand mining with the use of sump pumps, it is stated that the sump pumps extract sand from about 40 to 50 feet beneath the water which create deep gorges in the river bed causing landslides and erosion of the river bank during monsoon endangering the villages situated along the river. It is stated that the banks of the river *Subarnarekha* are highly prone to

	<p>Video Conferencing Item No. 03</p> <p>September 04, 2018</p> <p>ss & dv</p>	<p>floods during monsoons and about two lakhs people have already been displaced in five blocks in the Baslasore and Mayurganj districts.</p> <p>6. The applicant has also alleged violation of the provisions of the Sustainable Sand Mining Management Guidelines, 2016, National Water Policy, 2012 and the order the Government of Odisha dated 07th May, 2015 on the subject of extraction of sand and other minor minerals within five kilometers of inter-state boundaries, EIA Notification, 2006 as amended vide notification dated 25th June, 2014, the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and Environment (Protection) Act, 1986 which are mandatory to be complied with.</p> <p>7. Prayers in the application are as follows :-</p> <p>(i) “Pass an order thereby directing the Respondents to stop illegal mining in the villages of Bilaspur, Gopalpur, Mankidia, Kuanrpur, Totapada, Beherasahi, Praharajpur, Dakshinapraharajpur, Makarampur under the Balasore district and ensure that no illegal mining is taking in future.</p> <p>(ii) Pass an order thereby directing the States of Odisha and State of West Bengal to identify the person involved in illegal mining and take appropriate action along with recovery of royalty and also impose environmental compensation for damaging the environment.</p> <p>(iii) Pass an order thereby directing the state government to take appropriate action against the officials who failed to take proper action and stop the illegal mining happening in villages of Bilaspur, Gopalpur, Mankidia, Kuanrpur, Totapada, Beherasahi, Praharajpur, Dakshina-praharajpur, Makarampur under the Balasore district of the State of Odisha.</p> <p>(iv) To direct Respondent No. 7 to implement the Subarnarekha river basin plan particularly with respect to protection of river banks which has been damaged because of the illegal mining for the area in question.”</p>
--	---	---

	<p>Video Conferencing Item No. 03</p> <p>September 04, 2018</p> <p>ss & dv</p>	<p>8. The respondents, who are the authorities from the State of West Bengal and the State of Odisha through the respective SEIAAs, District Magistrates and the Chief Secretaries, in their response, have not denied the factual aspects raised in the original application.</p> <p>9. By order dated 31st July, 2017, the Tribunal disposed of the application and directed the District Magistrate and Superintendent of Police, Paschim Medinapur (West Medinapur) district, West Bengal, to maintain strict vigil in the area in question and to take appropriate action against any person indulging in illegal mining of sand and to seize all vehicles, machinery, trucks, etc. used for the purpose and be kept in the custody of the concerned police station. Report was directed to be filed and action taken in terms of the said directions.</p> <p>10. Pursuant to the above order, affidavits have been filed by the Collector-cum-District Magistrate, Paschim Medinapur and the Additional Superintendent of Police of the district as well as by the Collector and District Magistrate, Balasore District, Odisha. Proceedings have been registered as fresh application. In the affidavit of the Additional Superintendent of Police, it is stated that Incharge of the concerned police station has been sensitized on the gravity of illegal transportation and excavation of sand and to maintain strong vigil and to increase patrolling in the area referred to in the original application to prevent illegal sand mining and transportation. It is stated that several cases were registered under various provisions of the Motor Vehicles</p>
--	---	--

	<p>Video Conferencing Item No. 03</p> <p>September 04, 2018</p> <p>ss & dv</p>	<p>Act and fines imposed as per the stipulated rates.</p> <p>Affidavit of DM Balasore dated 23.10.2017 states that no lease can be granted within 5 kms of inter-state boundary without agreement with the neighbour State and thus, lease granted is illegal.</p> <p>11. Another affidavit filed by the District Magistrate, Paschim Medinapur, reveals that meetings were held on 7th July, 2015 and 13th December, 2015 to decide on the joint exercise to be undertaken for demarcation of boundaries and preventive measures to be adopted to stop illegal mining. The first meeting was held in Mankidia, Odisha and the second in Dantan, West Bengal respectively. This was followed by correspondence with the Principal Secretary and Land Reforms and Refugee, Relief & Rehabilitation Department, Government of West Bengal. A meeting was held amongst the Principal Secretary, the Director of Land Records and Survey and Joint Land Reform Commissioner, West Bengal, District Magistrate and Additional District Magistrate, Paschim Medinapur, for a review of the matter. It is, however, not clear as to what transpired thereafter. Another meeting was held on 30th December, 2015 between the authorities at the level of District Magistrate and Block Level Officers of Balasore District, Odisha and Paschim Medinapur, West Bengal. Only decision taken in the said meeting was to take up the matter relating to joint survey and State boundary demarcation with their higher authorities and to conduct raids on the respective sides to prevent illegal extraction and lifting of sand. Another affidavit was filed by him on 26th October, 2017, wherein it was</p>
--	---	---

**Video
Conferencing
Item No.
03**

**September
04, 2018**

ss & dv

stated that 32 sand mining blocks had been put out on tender to settle through e-auction of which four blocks had been granted mining leases and 12 issued with letters of intent. The decision to settle the sand blocks is curiously stated to be to prevent illegal mining.

12. An affidavit was also filed on behalf of the Department of Water Resources, Government of Odisha, on 17th November, 2017 conceding the deleterious effect of sand mining by suction technology through deep inserting sump pumps, but at the same time stating that such illegal in-stream mining of sand was being carried out by illegal sand miners from the State of West Bengal.

13. Upon consideration of the facts and circumstances as revealed from the averments contained in the original application and the various affidavits filed by the respondents, we find that the authorities have completely failed in discharging their responsibility in preventing illegal sand mining in the area in question. The magnitude of the illegal mining carried out openly with impunity by the unscrupulous sand miners manifests total lack of regulation and blatant violation of the rules and regulations in place, governing the sand mining. Apart from registering stray cases under the Motor Vehicles Act, no action has been taken under any of the relevant environmental laws. Even the fine imposed are meagre. No action whatsoever appears to have been taken for seizure of the vehicles and machinery as directed by the Tribunal. The affidavits filed by the District Magistrate and on behalf of Department of Water Resources, Government of Odisha, are bereft of any

	<p>Video Conferencing Item No. 03</p> <p>September 04, 2018</p> <p>ss & dv</p>	<p>meaningful action towards prevention of illegal sand mining. We, therefore, have no hesitation in holding that there is complete failure of law with regard to the prevention of such illegalities in the States concerned. The facts and circumstances indubitably establish that the mine operators have neither obtained Environment Clearance under the EIA Notification, 2006 nor consents under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981. It is also not clear as to whether such statutory clearances have been obtained by the authorities in West Bengal before leasing out the sand block as stated in the affidavit of the District Magistrate, Paschim Midnapur district, West Bengal. Even the provisions of West Bengal Minor Mineral Concession Rules, 2016 incorporating the directions issued by the Hon'ble Supreme Court in <i>Deepak Kumar's</i> case undeniably have not been complied with. Thus, the illegalities are glaring. No prosecution appears to have been initiated nor recovery effected for loss of royalties nor compensation for damage to the environment.</p> <p>14. There can be no two views that an effective institutional monitoring mechanism is required not only at the stage when Environmental Clearance is granted but also at subsequent stages. In the light of the experience gained, the MOEF&CC has published Sustainable Sand Mining and Management Guidelines 2016, after extensive consultation with the States and the stake holders for about one year. The object of the guidelines is to restore and maintain ecology of rivers.</p>
--	---	---

	<p>Video Conferencing Item No. 03</p> <p>September 04, 2018</p> <p>ss & dv</p>	<p>The guidelines focus on preparation of District Survey Report and the Management Plan. The guidelines envisage mapping of the resources at District level, identification of appropriate sites for extraction, appraisal of the extraction process, putting in place the required environmental safeguards and rigorous monitoring of the volume of extracted material. The guidelines record that mining within or near river bed impacts physical characteristics of the stream 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. Loss of riparian habitat resulting from direct removal of vegetation along the stream bank to facilitate the use of a dragline or through the process of lowering the water table, bank undercutting, and channel incision. The physical composition and stability of substrates are altered as a result of instream mining and most of these physical effects may exacerbate sediment entrainment in the channel. Furthermore, the process of in-stream mining and gravel washing produces fine sediments under all flow conditions, resulting in a deposition of fine sediment in riffles as well as other habitats at low discharge. Excess sediment is considered the greatest pollutant in waters and constitutes one of the major environmental</p>
--	---	---

**Video
Conferencing
Item No.
03**

**September
04, 2018**

ss & dv

factors in the degradation of stream fisheries. However, in-stream mining may contribute additional sediment to downstream reaches due to the disruption of substrate stability. Once sediment enters the stream, it is best to let natural geomorphological and hydrological processes reach a dynamic equilibrium, rather than further exacerbating the situation by additional disturbance.

15. According to the guidelines, following consideration are required to be kept in mind for sustainable sand mining and gravel mining :-

“a) Parts of the river reach that experience deposition or aggradation shall be identified first. The Lease holder/ Environmental Clearance holder may be allowed to extract the sand and gravel deposit in these locations to manage aggradation problem.

b) The distance between sites for sand and gravel mining shall depend on the replenishment rate of the river. Sediment rating curve for the potential sites shall be developed and checked against the extracted volumes of sand and gravel.

c) Sand and gravel may be extracted across the entire active channel during the dry season.

d) Abandoned stream channels on terrace and inactive floodplains be preferred rather than active channels and their deltas and flood plains. Stream should not be diverted to form inactive channel.

e) Layers of sand and gravel which could be removed from the river bed shall depend on the width of the river and replenishment rate of the river.

f) Sand and gravel shall not be allowed to be extracted where erosion may occur, such as at the concave bank.

g) Segments of braided river system should be used preferably falling within the lateral migration area of the river regime that enhances the feasibility of sediment replenishment.

h) Sand and gravel shall not be extracted within 200 to 500 meter from any crucial hydraulic structure such as pumping station, water

**Video
Conferencing
Item No.
03**

**September
04, 2018**

ss & dv

intakes, and bridges. The exact distance should be ascertained by the local authorities based on local situation. The cross-section survey should cover a minimum distance of 1.0 km upstream and 1.0 km downstream of the potential reach for extraction. The sediment sampling should include the bed material and bed material load before, during and after extraction period. Develop a sediment rating curve at the upstream end of the potential reach using the surveyed cross-section. Using the historical or gauged flow rating curve, determine the suitable period of high flow that can replenish the extracted volume. Calculate the extraction volume based on the sediment rating curve and high flow period after determining the allowable mining depth.

i) Sand and gravel could be extracted from the downstream of the sand bar at river bends. Retaining the upstream one to two thirds of the bar and riparian vegetation is accepted as a method to promote channel stability.

j) Flood discharge capacity of the river could be maintained in areas where there are significant flood hazard to existing structures or infrastructure. Sand and gravel mining may be allowed to maintain the natural flow capacity based on surveyed cross-section history.

k) Alternatively, off-channel or floodplain extraction is recommended to allow rivers to replenish the quantity taken out during mining.

l) The Piedmont Zone (Bhabhar area) particularly in the Himalayan foothills, where riverbed material is mined, this sandy-gravelly track constitutes excellent conduits and holds the greater potential for ground water recharge. Mining in such areas should be preferred in locations selected away from the channel bank stretches.

m) Mining depth should be restricted to 3 meter and distance from the bank should be 3 meter or 10 percent of the river width whichever less.

n) The borrow area should preferably be located on the river side of the proposed embankment, because they get silted up in course of time. For low embankment less than 6 m in height, borrow area should not be selected within 25 m from the toe/heel of the embankment. In case of higher embankment the distance should not be less than 50 m. In order to obviate development of flow parallel to embankment, cross bars of width eight times the depth of borrow pits spaced 50 to 60 meters centre-to-centre should be left in the borrow pits.

o) Demarcation of mining area with pillars and geo-referencing should be done prior to start of

	<p>Video Conferencing Item No. 03</p> <p>September 04, 2018</p> <p>ss & dv</p>	<p><i>mining”.</i></p> <p>16. It is suggested that during survey of the area where mining should be permitted, following factors which must be kept in mind:</p> <p><i>“i) A stable river is able to constantly transport the flow of sediments produced by watershed such that it's dimensions (width and depth) pattern and vertical profile are maintained without aggrading (building up) or degrading (scouring down).</i></p> <p><i>ii) The amount of boulders, cobbles, pebbles, and sand deposited in river bed equals to the amount delivered to the river from catchment area and from bank erosion minus amount transported downstream each year.</i></p> <p><i>iii) It is compulsive nature of river to meander in their beds and therefore they will have to be provided with adequate corridor for meandering without hindrance. Any attempt to diminish the width of the corridor (floodway) and curb the freedom to meander would prove counterproductive.</i></p> <p><i>iv) Erosion and deposition is law of nature. The river stream has to complete its geomorphological cycles from youth, mature to old age.</i></p> <p><i>v) River capturing is unavoidable.</i></p> <p><i>vi) Fundamentally the lowest point of any stream is fixed by sea level.”</i></p> <p>17. The Management Plan may require system of replenishment as well as preventive steps during the sand mining. Replenishment and reclamation of marine sand mining may require marine bio-diversity. Guidelines also deal with issue of depth of mining, strict regulated regime. The management of mining clusters should have a separate approach. Management of sand deposited after the floods should be treated as separate for mining. Monitoring system proposed includes safeguards during</p>
--	---	--

	<p>Video Conferencing Item No. 03</p> <p>September 04, 2018</p> <p>ss & dv</p>	<p>transport as well as checking of condition of mining.</p> <p>18. As already noted, notification dated 15.01.2016 lays down the procedure for monitoring of sand mining and river bed mining. The monitoring procedure includes scanning of transport permit and uploading on server, checking en route the vehicle carrying mining material, tracking of vehicle alert, report generation and action review.</p> <p>19. We are of the view that all the safeguards which are suggested in sustainable sand mining guidelines as well as notification dated 15.01.2016 ought to be scrupulously followed.</p> <p>20. We are informed that a High Powered Committee was constituted under the orders of this Tribunal, headed by Secretary, MOEF&CC, which has given its report dated September, 2016, suggesting <i>inter alia</i> the following:</p> <p>“(i) Project Proponent must ensure that the security features of Transport Permission viz. (a) Printed on Indian Bank Association (IBA) approved Magnetic Ink Character Recognition Code (MICR) paper; (c) Unique Barcode; (d) Unique Quick Response Code (QR); (e) Fugitive Ink Background; (f) Invisible Ink Mark; (g) Void Pantograph; (h) Watermark.</p> <p>(ii) Project Proponent must ensure that the CCTV camera, Personal Computer (PC), Internet Connection, Power Back up, access control of mine lease site; and arrangement for weight or approximation of weight of mined out mineral on basis of volume of the trailer of vehicle used at mine lease site are available.</p> <p>(iii) Project Proponent must ensure the Scanning of Transport Permit or Receipt and uploading on Server.</p> <p>(iv) The State Mines and Geology Department should print the Transport Permits/Receipt with security features</p>
--	---	--

**Video
Conferencing
Item No.
03**

**September
04, 2018**

ss & dv

enumerated at Paragraph (i) above and issue them to the mine lease holder through the District Collector. Once these Transport Permits or Receipts are issued, they would be uploaded on the server against that mine lease area. Each receipt should be preferably with pre-fixed quantity, so the total quantity gets determined for the receipts issued. When the Transport Permit or Receipt barcode gets scanned and invoice is generated, the particular barcode gets used and its validity time is recorded on the server. So all the details of transporting of mined out material can be captured on the server and the Transport Permit or Receipt cannot be reused.

(v) The staff deployed for the purpose of checking of vehicles carrying mined mineral should be in a position to check the validity of Transport Permit or Receipt by scanning them using website, Android Application and SMS.

(vi) In case the Vehicle breakdown, the validity of Transport Permit or Receipt shall be extended by sending SMS by driver in specific format to report breakdown of vehicle. The server will register this information and register the breakdown. The State can also establish a call centre, which can register breakdowns of such vehicles and extend the validity period. The subsequent restart of the vehicle also should be similarly reported to the server/call centre.

(vii) The route of vehicle from source to destination should be tracked through the system using check points, Radio-frequency identification (RFID) Tags, and Global Positioning System (GPS) tracking.

(viii) The system shall enable the Authorities to develop periodic report on different parameters like daily lifting report, vehicle log/history, lifting against allocation, and total lifting. The system can be used to generate auto mails/SMS. This will enable the District Collector/Magistrate to get all the relevant details and will enable the authority to block the scanning facility of any site found to be indulged in irregularity. Whenever any authority intercepts any vehicle transporting illegal sand, it shall get registered on the server and shall be mandatory for the officer to fill in the report on action taken. Every intercepted vehicle should be tracked.”

	<p>Video Conferencing Item No. 03</p> <p>September 04, 2018</p> <p>ss & dv</p>	<p>21. Though the recommendations to some extent overlaps with the procedure laid down in the notification dated 15.01.2016 and the policy, the same having been suggested by expert body, after considering the existing parameters, must also be adopted to the extent not already covered. It is pointed out that the above report has been accepted by this Tribunal vide order dated 08.06.2018 in <i>Execution Application No. 17 of 2016</i> in the case of <i>Gurpreet Singh Bagga Vs. Ministry of Environment, Forest and Climate Change</i>.</p> <p>22. It is a known fact that in-spite of the above suggested guidelines being in existence, on the ground level, illegal mining is still going on. The existing mechanism has not been successful and effective in remedying the situation.</p> <p>23. Since there is utter failure in the current monitoring mechanism followed by the State Boards, SEIAAs and DEIAAs, it is required to be revised for effective monitoring of sand and gravel mining and a dedicated monitoring mechanism be set up.</p> <p>24. It has been brought to our notice that Ministry of Mines & Indian Bureau of Mines (IBM) have developed Mines Surveillance System (MSS), with assistance from Bhaskaracharya Institute for space applications and Geo-informatics (BISAG), Gandhinagar and Ministry of Electronics and Information Technology (MEITY). The Mining Surveillance System (MSS) is a satellite-based monitoring system which aims to establish a regime of responsive mineral administration by curbing instances</p>
--	---	---

	<p>Video Conferencing Item No. 03</p> <p>September 04, 2018</p> <p>ss & dv</p>	<p>of illegal mining activity through automatic remote sensing detection technology.</p> <p><u>DIRECTIONS TO MOEF & CC</u></p> <p>25. In view of above discussion, we are of the view that since the subject of mining is also required to be regulated for protection of environment and it is to take care of this requirement, MoEF&CC has issued directions from time to time under Section 3 and 5 of the Environment (Protection) Act, 1986. The MoEF&CC needs to revise its directions keeping in mind the following:</p> <ol style="list-style-type: none"> i. Mining Surveillance System discussed in para 23 above be finalized in consultation with ISRO Hyderabad. ii. Safeguards suggested in Sustainable Sand Mining Guidelines published by the MoEF&CC in the year 2016. iii. Suggestions in the High Power Committee Report. iv. Requirement of demarcation of boundaries being published in respect of different leases in public domain. v. Need to issue SOP laying down mechanism to evaluate loss to the ecology and to recover the cost of restoration of such damage from the legal or illegal miners. Such evaluation must include cost of mining material as well as cost of ecological restoration and net present value of future eco system services forgone. vi. Need to set up a dedicated institutional
--	---	--

**Video
Conferencing
Item No.
03**

**September
04, 2018**

ss & dv

mechanism for effective monitoring of sand and gravel mining which may also take care of mining done without any Environmental Clearance as well as mining done in violation of Environmental Clearance conditions.

vii. The Mining Department may make a provision for keeping apart atleast 25% of the value of mined material for restoration of the area affected by the mining and also for compensating the inhabitants affected by the mining.

viii. One of the conditions of every lease of mine or minerals would be that there will be independent environmental audit atleast once in a year by reputed third party entity and report of such audit be placed in public domain.

ix. In the course of such environmental audit, a three member committee of the local inhabitants will also be associated. Composition of three members committee may preferably include ex-servicemen, former teacher and former civil servant. The Committee will be nominated by the District Magistrate.

26. Such steps may be worked out within two months and circulated to all States. The Mechanism may provide for a report of implementation from the concerned States every quarter. The matter may be reviewed after every six months by the MoEF&CC.

27. The direction with regard to setting up of dedicated institutional mechanism for monitoring of conditions of Environmental Clearance as granted under EIA

	<p>Video Conferencing Item No. 03</p> <p>September 04, 2018</p> <p>ss & dv</p>	<p>Notification, 2006 in respect of sand and gravel mining as directed in para (vi) may be an Over-Encompassing Body to monitor the conditions of Environmental Clearance with respect to all development projects.</p> <p>28. A copy of this order be sent to MoEF&CC by e-mail. Report of the steps taken by MOEF&CC may be furnished to this Tribunal by email at filing.ngt@gmail.com on or before 31.12.2018.</p> <p><u>DIRECTIONS TO THE STATES OF WEST BENGAL AND ODISHA</u></p> <p>29. Apart from above, in view of the grave and alarming situation and gross failure on the part of the authorities in the concerned districts in both the States of Odisha and West Bengal and to prevent illegal and unscientific sand mining in the areas in question, we deem it essential to issue following directions:-</p> <p>(i) The State of West Bengal and Odisha may demarcate the boundaries for regulating grant of sand mining lease within three months from today. No mining lease of minor minerals may be given in the area in question till demarcation is complete. All existing mining operations in those areas shall remain suspended till demarcation work is completed and attains finality. To carry out the demarcation, the Chief Secretaries of the two States may constitute a team of three suitable officers each within two weeks. The said teams may hold their first meeting within one month.</p> <p>(ii) The States of West Bengal and Odisha must ensure that mining in all sand mining blocks is</p>
--	---	--

**Video
Conferencing
Item No.
03**

**September
04, 2018**

ss & dv

undertaken strictly in accordance with the provisions of EIA Notification, 2006, MoEF Notification dated 15th January, 2016 and the Sustainable Sand Mining Management Guidelines, 2016. They must also ensure that no sand mining is permitted without due compliance of Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 as well as regulations governing clearances by the Central Ground Water Authority. The District Administration must be held accountable for any failure.

(iii) District Magistrates and Superintendents of Police, Balasore district in Odisha and Paschim Medinapur, West Bengal, respectively, shall seize all sump pumps, other machinery, tools, vehicles, etc. used for carrying out illegal sand mining.

(iv) Apart from instituting appropriate criminal proceedings against those carrying out illegal mining, exemplary penalty shall be imposed against them by the concerned District Magistrates within three months from today to cover the cost of restoration of environment and to compensate the victims.

(v) The Chief Secretaries of the two States shall also get prepared jointly a detailed restoration plan for river Subarnarekha and its river beds for which a Committee of experts shall be constituted from independent institutions, i.e., the CPCB, Indian School of Mines, Dhanbad and the respective State Pollution Control Boards as members. Such

**Video
Conferencing
Item No.
03**

**September
04, 2018**

ss & dv

constitution may take place within one month.

(vi) The Expert Committee shall carry out detailed study and submit the restoration plan, as far as may be practicable, within three months after its constitution.

(vii) The Committee shall also get the assessment done through Indian Council of Forestry Research and Education, Dehradun of the ecological damage on account of illegal mining by incorporating the following components:

a) Cost of river bed material.

b) Cost of ecological restoration.

c) Net present value of the future ecosystem services foregone.

(viii) The above steps may be facilitated by the Regional Office of the CPCB as nodal officer, by coordinating with the Chief Secretaries of the two States.

(ix) The damage suffered by the inhabitants caused by the illegal mining may also be assessed by the above Committee, which shall form a separate component of the Restoration Plan for river Subarnarekha as per direction No. (v) above. Cost of restoration plan shall be recovered as environmental compensation from the illegal miners, to be identified by the District Magistrate. The component of the compensation in respect of damages suffered by the inhabitants may be credited with District Legal Services Authority. The District Legal Services Authority may disburse the same to the victims of illegal mining, after proper

	<p style="text-align: center;">Video Conferencing Item No. 03</p> <p style="text-align: center;">September 04, 2018</p> <p style="text-align: center;">ss & dv</p>	<p style="text-align: center;">identification.</p> <p style="text-align: center;"><u>OVERSIGHT AUTHORITY IN RESPECT OF STEPS TO BE TAKEN IN THE STATES OF WEST BENGAL AND ODISHA</u></p> <p>30. Justice R.K. Merathia, former Judge of Jharkhand High Court, will act as Oversight Authority (O.A.) for execution of the above directions. He may be provided requisite logistic support for performing his duties by the State of West Bengal. He may also be provided adequate security for visit to the site as and when necessary. The O.A. will be entitled to issue appropriate directions for resolving any issue which may arise in the course of execution of the above directions subject to any objection which may be decided by this Tribunal. The respective District Magistrates in the States of West Bengal and Odisha shall provide the working secretariat as and when the O.A. desires in their respective jurisdiction. The States of West Bengal and Odisha shall provide all logistic support to the O.A. for the purpose of effective discharge of its functions. The O.A. will be entitled to honorarium of Rs. 2.25 Lakhs per month. The payment may be initially made by the State of Odisha followed by the State of West Bengal and alternatively thereafter by the two States.</p> <p>i. The Oversight Authority will take the following steps:</p> <ul style="list-style-type: none"> • Take stock of all actions taken so far. • Prepare time bound action plan to deal with the problem and ensure its implementation. <p>ii. The O.A. may requisition services of such technical experts as may be necessary and may also carry out visits to sites whenever necessary. The O.A.</p>
--	--	---

	<p>Video Conferencing Item No. 03</p> <p>September 04, 2018</p> <p>ss & dv</p>	<p>will be entitled to all logistic support for performing these functions which shall be provided by the respective States of West Bengal and Odisha.</p> <p>iii. The O.A. may also set up website for receiving and giving information on subject.</p> <p>iv. The O.A. may also involve educational institutions for awareness and feedback about results.</p> <p>v. All authorities concerned in the States of West Bengal and Odisha shall cooperate and coordinate with the O.A. The O.A. can seek such technical assistance as may be required from any relevant authority.</p> <p>vi. The Chief Secretaries of States of Odisha and West Bengal to provide all facilities to said O.A. to perform its functions. The O.A. may send its periodical reports to the Tribunal by e-mail.</p> <p>vii. The O.A. may assume its charge within two weeks from today. The O.A. may prepare Action Plan which shall have targets of ensuring compliance.</p> <p>viii. The O.A. will be free to take up all incidental issues. The O.A. will be free to seek any further directions from this Tribunal by e-mail.</p> <p>ix. The District Magistrates of the concerned Districts in the States of West Bengal and Odisha will be the coordinators for their respective Districts.</p> <p>31. The O.A. will initially function for six months and send his reports to this Tribunal by e-mail as and when necessary. First report may be preferably sent within three months.</p>
--	---	--

	<p>Video Conferencing Item No. 03</p> <p>September 04, 2018</p> <p>ss & dv</p>	<p>32. The applicant may furnish a set of papers to the observer. The Registrar, Kolkata Bench may coordinate the working of the observer.</p> <p>33. The application is disposed of.</p> <p>34. A copy of this order be sent to all concerned authorities by e-mail. The concerned authorities may send response by e-mail at filing.ngt@gmail.com.</p> <p>35. To consider the report which may be received in pursuance of the above directions, the matter may be listed in second week of February, 2019.</p> <p>....., CP (Adarsh Kumar Goel)</p> <p>....., JM (Dr. Jawad Rahim)</p> <p>....., JM (S.P. Wangdi)</p> <p>....., EM (Dr. Nagin Nanda)</p> <p style="text-align: right;">04.09.2018</p>
--	---	--