

Item No.5

(Court No. 2)

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

(Through Physical Hearing with Hybrid VC Option)

Original Application No.521/2022
(I.A. No. 656/2023, I.A. No. 673/2023 & I.A. No. 679/2023)

Sampurna Nand

...Applicant

Versus

State of U.P. & Ors.

...Respondents

Date of hearing: 17.10.2023

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

Applicant: Applicant in Person (Through VC)

Respondent: Mr. Gi. Gi. C George Advocate for respondent no. 1-
State of U.P. (through VC).
Mr. Mukesh Verma Advocate for respondent no. 2-
Mining Dept. (through VC).
Mr. Pradeep Misra Advocate for respondent no. 3-
UPPCB (through VC).
Mr. I.K. Kapila, Advocate for respondents no. 32, 39,
54 and 62.
Mr. Utkarsh Sharma and Mr. Sharad Chauhan,
Advocates for respondents no. 34, 35 and 44.
Mr. Sujeet Kumar and Mr. Prakash Gautam, Advocates
for Respondents No. 5, 6, 8, 11, 14, 18, 19, 21, 22, 23,
25, 26, 30, 31, 33, 37, 42, 43.
Mr. Naveen Kumar, Advocate for respondents no. 40
and 52.
Mr. Deeksha Kakar, Advocate for respondents no.46,
49, 50, 52, 54, 56, 61, 64, 65, 66, 67, 68 and 69.

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

ORDER

1. The grievances in the application are regarding illegal mining/mining
in violation of environmental norms in the area of villages Bhagoti Dei,

Sonpur, Biyahur and Chakjata, Pargana Bhagwat, Police Station Ahraura, Tehsil Chunar, District Mirzapur, Uttar Pradesh.

2. This Tribunal constituted a Joint Committee which submitted report vide email dated 03.02.2023. In view of the observations made in the report of the Joint Committee, all the 40 mining lease holders were impleaded as respondents no. 4 to 43 and notices were ordered to be served on them. The mining lease holders 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.

3. Vide order dated 27.04.2023 the Joint Committee was directed to submit report regarding 26 stone crushers and 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, this Tribunal order dated 03.07.2023 directed that 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. Report of the Joint Committee was filed vide email dated 14.07.2023 and in view of the observations therein, this Tribunal vide order dated 26.09.2023 impleaded the Stone Crushers as respondents no. 44 to 69 and notices were ordered to be issued to them.

4. Vide order dated 26.09.2023 (i) respondent no. 40- M/s R.K. Construction Company and respondent no. 3-UPPCB were directed to submit copies of the relevant documents regarding compliance with EC/consent conditions/recommendations of the Joint Committee/CSR and Environment Management Programmes, (ii) compliance affidavits were

ordered to be filed by the respondents no 5 to 9, 11, 13, 14, 17 to 26, 30 to 37, 39, 40, 42 and other respondents mentioning in detail the compliance in consonance with EC/consent conditions and recommendations of the Joint Committee and action plan with specific timelines about compliance regarding CSR and Environment Management Programmes to be made by them and (iii) Member Secretary, UPPCB and District Magistrate, Mirzapur were directed to verify the compliance made and submit verification report.

5. Affidavits have been filed by mining lease holders impleaded as respondents no. 32, 34, 35, 39 and 40 vide emails dated 14.10.2023 and 16.10.2023 respectively.

6. However, affidavits have not been filed by remaining lease holders. No verification reports have been filed by Member Secretary, UPPCB and District Magistrate, Mirzapur.

7. Learned Counsel appearing for the mining lease holders have submitted that the mining lease holders have complied with EC/consent conditions.

8. Learned Counsel for UPPCB has submitted that all the mining lease holders have obtained CTO from UPPCB.

9. Mr. Utkarsh Sharma and Mr. Sharad Chauhan, Advocates for respondents no. 34, 35 and 44 have filed copy of order dated 09.10.2023 passed by Hon'ble Supreme Court in Civil Appeal No. 5480/2023 titled M/s. P.B.R. Infratech Private Ltd. & Ors. Vs. State of Uttar Pradesh & Ors. and connected Civil Appeal No. 5482/2023 whereby direction issued by this Tribunal in paragraph 13 of its order dated 03.07.2023 relating to the stone crushers has been stayed only as far as the appellants in the above said appeals are concerned.

10. The mining lease holders are directed to file their response regarding compliance with EC/consent conditions including CSR/CER activities and recommendations made by the Joint Committee. The proprietors of stone crushers are also directed to file their response regarding obtaining of consent from UPPCB and compliance with consent conditions including CSR/CER activities and recommendations made by the Joint Committee before this Tribunal with copy to Member Secretary, UPPCB and District Magistrate, Mirzapur by e-mail on or before 30.11.2023 at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF.

11. The UPPCB and District Magistrate, Mirzapur are directed to file report verifying such compliance by the mining lease holders and stone crushers on or before 31.12.2023 by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

12. No response has been filed by the Director, Directorate of Geology and Mining, Uttar Pradesh regarding compliance with the recommendations made by the Joint Committee in its reports. The Director, Directorate of Geology and Mining, Uttar Pradesh is directed to file response regarding compliance with the recommendations made by the Joint Committee in its reports on or before 31.12.2023 by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

13. List for further consideration on 08.01.2024.

14. In view of the fact that all the mining lease holders have obtained CTO from UPPCB, the mining lease holders are allowed to resume and continue with mining activities. However, further orders in this regard will also be passed by this Tribunal on filing of compliance responses by the mining

lease holders and verification report by UPPCB and District Magistrate, Mirzapur. The stone crushers, who are the appellants in the civil appeals filed before the Hon'ble Supreme Court of India, are entitled to operate as the direction issued by this Tribunal in paragraph 13 of order dated 03.07.2023 shall remain stayed as ordered by Hon'ble Supreme Court of India. Other stone crushers who are having valid CTO from UPPCB are also allowed to operate. Further orders regarding the stone crushers will be passed on receipt of orders from Hon'ble Supreme Court of India.

15. In view of the facts and circumstance of the case, we also consider personal appearance of the Member Secretary, UPPCB and Director, Directorate of Geology through VC on the next date of hearing to be essential for producing the relevant record and assisting this Tribunal in just and proper adjudication of the questions involved in the case. Accordingly they are directed to remain present before this Tribunal on that date with the relevant record.

16. A copy of this order be forwarded to Director, Directorate of Geology and Mining, Uttar Pradesh, Member Secretary, UPPCB and District Magistrate, Mirzapur by email for compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

October 17th, 2023
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