

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

Original Application No. 462/2023

Raja Ram Singh

Applicant

Versus

State of U.P.& Ors.

Respondents

Date of hearing: 02.04.2024

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

Applicant: None for the applicant.

Respondents: Mr. Mukesh Verma, Advocate for respondent no. 2-
Mining Department, State of U.P.
Mr. Pradeep Misra Advocate for respondent no. 4-
UPPCB (through VC).
Mr. Sharad Chauhan and Mr. Ravindra Singh,
Advocates for Respondent No. 5-Mr. Satyanayan.
Mr. Hem Chandra Joshi, Advocate for Respondent No.
6-Mr. Umesh Kumar Singh (through VC).
Dr. Sapna Agarwal, Advocate for Respondent NO. 7-
MoEF & CC (through VC).
Mr. Raj Kumar, Advocate for respondent no. 8-CPCB.

Application is registered based on a letter petition received by Post.

ORDER

1. This Tribunal vide order dated 21.12.2023 issued the following interim directions:-
 - (i) the Director, Geology and Mining, U.P. and the Member Secretary, UPPCB were directed to file their own affidavits giving detailed reasons justifying selective arbitrary and discriminatory treatment given to some mining lease holders without taking any action against other similarly placed mining lease holders in tabular

format with all relevant particulars with respect to each mining lease holder in the State of Uttar Pradesh.

- (ii) While noticing involvement of question of permissibility of such short term permits MoEF&CC and CPCB were impleaded as respondents no. 7 and 8. As respondent no. 7 was already appearing in the case notice was ordered to be issued to respondent no. 8 and respondents no. 7 and 8 were required to file reply/response with respect to the permissibility of short term permits and environmental requirements/safeguards regarding the same.
- (iii) The Director, Geology and Mining, State of U.P. was directed to file additional reply giving information regarding short term mining permits issued by the District Magistrates/District Mining Officers in the State of U.P. and the procedure followed in respect thereof during last one year.
- (iv) The Member Secretary, UPPCB was directed to file additional reply giving details of cases of short term permits in which CTE/CTO was taken from UPPCB and number of cases in which CTE/CTO was not taken from UPPCB.
- (v) The District Magistrate, Gonda was directed to take over possession of the sand un-authorizedly stored and to dispose of the same by way of open auction and deposit the amount thereby realized with UPPCB for utilizing the above said amount for restoration of environment in the area and to file action taken report in this regard.
- (vi) The Director, Mining and Geology, State of U.P. was directed to issue instructions regarding taking possession of the illegally

mined material and auctioning of the same and deposit of the proceeds with UPPCB for utilization for restoration of environment.

2. Replies have been filed by respondent no. 5 vide email dated 24.02.2024 and by respondent no.6 vide email dated 22.02.2024.

3. The Director, Geology and Mining, State of U.P. and the Member Secretary, UPPCB have not filed their affidavit/additional reply.

4. The District Magistrate, Gonda has also not filed any action taken report.

5. Short reply has been filed by respondent no.7-CPCB vide email dated 22.02.2024 without giving any specific response to the question of permissibility of short term mining permit and environmental safe guards relating to the same.

6. Additional Affidavit has also been filed by respondent no.8-MoEF & CC vide email dated 27.03.2024 but in the additional affidavit reference has been made to stone crushers instead of short term mining in agricultural land for removal of sand deposited by flood.

7. None has appeared on behalf of respondent no. 1-State of Uttar Pradesh and respondent no.3 -DM, Gonda.

8. The proceedings before this Tribunal cannot be treated as part of adversarial litigation where the concerned defendants may opt out to remain absent and suffer ex-parte proceedings. On the other hand, the State and its instrumentalities are under constitutional and statutory obligations to ensure compliance with environmental norms and, therefore, the State and its instrumentalities have to ensure submission of their replies/response with relevant details and also their representation

through duly authorised representatives/Counsel before this Tribunal. Since, State of Uttar Pradesh and some of its instrumentalities were not generally appearing before this Tribunal and filing their replies/response in response to the notices served on them, the matter was brought to the notice of the Chief Secretary, Government of Uttar Pradesh and learned Advocate General, Government of Uttar Pradesh for issuance of appropriate instructions for compliance with notices issued by this Tribunal and submission of reply/response and ensuring representation through their authorized representative/counsel before this Tribunal, as may be required.

9. Learned Counsel for respondents no. 2, 4, 7 and 8 seek adjournment for filing of affidavits/additional affidavit/additional reply/action taken report.

10. Non-appearance before this Tribunal and also failure to file replies/reports within specified time warrants imposition of exemplary costs on the defaulting respondents but in view of earnest request made by the learned Counsel for the defaulting respondents and by taking lenient view as an exceptional measure we refrain from passing any order for payment of costs by defaulting respondents.

11. Replies/reports be filed by respondents no. 2 (the Director, Geology and Mining, U.P.), 3 (the District Magistrate, Gonda), 4 (UPPCB), 7 (MoEF & CC) and 8 (CPCB) as directed vide order dated 21.12.2023 at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF at least one week before the date of hearing hereby fixed failing which exemplary costs will be imposed on them for non-compliance of the order of this Tribunal.

12. List for further consideration on 24.04.2024.

13. This Tribunal noticed in its order dated 07.11.2023 that the case involves the question of permissibility of issuance of short term permits without EC from SEIAA, consent from UPPCB and compliance with SSMMG, 2016 and EMGSM, 2020 and issued ad interim injunctive direction that no short term permit be granted for mining of minor mineral (sand, morrum etc.) without EC from SEIAA, consent from UPPCB and compliance with SSMMG, 2016 and EMGSM, 2020.

14. In Civil Appeal No. 1628-1629/2021 titled as Noble M. Paikada Vs. Union of India the Hon'ble Supreme Court has held that completely, unguided and blanket exemption granted by item 6 in appendix-IX to the requirement of obtaining in EC notification dated 14.09.2006 to be arbitrary and violative of article 14 of the Constitution of India.

15. The questions of permissibility of issuance of short term permits, procedure to be followed for grant of short term permits and environmental safe guards to be imposed need to be examined.

16. The case will be taken up on the date fixed for arguments in respect of the above referred environmental questions.

17. The ad interim injunctive order dated 07.11.2023 shall continue till further orders to the contrary and no short term permit be granted for mining of minor mineral (sand, morrum etc.) without EC from SEIAA, consent from UPPCB and compliance with SSMMG, 2016 and EMGSM, 2020.

18. A copy of this order be sent to the Chief Secretary, Government of Chief Secretary, Government of Uttar Pradesh, Secretary, MoEF & CC,

Director, Geology and Mining, Uttar Pradesh, Member Secretary, UPPCB, Member Secretary, CPCB, District Magistrate, Gonda and learned Advocate General, Government of Uttar Pradesh by email for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

April 02nd 2024
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