

Item No.3

(Court No. 2)

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

(Through Physical Hearing with Hybrid VC Option)

Original Application No.34/2023
(I.A. No. 583/2023 & I.A. No. 584/2023)

Pradeep Kumar Singh

...Applicant

Versus

State of Jharkhand & Ors

...Respondents

Date of hearing: 22.05.2023

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

Applicant: Mr. Amartya Sharan, Advocate for the Applicant.

Respondents: Mr. Anurag Singh Kumar, Advocate for JSPCB(through
VC).
Mr. Tatsat Shukla, Advocate for M/S MaaShitla Stone
Works.

Application is registered based on a complaint received by Email.

ORDER

1. The grievance in the present letter petition, which is treated and registered as original application, is regarding illegal stone and sand mining on hundreds of acres in hills of Mauja Gadaun in District Sahebganj, Jharkhand for the last 25 years causing damage to environment, posing risk to the life of villagers, depleting ground water level. The applicant has also submitted that the blasting activities carried out have also caused damage to the houses.

2. Vide order dated this Tribunal constituted a Joint Committee comprising representatives of CPCB, Jharkhand State PCB and District Magistrate, Sahebganj with direction to submit its report within two months.

3. In compliance thereof Action Taken Report has been filed by JSPCB vide email dated 19.05.2023. The relevant part of the report reads as under:

"In compliance with the Order, a joint Committee was constituted comprising following officials:

- *Sh Ramniwas Yadav, DC Sahibganj*
- *Shi. Sandeep Roy, 5c-D, CPCB RD Kolkata:*
- *Sh Kamalkant Pathak, RO. JSPCB Dumka.*

The Committee had the following mandate:

a. Undertake visits to the site, look into the grievances of the applicant, associate the applicant and representative of the concerned project proponents and verily the factual position.

b. Take appropriate remedial action by following due course of law and giving opportunity of being heard to the project proponents.

The first meeting of the joint Committee under the Chairmanship of DC Sahibganj was held on 22.03.2023 with hybrid video conference option to discuss the strategy to undertake the required task and activities. The applicant was present during the meeting. Minutes of the meeting is attached as Annexure II.

On 19.04.2023, under the Chairmanship of DC Sahibganj, a meeting was held in DC office, Sahibganj. After the meeting, a field visit to stone mines and crushers located in Gadwa region, Sahibganj was carried out by a team comprised of following officials:

- o *Sh Ramniwas Yadav, DC Sahibganj*
- o *Shi. Sandeep Roy, 5c-D, CPCB RD Kolkata*
- o *Sh Kamalkant Pathak, RO JSPCB Dumka*
- o *Sh Bibhuti Kumar, DMO Sahibganj*
- o *Dr Bishnu Prasad Sahoo, Research Associate-II*

The applicant was informed over phone by SPC. to attend the meeting and subsequent field visit: however, he had not attended the meeting as well as the field visit. Further the Project proponent, Mr Prakash Yadav was not present during joint inspection as he was arrested and is in custody since 2 yrs. Photographs of the field visit are shown in Figure 1. The observations of the committee during the field visit are as follows:

1. *During Inspection, all stone mines and crushers of Gadwa mauja are found closed.*
2. *Unscientific mining methodologies viz. improper slope, bench height and width, etc. are seemed to be followed in the stone mines.*

3. Most of the Mining machineries are observed to be either idle or defunct.
4. Belt conveyors are found in broken/ damaged condition.
5. Unpaved haul road is observed and not properly maintained in and around the mines/crushing units.
6. Inadequate plantation and green coverage were observed.
7. Afforestation activities are observed in patches but not enough.
8. Stone boulders and chips, fines, etc. stored in the stockyard or dumped, are not properly covered. This may lead to fugitive emission during strong wind.
9. Sufficient sprinklers are not installed to mitigate dust pollutions.
10. Mines are found to be situated at a distance of 1.5 km to 2 km from the bank of River Ganga. Mine waste might be getting deposited in the floodplain of river Ganga.
11. Mining and crushing units are situated in close proximity to a newly constructed national highway,
12. There used to be a natural stream named "Moti Jharna" having coordinate 25.207144°N 87.726189°E in the godwa region. However, due to land sliding and ground subsidence caused by unscientific mining practice, overburden and other mine wastes got gradually deposited in the stream and now the stream is completely filled with such mine wastes.

Recommendations

- Stone mines shall have adequate number of truck mounted mist canon system and crushing units shall Install dry fog system to reduce fugitive emission.
- The crushing units (both primary & secondary) should be placed in a covered section and the crushing units having capacity more than 100TPH, shall be provided with bag house as emission control system.
- The Stone mines and Crusher units shall install scientifically designed adequate number of fixed and mobile sprinklers.
- Conveyor belts should be covered /enclosed to avoid fugitive emission without side-gaps in enclosure and belts.
- The crushed stones or finished products should be stored in a silo, or the height of the finished goods should be kept lower than the height of wind-breaking walls. Strong structural base and framing should be provided for wind-breaking walls to withstand strong wind conditions. The height of the stockpile should always be kept lower than the height of the wind-breaking wall. The wall can be erected radially with a screen as centre point. In addition, proper sprinkling arrangement should be provided all around the stockpiles.
- The haul roads/other roads within the mines/industry premises used for the transportation of the products from the stone crushers or mines shall be paved and sufficient number of sprinklers be in operation. The concerned crushers shall be responsible for installation, operation and maintenance.
- Cleaning of mines and crushing units shall be performed with only mechanical means on regular basis.
- Adequate number Rainwater harvesting system should be installed inside the mines and crusher units for groundwater recharging.

- *Mine sumps or artificial ponds shall be constructed for storing the surface water during rain. This may be used for sprinkling or washing of mine/crusher machineries.*
- *Nursery may be developed in Godwa region for afforestation and biodiversity conservation. A proper green belt shall be developed in and around the mines and crushers.*
- *National highway and haul roads shall be maintained properly to reduce fugitive emission.”*

4. In view of the averments in the application and observations in the Action Taken Reports, we consider it appropriate to have response of (1) State of Jharkhand through Chief Secretary, Government of Jharkhand (2) District Magistrate, Sahebganj, (3) State PCB (4) M/s Maa Shitla Stone Works, Sri Sanjay Kumar Yadav, Khata No. 47, Plot No.10/P, Mauza - Gadwa, PS - Talihari, District - Sahebganj. (5) M/s Gope Stone Works, Sri Pankal Kumar Yadav, Khata No. 31, Plot No. 54/P, Mauza - Gadwa, PS - Taljhari, District - Sahebgani. (6) M/s Prakash Chandra Yadav (Stone Crushing), Sri Prakash Chandra Yadav, Plot No. 10, 11, 14 to 17 & 18(P), Mauza - Gadwa, PS - Talihari, District - Sahebganj. (7) M/s Sahani Enterprises, Sri Bhola Kumar Sahani, Khata No. 08, Plot No. 38 & 39, Mauza - Gadwa, PS - Talihari, District - Sahebgani. (8) M/s Maa Shitla Stone Works, Sri Sanjay Kumar Yadav, Khata No. 47, Plot No. 10/P, Mauza - Gadwa, PS - Talihari, District - Sahebgani. (9) M/s Vidyarthi Stone Works, Sri Permanand Pandey (Prop.), Plot No. 63p, 72 & 80, Mauza - Gadwa, PS - Taljhari, District - Sahebgani. (10) M/s Minerals India, Sri Suresh Yadav (Part.), Plot No. 23/p to 30/p, 37/p & 44, Mauza + Gadwa, PS - Taljhari, District - Sahebganj. (11) M/s Maa. Shitla Stone Works, Sri Sajay Kumar Yadav (Prop.), Plot No. 48p, 50p, 52, 53p, 54p & 55-57, Mauza - Gadwa, PS - Taljhari, District - Sahebganj. (12) M/s Jai Bairang Bali Stone Works, Sri Prakash Chandra Yadav (Prop.), Plot No. 15, 16, 17, 18 etc. , Mauza - Gadwa, PS - Talihari, District - Sahebgani. (13) M/s Jai Bajrang Bali Stone Works, Sri Prakash Chandra Yadav (Prop.), Plot No. 13/p, 19/P, 23/p, 24/p, 25/p, Mauza - Gadwa,

PS - Taljhari, District - Sahebgani. (14) M/s Mohan & Sanjay Stone Works, Sri Sanjay Kumar Yadav (Part.), Plot. No. 60, 61, 62, Mauza - Gadwa, PS - Taljhari, District - Sahebgani. (15) M/s Hill Movement, Sri Prakash Chandra Yadav (Prop.), Plot No, 9/p, 10/p, 11/p, 14/p, 17/p, Mauza - Gadwa, PS - Talihari, District - Sahebganj. (16) M/s Mineral India, Sri Suresh Yadav, Plot No. 26P & 27P Potza- Gadwa, PS- Talihari, District - Sahebgani who stand impleaded as respondents No. 1 to 16. The Registry is directed to prepare and attach memo of parties to the application and issue notices to respondents No. 1 to 16 requiring them to file their reply/response **within two months** at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

5. I.A. no. 583/2023 has been filed by M/S Maa Shitla Stone Works for impleadment which has become infructuous as M/S Maa Shitla Stone Works has already been impleaded as respondent no. 4. I.A. no. 583/2023 is disposed of accordingly.
6. Mr. Anurag Singh Kumar, Advocate accepts notice for JSPCB and Mr. Tatsat Shukla, Advocate accepts notice for M/S Maa Shitla Stone Works.
7. I.A. no. 584 of 2023 has been filed by Mr. Pradeep Kumar Singh (the applicant) for transfer of the present original application to the Eastern Zone Bench of this Tribunal.
8. The applicant has submitted that letter petition dated 29.07.2022 was sent by the applicant, who is the former Deputy Head of Block Talajhari, Sabebganj, Jharkhand and a social activist, complaining regarding illegal mining by Prakash Yadav @, Mungeri Lal. The letter petition was sent to the Eastern Zone Bench of this Tribunal as well as to the Hon'ble Chairperson of this Tribunal. Notification dated 17.08.2011 issued by MoEF&CC regarding jurisdiction of Benches of this Tribunal

shows that it is the Eastern Zone Bench of this Tribunal at Kolkata which would have jurisdiction in respect of cause of action arising in the State of Jharkhand. The original application may be transferred to the Eastern Zone Bench at Kolkata so that the environmental issues regarding illegal stone mining at District Sahebganj, Jharkhand can be resolved by a Bench having unimpeachable territorial jurisdiction to deal with the same. Such a transfer would also enable the applicant to more effectively assist this Tribunal.

9. We have heard the learned counsel for the applicant and learned for the respondents present and gone through the above referred interim application.

10. Rule 3 of the National Green Tribunal (Practice and Procedure) Rules, 2011 reads as under:-

“3. Distribution of business amongst the different ordinary place or places of sittings of Tribunal.- (1) The Chairperson may constitute a bench of two or more members consisting of at least one Judicial Member and one Expert Member.

(2) The Chairperson shall have the power to decide the distribution of the business of the Tribunal amongst the members of the Tribunal sitting at different places by order and specify the matters which may be dealt with by each such sitting in accordance with the provisions of clause (d) of sub-section) of section 4 of the Act.

(3) If any question arises as to whether any matter falls within the purview of the business allocated to a place of sitting, the decision of the Chairperson shall be final.

Explanation.- The expression "matter" includes application for interim relief.”

11. This Tribunal has power to exercise suo motu jurisdiction in discharge of its functions under the National Green Tribunal Act, 2010 as held by Hon’ble Supreme Court in Municipal Corporation of Greater Mumbai V/s. Ankita Sinha and others 2021 SSC Online SC 897 2021 AIR (Supreme Court of India) 5147.

12. Under order dated 02.05.2022 of the Hon’ble Chairperson of this Tribunal, any case which is recommended by the Hon’ble Members of the

Zonal Benches or the Members of the Principal Bench for taking suo motu cognizance is required to be placed before the Hon'ble Chairperson for approval and assignment.

13. On approval of the case vide order dated 21.11.2022 by Hon'ble Chairperson for taking of suo motu cognizance and also its assignment, this Bench took suo motu cognizance on the basis of letter petition received by post on 01.08.2022.
14. Assignment of the present case by Hon'ble Chairperson to this Bench also implies distribution by way of transfer in accordance with rule 3 (2) of the National Green Tribunal (Practices and Procedure) Rules, 2011 and we are entitled to and also bound to continue with hearing of the matter.
15. In view of the above **I.A No. 584/2023 is dismissed.**
16. List for further consideration on **06.09.2023.**
17. Notices be served on respondents no. 4 to 16 through District Magistrate, Sahebganj and for this purpose notices issued to the respondents no. 4 to 16 be sent to the District Magistrate, Sahebganj by E-mail for getting service of the same effected on the respondents no. 4 to 16 and sending his report in this regard.
18. A copy of this order, documents attached with the same, be forwarded the District Magistrate, Sahebganj by e-mail for compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

May 22, 2023
AG