

**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. ...Respondent

Date of hearing: 27.04.2023

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

Applicant: Mr. Pankaj Kumar Mishra, applicant in person.

Respondent: 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).

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

ORDER

1. Shri Sampurna Nand has sent the present letter petition, which has been treated and registered as original application, complaining about illegal mining on hills 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. The applicant has further submitted that due to illegal mining, the entire area is covered by cloud of dust and also the illegal blasting is resulting in severe vibrations in the area like earthquake damaging the walls of the houses and endangering the lives of the 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.

-2-

3. In compliance thereof report of the Joint Committee has been submitted vide email dated 03.02.2023.
4. In its report the Joint Committee has mentioned that as per information provided by Mining Department, Mirzapur, 40 mining leases have been granted for mining of sand stone in the 4 villages namely Bhagoti Dei, Sonpur, Biyahur and Chakjata for which environmental clearance was issued as mentioned in the report. All the 40 project proponents have not obtained CTE/CTO from UPPCB and NOC from Ground Water Authority.
5. Recommendations for imposition of environmental compensation on all the project proponents has been made. The Joint Committee has also made its recommendations in the report which are reproduced as under:

Committee Recommendations:

“5.1 Out of 40 leases, few leases were found operational approx 500 to 600 meter, close to exiting jargo dam (constructed in 1958, hold 3 lakhs cusec water and only source to irrigate around 1000 acres’ agricultural land), need to be re-evaluated in light of continuous blasting activity in area.

5.2 State mining department have to obtained “No Objection Certificate” from state irrigation department before grant of lease near Jargo Dam.

5.3 State Government shall constitute expert committee (Dam expert, Blasting expert etc) to assess the impact of mining and blasting activity (Blasting impact study) on the Jargo Dam and its stability, based on the finding state government may declare buffer zone, where mining etc will be completely prohibited.

5.4 Strict monitoring system can be developed including uses of drone survey etc for better compliance.

5.5 DGPS Survey agencies are not empaneled by UP-DGM, it is required to empaneled with UP-DGM.

5.6 Capacity Building of the State DGM is required for approval of mining plan documents and subsequently its monitoring.

5.7 Uttar Pradesh Pollution Control Board (UPPCB) can also review the process for granting of CTO to mining lease and its crusher plant, to avoid such confusion, where mining lease operated mine without having valid CTO, whereas, associated crusher operated plant crusher with valid CTO.

5.8 Committee observed that the time of blasting for all mines are same i.e., around 2 PM, which may be rescheduled in light of local school timing, number of primary and middle schools are lies near the mining area.

5.9 The amount collected with environmental compensation be recovered from the concerned lease holder may be used for construction of the Cemented internal road, which is used for mineral transportation, road side plantation, mist gun used for water spraying, establishment of continuous online ambient air quality monitoring station, setting of noise barrier in densely populated area, school, hospital in the area.

5.10 Rate of financial assurance needs to be enhanced for undertaking reclamation & rehabilitation activities against the area put to use for mining & allied activities per hectare.

5.11 The DMG office and Regional Office of UPPCB shall be strengthened with additional manpower & advanced infrastructure facilities for strict vigilance on mining activities.

5.12 Audit on the quantity permitted, quantity mined out, etc shall be conducted every year.

5.13 There should be a better coordination between mining department, DGMC and State PCB and a monthly/quarterly/half yearly meeting should be organized to resolve the various issues of the mining leases.

5.14 Uttar Pradesh Mining Department may review the U.P. Mines and Minerals (Concession) Regulations, 1963, amended Rule 41-A regarding "no mining operation can be carried out within 50 meter of any dam" in light of mining where, intensive blasting is involved.

5.15 Controlling of dust emission is a challenge in the area in question, therefore, committee in view that a Joint Committee will be constituted by local administration comprising of State PCB, Mining Department, concerned SDMs and Police to review the situation of dust arising from Stone Crushers operational in the areas and compliances of the CTO condition imposed by U.P. Pollution Control Board and if any violation is found by any of the Stone Crusher unit recommendation be sent to State PCB to revoke the CTO granted and take further necessary action as per provisions of Air (Prevention and Control of Pollution) Act, 1981 and Environmental compensation should be imposed against the violators for the defaulting days."

6. In its report the Joint Committee has also mentioned that 26 stone crushers are operational in villages Bhagoti Dei, Sonpur, Biyahur and Chakjata. Out of 26 stone crushers CTO of two stone crushers have expired, CTO of one stone crusher has been revoked and closure order has been issued against one stone crusher. However, the Joint Committee has not looked into status of compliance by other stone crushers individually with the consent conditions.

7. The Joint Committee is directed to undertake requisite visits to each of the 26 stone crushers, verify the factual position regarding compliance with

-4-

consent conditions and submit its report within **two months** 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.

8. In view of the averments made in the application and observations/recommendations made in the report, we consider it appropriate to have the response of State of Uttar Pradesh, through its Chief Secretary, Director, Directorate of Mining and Geology, Uttar Pradesh, State PCB and all the project proponents who are impleaded as respondents no. 1 to 43. The registry is directed to prepare memo of parties and attach the same with the application.

9. Mr. Mukesh Verma, Advocate has appeared for respondents no. 1 and 2 and Mr. Pradeep Misra, Advocate has appeared for respondent no. 3.

10. Notices be issued to the respondents no. 4 to 43-project proponents and notices be served on them through the District Magistrate, Mirzapur. For this purpose notices issued to the project proponents be sent to the District Magistrate through email for getting the service of the same effected on them and sending his report in this regard.

11. In the present case all the mining lease project proponents were required to obtain CTE/CTO from UPPCB but all the mining lease project proponents have not obtained CTE/CTO from UPPCB and are therefore violating the provisions of the Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981.

12. Section 19 of the National Tribunal Act 2010 lays down the procedure and specifies the powers of this Tribunal. Section 19 (4) of the National Green Tribunal Act, 2010 confers the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, on this Tribunal in respect of the matters specified therein for the purpose of discharging its functions under the National Green Tribunal Act, 2010.

13. Section 19 (4) (i) of the National Green Tribunal Act, 2010, empowers this Tribunal to pass an interim order (including granting an injunction or stay) after providing the parties concerned an opportunity to be heard, on any application made or appeal filed under the above said Act, while Section 19 (4) (j) thereof empowers this Tribunal to pass an order requiring any person to cease and desist from committing or causing any violation of any enactment specified in Schedule I. While notice is required to be given before passing of interim injunctive order under Section 19 (4) (i) of the National Green Tribunal, 2010, there is no such requirement under Section 19(4) (j) of the National Green Tribunal Act, 2010.

14. Section 20 of the National Green Tribunal Act, 2010 requires this Tribunal to apply the principle of sustainable development, the precautionary principle and the polluter pays principle while passing any order or decision or award.

15. In view of the facts and circumstances of the case that all the mining lease project proponents have not obtained CTE/CTO from UPPCB and consequent violation of the provisions of the Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 by the mining lease project proponents, we direct all the mining lease project proponents 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 and no further mining shall be carried on in the mining leases in question till further orders to the contrary by this Tribunal.

16. The District Magistrate, Mirzapur and Superintendent of Police, Mirzapur are directed to take all necessary steps for ensuring that no illegal mining takes place from the mining lease sites in question.

17. List for further consideration on 03.07.2023.

-6-

18. A copy of this order be forwarded to the applicants and respondents, 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

April 27, 2023
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