

# MOOT PROBLEM

1. The Republic of Indica is a peninsular country comprising of water and rich mineral resources and has a huge population size. Its geography and laws are in pari materia to that of India. State of Kolam and State of Galtok are two border-sharing states situated in the Republic of Indica which hold enough sand resources and other minor minerals falling into the jurisdiction of Central Zonal Bench and Western Zonal Bench of National Green Tribunal respectively.
2. The State of Kolam is ravaged by illegal sand mining and has experienced a severe loss in terms of fresh water resource and loss of ecology in the year 2014 and 2015 and is continuously struggling to meet the needs of people due to ecological disbalance caused by aggressive mining. The State of Kolam recently adopted Sand Mining Policy 2016 which has been amended several times as compared to earlier Sand Mining Policy 1996.
3. Goodwill Mining Corp is a big company having both domestic and international operations and it has its headquarters at Coimbal in the State of Kolam. The company has been a partner in many semi-government mining ventures and is known for its expertise in mining exploration.
4. Nature Protector Club is an Non-Governmental Organisation (NGO) registered as per the laws in the State of Kolam and has been working towards the sensitive issue of water preservation. It has been instrumental in creating awareness about water pollution through industrial waste water management.
5. In the year 2016, Goodwill Mining Corp applied for environmental clearance as per the EIA Notification 2006 before the State Environment Impact Assessment Authority (SEIAA) for an area measuring 52 Hectares spread in 14 patches near the banks of River Parmanadi and about 17 km from the city of Khetu. The city of Khetu is a city with a population base of 30 Lakh people and the residents of Khetu constitute the highest employee base for the Goodwill Mining Corp.
6. In the year 2018, the City of Khetu again suffered a huge water crisis which was so immense that thousands of people were forced to adjust with a small quantity of water. In the same time, Nature Protector Club issued several press releases and newspaper articles alleging that the water crisis was a result of rampant mining activities carried out by Goodwill Mining Corp in a leased area against the “General” and “Specific” conditions mentioned in the permission granted by SEIAA. These activities unnaturally depleted sand at the bank of river Parmanadi due to which flow of the river suffered a huge setback.
7. Meanwhile in a surprise inspection made by the authorities in the District of Kampukh situated 320 km from the valid mining lease area of Goodwill Mining Corp, some trucks owned by Goodwill Mining Corp having registration number of State of Galtok were found to be carrying sand without any valid permit or royalty. On questioning, the drivers of the trucks revealed that they were carrying sand from City of Calta situated in the State of Galtok to the State of Kolam and the sand was meant to be sold to private contractors in the city of Khetu. The authorities were also informed at police station Calta that some complaints of illegal excavation by these trucks were made by local villagers. Trucks and machineries owned by the Goodwill Mining Corp were accordingly seized and taken into custody by the authorities in the State of Kolam. It came to the knowledge of the Goodwill Mining Corp that such surprise inspection was carried out in the compliance of order of the Central Zonal Bench of National Green Tribunal (NGT) to seize vehicles involved in illegal mining.

8. The National Green Tribunal in sub-judice matter titled Radheshyam v State Original Application No. 441/2018, directed seizure and impounding of all vehicles involved in offences against the environment and further directed subordinate courts not to grant custody of vehicles until further directions of the Tribunal. The Magistrate accordingly rejected the application for custody of vehicles filed by the Goodwill Mining Corp for 24 of its trucks. Accordingly, the Company approached the NGT seeking modification of order and custody of trucks and machinery allegedly involved in illegal mining. However, the NGT refused to grant custody of the trucks pending assessment of the damage done to the environment and severity of the offence committed.

9. During the pendency of the matter, the Company approached the Hon'ble High Court of Kolam under S. 482 Cr.P.C vide MCRC No. 443/2018 seeking custody of the trucks and machinery. The Nature Protector Club filed an intervention application and objected to the release of truck and machinery. The Hon'ble High Court, however after listening the parties allowed the interim application of the Company seeking custody of trucks passed an interim order regarding the same subject to an appropriate fine being paid under the Minor Mineral Concession Rules. The aforesaid order of the High Court was challenged by the Nature Protector Club before the Hon'ble Supreme Court in SLP No. 444/2018 stating that the High Court encroached upon the exclusive jurisdiction of the National Green Tribunal while allowing the application under S. 482 Cr.P.C.

10. The water crisis in the City of Khetu worsened by the year 2019 and accordingly Nature Protector Club filed an Original Application No. 82/2019 before the Central Zonal Bench of National Green Tribunal praying for cancellation of all mining lease (total of 32) including that of Goodwill Mining Corp till the water crisis is not resolved as a part of Right to drinking water. On the other hand, the Goodwill Mining Corp pleaded that cancellation of mining lease would be unreasonable without any scientific approval and it was further pleaded that such cancellation will result in loss of employment and livelihood of employees the majority of whom belonged to the city of Khetu itself.

11. During the pendency of the matter, National Green Tribunal constituted a commission directing it to file a report as to the true status of mining activities near the City of Khetu. The Commission in its report apprised the tribunal that out of the 14 patches of mining leases of Goodwill Mining Corp., 2 patches were situated on notified protected forest. Though rampant mining operations were going on in the aforesaid protected forest area, yet none were in violation of any terms and conditions specified by SEIAA. The commission also concluded that in the light of lack of scientific certainty, water crisis cannot be attributed to Goodwill Mining Corp.

12. However, the Central Zonal Bench of National Green Tribunal vide its interim order directed the Goodwill Mining Corp to deposit demand draft to the tune of Rupees One Crore with the Registrar of NGT towards the restoration of environment that has suffered loss due to mining activities in the forest area. The Goodwill Mining Corp filed a Writ Petition No. 223/2019 before the Supreme Court of India challenging the order of the Tribunal stating that the mining operations were being carried only after obtaining relevant permission and the State Government notified the patches as protected forest in the official gazette after grant of mining lease and therefore the fine imposed is unjustified. It was further prayed that unilateral cancellation of mining lease will result in a huge loss to the company especially if such cancellation takes place prior to designated completion period which was 2022.

13. During the pendency of Writ Petition No. 223/2019 before the Supreme Court, Attorney General filed an application seeking clubbing of Original Application No. 441/2018, MCRC No. 443/2018, SLP No. 444/2018, Original Application No. 82/2019 and Writ Petition No. 223/2019. The Supreme Court allowed the prayer of the Attorney General and directed the Registry to club the matters and list for final disposal.