

Item No. 1

(Court No. 2)

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

(Through Physical Hearing with Hybrid VC Option)

I.A. No. 66/2023

In

Original Application No. 432/2021

Shiv Singh

...Applicant

Versus

State of Rajasthan & Ors.

...Respondents

Date of hearing: 28.02.2023

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

Applicant: Applicant in person.

Respondents: Mr. Nishant Awana, Advocate for Respondent No. 3-
RSPCB.
Mr. Azmat H. Amanullah, Advocate for Respondent No.
5-M/s. Gem Granites.
None has appeared for Respondents No. 1, 2 and 4.

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

ORDER

1. Grievance in this application is regarding damage caused by M/s J.M. Mines managed by one Mr. Bunti Jain, which is carrying on mining near village Kuker Kheda, Tehsil Bhim, District Rajsamand, to the house of applicant, which is located at a distance of 400 meters from the above-said mining site. It is submitted that granite is being mined by blasting which has resulted in cracks in the house of the applicant. Muck/ stones taken out from the mine are dumped in a nearby storm water drain/canal resulting in blocking of the free flow of the water.

2. Vide order dated 27.01.2022, this Tribunal constituted a Joint Committee with direction to submit Factual and action taken report within three months.

3. In compliance thereof, the report of the Joint Committee was submitted by Mr. Anurag Yadav, Regional Officer, RSPCB, Rajsamand vide letter dated 02.09.2022 through email dated 13.09.2022.

4. Vide order dated 23.02.2023 notices were ordered to be issued to (1) the State of Rajasthan through Chief Secretary, Government of Rajasthan, (2) the Director, Mines and Geology, State of Rajasthan, (3) the RSPCB, (4) the District Magistrate, Rajsamand and (5) the Project Proponent-M/s Gem Granites, who were impleaded as Respondents No. 1 to 5.

5. As per office report notices were duly served on Respondents No. 1, 2, 4 and 5. None has appeared for Respondents No. 1, 2 and 4.

6. Action Taken Report has been filed by respondent no.3-RSPCB vide email dated 06.02.2023.

7. Vide order dated 08.02.2023, while adjourning the case for reply/response by respondent no. 5-the Project Proponent who was restrained from carrying out any further mining from the mining site in question till further orders to the contrary.

8. Respondent no. 5-the Project Proponent has filed interim application No. 66/2023 for vacation of stay. Replies/response have also been filed by respondents no.3-RSPCB and respondent no. 5- the Project Proponent vide emails dated 27.02.2023.

9. Learned Counsel for respondent no. 5-the Project Proponent has submitted that the respondent no. 5-the Project Proponent has complied with the EC/CTE/CTO conditions/environmental norms and may be allowed to resume mining operations.

10. However, the material on record discloses that the Project Proponent did not comply with the notices issued by RSPCB for removal of over burden dumped on the land of drain which also caused obstruction to flow of water therein and also did not comply with EC/CTE/CTO conditions regarding construction of retaining wall, garland drain etc. for a very long time and did not submit the requisite periodical compliance reports.

11. In its action taken report filed by email dated 06.02.2023, RSPCB had mentioned that for imposing environmental compensation, the action has been initiated against respondent no. 5-the Project Proponent.

12. Learned Counsel for respondent no.3-RSPCB has stated that letter has been written to the concerned authorities for providing requisite information to RSPCB for assessment of environmental compensation.

13. Respondent no. 3-RSPCB is directed to file affidavit regarding assessment of environmental compensation payable by the Project Proponent on or before 15.03.2023 by email at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

14. List the matter for further consideration on 15.03.2023.

15. A copy of this order be sent to the RSPCB by email for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

February 28, 2023
AG