

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5097 of 2024

Maruti Fuels Station a Proprietorship Firm (Proprietor Sivaganesh. N, son of P. Nasraju, 3-28/4, Main Road, S. Annavaram, Tuni, East Godavari, Andhra Pradesh), having its place of business at Mruthi Weigh Bridge Premises, Bhimavaram, Bypass Road Tadepalligudem, District-West Godavari, Andhra Pradesh-534101, through its Authorized Signatory, Mazharul Hasan, aged about 46 years (Male), son of Mojibul Hasan, Khsra-264, Sikrauri, Near Unique High School, Lucknow, Uttar Pradesh-226101.

... .. Petitioner

Versus

1. The Union of India through the Ministry of Environment, Forest and Climate Change, Government of India, Indira Paryawaran Bhawan, Jorbagh Road, New Delhi-110003.
2. The State of Bihar through the Additional Chief Secretary, Department of Mines and Geology, Government of Bihar, Patna.
3. The Director, Mines, Bihar, Patna.
4. The District Magistrate cum Collector, Aurangabad.
5. The State Level Environment Impact Assessment Authority, through its Member Secretary, 2nd Floor, BELTRON, Baldev Bhawan Road, Shastri Nagar, Patna-800023.
6. The Bihar State Pollution Control Board, Parivesh Bhawan, Patlputra Industrial Area, P.O. Sadakat Ashram, Patna-800010, through its Member Secretary.
7. The Mining Development Officer, Aurangabad Aurangabad.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Suraj Samdarshi, Advocate Mr. Avinash Shekhar, Advocate
For the UOI	:	Mr. Mukesh Kumar, Advocate
For the State	:	Mr. Manoj Kumar Ambastha, S.C.-26 Mr. Santosh Kumar Mishra, A.C. to S.C.-26
For the Mines Deptt.	:	Mr. Naresh Dikshit, Spl. P.P. Ms. Kalpana, Advocate
For the SEIAA	:	Mr. Kumar Ravish, Advocate Mr. Rohit Kumar, Advocate
For the BSPCB	:	Mr. Shivendra Kishore, Sr. Advocate Mr. Prisu Snehil, Advocate

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR



C.A.V. JUDGMENT

Date : 19-03-2026

By way of this writ petition, the petitioner has prayed for the following reliefs:-

- i. For a direction to the respondent authorities to consider the site survey report dated 08.12.2023 before proceeding further, as mining over the leased area will be directly in conflict with the statutory provisions, in absence of any replenishment.*
- ii. For a direction to the respondent authorities and in particular MoEFCC to take up the present case with regard lenishment.*
- iii. For a direction to the respondent authorities and in particular Department of Mines & Geology, not to take any coercive step against the petitioner for not proceeding further, till final adjudication of the present writ petition.*
- iv. To grant any other relief or reliefs for which the petitioner may be found entitled to in the facts and circumstances of the case.”*

2. During the pendency of this case, the petitioner has filed Interlocutory Application No.1 of 2024 bringing on record the letter issued by the Collector-cum-District Magistrate, Aurangabad dated 13.03.2024, by which,



according to the petitioner, he was threatened for legal consequences if CTE (Consent to Establish) and CTO (Consent to Operate) is not procured by him in order to operate the sand ghat.

3. Thereafter, Interlocutory Application No.02 of 2025 has been filed for amending the prayer portion of the writ petition and prayer has been made for quashing the memo dated 08.09.2025 issued by the respondent-Director, Mines, whereby the representations dated 14.07.2025 and 26.08.2026 filed by the petitioner have been rejected. The aforesaid interlocutory application has been allowed by this Court *vide* order dated 18.11.2025 and the aforesaid additional prayer has been made part of the main writ petition.

4. The State of Bihar floated a tender for Aurangabad Son Sand Block No.8 and in the aforesaid tender the petitioner participated and became the highest bidder after quoting Rs.61,43,55,300/-. Thereafter, vide letter dated 24.11.2022, the Mining Development Officer, Aurangabad issued in-principle acceptance letter and the petitioner was directed to deposit an amount of Rs.8,68,11,075/- to fulfill the requirement of security deposit, being 25% of the highest bid amount. Thereafter, mining plan was approved and the



petitioner deposited draft of Rs.3,00,000/- along with pre-feasibility report to the Member Secretary, State Environment Impact Assessment Authority (for short "SEIAA") and requested for issuance of the Terms of Reference (ToR). Subsequent thereto, the petitioner vide letter dated 12.04.2023 deposited the requisite fee of Rs.1,50,000/- in favour of the Member Secretary, Bihar State Pollution Control Board towards the expenses for public hearing to be conducted by the Bihar State Pollution Control Board and thereafter the public hearing was conducted on 02.06.2023.

5. At the time of public hearing, the petitioner visited the local of Aurangabad Son sand block no.8 and observed that massive excavation was already made to the aforesaid sand *ghat* and consequently, requested the respondent no.7- Mining Development Officer, Aurangabad to provide the informant with regard to the excavation, however, a reply was issued from the office of the Mining Development Officer accepting that from 01.10.2022 to 31.03.2023 about 2,37,490 Metric Tonnes of sand was dispatched. Therefore, it is the case of the petitioner that the aforesaid letter dated 04.07.2023 clearly shows that even after issuance of tender, mining of sand from the sand *ghat* allotted to the petitioner continued and in the



meeting dated 22.09.2023, the State Level Expert Appraisal Committee (SEAC), under Agenda Item No.01 had observed as under :-

“The Project Proponent along with their environmental consultant M/s. Rian Enviro Pvt. Limited. made a presentation on the key parameters and salient features of the project. The Project Proponent informed the Committee that enough replenishment of sand has not happened after closure of mining by the previous lease holder. In such a situation, the project proponent expressed its disinterest in obtaining environmental clearance for operating the sand ghat in the present condition. Therefore, the committee decided to recommend to the SEIAA to refer the matter to the Department of Mines and Geology, Govt. of Bihar for the comments”.

6. Thereafter, it is the case of the petitioner that he had requested the SEAC to grant the environmental clearance only after assessment of replenishment of the sand ghat is carried out. Further, vide letter dated 23.12.2023 the petitioner handed over a soft copy of drone videography showing the current status of the sand ghat. Despite not conducting the fresh replenishment study, the respondent authorities issued the environmental clearance in favour of the petitioner on 30.01.2024. After issuance of environmental



clearance, the petitioner made a representation dated 03.02.2024 to the District Mining Officer, bringing to his notice all the relevant facts but no action has been taken in this regard and the District Magistrate vide letter dated 13.03.2024 threatened the petitioner of legal consequences if he fails to obtain CTE/CTO and commence the mining work, which is brought on record by way of interlocutory application.

7. According to the petitioner, pursuant to the direction of this Court vide order dated 18.03.2025, he had filed a representation before the respondent no.3, who vide his order dated 08.09.2025 rejected the same.

8. Learned counsel for the petitioner submits that the petitioner while participating in the tender process floated for sand block No.8 on 01.11.2022 had merely accepted the existing position as on the date of the tender, however, the respondent authorities between October, 2022 and March, 2023 had admittedly excavated 2,37,490 M.T. of sand equivalent to Rs.23.24 crores from the same sand *ghat* for which the tender was floated. Therefore, it is submitted that there is no dispute with regard to the fact that mineral potential, as existing on the date of tender, as also on the date of issuance of in-principle sanction order, was substantially reduced for which the



petitioner cannot be prejudiced and no estoppel can operate against him behind his back.

9. Learned counsel for the petitioner further submits that after issuance of in-principle sanction order, when mining was carried out by the contractors employed by the Bihar State Mining Corporation, the respondent authorities were duty bound to carry out fresh replenishment study in terms of the Enforcement & Monitoring Guidelines for Sand Mining, 2020 issued by the Ministry of Environment, Forest & Climate Change. Adverting to Clause-5 of the aforesaid Guidelines, it has been submitted that replenishment study and mineral potential is ascertained only after a detailed replenishment study is conducted, as excavation has to be limited to estimated replenishment, with consideration of other regulatory provisions.

10. It is the submission of learned counsel for the petitioner that in Clause 5.2.4 titled '*Replenishment study shall have the details of*' of the aforesaid Guidelines, it has specifically been mentioned that replenishment study having detailed comparison of both pre-Monsoon and post-Monsoon elevation data should mandatory be attached.

11. The next submission of learned counsel for



the petitioner is that since the Department of Mines had accepted that that mining was carried out till March, 2023, although illegal mining continued even thereafter, it was imperative on the part of the respondent authorities to get the replenishment study carried out pre-Monsoon, 2023 and post-Monsoon, 2023 and only then mineral potential could have been assessed, however, the said exercise has not been carried out in the present case and therefore, the petitioner cannot be forced to accept the terms and operate Sand Block-08 Aurangabad only on assumption that sand must have been replenished.

12. It has been submitted by learned counsel for the petitioner that the Hon'ble Supreme Court recently in the case of *Union Territory of J&K & Anr. vs. Raja Muzzaffar Bhat & Ors.* reported as *2025 SCC OnLine SC 1789*, has held that replenishment report is mandatory and even DSR without such report is *void*.

13. Adverting to Annexure-13 and 13/A of the writ petition, which is the letter dated 03.02.2024 written by the petitioner to the District Mining Officer, Aurangabad annexing the Site Survey report dated 08.12.2023, it has been argued by learned counsel for the petitioner that the Site Survey conducted by the petitioner and its report dated 08.12.2023 clearly reveal



that there was no replenishment and there were 59 pits already mined out having depth of about 3 to 5 meters and the sand was available only in approximately 25% of the total mining lease area. It is the submission of the petitioner that the aforesaid report has not been controverted by the respondent authorities and now they are taking shelter of the clauses of the tender, which are not relevant for the present purpose. It has also been argued that the clauses of the tender only refer to verification of the mining lease area prior to participation in the bid, the Department having accepted the royalty from third parties against mining from the said area cannot be permitted to take advantage of its own wrong. It is the further submission of learned counsel for the petitioner that most of the area allotted to the petitioner is devoid of sand and having a thick cover of vegetative soil and agriculture is being practiced. The mining area has been stabilized and no sign of sand replenishment is envisaged.

14. It has further been argued that there is no replenishment study carried out by the respondent authorities for pre & post - Monsoon, 2023, whereas E.C. has been issued on 30.01.2024 (Annexure-P/12) and even the specific conditions of the environmental clearance stipulates that



excavation of mineral must be commensurate to the replenishment.

15. He has drawn the attention of this Court to Clause 21 of the Specific Condition of E.C. which reads as under:-

"Project proponent shall submit annual replenishment report certified by an authorized agency. In case the replenishment is lower than the approved rate of production, then the mining activity / production levels shall be decreased / stopped accordingly till the replenishment is completed."

16. It is the submission of learned counsel for the petitioner that the Hon'ble Supreme Court in the case of ***State of Bihar & Ors. vs. Pawan Kumar & Ors. (Civil Appeal Nos. 3661-3662 of 2020)*** reported as ***(2022) 2 SCC 348***, had permitted for the time being, the State Government to carry out mining activities through Bihar State Mining Corporation, for which, it may employ the services of the contractors and therefore, in view of the aforesaid, it is the respondent authorities who are the project proponent and therefore, they ought to have submitted the replenishment report, but the same was not submitted since there was no replenishment of sand in Block No.08, Aurangabad. As such, it is argued that it would be



unfair on the part of the respondents to withhold the money of the petitioner and coerce him to conduct mining, knowing fully well the reduced mineral potential.

17. It is submitted by the petitioner that earlier in this proceeding, the respondents have accepted the *factum* of changed scenario and a coordinate Bench of this Court *vide* order dated 18.03.2025 directed the petitioner to represent its case before the Director, Mines and make an application under Rule 29-A(1)(d) of Rules, 2019, i.e. meant for submission of mining plan and the said representation was rejected on the ground that no revised mining plan was submitted by the petitioner ignoring Rule 17(4), which mandates that mining plan has to be submitted within a period of three months from the date on which communication regarding grant of mineral concession is received, or such other period as may be decided/allowed by the Department for submission of approved mining plan. As such, without permission being granted by the Department, the petitioner could not have submitted a revised mining plan. However, recently a drone survey was carried out in May, 2025 (Annexure- P/15), which clearly suggests that there has been no replenishment of sand.

18. It is the next submission of learned counsel



for the petitioner that even there is clear embargo on mining sand beyond a depth of 03 meters as per Rule 30 of the Rules, 2019, however, adverting to both the drone survey reports of 2023 and 2025, which has already been brought to the notice of the respondents, in which it has clearly been indicated that there are more than 35 mined out pits with depth of more than 3 meters, already existing and the same is not being acknowledged by the respondents. The petitioner is also apprehensive of the fact that once agreement is executed and the petitioner commences mining operation, allegation can be leveled and agreement can be terminated under Rule 30. As such, until and unless existing situation of mining lease area is specifically admitted by the respondent authorities, the petitioner cannot be forced to operate the sand *ghat* on two grounds, *firstly* the reduced mineral potential and *secondly* already mined out pits by illegal miners which are more than 3 meters in depth. The Department having altered the position and received royalty from third party for the lease area, should either carry out the entire exercise afresh or should refund the security deposit of the petitioner and reconsider the geo coordinates of the mining lease area itself.

19. In this case, a counter affidavit has been



filed by the respondent no.5- SEIAA wherein it has been stated that the role of the SEIAA is to consider and grant environmental clearance as per the scheduled mentioned in the EIA notification as amended from time to time. In present case, the environmental clearance has been granted to the petitioner upon due assessment as per the EIA notification.

20. In the counter affidavit filed by the respondent nos. 1 to 4 and 7, it has been stated that though it has been admitted by them that they have given temporary lease to some private persons for carrying out mining into the said area for which the tender notice was published but the said temporary lease were granted in terms of the orders passed by the Hon'ble Supreme Court in the case of **Pawan Kumar (supra)**. It has also been stated that after conducting the fresh DSRs in terms of the directions of the Hon'ble Supreme Court, fresh e-auction was conducted for the sand *ghat*, in which the petitioner participated in the tender and became the highest bidder for Aurangabad Sone Sand Block No.8. The respondents have emphasized Clause-42(xix) of the Tender Document, wherein it has been provided that before participating in the tender, the bidders should, at their own level, consider among other things, the availability of sand in the *Balughat* area but, no



objection or claim of any kind shall be entertained after the auction process. In view of the aforesaid clause of the Tender Document, the petitioner being fully satisfied about the availability of sand and other factors made the bid in the e-auction to the tune of Rs. 61,43,55,300/- against the minimum reserve amount of Rs. 26,71,11,000/- and now the claim of the petitioner cannot be entertained.

21. Further, it has been stated that the estimated mineral quantity for the purpose of grant of lease is provided in the notice inviting tender, which is based on a scientific estimate i.e. the DSR prepared in terms of the SSMG 2016 and EMGSM 2020. Therefore, there is no issue in the quantity and availability of mineable sand in the instant sand *ghat* and the entire issue is being created with the sole motive to reduce the royalty amount to be paid by the petitioner.

22. It is further submitted that even if some amount of sand excavated by the contractor appointed by the BSMCL, under the directions of the Hon'ble Supreme Court, is deducted from the total sand reserve of the Aurangabad Sone-08 sand *ghat*, even then more than 60% of reserve is still available in the said sand *ghat* and petitioner is only allowed to mine 60% of the total sand reserve as per the EMGSM 2020.



23. It has also been stated in the counter affidavit that the Department of Mines and Geology, Bihar has conducted the survey through the Central Mine Planning and Design Institute Ltd. (CMPDIL), Ranchi regarding the replenishment study of the Sone river within the Aurangabad District, which shows that the total availability of sand in the Sone River of Aurangabad is 97%. The said replenishment study of Sone river reveals that there is sufficient sand available after every monsoon. Further, the e-auction for settlement of sand *ghat* in question was for the 5 years from date execution of lease deed and the petitioner is well aware of the fact that mineable reserve shown in tender document is only for the first year of settlement and the sand is regularly replenished after monsoon and therefore, there will be sufficient quantity of sand in the subsequent years.

24. Lastly, it has been stated in the counter affidavit that there is no provision in the Bihar Minerals (Concession, Prevention of Illegal Mining, Transportation and Storage) Rules, 2019 for compensation or refund or for reducing the royalty amount on any of the grounds mentioned by the petitioner. Further, the petitioner after accepting the terms of the tenders had submitted his bid and in terms of



Clause 22(v) of the tender document, if the successful bidder fails to obtain the statutory clearance, the Collector shall forfeit the security deposit.

25. Learned counsel for the answering respondents submits that in the present writ petition the petitioner has made allegation that there is no replenishment in Aurangabad Sone Sand Block No.08 based on a private drone survey report dated 06.12.2023, which has no statutory recognition and was never accepted by any authority. He further submits that despite the specific direction of this Court vide order dated 17.06.2025 to the petitioner to file an application, the petitioner has not filed any such application and a completely false and frivolous statement has been made by him before this Court that it has already filed a representation before the answering respondent and as soon as the said order of this Court came to the notice of the respondent authorities, the Assistant Director made a communication to the petitioner vide memo no.4080 dated 25.03.2025 informing that the petitioner has not filed any application/representation before the respondent authority and further directed that if such application has been filed then proof of such filing may be provided or else such representation may be filed at the earliest so that the matter



may be disposed of in light of the order of this Court. Therefore, it is the submission of learned counsel for the respondents that the petitioner has not filed any representation pursuant to the direction of this Court and it has made statement of filing of representation only with a view to harass and humiliate to the respondent authorities.

26. It has also been submitted that the petitioner has already undergone the entire statutory processes i.e. DSR, Mining Plan approval, ToR, Public hearing and thereafter, it has been granted environmental clearance on 30.01.2024 and now it is not open to the petitioner to claim that no replenishment study was done over the sand ghat.

27. The respondents, in reply to the interlocutory application no.02 of 2025 filed by the petitioner challenging the order dated 08.09.2025, has made the following statements:-

“7. That at the outset, it is pertinent to state that the order contained in Memo No.4994A dated 08.09.2025 issued by the Respondent Director, Mines is a speaking and reasoned order which has been passed in compliance of Principles of Natural Justice, taking into consideration all the submissions made by the Petitioner in his representations dated 14.07.2025 and 26.08.2025 as well as the submissions made by



the Learned Counsel of Petitioner before the Respondent authority.

8. *That it is humbly stated that the Petitioner in his representations dated 14.07.2025 and 26.08.2025 had asserted the following points for consideration:-*

I. The mine lease area, spanning 98.93 hectares, has limited sand availability with only 25% of the area containing sand as of December 2023 and no significant replenishment observed by May 2025.

II. Approximately 42.5 hectares of the lease area is currently utilized for agricultural purposes, supporting the livelihood of the local community.

III. A total of 19.1 hectares has already been mined out, indicating substantial prior extraction.

iv. The surveys confirm no sand replenishment has occurred over the past two years, rendering further mining activities unsustainable both environmentally and financially.

9. *That it is humbly stated that the impugned order has been passed by the Respondent Director, Mines on the following grounds:-*

i. The representations dated 14.07.2025 and 26.08.2025 was filed in the light of the order dated 18.03.2025 wherein the Hon'ble Court directed to file an application/representation under Rule



29A(1) (d), however, the representations do not contain any reference to Rule 29A(1)(d) nor any request has been made for approval of revised Mining plan.

ii. During the course of hearing on 02.09.2025, when the Respondent asked the Petitioner to submit revised mining plan in the light of the Hon'ble Court's order, the Petitioner refused to submit the said revised mining plan.

iii. The total mineable quantity of sand has been fixed as 17,80,740 cubic meter which is evident by District Survey Report, EC issued by SEIAA, Bihar, LOI issued by Mineral Development Officer, Aurangabad vide letter no.- 2072, dated- 24.11.2022 as well as the tender document.

iv. Clause 42(xii) of the Tender document provides that the State shall not be liable to compensate in case of hindrance arising in excavation due to unavailability of sand, disputes of boundary etc.

V. Clause 42(xii) of the Tender document provides that the settlee shall not be entitled to any claim in case problem arises in production/transportation of sand due to unavailability of mineral resources, obstacle in approach path, boundary dispute etc.



vi. *Clause 42(xix) of the Tender document provides that the bidder before entering into the bidding process shall inspect and satisfy himself with regard to availability of sand, transportation path etc.*

vii. *The Clause 5(iv) of Lol given by the MDO, Aurangabad as contained in letter no.2072 dated 24.11.2022 provides a condition for permissible quantity for mining which has also been accepted by the Petitioner. The said clause provides that the quantity of sand as permitted under Mining Plan, Environmental Clearance, Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 (whichever is lesser) shall be permitted to be excavated. In case of decrease in permitted mining quantity, the settlement amount shall not be decreased.*

viii. *As the Petitioner did not submit any proposal for revised mining plan, therefore, the mining quantity as provided under Clause 5(iv) of Lol shall not be considered.*

10. *That it is submitted that based on the grounds as stated herein above, the representations submitted by the Petitioner has been rejected by the Respondent Director, Mines by virtue of the impugned order."*



28. It has been submitted by the respondents that in the present case the core issue regarding conducting of replenishment study or not is a highly technical and factual matter requiring an expert assessment, which cannot come under writ jurisdiction. In support of this submission, he has relied upon the decision of the Hon'ble Supreme Court in the case of *ABL International vs. ECGC* reported as *(2004) 3 SCC 553* wherein it has been held that where determination of disputed questions of fact is necessary, particularly involving technical evaluation, writ jurisdiction is not the remedy.

29. It is the next submission of learned counsel for the respondents that the petitioner has already been granted an environmental clearance on 30.01.2024 and under section 16 of the National Green Tribunal Act, 2010, any challenge to environmental clearance must be filed before the National Green Tribunal. In support of this submission, he has relied upon a decision of the Hon'ble Supreme Court in the case of *State of Bihar vs. Jain Plastics* reported as *AIR 2002 SC 206*.

30. It is submitted that the petitioner has voluntarily participated in the tender process accepting the tender conditions and thereafter obtained mining plan and terms of references and whereafter public hearing was done and



ultimately the environmental clearance was issued, now he cannot take the ground that no replenishment study was done for the sand *ghat*. In support of this submission, he has relied upon the decision of the Hon'ble Supreme Court in the case of ***Rajasthan SIDS vs. Diamond & Gem*** reported as **(2013) 5 SCC 470**, wherein it has been held that a party who has voluntarily accepted the contractual terms cannot approbate and reprobate.

31. The next submission of learned counsel for the petitioner is that the respondents have followed all the statutory steps for verifying the sand availability on the sand *ghat* and no authority has ever accepted the petitioner's private survey report, inasmuch as, the pits existed due to illegal mining and not due to lack of replenishment and moreover, the petitioner has not produced any scientific or statutory material to substantiate its clam.

32. So far as the submission of learned counsel for the petitioner that the SEAC has accepted the petitioners plea in the meeting, it has categorically been submitted that the observations of the SEAC did not accept the contention of the petitioner as it merely sought comments from the Mining Department. Since EC was granted by the competent authority, the issue become conclusively decided and cannot be reopened



at this stage.

33. I have considered the submissions of the parties and perused the materials available on record.

34. In the present case, the availability of sand in the Aurangabad Block No.8 sand *ghat*, settled in favour of the highest bidder i.e. petitioner, by way of e-auction, was put to question on the ground that short term mining permits were issued to third parties, which according to the petitioner, resulted in severe depletion in availability of sand. During the course of obtaining environmental clearance, the petitioner came to know the state of depletion of sand in the aforesaid sand *ghat*. The petitioner brought the fact that enough replenishment of sand has not happened after closure of mining by the previous lease holder, to the SEAC, which decided to recommend to the SEIAA to refer the matter to the Department of Mines and Geology, Government of Bihar for the comments. Thereafter, it appears that the petitioner took upon himself and conducted a drone survey to further ascertain the extent of depletion and availability of sand in the aforesaid sand *ghat*.

35. On the other hand the contention is rebutted by the answering respondents by stating that the river in question is a living river having continuous and sufficient



annual replenishment and therefore, a post bid reassessment is impracticable.

36. It is settled law that the mining activities cannot be permitted beyond the annual replenishment rate since that would endanger the environment and if the geological processes that naturally replenish the availability of sand cannot match the rate at which the mining occurs then over the period of time aggressive and continued mining activity would result in long term environmental damage. Therefore, sustainable development is *sine qua non* to strike a balance between developmental activities and the conservation of environment.

37. Recently, this Court in the case of ***Manjeet Chawla vs. State of Bihar & Ors.*** reported as **2026 SCC OnLine Pat 535** has already held that replenishment study is *sine qua non* for sand mining projects.

38. It is settled law that mining over river beds cannot be permitted contrary to the replenishment rate of sand and that a replenishment study must be undertaken by the State before auctioning the sand *ghats* since the replenishment study forms the very basis on which the quantity of permissible mining is determined and subsequently the environmental clearance is granted. This Court has noted that under Clause-5



of the Enforcement & Monitoring Guidelines for Sand Mining, 2020 issued by the Ministry of Environment, Forest & Climate Change, the need for replenishment study is paramount in order to nullify the adverse impact arising due to excessive and aggressive sand extraction. Thus, the replenishment study is not merely to ascertain the permissible quantity of sand for extraction but also is necessary to minimize the adverse impact therefrom and strike a balance between sand extraction / mining and preservation of riparian habitat.

39. It is equally settled that the State holds all natural resources including the minerals as a trustee of the public and must deal with them in a manner consistent with the nature of such a trust.

40. In the present case, the State ought to have considered a fresh replenishment study in order to ascertain the availability of sand in the Aurangabad Sone Sand Block No.8 and the true prevailing replenishment rates before proceeding with the auction. The mere averment by the respondent authorities that river Sone being a living river and replenishment being a natural course without substantiating scientific basis for arriving at such a conclusion is insufficient. It is true that the respondents cannot rely upon the drone survey



conducted by the petitioner but they cannot escape from the duty cast upon them to act in the best interest of the natural resources and to prevent aggressive mining of sand in the sand *ghat* and hamper the ecosystem.

41. What is clearly crystallized is that the annual extractable quantity must be less than the annual replenishment rate in order to align strictly with sustainable mining practices.

42. For the foregoing reasons, in order to strike a fair balance and keeping in view the sustainable mining practice, this Court deems it appropriate in the interest of justice to direct for concerned respondent authorities to conduct a fresh replenishment study for the Aurangabad Sone Sand Block No.8 by a competent authority / institution to ascertain the present and true quantity of sand available in the sand *ghat* and its replenishment rate in the sand *ghat*, which has been allotted to the petitioner. Till such replenishment report is submitted, the respondents are restrained from taking any coercive action against the petitioner.

43. After the replenishment study is conducted, the parties shall take all necessary steps expeditiously to commence the process of mining in order to prevent any further loss to the State.



44. With the aforesaid observations and directions, this writ petition is allowed and disposed of to the above extent.

(Sandeep Kumar, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	22.12.2025
Uploading Date	24.03.2026
Transmission Date	

