

Item No.06

Court No. 2

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

Original Application No. 462/2023

Raja Ram Singh

Applicant

Versus

State of U.P. & Ors.

Respondent

Date of hearing: 07.11.2023

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

Applicant: None for the applicant.

Respondents: Mr. Pradeep Mishra Advocate for UPPCB (Through VC).
Dr. Sapna Aggarwal Advocate for MoEF & CC (Through VC).

Application is registered based on a letter petition received by Post

ORDER

1. The grievances in the present application are regarding illegal mining in villages Majharath, Jaitpur, Nawabganj, Tehsil Tarbganj, District Gonda, illegal transportation of the extracted minor minerals by overloaded trucks numbering more than 700 everyday, storage and illegal sale of minor mineral measuring about 20 lakh cubic meters and damage caused to Patpar Ganj Bridge and Road by overloaded trucks.

2. Vide order dated 02.08.2023, this Tribunal constituted a Joint Committee comprising of Ministry of Environment, Forest and Climate Change (MoEF&CC), Central Pollution Control Board (CPCB), National Mission for Clean Ganga (NMCG), Uttar Pradesh Pollution Control (UPPCB) and District Magistrate, Gonda and directed the same *inter alia* to look into the grievances of the applicant, verify the factual position, take appropriate remedial action by following due course of law and

giving opportunity of being heard to the project proponent and submit its report within two months.

3. In compliance thereof, report of the Joint Committee has been filed vide email dated 30.10.2023. The relevant part of the report of the Joint Committee reads as under:

“In reference to Hon’ble NGT order in the matter of Original Application No. 462/2023, Raja Ram Singh Versus State of U.P.

X

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“6. Based on the records made available to the Committee by the concerned Department and observations made during the field visit the status is as follows:

6.1. Illegal transportation of the extracted minor minerals by overloaded trucks numbering more than 700 every day.

6.1.1. On the day of the visit, committee members visited the riverbed mining sites located at Majharath and Jaitpur villages. There was no approach road to the mining site, the committee members reached the mining site by crossing the distributaries (bifurcated river stream) of River Saryu and walking through muddy path sand sugarcane fields.

6.1.2. It is informed by the Mining Department, Gonda that mining leases has been allotted to Shri Satya Narayan S/o Shri Ram Avtar, R/o. Vill- Manjharath, Tehsil- Tarabganj, District- Gonda for removal of sand deposited in the agriculture land with validity period of 03 months. However, Environmental Clearances and consents are not been obtained for these activities as it has not been made mandatory by the Mining Department. The Letter of Intent issued by District Collector, Gonda is annexed (Annexure 04).

6.1.3. The residents informed that during the summer the mining activities are carried out and excavated material is transported through temporary road on agriculture land and thereafter by crossing the distributaries of the river which remains dry during the summer. Thereafter, small village road of length approx 05 km issued to reach the major road located at the Patpar Ganj Bridge.

6.1.4. Considering the condition and transportation capacity of the temporary and village road, movement of 700 trucks every day is not seems to be feasible.

6.1.5. The representative of Mr. Brij Bhushan Sharan Singh, Member Parliament told to the committee that they do not have any mining lease in the mentioned area of Majharath and Jaitpur villages nor have conducted any illegal mining operations.

6.1.6. As per document made available by Mining Department, Gonda, the mining lease had been issued in the name of Shri Satya Narayan S/o Shri Ram Avtar, R/o. Vill-Manjharath, Tehsil-Tarabganj, District- Gonda in Gata No. 505, area of 0.4580 Hectare land for three months only.

6.1.7. As the mining were not in operations due to the rainy season as well as the temporary approach road through agriculture field sand river distributaries is also under water/mud, the exact status could not get verified. However, taking into account the size and condition of village road movement of 700 trucks per day is not feasible.

6.2. Storage and illegal sale of minor mineral measuring about 20 lakh cubic meters.

6.2.1. The Mining Department informed that three sand storage areas are located near by the area in question. Out of these three-storage areas, one at Laua Beerpur is having storage license in the of Shri Umesh Kumar Singh, R/o- Vill- Khanpur, P.S.-Wazirganj, Tehsil- Tarabganj, District- Gonda for storage of 5000 cubic meter ordinary sand at Gata No.- 3318 (Annexure-05). and sand is stored in unauthorized way at remaining two storage areas at Nawabganj gird and Paraspur without obtaining any storage permission. These two unauthorized storages have already been sealed by the Mining department. The sealing certificates as provided by Mining Department, Gonda are annexed as (Annexure- 06 & 07).

6.2.2. The committee visited all these three storage areas during the visit. The Mining Inspector, Gonda informed that around 1600 cubic meter sand is stored in authorized storage area at Laua Beerpur and 9337.5 cubic meter and 464 cubic meter sand is stored at unauthorized storage areas at Nawabganj Gird and Paraspur respectively.

6.2.3. Considering the above total storage of sand (Authorized and unauthorized sealed) is around 11,401.5 cubic meter only. And as such huge storage of 20 lakh cubic meter sand as mentioned by the applicant was not existed/ traced at the location.

6.3. Damage caused to Patpar Ganj Bridge and Road by overloaded trucks.

6.3.1. The committee visited the mentioned bridge during the visit. The bridge was visually found in condition.

6.3.2. The road adjoining the bridge is local district road and having several potholes. However, it is difficult to conclude that these potholes are created only by the sand transportation.

7. Findings of the Committee:

7.1. However, the applicant could not present before the Committee. Therefore, the sites mentioned in the order of the Hon'ble NGT were inspected on the basis of the documents provided by the Mining Department, Gonda and the District Authority, District Ayodhya. However, the committee's view is in contradiction of the facts mentioned by the complainant with respect to the movement of 700 trucks per day from village road at Majharath - Jaitpur and storage of 20 lakh cubic meter sand.

7.2. The mining was not in operation due to the rainy season and hence the actual status of impact of mining operations (if any) on surrounding environment could not be verified.

7.3. The committee is in opinion to implement the provisions of Environmental Clearance for short term mining which is mainly allowed for removal of sand from agriculture land.

X

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X"

4. We have gone through the report of the Joint Committee and we find that Joint Committee has prepared the report casually and has not looked into all the relevant aspects and has not obtained all relevant information.

5. As per the Joint Committee report short term permit dated 13.09.2023 for a period of three months w.e.f. 13.03.2023 to 12.06.2023 was granted by the District Magistrate, Gonda to Mr. Satyanarayan S/o Ram Avtar R/o Village-Majharat, Tehsil-Tarabganj, District-Gonda whereby he was allowed to extract 12,824 cubic meters of sand/morrum from Gata No. 505. Storage license dated 01.04.2023 was issued by District Magistrate, Gonda in favour of Mr. Umesh Kumar Singh, R/o of Village Khanpur, P.S. Wazirganj, Tehsil-Tarabganj, District-Gonda on Gata No. 3318.

6. The Joint Committee has observed in its report that the “mining was not in operation due to the rainy season and hence the actual status of mining operations (if any) on surrounding environment could not be verified” without noticing that the mining permit dated 10.03.2023 was issued by the District Magistrate, Gonda for a period of three months w.e.f. 13.03.2023 to 12.06.2023 which had already expired before field visit of the Joint Committee on 21.09.2023.

7. The Joint Committee has not obtained the information from the District Magistrate, Gonda/concerned District Mining Officer as to what was the exact quantity of the minor mineral which was extracted by Mr. Satyanarayan under the mining permit issued by the District Magistrate, Gonda and what was the storage/disposal thereof as per the information provided by him. The Joint Committee has also not mentioned in its report as to whether any other mining lease of similar nature had been

granted in the villages named in the application or any other area in the District Gonda.

8. In its report the Joint Committee has mentioned that the short term permit for a period of three months w.e.f. 13.03.2023 to 12.06.2023 was granted by the District Magistrate, Gonda without any requirement of environmental clearance from SEIAA and consent from UPPCB on the ground that the same was not made mandatory by the Mining Department. As per the directions given by the Hon'ble Supreme Court and this Tribunal no sand mining irrespective of area size can be permitted without environmental clearance from SEIAA and consent from SPCBs/SPCCs. Question as to permissibility/validity of such short term permits without environmental clearance from SEIAA and consent from SPCB/SPCC arises in the present case and requires response from the concerned authorities/persons.

9. However, in view of the precautionary principle embodied in Section 20 of National Green Tribunal Act, 2010, we consider it appropriate to direct that till the next date of hearing fixed no short term permit for mining of minor mineral (sand, Morrum etc.) be granted in the State of Uttar Pradesh without EC from SEIAA and consent from UPPCB and without following Sustainable Sand Mining Management Guidelines, 2016 and Enforcement & Monitoring Guidelines for Sand Mining, 2020 in this regard.

10. In the report of the Joint Committee, it has been mentioned that at the time of field visit the Mining Department informed the Joint Committee that three sand storage areas were located out of which one at Gata No. 3318 at Laua Beerpur was having storage license in the name of

Shri Umesh Kumar Singh, R/o of Village Khanpur, P.S. Wazirganj, Tehsil-Tarabganj, District-Gonda with permitted storage of 5000 cubic meters ordinary sand but the remaining two storage areas at Nawabganj gird and Paraspur were unauthorized. Mr. Satnarayan was granted permission to extract 12,824 cubic meters of minor mineral (sand/morrum). As per the Joint Committee report 1600 cubic meters sand was stored in authorised storage area at Laua Beerpur while 9337.5 cubic meters and 464 cubic meters sand was stored at unauthorized storage areas at Nawabganj gird and Paraspur respectively. In the report, it has also been mentioned that these two unauthorized storages were sealed by the Mining Department. There is nothing on record to suggest that Mr. Umesh Kumar Singh was an agent of Mr. Satnarayan and that the minor mineral stored at all the three locations belonged to Mr. Satnarayan. Neither the Joint Committee, nor the Mining Department has ascertained from which locations/sites the minor mineral stored at above said three storage locations was mined/brought. Such unauthorized storage of minor mineral is indicative of and consistent with illegal mining. Neither the Joint Committee nor the Mining Department has looked into the question of illegal mining.

11. The factual position verified by the Joint Committee discloses that illegal mining has been done in the area. Such illegal mining being a cognizable offence punishable under Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957/Section 379 of the India Penal Code, 1860, FIR ought to have been registered and proper investigation ought to have been carried out as to when and where illegal mining was carried out and who were the persons involved in the same.

12. The District Mining Officer, Gonda is directed to submit written complaint with all relevant factual details to the SHO of the concerned police station within 7 days and the Superintendent of Police, Gonda is directed to issue appropriate instructions to the concerned SHO to register FIR immediately on receipt of the complaint as directed above and to carry out the investigation and submit an interim report to this Tribunal on or before 25.11.2023 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. In view of the averments made in the application, we also consider it appropriate to seek response thereto from (1) State of Uttar Pradesh, through Chief Secretary, Government of Uttar Pradesh, (2) Director, Geology and Mining, Uttar Pradesh, (3) District Magistrate, Gonda, Uttar Pradesh, (4) UPPCB, through its Member Secretary (5) Mr. Satyanarayan S/o Ram Avtar R/o Village-Majharat, Tehsil-Tarabganj, District-Gonda and (6) Mr. Umesh Kumar Singh, R/o of Village Khanpur, P.S. Wazirganj, Tehsil-Tarabganj, District-Gonda who stand impleaded as respondents no. 1 to 6. Memo of parties be prepared and attached with the application accordingly.

14. Mr. Pradeep Mishra Advocate has appeared on behalf of respondent no. 4-UPPCB and seeks time to file reply/response on behalf of UPPCB.

15. Reply/response on behalf of UPPCB be filed on or before 25.11.2023 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.

16. The Registry is directed to issue notices to respondents no. 1 to 3 and 5 to 6 requiring them to file reply/response within two months 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.

17. List the matter for further consideration on 01.12.2023.

18. In view of the facts and circumstance of the case, we consider personal appearance of (i) Director, Geology and Mining, State of Uttar Pradesh (ii) Member Secretary, UPPCB and (iii) District Magistrate, Gonda **(physically or 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 and they are accordingly directed to remain present before this Tribunal on that date.

19. A copy of this order be also forwarded to the (i), Director, Geology and Mining, State of Uttar Pradesh (ii) Member Secretary, UPPCB (iii) Superintendent of Police, Gonda and (iv) District Magistrate, Gonda by e-mail for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

November 07, 2023
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