

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

M.A. No. 34/2023
IN
Original Application No. 798/2022

Mamta Chourasia & Ors. Applicant
Versus

State of Uttarakhand Respondent
WITH

Original Application No. 538/2022

Swarn Singh Applicant
Versus

State of Uttarakhand & Ors. Respondent(s)

Date of hearing: 18.10.2023

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Respondent(s): Mr. Nikhil Rohatgi & Ms. Anjali Rajput, Advs. for R - 1, 2, 4 & 7
(State of Uttarakhand)
Mr. Mukesh Verma, Adv. for UKPCB (Through VC)
Mr. Rahul Khurana, Adv. for R - 8 & 9 in OA 538/2022
Mr. Tarun Varma, Mr. Anand Varma & Mr. Devansh Malhotra,
Advs. for R - 10 in OA 538/2022

ORDER

1. OA No. 798/2022 was registered on the basis of the letter petition making an allegation that in Village Saimalchor and Pattapani, Post-Belpadav, District Nainital, Uttarakhand, large number of stone crushers were illegally operating indulging in illegal mining and creating deep ditches more than 200-300 feet and were causing environmental damage. The Tribunal by order dated 05.01.2023 had disposed of the OA directing the State PCB and District Magistrate to look into the grievance and file the report.

2. M.A. has been registered on receipt of report. In the report dated 10.04.2023 filed by the District Magistrate, the names of five project Proponents/Mining Operators were disclosed and recommendations were made for recovery of penalty for excessive mining. The Tribunal by the subsequent order dated 10.05.2023 directed a joint Committee to file the action taken report. The action taken report was filed by the joint Committee wherein the extent of illegal mining by the Project Proponent were disclosed. The Tribunal after considering the report reached to the conclusion that though excessive mining/excavation was found by the joint Committee but no remedial action was suggested.

3. Learned Counsel appearing for respondent nos. 1, 2,4 and 7 has informed that against the defaulters-Project Proponents, action was initiated for illegal mining and orders have been passed imposing penalty. Learned Counsel for one of the Project Proponents has submitted that against the order of penalty, revision was preferred and the amount of penalty has been reduced by the Revisional Authority. Undisputedly, till now even the reduced penalty amount has not been paid. Learned Counsel for Respondent Nos. 1,2,4 and 7 has submitted that their Recovery Certificate have been issued and the concerned respondents are in the process of recovering the amount.

4. Response Affidavit on behalf of Uttarakhand Pollution Control Board dated 12.10.2023 has also been filed disclosing that show cause notice for imposing the environmental compensation have been issued to the Project Proponents. A perusal of the show cause notice *prima facie* indicates that the finding of the joint Committee about illegal mining etc. have been treated to be final whereas the concerned authority is required to give an opportunity of hearing to the concerned Project proponent, not

only on the issue of imposition of compensation but also in respect of the finding of the joint Committee for violating of environmental norms.

5. Hence, we make it clear that in the process of imposing the Environmental Compensation, competent authority will give an opportunity of hearing to the alleged violators-Project Proponents on the aforesaid both the issues. The deep ditches which have been left open after illegal excavation are also required to be filled up by the concerned Project proponent, therefore, the competent authority will issue necessary direction in this regard after following due process of law. The competent authorities will duly file an action taken report before the Registrar General of this Tribunal within three 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 and if found necessary, the matter will be listed before the Court for consideration.

6. M.A. is accordingly disposed of.

7. O.A. No. 538/2022 be listed on 05.01.2024.

Prakash Shrivastava, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

October 18, 2023
M.A. No. 34/2023 In
Original Application No. 798/2022
& Original Application No. 538/2022
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