

**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: 21.12.2023

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

Applicant: None for the Applicant.

Respondents: Mr. Mukesh Verma Advocate for Respondent No.2-Director,
Geology and Mining, U.P. (through VC).
Ms. Mala Shrivastava, Director, Geology and Mining, U.P.
(through VC).
Mr. Suresh Kumar Soni, ADM, Gonda (through VC).
Mr. Pradeep Mishra Advocate for Respondent No.4-UPPCB
(Through VC).
Dr. Ram Karan, CEO, UPPCB (through VC).
Mr. Sharad Chauhan Advocate for Respondent No. 5-Satya
Narayan. (through VC).
Mr. Hem Chandra Joshi Advocate for Respondent No. 6-
Umesh Kumar Singh. (through VC).
Dr. Sapna Aggarwal Advocate for MoEF (through VC).

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

ORDER

1. In compliance with order dated 07.11.2023, report has been filed by respondent no.2- Director, Geology and Mining, U.P. vide email dated 19.12.2023. In report dated 19.12.2023 it has been mentioned that FIR number 0529 dated 24.11.2023 has been registered and the matter is under investigation.
2. Additional reply has been filed by respondent no. 4 vide email dated 18.12.2023. The relevant part of the reply filed by UPPCB reads as under:

“X X X X

Additional Reply/Response

1. That in compliance to the order dated 07.11.2023 passed by the National Green Tribunal, Principal Bench, New Delhi in Original Application No. 462 of 2023, an reply/response dated 22.11.2023 has been submitted before Hon'ble Tribunal, New Delhi. A copy of the reply/response dated 22.11.2023 is being attached herewith and marked as Annexure No.-1 to this additional response.

2. That in pursuance to a show cause notice dated 20.11.2023, Uttar Pradesh Pollution Control Board vide letter dated 18.12.2023 has imposed the Environmental Compensation of Rs. 5,75,000/- against the responsible Lease Holder i.e. Shri Satya Narayan, So Shri Ram Avtar, R/o Village- Manjharath, Tehsil- Tarabganj, District- Gonda in question for a default period of 13.03.2023 to 12.06.2023 for removal of sand deposited in the agriculture land at Araj No- 505, Village- Manjharath, Tehsil- Tarabganj, District- Gonda by him without obtaining prior consent to operate under The Water (Prevention and Control of Pollution) Act, 1974 & The Air (Prevention and Control of Pollution) Act, 1981. The copy of the letter dated 18.12.2023 is being annexed herewith as Annexure-2 to this additional response.

X

X

X

X"

3. It may be observed here that in *Original Application No.176/2022 Aman Choudhary vs Union of India even the Director, Mining and Geology, State of Uttar Pradesh & Ors.* had taken the stand that CTE/CTO was not required from UPPCB for such mining leases. Even the Member Secretary had taken the stand that categorization of sand mining was to be done by MoEF&CC in accordance with the decision taken by CPCB and no such categorization had been done by MoEF&CC. Director, Mining and Geology, U.P. and Member Secretary, UPPCB had taken contradictory stands regarding requirement of consent and UPPCB had also adopted contradictory approach by selectively issuing show cause notices, closure orders and environmental compensation orders in respect of some mining lease holders for not obtaining CTE/CTO without taking any action against hundreds of mining lease holders who have not obtained CTE/CTO from UPPCB. Constitution of India does not permit any such arbitrary and discriminatory treatment of similarly placed mining lease

holders and the same requires passing of appropriate remedial orders meting out equal treatment to similarly placed mining lease holders. Director, Mining and Geology, U.P. and Member Secretary, UPPCB are 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. The affidavits as directed above be filed on or before 15.02.2024 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.

4. In the course of hearing it has been stated that short term permits are being issued by the District Magistrates in the State of Uttar Pradesh in view of guidelines at pages 58 and 72 of the Sustainable Sand Mining Management Guidelines, 2016 and the Rules framed by the State of U.P. in this regard and the question of permissibility of such short term permit arises in the present case. In view of the facts and circumstances of the case we consider presence of MoEF&CC and CPCB to be necessary for just and proper adjudication of the questions involved in the case. Therefore, MoEF&CC, through its Secretary and CPCB, through its Member Secretary are impleaded as respondents no. 7 and 8. The Registry is directed to amend the memo of parties. Respondent no. 7 is already appearing before this Tribunal through its Counsel. The Registry is directed to issue notice to respondent no.8.

5. Reply/response with respect to the permissibility of short term permits and environmental requirements/safeguards regarding the same be filed by respondents no. 7 and 8 on or before 15.02.2024 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.

6. The Director, Mining and Geology, State of U.P. is 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.

7. Member Secretary, UPPCB is also directed to file additional reply giving information as to the number of short permits issued in the State of U.P. during last one year with requisite details regarding number of cases in which CTE/CTO was taken from UPPCB and number of cases in which CTE/CTO was not taken from UPPCB.

8. Additional replies by Director, Mining and Geology, State of U.P. and Member Secretary, UPPCB be filed on or before 15.02.2024 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.

9. In the present case the quantity of 9337.5 cubic meters and 464 cubic meters sand was un-authorizedly stored.

10. Learned Counsel for respondents no. 2 and 4 have submitted before this Tribunal in the course of hearing that said un-authorised storage is not claimed to have been done by the owner of the land or the short term mining lease permit holder.

11. The District Magistrate, Gonda is directed to take over possession of the sand un-authorizedly stored and dispose of the same by way of open auction and deposit the amount thereby realized with UPPCB which

shall be entitled to utilize the above said amount for restoration of environment in the area.

12. Action taken report in this regard be also filed by the District Magistrate, Gonda on or before 15.02.2024 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. The Director, Mining and Geology, State of U.P. is also directed to issue instructions that in cases where illegal mined material is found to have been stored un-authorizedly then the possession of the illegally mined material shall also be taken over and the same shall be disposed of by way of open auction and the amount realized shall be deposited with UPPCB which may utilize the same in the area affected by such illegal mining for restoration of environment..

14. List for further consideration on 23.02.2024.

15. A copy of this order be sent to the Director, Mining and Geology, State of U.P., the Member Secretary, UPPCB and District Magistrate, Gonda by email for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

December 21, 2023
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