

Item Nos. 07 &08

Court No. 1

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

M.A. No.34/2023

In

Original Application No. 798/2022

Mamta Chourasia & Ors.

Applicant(s)

Versus

State of Uttarakhand

Respondent(s)

With

Original Application No. 538/2022

Swarn Singh

Applicant(s)

Versus

State of Uttarakhand & Ors.

Respondent(s)

Date of hearing: 21.09.2023

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

Respondent(s): Mr. Nikhil Rohatgi & Ms. Anjali Rajput, Advs. for the State of Uttarakhand
Mr. Hasil Jain, Adv. for Mr. Rahul Khurana, Adv. for R - 8 & 9
Mr. Taran Varma, Mr. Anand Varma & Mr. Devansh Malhotra, Advs. for R - 10
Mr. Mukesh Verma, Adv. for UKPCB (Through VC)

ORDER

1. Grievance raised in original application no. 798/2022 was in respect of violation of environmental laws by stone crushers and mining units in Village Saimalchor and Pattapani, Post Belpadav, District Nainital, Uttarakhand, resulting in creating deep ditches and degradation of environment.

2. The original application was disposed of by order dated 05.01.2023, finding that the grievance can be first looked into by the concerned authorities and directing the State PCB and District Magistrate, Nainital to look into the complaint and file action taken report before the Registrar General of the Tribunal.

3. M.A. No. 34/2013 has been registered on the basis of the report dated 10.04.2023. The Tribunal vide order dated 10.05.2023 had directed the joint committee to take further action and file action taken report.

4. In pursuance to the order dated 10.05.2023, the joint inspection report along with the covering letter dated 14th August, 2023 has been filed. In the said joint inspection report, illegal mining to the extent indicated below has been found in respect of each of the stone crusher owners:-

“1. Himmat Singh S/o Kartar Singh, Village- Pattapani, Tehsil Kaladungi, District Nainital:-

1.8 Joint inspection of the site was carried out by District Administration and Mining Department on 26.04.2022. wherein 1,35.792 m³ mineral is illegally excavated with depth of 15 m (except 6m in permitted depth and 02 m illegal excavated depth measured in earlier inspection dated 27.12.2021) as against permitted depth of 06 m. Committee has suggested for penalty of Rs. 10.45.59.840/- (Ten Crore forty-five lakh fifty-nine thousand eight hundred forty rupees only). Copy of report is annexed as Annesure-7.

1.12 It was observed that Project Proponent has excavated very large area (100m X 28 m X 15 in and 37 m X 34 m X 15 m and additionally 40 m X 40 m X 15 m) and made large pit by illegal mining activity in the name of levelling of land .

2. Subhash Chandra S/o Tikaram, Village Durgapalpur, Motiram, Tehsil Lalkuwan District –Nainital:-

2.7 Joint inspection of the site was carried out by District Administration and Mining Department on 26.03.2022. wherein 1,53,920 m³ of RBM is illegally excavated with 05 m & 04 m excess depth as against permitted depth of 07 m. District Magistrate, Nainital issued notice on 11.04.2022 for depositing penalty of amount Rs. 11.85,18,400/- (Eleven Crore eighty five Lakh, eighteen thousand, four hundred rupees only). Project Proponent has not submitted the penalty amount. Copy of notice is attached as Annexure-12.

2.8. Joint inspection of the site was carried out by District Administration and Mining Department on 26.04.2022, wherein 1,74,400 m³ mineral is illegally excavated. Committee has suggested for penalty of Rs.

13.42.88.400/- (Thirteen Crore forty-two lakh eighty-eight thousand four hundred rupees only). Copy of report is annexed as Annexure-I3.

2.12 It was observed that Project Proponent has excavated a Pit of dimension(100m X 90 m X 5 m and 160 m X 80 in X 5) by illegal mining activity in the name of levelling of land.

3. Kripal Singh, S/o Kartar Singh, Village- Sood Colony, Tehsil -Bazpur, District- Udham Singh Nagar: -

3.6 Joint inspection of the site was carried out by District Administration and Mining Department on 25.11.2021, wherein 10.080 m³ of mineral is illegally excavated with 02 m excess depth as against permitted depth of 12 m. Committee has suggested penalty of Rs. 31,04,640).

3.7 In compliance of Hon'ble High Court Nainital order dated 01.12.2021 in the matter of Writ Petition No.200/2021, Harkesh Kumar Vs State and others, joint inspection of the site was carried out by District Administration and Mining Department on 27.12.2021, wherein 2,00,547 m³ mineral is illegally excavated with depth of 15 as against permitted depth of 12 m. Committee has suggested for penalty of Rs. 15,44.21,400/- (Fifteen Crore forty four Lakh, twenty one thousand four hundred rupees only and suspension of permission. Copy of report is annexed as Annexure 5.

3.9 District Magistrate. Nainital has issued notice on 07.01.2022 to the Project Proponent based on inspection carried out on 25.11.2021 and 27.12.2021 for penalty amount 31.04,640/- and 15,44,21,400/- . The Project Proponent has not replied for the show cause notice and also not submitted the penalty amount. District Administration should take necessary action against the Project Proponent to ensure recovery of all penalty.

3.12 It was observed that Project Proponent has made excavated very large area 126 m X 117.5 m X 15 m as against permitted area of 114.60 m X 65.76m X 12 m and made large pit by illegal mining activity in the name of construction of basement parking.

4. Karam Singh S/o Suehha Singh, Village-Sailamchaud, Bailpadao, Tahsil -Kaladungi, District Nainital:-

4.5 Joint inspection of the site was carried out by District Administration and Mining Department on 25.11.2021. wherein 2856.96 m³ of mineral is illegally excavated with 1.86 m excess depth as against permitted depth of 9.14 m. Committee has suggested for penalty of Rs. 8.79,944.- (Eight Lakh, seventy-nine thousand, nine hundred forty-four rupees only). District Magistrate has issued notice to Project Proponent on 05.01.2022 for penalty. Project Proponent has not submitted the penalty amount.

4.6 in compliance of Hon'ble High Court, Nainital order dated 01.12.2021 in the matter of Writ Petition No. 200/2021 Harkesh Kumar Vs State and others, joint inspection of the site was carried out by District Administration and Mining Department on 27.12.2021, wherein 14166.04 m³ and 8512 m³ (Total-22678.04 m³) mineral is illegally excavated. Committee has suggested for penalty of Rs. 6984836/- (Sixty-nine lakh eighty-four thousand eight hundred thirty-six rupees only). Copy of report is annexed as Annexure-5.

4.10 During visit, it was observed that Project Proponent has excavated large pit by illegal mining activity in the name of construction of basement.

6. Sukhraj Singh S/o Kulwant Singh, Viliage-Banna Khera, Tehsil Bazpur, District- Udham Singh Nagar:-

6.4 permission was granted for excavation of RBM upto depth of 10m as proposed by the project Proponent with total expected quantity of 128000 m³ (considering soil factor 1.6) of RBM. It is informed by the Mining Department memorandum issued by Industrial Development Division-1(औद्योगिक विकास (खानग) अनुभाग)-I for the said purpose has not mentioned any depth to be restricted.

6.9 During visit, it was observed that Project Proponent has excavated large pit by mining activity in the name of levelling of land.”

5. The joint inspection report clearly reveals that illegal mining/excavation has been done by the above persons but, the report does not reflect any final action taken against them till now nor the report reflects passing of any final order imposing environmental compensation against damage to the environment. Though, the Counsel for the State as also the Counsel for the State PCB have submitted that the final orders imposing environmental compensation have been passed but even after referring to various documents for considerable time, they could not point out any such final order of the competent authority imposing the environmental compensation.

6. The Counsels for the above respondents have sought two weeks' time to file final order by which environmental compensation has been levied. Let same be filed on or before the next date of hearing.

7. List these matters on 18.10.2023

Prakash Shrivastava, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

Dr. Afroz Ahmad, EM

September 21, 2023

M.A. No. 34/2023 in Original Application No. 798/2022
& Original Application No. 538/2022