

**Site visit to ascertain the factual position of illegal sand mining in Gautam Budh Nagar,
Uttar Pradesh**

As per the Ministry of Environment & Forest office order no. Z-11013/170/2013-IA.II(M) dated 6th August, 2013 a three member Committee comprising of Dr. Saroj, Director, MoEF, New Delhi, Shri G.C. Meena, Deputy Collector of Mines, Incharge Dehradun Office of IBM, Dehradun, Dr. K. K. Garg, Director, Regional Office of MoEF, Lucknow was constituted to enquire into the adverse environmental impact of the alleged illegal sand mining in Gautam Budh Nagar, Uttar Pradesh.

2. The Committee along with three mining officials from the State Govt. of U.P. Mine and Geology Department and DFO, Gautam Budh Nagar Forest Department visited sites on 07.08.2013 along the river Yamuna and Hindon namely Hindon Bridge near Kisan Chowk, Yamuna Bridge (Zuppa Village) on Hamid Pur – Palval Road, Jewar, Mannathal village (confluence of river Yamuna and Hindon) , Gaddi – Samastipur Village, Kundli Village, Raipur Khadar and Yakutpur (**Map of the Gautam Budh Nagar District at Annexure – I**).

3. The observations of the Committee regarding the above sites visited are as follows:

i) *Hindon Bridge near Kisan Chowk –*

At this site the Committee observed that both the banks were covered with full grown grass and it appeared that no sand mining has taken place.

ii) *Yamuna Bridge (Zuppa Village) on Hamid Pur – Palval Road, Jewar –*

While travelling towards the Yamuna Bridge, it was observed that at various places on both sides of the road scattered heaps of sand were lying. The Committee enquired from some of the villagers whether sand mining was taking place in the recent past. The villagers informed that such activities have been carried out. It was also informed that some of the villagers lend their farms for storing the sand and it is lifted as and when it is economically viable. On the Yamuna Bridge, scattered heaps of sand were visible along with signs of lifting the material. The impressions of movement of vehicles were also visible as is evident from the photographs at **Annexure - II**.

iii) *Mamnathal village (confluence of river Yamuna and Hindon) –*

At this site, deep excavated areas were noticed along the bank of river Yamuna indicating lifting of sand. The path towards the bank had impressions of movement of heavy vehicles. At a distance of about 1 km. there was a small building where a JCB was seen which is evident from Photograph at **Annexure – III**.

iv) *Gaddi – Samastipur Village –*

While moving towards these villages, the sand was lying on both sides of the path. It was also observed that sand was stored at few places in these villages. At the site of bank of river heaps of sand mine was stored and visible impressions of lifting the sand was noticed. The water was seen just adjacent to these heaps of sand. It was informed by one of the villager that there was no water till late night of 6th August and all of sudden water was pumped in huge quantity. The Committee discussed with school children whether the mining activity is taking place opposite their village or not and whether this water was there yesterday or not. The children informed when they left for school in the morning the water level was very low and in about five hours time, the entire bank was full of water. One of the villager also informed that he had crossed this area by boat and had walked on the bank but he was surprised to see water level has gone up on the bank within a span of 4 hours. Based on the discussions with the villagers and also by visual observations, it appears that excavated area has been filled with water. **Photographs depicting the above scenario is at Annexure – IV.**

v) *Kundli Village –*

While approaching the village it was noticed that in and around the village there were lots of sand storage / stocks as can be seen from the Photographs at **Annexure – V**.

vi) *Raipur Khadar –*

It was informed by the State Officials that the State Govt. has granted three mine leases in Gautam Budh Nagar. All the three leases granted are adjacent to each other in Raipur Khadar area. The details are as follows:

- (i) Chakbasantpur having MLA of 151 acres which expired on 1st May, 2013.
- (ii) Azgarpur Jagir having MLA 100 acres which expired on 1st May, 2013.
- (iii) Raipur khadar having MLA 156 acres has been extended till 15th September, 2013.

The Committee observed that there was no mining activity taking place at present. These mines were operating in the past without seeking environmental clearance from MoEF / SEIAA and no NOC/consent to operate from UP SPCB. Hence, their operation was in violation of the environmental regulations. **The site Photographs can be seen at Annexure – VI.**

vii) Yakutpur –

It was observed that sand mining was evident on the bank of river and heaps of sand were seen in the vicinity of the village. **Photographs depicting the activity is at Annexure – VII.**

4. Existing legal frame work:

The existing legal frame work for undertaking mining activity are as follows:

- (i) As per MMDR Act, 1957 as per section 15 power has been delegated to the State Govt. to make rules in respect of minor minerals and as per section 23 (C) powers have been delegated to the State Govt. to make rules for preventing illegal mining, transportation and storage of minerals. The State Govt. needs to take action for such illegal mining activity under these sections of MMDR Act, 1957 and IPC.
- (ii) As per the Environment Impact Assessment (EIA) Notification, 2006, as amended, requires mining projects (new projects, expansion or modernization of existing projects as also at the stage of renewal of mine lease) with lease area of 5 ha and above, irrespective of the mineral (major or minor) to obtain prior environment clearance under the provisions thereof. Mining projects

with lease area of 5 ha and above and less than 50 ha are categorized as category 'B' whereas projects with lease area of 50 ha and above are categorized as category 'A'. The category 'A' projects are considered at the central level in the Ministry of Environment & Forests while category 'B' projects are considered by the respective State/UT Level Environment Impact Assessment Authority, notified by MoEF under the EIA Notification, 2006.

5. Directions given by the various courts for mining of minor minerals which are as follows:

- (i) As per Supreme Courts direction Special leave petition (C) no. 19628-19629 of 2009 with SLP(C) Nos. 729-731/2011, 21833/2009, 12498-499/2010, SLP(C)... 16157/2011 & CC 18235/2011 order dated 27th February, 2012 directed *“that leases of minor mineral including their renewal for an area of less than five ha be granted by the States/UTs only after getting environmental clearance from the MoEF.”* In order to ensure compliance MoEF issued a circular No. L-11011/47/2011-IA.II(M) Dated 18th May, 2012. It has now been decided that all mining projects of minor minerals including their renewal, irrespective of the size of the lease would henceforth require prior environment clearance. Mining projects with lease area up to less than 50 ha including projects of minor mineral with lease area less than 5 ha would be treated as category 'B' as defined in the EIA Notification, 2006 and will be considered by the respective SEIAAs notified by MoEF and following the procedure prescribed under EIA Notification, 2006.
- (ii) Recently NGT, New Delhi in Original application no. 171 of 2013 has passed an order on 5th August, 2013 that *“In the meantime, we restrain any person, company, authority to carry out any mining activity or removal of sand, from river beds anywhere in the country without obtaining Environmental Clearance from MoEF/SEIAA and license from the competent authorities. All the Deputy Commissioners, Superintendent of Police and Mining Authorities of all the respective States are directed to ensure compliance of these directions” (Annexure - VIII).*

(iii) High Court of Allahabad in **Writ Petition No. 9416 (M/B) of 2010** Mohd. Kausar Jah vs. Union of India and others AND **Writ Petition No.10025 of 2010 (M/B)** on 29th April, 2011 directed:

(A). In respect of mining leases whose period expired after coming into force of the notification dated 14.9.2006, as also in respect of new mining leases granted subsequent to 14.9.2006, it is mandatory to obtain environmental clearance under the Notification dated 14.9.2006. Many holders of mining leases from the district Saharanpur have applied for environmental clearance and their applications are pending and as there was some dispute as to whether minor minerals, include sand/silica falling within the definition of mining minerals, we grant time till 30.6.2011 to carry on the mining operations.

(B). The State Government to ensure as on 1.7.2011 that no person anywhere in the State will carry out any mining activity of minor minerals including sand/silica based on the mining leases, which do not have the environmental clearance under the notification of 14.9.2006.

As a follow up of the above Hon'ble High Court of Allahabad direction, the U.P. State Govt. issued a circular no. 6193/86-2011-127/11 dated 29th June, 2011 to all District Collectors for effective compliance of the directions (**Annexure – IX**).

6. Conclusion:

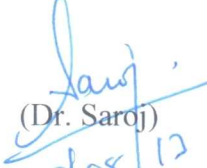
In view of the observations of the Committee, existing legal frame work and the directions given by the various courts for mining of minor minerals it is evident that rampant, unscientific and illegal mining has been going on at various locations in the Gautam Budh Nagar District along the Yamuna River. This is in violation of the environmental regulations, the Mines and Minerals (Development and Regulation) Act, 1957 and the directions given by the Hon'ble Supreme Court, Hon'ble High Court of Allahabad and NGT New Delhi.

7. Suggested further course of action:


- (i) As per the directions given by the Hon'ble Supreme Court on 27th February, 2012 all State Governments need to frame Minor Mineral Concession Rules within a period of six months and submit their compliance report. The recommendation for river bed mining need to be adopted:
 - (a) In the case of mining leases for riverbed sand mining, specific river stretches should be identified and mining permits/lease should be granted stretch wise, so that the requisite safeguard measures are duly implemented and are effectively monitored by the respective Regulatory Authorities.
 - (b) The depth of mining may be restricted to 3m/water level, whichever is less.
 - (c) For carrying out mining in proximity to any bridge and/or embankment, appropriate safety zone should be worked out on case to case basis, taking into account the structural parameters, locational aspects, flow rate etc. and no mining should be carried out in the safety zone so worked out.
- (ii) As per Minor Mineral Concession Rules of U.P., the State Govt. is required to grant mine lease area with Khasra Nos. for undertaking mining activities. The mine lease granted should have coordinates identified (Latitude and Longitude).
- (iii) The proponent should also prepare a mine plan which should be duly approved by the State Department of Mines & Geology.
- (iv) As per the Hon'ble Supreme Court's order dated 27th February, 2012, all mine leases irrespective of area should obtain EC as per EIA Notification, 2006.

- (v) While seeking environmental clearance for carrying out sand mining activity the following should be adopted:
- Prior environmental clearance is mandatory from MoEF/SEIAA irrespective of the mine lease area.
 - Need to undertake a study for cumulative impact due to sand mining and adopt cluster approach. 'Cluster Approach' to be adopted for collection of baseline data, which shall adequately cover every single Lease Area under consideration before seeking Environmental Clearance. The cumulative impact study should emphasise on pollution load due to transportation, available infrastructure for transportation, details of transportation of mined out materials as per the Indian Road Congress for both the ways (Loaded as well as unloaded trucks) rate of sedimentation etc.
 - Need to undertake an annual replenishment study from recognised institution. In case the replenishment is low the mining activity / production levels shall accordingly be decreased / stopped.
 - No in-stream mining should be permitted as it affects the aquatic life. In case the State Govt. wishes to undertake in-stream mining they need to have a study conducted from recognised Institution to examine the impact of mining of plankton, benthic flora and fauna, turbidity downstream and other related environmental parameters.
- (vi) Regular monitoring of the mining activity to ensure that effective compliance of stipulated environmental conditions and are abiding to the Minor Mineral Concession Rules of the State Govt.

(vii) Appropriate Disaster Management safeguards in view of the high seismicity of the area.


(Dr. Saroj)
08/08/13


08/08/2013
(Shri G.C. Meena)


8/8/13
(Dr. K. K. Garg)
