

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

Original Application No. 747/2023
(IA No. 877/2023, IA No. 876/2023,
IA No. 119/2024 & IA No. 115/2024)

Raj Kumar

Applicant

Versus

Ministry of Environment, Forests
and Climate Change & Ors.

Respondent(s)

Date of hearing: 09.05.2024

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. Tanay, Adv. for Applicant (Through VC)
Respondent: Mr. Mukesh Verma, Adv. for R - 3, 6 & 7
Mrs. Durga Shakti Nagpal, DM, Banda (Through VC)
Dr. Sapna Aggarwal, Adv. for MoEF & CC (Through VC)

ORDER

1. In this Original Application, the applicant has raised the grievance that the advertisements have been issued by the District Magistrate, Banda for e-tender-cum-e-auction of mines in Banda, though, DSR for the District Banda prepared earlier on 23.11.2021⁷ had expired on completion of five years in the year 2022.

2. In terms of the MoEF&CC Notification dated 27.03.2020 and EIA Notification dated 15.01.2016, which mandate for the preparation of DSR for sand mining at River Bed Mining and mining of other minerals and the judgment of the Tribunal in the matter of *Ajit Kumar v. State of Madhya Pradesh & Ors. in OA No.38/2022* dated 17.10.2022, the DSR is required to be prepared by the concerned District Magistrate and

approved by SEIAA which is the pre-condition for auctioning and leasing out the mines. It has been settled by the Tribunal in the matter of *Ajit Kumar v. State of Madhya Pradesh & Ors.* in OA No.38/2022 by order dated 17.10.2022 wherein Tribunal has held as under:-

“45.The main questions raised in this petition are as follows:-

i. **Question No. 1 :** Requirement of DSR and its finality.

Answer: The Sustainable Sand Mining Management Guideline, 2016 & 2020 provides for the preparation of DSR and MoEF has 97 issued necessary directions. It is settled Law that District Survey Report for Sand Mining shall be prepared before the auction/eauction/grant of mining lease by the Mining Department or department dealing with the mining activities in the respective States. DSR is to be approved at the level of SEIAA with the help of SEAC. The DSR becomes final on the date when it is approved by the SEIAA. With regard to the DSR relating to the district Raisen it was approved on 23.05.2022. Thus, the valid DSR/approved DSR came into existence on 23.05.2022 district Raisen, the question is replied accordingly.

ii. **Question no. 2:** Sanctity of NIT in absence of DSR or DSR duly approved by SEIAA.

Answer: In view of the discussion made above and in view of Prabhat Mohan Pandey case (Supra) and the direction issued in the Pawan Kumar Case, the action of NIT in absence of valid DSR is in violation of Sand Mining Guidelines issued in 2016 & 2020, it becomes final only after the approval of the SEIAA. Any NIT before the date of approval of DSR by SEIAA is in contravention of the Rules, Guidelines and the directions issued by the Hon“ble Supreme Court. The question is replied accordingly.

iii. **Question no. 3:** Continuance of mining operation, in absence of valid environment clearance or after expiry of the term.

Answer: Any mining activities on the basis of environmental clearance which was expired w.e.f. 31.03.2021 & 31.03.2022

ceased to be in accordance with law and the mining activities and EC granted in violation of category is also against the provisions of law and against the Sustainable Sand Mining Rules, 2020.”

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47. In view of the above facts, the summary of the conclusions and directions are as follows :-

- i. *The DSR in the district Raisen was finalized/approved by the MPSEIAA on 23.05.2022. Any action taken on the basis of NIT issued prior to 23.05.2022 including (26.11.2021) is irregular, void, having no effect and, in violation of guidelines and stands cancelled. The respondents may initiate exercise as fresh on the basis of approved DSR i.e. dated 23.05.2022 in the district of Raisen.*
- ii. *The environment clearance whose terms has expired either on 31.03.2021 & 31.03.2022 stands canceled and Madhya Pradesh State Environmental Impact Assessment Authority is directed to cancel the remaining matters, where the matter is under scrutinization before the authorities concerned and take appropriate decision within 15 days. Till the Final decision is taken by the appropriate authority/ MPSEIAA, no mining activities are permitted in the concerned districts under question where the EC has been expired on the basis of expired ECs.*
- iii. *We direct the Madhya Pradesh State Mining Corporation and the MPSEIAA to rectify the EC in accordance with law and in light of the judgment and orders passed by this Tribunal in Prabhat Mohan Pandey vs. State of MP & Ors. (Supra).*
- iv. *Issue of electronic traffic passes by the MPSMC portal from the mines whose EC has expired is illegal, irregular and in contravention of Sand Management Guidelines and the respondents are directed to take necessary actions to control the illegal mining in accordance with law”*

3. The report on behalf of District Magistrate, Banda dated 27.04.2024 has been filed indicating that the fresh DSR for District

Banda after the lapse of the earlier DSR in the year 2017 has not been prepared and is in the process of being prepared. Thus, it is clear that the DSR for District Banda after 2017 has not been prepared and got approved by SEIAA.

4. The District Magistrate, Banda appearing in person by virtual mode has stated that till the DSR is prepared and approved by SEIAA, no auction of the mines will be done, no LOI will be issued and no lease deed will be executed.

5. The above statement adequately redresses the grievance of the applicant. Hence, the OA is accordingly disposed of.

6. All pending IAs will also stand disposed of accordingly.

Prakash Shrivastava, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

May 09, 2024
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JG