

Item No.6

(Court No. 2)

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

(Through Physical Hearing with Hybrid VC Option)

Original Application No.521/2022

Sampurna Nand

...Applicant

Versus

State of U.P. & Ors.

...Respondents

Date of hearing: 03.07.2023

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

Applicant: Applicant in person.

Respondents: Mr. Gigi George, Advocate for State of U.P. (through VC).
Mr. Mukesh Verma, Advocate for Mining Department
(through VC).
Mr. Pradeep Mishra, Advocate for UPPCB (through VC).
Ms. Jyoti Mendiratta, Advocate for some of the Project
Proponents.

Application is registered based on a Letter Petition received by Post.

ORDER

1. The grievances in the application are regarding illegal mining in the area of villages Bhagoti Dei, Sonpur, Biyahur and Chakjata, Pargana Bhagwat, Police Station Ahraura, Tehsil Chunar, District Mirzapur, Uttar Pradesh by illegal blasting and taking out of boulder, patia, gitti etc. causing damage to environment and health hazards to local villagers.

2. Vide order dated 01.09.2022, this Tribunal constituted a Joint Committee comprising of the Regional Office, MoEF&CC, Lucknow, Director, Directorate of Geology and Mining, Uttar Pradesh, State PCB and District

Magistrate, Mirzapur and directed the same to submit its factual and action taken report within two months.

3. In compliance thereof, report of the Joint Committee was submitted vide email dated 03.02.2023.

4. Vide order dated 27.04.2023, the Joint Committee was directed to undertake requisite visits to each of the 26 Stone crushers, verify the factual position regarding compliance with consent conditions stipulated by UPPCB and submit its report within two months. The State of Uttar Pradesh, Director, Directorate of Mining and Geology, Uttar Pradesh, State PCB and all the Project Proponents were impleaded as respondents no. 1 to 43 and notices were ordered to be served on the respondents no. 4 to 43 through the District Magistrate. All the mining lease holders (Project Proponents) were directed to cease and desist from committing or causing any violation of the Water (Prevention & Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981. It was also ordered that no further mining shall be carried on in the mining leases in question till further orders to the contrary by this Tribunal.

5. Despite order to this effect, the Joint Committee has not submitted its report regarding the 26 Stone crushers, the District Magistrate, Mirzapur has not sent any report regarding service of notices on the respondents no. 4 to 43 and respondents No.1 and 3 have not filed any reply/response.

6. The learned Counsel for the UPPCB has submitted that the Joint Committee inspected the Stone crushers on 19.06.2023 and one week's time may be granted for submissions of the report.

7. The State of Uttar Pradesh, its instrumentalities and the Statutory Authorities are under constitutional obligation to protect and improve the

environment. The report submitted by the Joint Committee to this Tribunal pointed out serious violations of the environmental norms as mentioned in detail in the Report. The Joint Committee also recommended review of some of the mining leases in view of the risk to Jargo Dam involved due to blasting operations in the mines in the vicinity thereof. No remedial measures have been taken in accordance with the recommendations contained in the Joint Committee Report. No reasons have been furnished as to why reply/response could not be filed by the respondents no. 1 and 2 within the time of more than two months granted by this Tribunal for filing of the same. It is also difficult to understand the reasons as to why report could not be prepared and submitted by the Joint Committee in respect of Stone crushers within the period of two weeks after the inspection has been done on 19.06.2023.

8. The learned Counsel appearing for some of the Project Proponents has submitted that notices were served on the Project Proponents on 21.06.2023 and she seeks time to file vakalatnamas and reply/response on their behalf.

9. On receipt of the order of this Tribunal, the District Magistrate, Mirzapur was required to get the same implemented immediately by the concerned mining lease holders by serving notices on them and apprising them about the order passed by this Tribunal. We find it difficult to understand as to how such long time could be taken by the District Magistrate, Mirzapur in serving notices on them and the District Magistrate, Mirzapur is directed to file his/her affidavit in this regard.

10. The Joint Committee is directed to file its report on Stone crushers within **two weeks** by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

11. Reply/response on behalf of respondents no. 1 to 3 be filed within **two weeks** by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

12. Interim order dated 27.04.2023 shall continue to operate and no further mining shall be carried on in the mining leases in question till further orders to the contrary by this Tribunal.

13. In view of the interim order dated 27.04.2023 prohibiting mining in the mining leases in question, precautionary principle and to prevent illegal mining in the area, all the stone crushers operating in the above said villages on the basis of the mining in said mining lease sites shall also remain closed till further orders to the contrary.

14. The District Magistrate, Mirzapur and Superintendent of Police, Mirzapur are directed to take all necessary steps for ensuring that no illegal mining takes place in the mining lease sites in question and the stone crushers in question do not illegally operate.

15. List for further consideration on 25.08.2023.

16. In view of the facts and circumstances of the case, we consider presence of the District Magistrate, Mirzapur before this Tribunal on the next date of hearing to be essential for producing the relevant documents regarding service of notices on respondents no. 4 to 43 and implementation of the interim order dated 27.04.2023 passed by this Tribunal and also for assisting this Tribunal in just and proper adjudication of the questions involved in the case and the District Magistrate, Mirzapur is accordingly directed to remain present physically before this Tribunal on the date fixed.

17. A copy of this order be forwarded to the Regional Office, MoEF & CC, Lucknow, Director, Directorate of Geology and Mining, Uttar Pradesh, State

PCB, the District Magistrate, Mirzapur and the Superintendent of Police, Mirzapur by email for compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

July 03 2023
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