

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

**ORIGINAL APPLICATION NO. 453/2023
(I.A. No.225/2024)**

IN THE MATTER OF:

RAGHUBIR SINGH GARIA
Village and Post Office- Papon
State of Uttarakhand-263634

...Applicant

Verses

- 1. STATE OF UTTARAKHAND**
Through Chief Secretary
Government of Uttarakhand
- 2. DIRECTOR, GEOLOGY & MINING,
GOVERNMENT OF UTTARAKHAND**
Bhopalpani (Kadaikhala)
Raipur-Thano, Airport Motor Road,
P.O. Dhanyari,
District-Dehradun,
Uttarakhand-248008
- 3. DISTRICT MAGISTRATE, BAGESHWAR**
Collectorate Bageshwar,
State of Uttarakhand-263642
- 4. UTTARAKHAND STATE POLLUTION CONTROL BOARD**
Through its Member Secretary
Gaura Devi Bhawan,
46 B IT Park Sahastradhara,
Dehradun, State of Uttarakhand-248001
- 5. MR. ANAND SINGH**
Kalakoti S/o Diwan Singh Kalakoti
Resident of Village & Post Office Dofar,
District Bageshwar-263634

...Respondent(s)

COUNSELS FOR APPLICANT:

None

COUNSELS FOR RESPONDENT(S):

Mr. Deepak Bora and Mr. Sai Darshan Patra, Advocates for State of Uttarakhand

Mr. Mukesh Verma and Ms. Vatsala Tripathi, Advocates for UKPCB (through VC)

Mr. Shashwat Panda, Advocate for respondent no. 5

CORAM:

HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER

RESERVED ON: SEPTEMBER 10, 2024
PRONOUNCED ON: APRIL 22, 2025

JUDGMENT

BY HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER

1. This Tribunal registered the present Original Application (hereinafter referred to as '**OA**') under Sections 14 and 15 of National Green Tribunal Act, 2010 (hereinafter referred to as '**NGT Act, 2010**') in exercise of *suo-moto* jurisdiction in view of law laid down by Supreme Court in ***Municipal Corporation of Greater Mumbai vs. Ankita Sinha, (2022) 13 SCC 401*** on the basis of a letter petition dated 23.04.2023 sent by Raghubir Singh Garia, resident of village and post-Papon, District- Bageshwar, State of Uttarakhand.

2. Complainant has said that illegal mining of soap stone is going on in his village for several months causing damage to environment and leading to depletion of natural resources but no action has been taken by the concerned authorities. Once fertile land is turned into barren land, scarcity of water would become daily struggle for both humans and animals. Debris generated from mining is polluting nearby Pungar river

and harming aquatic life which has severe impact on eco-system and environmental balance. The main violator is named as Anand Singh Kalakoti, son of Diwan Singh Kalakoti, resident of village and post office-Dofar, District Bageshwar.

3. **Tribunal's Order dated 01.08.2023:** Taking cognizance of the complaint on 01.08.2023, Tribunal found it appropriate to verify the facts and thus constituted a Joint Committee comprising Uttarakhand State Pollution Control Board (hereinafter referred to as '**UKPCB**') and District Magistrate, Bageshwar. The Committee was required to submit its report within one month.

Joint Committee Report dated 01.11.2023:

4. Pursuant to order dated 01.08.2023, Joint Committee submitted report vide e-mail dated 01.11.2023 stating that mining lease for 20 years was sanctioned to Anand Singh Kalakoti vide Government order dated 08.02.2002 for carrying out mining in village Papon, Tehsil and District Bageshwar over an area of 2.81 acres i.e., 1.14 hectares for extraction of soap stone. The said lease expired on 21.02.2022, since, lease deed was registered on 22.02.2002. By a subsequent Government Order dated 03.01.2022, the mining lease has been extended by 30 years. State Level Environment Impact Assessment Authority, Uttarakhand (hereinafter referred to as '**SEIAA Uttarakhand**') granted Environmental Clearance (hereinafter referred to as '**EC**') dated 06.12.2019 to Anand Singh Kalakoti for extraction of mineral of the quantity of 5105 to 7184 tonnes per annum. Mining plan was approved by Director, Geology and Mining on 08.12.2022 and use of machines was permitted by Directorate Mining Safety, Ghaziabad vide letter dated 01.09.2011. Consent was issued by

UKPCB on 22.05.2023 valid upto 31.03.2024. Joint Committee however found mining beyond the sanctioned lease area and other violations also. The observations and recommendations of Joint Committee are reproduced as under:

“संयुक्त निरीक्षण आख्या निम्नवत् है:-

- 01.** श्री आनन्द सिंह कालाकोटी पुत्र श्री दिवान सिंह कालाकोटी, निवासी ग्राम दोफाड़ जनपद व तहसील बागेश्वर के पक्ष में औद्योगिक विभाग अनुभाग-1 उत्तराखण्ड शासन के कार्यालय ज्ञाप संख्या 2424/औ०वि०/74-ख/2001, दिनांक 08-02-2002 के द्वारा जनपद व तहसील बागेश्वर के ग्राम पपों के क्षेत्रान्तर्गत कुल 2.81 एकड़ अर्थात् 1.14 है० क्षेत्रफल में खनिजसोपस्टोन का खनन पट्टा 20 वर्ष की अवधि के लिये स्वीकृत किया गया। उक्त खनन पट्टा विलेख का पंजीकरण उपनिबंधक कार्यालय बागेश्वर में दिनांक 22-02-2002 को पंजीकृत किया गया, जिसकी समयावधि दिनांक 21-02-2022 को समाप्त हो जाने के दृष्टिगत औद्योगिक विकास अनुभाग-1 के शासनादेश संख्या 2250/VII-A-1/2021-74ख/2001 दिनांक 03 जनवरी 2022 के द्वारा उत्तराखण्ड गौण खनिज नीति, 2015 (समय-समय पर यथासंशोधित) के प्राविधानुसार श्री आनन्द सिंह कालाकोटी पुत्र श्री दिवान सिंह कालाकोटी, निवासी ग्राम दोफाड़ जनपद व तहसील बागेश्वर के पक्ष में स्वीकृत उक्त खनन पट्टे को आगामी 30 वर्षों तक विस्तारीकृत किये जाने की अनुमति प्रदान की गयी है। **(संलग्नक-02)**
- 02.** राज्य स्तरीय पर्यावरण समाधात निर्धारण प्राधिकरण, उत्तराखण्ड, 653, इन्दिरानगर कालोनी, सीमाद्वार रोड़, देहरादून (पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार, नई दिल्ली द्वारा गठित) के पत्रांक E.C.No-74-01(37)/2018 दिनांक 06.12.2019 के द्वारा मै० श्री आनंद सिंह कालाकोटी पुत्र श्री दीवान सिंह कालाकोटी निवासी ग्राम व पो० दोफाड़, तहसील व जनपद-बागेश्वर के पक्ष में पर्यावरण स्वीकृति 5105 से 7184 टन प्रति वर्ष हेतु प्रदान की गयी है। **(संलग्नक-03)**
- 03.** भूतत्व एवं खनिकर्म इकाई उद्योग निदेशालय उत्तराखण्ड, भोपालपानी, पो० बड़ासी, देहरादून के कार्यालय ज्ञाप संख्या-3489/मु० ख०/खनन/65/सोप स्टोन/बागे०/भू०खनि०ई०/2010-2011 दिनांक 08.12.2022 द्वारा खनिज उत्पादन, के सम्बन्ध में खनन योजना एवं उत्तरोत्तर खान बंद करने की योजना का अनुमोदन विभिन्न शर्तों / प्रतिबंधों के अधीन अनुमोदित किया गया है। उक्त खनन पट्टा वर्ष 2002 से संचालित रहा है। प्रश्रुगत खनन पट्टा क्षेत्र में मशीनों के प्रयोग की अनुमति खान सुरक्षा निदेशालय गाजियाबाद के पत्र संख्या 63 दिनांक 01.09.2011 द्वारा प्रदान की गयी थी, जिसकी अनुमति के क्रम में **पट्टाधारक द्वारा पूर्व में खनन कार्य हेतु मशीनों का प्रयोग किया गया था।** प्रश्रुगत खनन पट्टा ग्राम पपों के सीढ़ीनुमा निजी नाप खेतों में स्वीकृत है जिसमें पहाड़ों का कोई कटान किया जाना दृष्टिगोचर नहीं होता है तथापि **खनन पट्टा क्षेत्र के उत्तर-पूरब दिशा में भू-स्खलन हुआ है।** **(संलग्नक-04)**
- 04.** बोर्ड मुख्यालय उत्तराखण्ड प्रदूषण नियंत्रण बोर्ड के पत्रांक-यूकेपीसीबी/एचओ/सहमति/ए-358/2023/202 दिनांक 22.05.2023 के द्वारा मै० श्री

आनंद सिंह कालाकोटी पुत्र श्री दिवान सिंह कालाकोटी निवासी ग्राम व पो० दौफाड़, तहसील व जनपद-बागेश्वर को पर्यावरण प्रदूषण की दृष्टि से सशर्त दिनांक 31.03.2024 तक संचालनार्थ सहमति निर्गत की गयी है। (संलग्नक-05)

05. तहसील व जनपद बागेश्वर के राजस्व उपनिरीक्षक क्षेत्र चौरा अन्तर्गत ग्राम पपों में श्री आनन्द सिंह कालाकोटी के पक्ष में 1.14 है० में खनन सोपस्टोन का खनन पट्टा स्वीकृत है। जिसके जी०पी०एस० कॉर्डिनेट्स N 29 53 23 E 79 52 02 हैं। खनन क्षेत्र समुद्र तल से लगभग 1470 मीटर मी ऊंचाई पर स्थित है। स्वीकृत खनन क्षेत्र के उत्तर में लगभग 15 मी० की दूरी पर बरसाती नाला, दक्षिण में सीढीनुमा खेत व पगडंडी, पूरब दिशा में पक्का रास्ता तथा पश्चिम दिशा की ओर नाप व बंजर भूमि है। स्थल से लगभग 03 कि०मी० की दूरी पर पुंगर नदी स्थित है। खनन क्षेत्र के बाहर लगभग 100 मीटर की दूरी पर उत्तर-पूरब दिशा में एक नौला अवस्थित है। जिसका जल प्रश्रगत खनन पट्टे के उत्तर दिशा की ओर प्रभावित होता है।
06. निरीक्षण के दौरान स्थल पर खनन क्षेत्र से निकले मलवे का निस्तारण खनन क्षेत्र की उत्तर दिशा में स्थित नाले की ओर 15 x 10 x 1.5 M =225 घनमीटर मलुवा खनन क्षेत्र के बाहर भूमि पर किया जाना पाया गया। जिसमें वायर क्रेट रिटेनिंग वाल की स्थापना नहीं की गयी है। जिससे मलवे का निस्तारण नाले में होने की संभावना है। जो सहमति शर्तों का उल्लंघन है। इस संबंध में क्षेत्रीय कार्यालय हल्द्वानी द्वारा पट्टाधारक के विरुद्ध पर्यावरणीय क्षतिपूर्ति आरोपित किये जाने हेतु संस्तुति सहित आख्या पृथक से बोर्ड मुख्यालय प्रेषित की जा रही है (संलग्नक-06)
07. खनन क्षेत्र से बाहर लगभग 150 मी० की दूरी पर पूरब दिशा की ओर 05 परिवारों के 08 आवासीय भवन स्थित हैं। संबधितों के आवास को संभावित खतरे के दृष्टिगत स्थल पर पट्टाधारक के द्वारा अवगत कराया गया कि उक्त 08 आवासीय भवनों का निर्माण किया जा रहा है। जिनमें से 06 आवासीय भवन पट्टाधारक द्वारा निर्मित कर दिये गये हैं तथा 02 भवन निर्माणाधीन है। खनन क्षेत्र के पूरब दिशा में स्लाइड / भूस्खलन पाया गया। जिसमें पट्टाधारक द्वारा पूर्व में रिटेनिंग वॉल का निर्माण किया गया था। उक्त रिटेनिंग वॉल वर्तमान मानसून अवधि में क्षतिग्रस्त हो चुकी है। निरीक्षण पर पाया गया कि पट्टाधारक द्वारा अपने स्वीकृत क्षेत्रान्तर्गत ही खनन कार्य किया गया है। निरीक्षण तिथि को खनन क्षेत्रान्तर्गत खनन के कारण कोई भी आवास क्षतिग्रस्त होना नहीं पाया गया। स्थल के उत्तर-पूर्व दिशा में भूस्खलन हुआ है, भूस्खलन क्षेत्र का फैलाव लगभग 50 मीटर लम्बाई तथा 30 ऊंचाई में है। निरीक्षण के दौरान स्थल पर उपस्थित ग्राम वासियों द्वारा अवगत कराया गया कि उक्त स्थल पर वर्ष 2021 में भी हलका भूस्खलन हुआ था। पट्टाधारक द्वारा दिनांक-09.05.2023 को प्रभावित ग्रामीणों के आवासीय मकानों के निर्माण किये जाने हेतु स्वयं लिखित में दिया गया है। (संलग्नक-07)
08. मौके पर खनन क्षेत्र के समीप प्रवाहित होने वाले नाले से जल का नमूना लिया गया है। जिसे परीक्षण हेतु प्रयोगशाला में भेजा गया। विश्लेषण आख्या की प्रति संलग्न है, जो Designated Best Use Water Quality Criteria के अनुसार B श्रेणी के अन्तर्गत है। (संलग्नक-08)
09. स्थल की क्षेत्रीय तथा स्थानीय भूगर्भीय संरचना- प्रश्रगत स्थल लघु हिमालय पर्वत

श्रखला के विकसित सोपानों के मध्य जौनसार समूह की बैरीनाग फारमेशन के मध्य अवस्थित है। प्रश्रगत स्थल के उत्तर पूरब दिशा में भूस्खलन से ढाल का ओवरवर्डन मटीरियल / डेब्रिस मटीरियल के गिरने से Quartzite चट्टान दृष्टिगोचर हो रही है। जो ज्वाइंटेड तथा फैक्चर्ड है, और प्रश्रगत स्थल पर डोलोमाइट सोपस्टोन की चट्टानें हैं। जो कमजोर सामर्थ्य की दृष्टिगोचर होती हैं। प्रश्रगत स्थल की सतह पर पूर्ण रूप से स्वस्थानिक चट्टानें दृष्टिगोचर नहीं होती हैं।

- 10.** स्थल पर भूस्खलन के सम्बन्ध में अवगत कराना है कि **भूस्खलन प्रभावित क्षेत्र तथा आस-पास का क्षेत्र ओवरवर्डन मटीरियल/डेब्रिस मटीरियल का बना है।** स्थल पर डोलोमाइट तथा टेल्क सोपस्टोन प्रकार के टुकड़े मिश्रित अवस्था में मृदा के साथ मौजूद हैं। अत्यधिक वर्षा/वर्षा काल में वर्षा के कारण पानी के द्वारा जल संतृप्तता बढ़ जाती है तथा अन्तर्सतही भाग में अधिक जल होने से मृदा के आवरण का भार बढ़ जाता है। जो अधिक ढालदार भू-भाग/तीव्र ढाल पर गुरुत्वाकर्षण के कारण किपिंग व भूस्खलन का कारण बनता है।

अतिरिक्त बिन्दु

मा० राष्ट्रीय हरित अधिकरण, नई दिल्ली के आदेश दिनांक 01.08.2023 के साथ संलग्न शिकायतकर्ता श्री रघुवीर सिंह गढ़िया ग्राम व पोस्ट पपो जिला बागेश्वर के प्रार्थना पत्र दिनांक 23.04.2023 में अंकित बिन्दुओं पर की गयी कार्यवाही एवं स्थल निरीक्षण में प्रकाश में आये तथ्यों के क्रम में रिपोर्ट -

- 01-** दिनांक 15 मार्च 2023 को तत्कालीन उपजिलाधिकारी महोदय बागेश्वर की उपस्थिति में खनन एवं राजस्व विभाग के द्वारा उक्त सोपस्टोन खनन माईन का निरीक्षण किया गया तथा स्थल पर परिलक्षित हुये बिन्दुओं / अनियमितताओं के अनुसार आख्या जिलाधिकारी महोदय बागेश्वर को प्रेषित की गयी उक्त के अतिरिक्त अवगत कराना है कि ग्राम पपों के ग्राम वासियों यथा श्री पूरन राम टम्टा, श्री तेज राम, श्री दीवान राम, श्री चंचल राम, श्री गोपाल राम, श्री बलराम, श्री हरीश राम के संयुक्त हस्ताक्षरित शिकायती पत्र के क्रम में दिनांक 13.05.2023 को राजस्व विभाग तथा भूतत्व एवं खनिकर्म विभाग के अधिकारी/कर्मचारियों द्वारा संयुक्त रूप से शिकायतकर्ताओं व पट्टाधारक तथा अन्य ग्रामीणों की उपस्थिति में जांच की गयी थी तथा पूर्व में जिलाधिकारी महोदय के नोटिस पत्र संख्या-1188/तीस-खनन/2020-21 दिनांक 28.09.2021 द्वारा पट्टाधारक के खनन पट्टा क्षेत्रान्तर्गत अनियमिततायें पाए जाने के कारण अग्रिम आदेशों तक खनन कार्य में लगायी गयी रोक के बावजूद निरीक्षण दिनांक-13.05.2023 को पट्टाधारक द्वारा स्वीकृत खनन पट्टा क्षेत्र में कराये जा रहे कार्य व मौके पर उत्खनित उपखनिज पैमाइस अनुसार कुल 168 घन मी० पर नियमानुसार रायल्टी का दोगुना ₹0 900 प्रति टन की दर से कुल ₹3,32,640/- अर्धदण्ड अधिरोपित किया गया तथा संबंधित पट्टाधारक द्वारा 01.07.2023 को उक्त वर्णित धनराशि का नियमानुसार चालान निर्धारित लेखाशीर्षक अन्तर्गत जमा किया गया है। (संलग्नक-9)

- 02-** प्रश्रगत स्थल पर कोई भी अवैध सड़क निर्माण होना नहीं पाया गया है।

- 03-** खनन क्षेत्रान्तर्गत सम्भावित भूस्खलन को दृष्टिगत रखते हुए संबंधित पट्टाधारक द्वारा

ग्राम पपों के 05 परिवारों हेतु 08 आवासीय भवनों का निर्माण किया जा रहा है। जिनमें से 06 आवासीय भवन पट्टाधारक द्वारा निर्मित कर दिये गये हैं तथा 02 भवन निर्माणाधीन हैं। निर्माणाधीन भवनों को तत्काल पूर्ण निर्मित करने के निर्देश संबंधित पट्टाधारक को निरीक्षण के दौरान निर्गत किये गये हैं।

- सुझाव-

- 01. भूखलित मलुवे को हटाकर उचित स्थान पर मलुवे का निस्तारण किया जाय। मलुवे को गंधेरे में ना डाला जाय और प्राकृतिक जल प्रभाव को अवरूद्ध ना किया जाय।**
- 02. भूखलन की रोकथाम हेतु उपर्युक्त रूप से डिजाइन की गयी सुरक्षात्मक दीवार का निर्माण किया जाय।**
- 03. भूखलित ढाल पर जहाँ चट्टान दृष्टिगोचर है, Shotcrete किया जाय।**
- 04. प्रश्रगत स्थल के पूरब दिशा में आवासीय भवनों के नीचे ढाल पर उचित निर्धारित स्तरों पर उपयुक्त रूप से डिजाइन की गयी गैबियन दीवार का निर्माण किया जाय।**
- 05. भूखलन प्रभावित क्षेत्र के ऊपरी भाग में भूखलन की रोकथाम हेतु Geo Jute Fiber का प्रयोग किया जाय।**
- 06. प्रश्रगत स्थल पर जल निकासी की समुचित व्यवस्था की जाय।”**

English Translation by Tribunal:

“The joint inspection report is as follows:-

- 01.** Mining lease of mineral soapstone was granted for a period of 20 years in favour of Shri Anand Singh Kalakoti S/o Shri Diwan Singh Kalakoti, R/o village Dophad, District and Tehsil Bageshwar by Industrial Department Section-1, vide Government of Uttarakhand OM No. 2424/Au.Vi./74-B/2001, dated 08-02-2002 in a total area of 2.81 acres i.e. 1.14 hectares under the area of village Papon of district and tehsil Bageshwar. The registration of the said mining lease deed was registered in the Sub-Registrar's Office Bageshwar on 22-02-2002, in view of the expiry of its time period on 21-02-2022, permission has been granted to extend the said mining lease granted in favour of Shri Anand Singh Kalakoti S/o Shri Diwan Singh Kalakoti, R/o village Dofad, District and Tehsil Bageshwar for the next 30 years as per the provisions of Uttarakhand Minor Mineral Policy, 2015 (as amended from time to time) by Industrial Development Section-1's Government Order No. 2250/VII-A-1/2021-74K/2001 dated 03 January 2022. **(Annexure-02)**
- 02.** State Level Environmental Impact Assessment Authority, Uttarakhand, 653, Indiranagar Colony, Seema Dwar Road, Dehradun (constituted by Ministry of Environment, Forest and Climate Change, Government of India, New Delhi) has granted environmental clearance for 5105 to 7184 tonnes per year in favour of Shri Anand Singh Kalakoti S/o Shri Diwan Singh

Kalakoti R/o village and post Dophad, Tehsil and District Bageshwar vide letter no. E.C.No-74-01(37)/2018 dated 06.12.2019. (Annexure-03)

- 03.** *Geology and Mining Unit, Directorate of Industries Uttarakhand, Bhopalpani, PO Barasi, Dehradun, vide OM No. 3489/M.K./Mining/65/SoapStone/Bage/Geo.Mining.E./2010-2011 dated 08.12.2022, has approved the mining plan and the plan for closure of mines in relation to mineral production, under various conditions/restrictions. The said mining lease has been in operation since 2002. Permission to use machines in the mining lease area in question was granted vide letter number 63 dated 01.09.2011 of Directorate of Mine Safety Ghaziabad, in pursuance of that, machines were used by the lessee for mining work earlier. The mining lease in question is approved in the terraced private measured fields of village Papon in which no cutting of mountains is visible, however a landslide has occurred in the north-east direction of the mining lease area. (Annexure-04)*
- 04.** *Conditional Consent on environment pollution has been issued to Shri Anand Singh Kalakoti S/o Shri Diwan Singh Kalakoti R/o village and post Dpphad, Tehsil and District-Bageshwar for operation till 31.03.2024, vide letter no. UKPCB/HO/Consent/A-358/2023/202 dated 22.05.2023 issued by Board Headquarters Uttarakhand Pollution Control Board. (Annexure-05)*
- 05.** *A mining lease for soapstone mining has been approved in favour of Shri Anand Singh Kalakoti in village Papon under revenue sub-inspector area Chaura of Tehsil and District Bageshwar. Its GPS coordinates are N 29 53 23 E 79 52 02. The mining area is located at an altitude of about 1470 meters above sea level. There is a rainy drain at a distance of about 15 meters to the north of the approved mining area, terraced fields and footpaths to the south, a paved road to the east and measured and barren land to the west. The Pungar river is located at a distance of about 03 km from the site. A Naula is located in the north-east direction at a distance of about 100 meters outside the mining area. Its water is affected towards the north of the mining lease in question.*
- 06.** *During inspection, it was found that the 15 x 10 x 1.5 M = 225 cubic meter of debris from the mining area was being disposed of on the land outside the mining area, towards the drain situated to the north of the mining area. Wire crate retaining wall has not been installed in it. Due to which there is a possibility of the waste being disposed of in the drain which is a violation of the consent conditions. In this regard, a separate report with the recommendation for levying environmental compensation against the lessee is being sent to the Board Headquarters by the Regional Office Haldwani (Annexure-06)*

- 07.** 08 residential buildings of 05 families are located at a distance of about 150 m outside the mining area towards the east. In view of the potential danger to the houses of the relatives, the lease holder was informed at the site that the said 08 residential buildings are being constructed. Out of which 06 residential buildings have been constructed by the lease holder and 02 buildings are under construction. Slide / landslide was found in the east direction of the mining area in which retaining wall was constructed earlier by the lease holder. The said retaining wall has been damaged in the current monsoon period. On inspection, it was found that the mining work has been done by the lessee within his approved area. On the date of inspection, no house was found to be damaged due to mining within the mining area. A landslide has occurred in the north-east direction of the site, the landslide area is spread over about 50 meters in length and 30 meters in height. During the inspection, the villagers present at the site informed that a mild landslide had also occurred at the said site in the year 2021. The lessee himself has given in writing on 09.05.2023 for the construction of residential houses for the affected villagers. **(Annexure-07)**
- 08.** A water sample has been taken from the drain flowing near the mining area on the spot. It was sent to the laboratory for testing. A copy of the analysis report is attached, which falls under category B as per the Designated Best Use Water Quality Criteria. **(Annexure-08)**
- 09. Regional and Local Geological Structure of the site-** The site in question is situated in the middle of the developed steps of the Lesser Himalayan mountain range in the Berinag Formation of the Jaunsar group. Quartzite rock is visible due to the fall of overburden material/debris material of the slope due to landslide in the north-east direction of the site in question which is jointed and fractured, and there are dolomite soapstone rocks at the site in question and appears to be of weak strength. Completely in situ rocks are not visible on the surface of the site in question.
- 10.** Regarding landslide at the site, it is to be informed that the landslide affected area and the surrounding area is made up of overburden material/debris material. Dolomite and talc soapstone type fragments are present in mixed state with the soil at the site. During heavy rainfall/rainy season, water saturation increases due to rain water and due to more water in the subsurface part, the weight of the soil cover increases. Which causes knipping and landslides due to gravity on more sloping terrain/steep slope.

Additional points

Report in the sequence of action taken on the points mentioned in the application dated 23.04.2023 of the complainant Shri Raghuveer Singh Gadhiya village and Post Papo District Bageshwar and the

facts that came to light during the site inspection, attached with the order dated 01.08.2023 of Hon'ble National Green Tribunal, New Delhi -

- 01. On 15th March 2023, in the presence of the then Sub-Divisional Magistrate, Bageshwar, the said soapstone mining mine was inspected by the Mining and Revenue Department and a report was sent to the District Magistrate, Bageshwar as per the points/irregularities reflected on the site. Apart from the above, it is to be informed that in the sequence of the complaint letter jointly signed by the villagers of village Papon, namely Shri Puran Ram Tamta, Shri Tej Ram, Shri Diwan Ram, Shri Chanchal Ram, Shri Gopal Ram, Shri Balram, Shri Harish Ram, on 13.05.2023, an investigation was conducted jointly by the officers / employees of the Revenue Department and the Geology and Mining Department in the presence of the complainants and the lessee and other villagers and earlier, due to irregularities found under the mining lease area of the lessee by the District Magistrate's notice letter number -1188 / 30-Mining / 2020-21 dated 28.09.2021, the mining work was stopped till further orders. Despite the ban, a fine of Rs 3,32,640/- was imposed on the inspection dated 13.05.2023 at the rate of double royalty i.e. Rs 900 per tonne on the work being done in the approved mining lease area by the lessee and on the total 168 cubic meter of sub-mineral excavated on the spot as per the measurement and the challan of the above mentioned amount has been deposited by the concerned lessee on 01.07.2023 under the prescribed account head as per the rules. **(Annexure-9)***
- 02. No illegal road construction has been found at the site in question.*
- 03. Keeping in view the possible landslide in the mining area, 08 residential buildings are being constructed for 05 families of village Papon by the concerned lease holder. Out of which 06 residential buildings have been constructed by the lease holder and 02 buildings are under construction. Instructions to complete the construction of the buildings under construction immediately have been issued to the concerned lease holder during inspection.*

- Suggestion-

- 01. The landslide debris should be removed and disposed of at a proper place. The debris should not be dumped in the ravine and the natural water flow should not be obstructed.*
- 02. A properly designed protective wall should be constructed to prevent landslides.*
- 03. Shotcrete should be used on the landslide slope where the rock is visible.*

04. Suitably designed gabion wall should be constructed at appropriately determined levels on the slope below the residential buildings on the east side of the site in question.

05. Geo Jute Fiber should be used to prevent landslides in the upper part of the landslide affected area.

06. Proper arrangement of water drainage should be made at the site in question.”

5. **Tribunal’s Order dated 01.11.2023:** Report was considered by Tribunal on 01.11.2023 and in the light of observations made therein, following were impleaded as respondents:

- (i) State of Uttarakhand, through Chief Secretary, Government of Uttarakhand;
- (ii) Director, Geology and Mining, Government of Uttarakhand;
- (iii) District Magistrate, Bageshwar;
- (iv) UKPCB; and
- (v) Anand Singh Kalakoti, son of Diwan Singh Kalakoti, resident of Village and Post Office-Dofar, District-Bageshwar.

6. Respondents were permitted to file their responses within two months.

Reply/Objections dated 02.04.2024 filed by the applicant to Joint Committee Report, signed by the members on 14.09.2023 but filed before Tribunal vide e-mail dated 01.11.2023:

7. The applicant has stated that on 29.01.2024 before Tribunal a statement was made that Joint Committee has filed its report on 29.12.2023 but no such report has been filed; during the course of hearing, Counsel appearing for State of Uttarakhand assured that no illegal mining will be permitted but despite that no action has been taken and illegal mining is continuing; Joint Committee Report dated 01.11.2023 shows that the mining site was inspected by Sub-Divisional

Officer, Bageshwar and the officials of Mining and Revenue Department on 15.03.2023 and during the said inspection, the complaint of the villagers dated 13.05.2023 was taken note of and it was also noted that District Magistrate has issued a notice dated 28.09.2021 to the lease holder, stopping mining activities due to various mining irregularities found but despite that mining was continuing on the site, as a result, whereof, Rs.3,32,640/- was imposed as penalty computed on 168 m³ of the quantity of mineral at twice the rate of royalty and the said amount was deposited by the lease holder on 01.07.2023; due to illegal mining, ecological balance is adversely affected and shows that lease holder has grossly abused the terms and conditions of mining Statute; respondent 5 is continuously undertaking mining activities in violation of Statutory provisions causing damage to environment and also to the local people; and due to heavy illegal mining, there is land slide causing damage to the private properties of the residents but no damage has been paid by the respondent 5 to the affected persons.

8. Considering the objections of applicant and reports etc., Tribunal on 03.04.2024 passed an interim order directing respondent 5 for desisting from carrying any further mining in the lease area.

9. **I.A. No.225/2024:** It was filed by respondent 5 seeking vacation of the interim order.

10. Respondent 5 had stated that the proceedings initiated by applicant *mala-fide* and with a motive to extort money from respondent 5; father of the complainant/applicant permitted respondent 5 to carry out mining activity on the family land; after the death of father, Bhupal Singh, brother of applicant approached respondent 5 stating that if respondent

5 wants to continue with the mining activities on the family land, he should pay a sum of Rs. 6 lakhs more to him i.e., Bhupal Singh; consequently, respondent 5 actually paid a sum of Rs. 6 lakhs by way of NEFT/RTGS so as to continue mining activity on the family land of applicant and his brother; thereafter, applicant started demanding Rs. 8 lakhs and for non-payment, threatened respondent 5 that he will not allow mining activities to be carried out on the family land; respondent 5 refused to pay the sum demanded by the applicant and in order to harass the applicant, letter petition/complaint dated 23.04.2023 has been sent to this Tribunal; the applicant coerced respondent 5 to enter into a lease deed dated 19.05.2023 for leasing the land for period of November 2022 to September 2023 for a sum of Rs. 8 lakhs wherein applicant further signed as a witness; and the proceedings initiated by applicant is clearly malicious and for extortion of money and to harass respondent 5.

11. On the merits, respondent 5 has stated that he is the sole proprietor of the firm carrying mining activities i.e., extraction of soapstone in the mining lease area of 1.14 hectares at village Papaun, Tehsil and District Bageshwar. After completion of all the formalities, mining lease dated 21.01.2023 was executed granting mining rights to respondent 5 on the said land for a period of 30 years. It is said that earlier mining lease was granted for a period of 20 years i.e., 22.02.2002 to 21.02.2022 which has been subsequently extended for a period of 30 years vide office order dated 03.01.2022. No illegal mining has been carried out by respondent 5 in as much as the entire mining has permission from State Government and the relevant authorities; ECs, Consent etc. have been obtained from Competent Authorities; no excess extraction of mineral has been carried out; and no specific averment has been made by applicant in letter

petition showing any irregularity or illegality in mining activities on the part of respondent 5; most of the mining lease area is already barren and there is no illegal cutting and damage of mountains as alleged by applicant; no debries has fallen down in the river body and joint committee report only expresses a possibility but no positive finding has been recorded that debries has been discharged or fallen down in the river body; respondent 5 has already communicated to authorities concerned to comply with the suggestions made by Joint Committee in its report and copy of such letter dated 08.05.2024 sent by respondent 5 to District Magistrate has been placed on record as annexure-7 at page 272 of the paper book; water sample has been collected in violation of the procedure prescribed in Section 11 of EP Act, 1986 and Rule 6 to 8 of Environment (Protection) Rules, 1986; it is incorrect to allege that despite order of stoppage of mining activities, respondent 5 has continued such activities in as much as respondent 5 stopped mining operations on 25.03.2024; pits have been continuously filled in by respondent 5 and the allegations otherwise are incorrect.

12. It is further said that Joint Committee has prepared report in violation of principles of natural justice in as much as no opportunity of hearing was accorded to respondent 5 before submission of Joint Committee Report. The signatures were obtained by Joint Committee on blank papers and neither any query has been made from him nor he was given any opportunity to explain anything. Though respondent 5 is challenging findings of the Joint Committee but in any case, he is ready to carry out the suggestions and recommendations made by it. It has already built a wall 12 meter long and 3 meter wide to protect Barsati Nallah water body and also strengthening work of houses of villagers

besides having built some new houses of villagers. Respondent 5 is constructing gabion walls and other protection walls on the slope to protect residences. Project mining lease in question is the sole bread and butter of respondent 5 and large number of labours are depended thereon, any preventing order of mining activities will cause serious problem of earning livelihood to respondents 5 and others.

Reply dated 24.05.2024 filed by respondent 5:

13. Respondent 5 has also filed separately reply dated 24.05.2024 and the basic facts disclosed therein are similar as are mentioned in ***I.A. 225/2024 (supra)***.

Objections dated 25.05.2024 filed by respondent 5:

14. Similarly, another objections to Joint Committee Report have been filed by respondent 5 vide e-mail dated 25.05.2024 but therein also, the facts stated are similar as have already been noted above.

Affidavit dated 24.05.2024 filed by Regional Officer, UKPCB:

15. An affidavit dated 24.05.2024 vide e-mail dated 27.05.2024 has been filed by Regional Officer, UKPCB with reference to Tribunal's order dated 03.04.2024 stating that UKPCB has issued a show cause notice dated 21.03.2024 to respondent 5 alleging violations of provisions of Air Act, 1981 and Water Act, 1974 and also proposing environmental compensation of Rs.3200/- per day unless compliance is made. Further for compliance of Tribunal's order dated 03.04.2024, stopping mining activities of respondent 5, Member Secretary, UKPCB has informed District Magistrate, Bageshwar and Superintendent of Police, Bageshwar about the said order with the request to take steps for its compliance.

Report dated 08.07.2024 filed by Incharge District Mining Officer:

16. Report dated 08.07.2024 has been filed by Incharge District Mining Officer stating that issue of e-ravanna was stopped vide notice dated 06.05.2024. Thereafter, pursuant to respondent 5 letter dated 08.05.2024, seeking permission of opening of e-ravanna portal, District Magistrate, Bageshwar issued a letter dated 17.05.2024 permitting opening of e-ravanna portal in respect of the mineral already extracted upto 31.03.2024 in the questioned mining lease area.

Reply dated 07.09.2024 filed by applicant to the objections of respondent 5:

17. The applicant has reiterated that respondent 5 despite orders for not carrying out mining activities is illegally carrying out activities, and, therefore, action must be taken.

Additional documents filed by respondent 5 on 09.09.2024:

18. Respondent 5 has filed additional documents vide e-mail dated 09.09.2024 which include copy of lease letter dated 08.01.2002 and mining lease order dated 18.02.2002 issued by Uttaranchal Government; letter dated 08.01.2016 issued by Ministry of Environment, Forest and Climate Change, New Delhi (hereinafter referred to as '**MoEF&CC**') clarifying that all new leases in operating leases even for a mining lease area of less than 5 hectares would require EC but those already operating, may be allowed to seek EC at the stage of renewal; notification dated 10.02.2015, declaring soapstone as minor mineral; copies of dead rent receipts; EC dated 06.12.2019; and, Consolidated Consent and Authorization order dated 12.10.2020 valid upto 31.03.2021.

List of dates and events filed by respondent 5 on 09.09.2024:

19. A list of dates and events dated 09.09.2024 has been filed by respondent 5 giving chronological narration of events as under:

- *State Government considered the area 1.14 ha (2.81 Acre) for mining lease for the mining soapstone and given its consent for the consent for the grant of mining lease vide letter dated 08.01.2002.*
- ***Lease was registered on sub registrar office Bageshwar on 22.02.2002 for a period of 20 years valid upto 21.02.2022.***
- ***That the Respondent no. 5 is engaged in extraction of Soapstone.***
- *That till 9th February, 2015, Soapstone was a major mineral.*
- *Since the mine lease area for the mining of major mineral was less than 5 Ha, there was no requirement upon Respondent no. 5 to obtain Environment Clearance in terms of Office Memorandum dated 04.01.2013 issued by the Ministry of Environment and Forest, Government of India.*
- *The Ministry of Environment, Forest and Climate Change, GOI, vide Clarification No. Z-110013/6/2015-IA.II(M) dated 08.01.2016 gave clarification on the requirement of obtaining Environmental Clearance for mining of major mineral in the mine lease area of less than 5 ha which are under operation prior to Amendment in EIA Notification, 2006 S.O. 2601 (E) dated 07.10.2014 and clarified that **after the amendment vide S.O. 2601 (E) dated 7th October 2014, all new mining operations are required to obtain Prior Environmental Clearances. However, after the amendment vide S.O. 2601 (E) dated 07.10.2014, Environmental clearances are required for mining of major minerals with the mining lease area less than 5 ha for operating mines at the stages of renewal of mine leases and the mines of major minerals with the mine lease area of less than 5 ha which were operating before 7th October, 2014, may continue the mining operations and shall not enhance the production capacity without prior EC.***
- *Vide Notification dated 10.02.2015, the Ministry of Mines declared Soapstone as Minor Mineral.*

- Respondent no. 5 did not conduct any kind of mining operation for the period 2016-2017, 2017-2018, 2018-2019, 2019-2020 and has paid dead rent for the said period. Period of dead rent corresponds to financial year.
- Respondent vide proposal dated 31.12.2018, Respondent submitted proposal to the SEIAA for grant of Environmental Clearance for extraction of Soapstone with the proposed production capacity 7184 Tonnes/ Annum.
- **SEIAA vide letter dated 06.12.2019 granted Respondent No. 5 Environmental Clearance for the mining lease area.**
- Respondent no. 5 applied for consolidated Application dated 24.09.2020 for consolidated consent and authorization (CC&A).
- **Uttarakhand Pollution Control Board vide Order dated 12.10.2020 granted CCA (Provisional Consent Order) dated 12.10.2020 valid upto 31.03.2021.**
- Respondent no. 5 **did not conduct any mining operation in the mining lease area for the period 2021-2022 and 2022-2023** and has paid Dead Rent for the said period. Period of dead rent corresponds to financial year.
- The **first mining lease period expired on 21.02.2022** which was granted for 20 years & subsequently further **extension of 30 years** (from date of first grant of lease period 22.02.2022 to 21.02.2052) **was granted by State Govt vide. G.O. no. 2250(1)/VII-A-1/2021-74/2001 dated 03.01.2022.**
- Vide letter dated 08.12.2022, the Geology and Mining Unit, Directorate of Industries Uttarakhand, approved the Scheme of Mining and Progressive Mine Closure Plan for the production for the years 2022-23, 2023-24, 2024-2025, 2025-2026 and 2026-2027.
- Vide Application dated 27.01.2023, the Respondent no. 5 applied for Consolidated Consent to Operate and Authorisation (CCA) (Renewal).
- Vide **Order dated 22.05.2023**, the Uttarakhand Pollution Control Board, **granted Consolidated Consent to Operate and Authorisation (CCA) (Renewal) for the period upto 31.03.2024.**
- Respondent no. 5 had no knowledge of Order dated 28.09.2021

of the District Magistrate and had not received a copy of the same.

- *Respondent no. 5 submitted application dated 25.02.2024 citing compliance and requested lifting of ban on mining work and resumption of mining.*
- ***Vide letter dated 28.02.2024 and letter dated 02.03.2024 issued to Respondent no. 5, Respondent no. 5 was granted permission to start mining work by removing the ban in the approved soapstone mining. Pursuant to such approval, Respondent no. 5 started mining operation again.***
- ***Respondent no. 5 stopped the operation of the mines on 25.03.2024 and submitted closing Form to the District Magistrate, Bageshwar and the D.M.O. Bageshwar.”***

20. The arguments on merits were heard on 10.09.2024 and order was reserved.

21. It is not disputed before us that mining operations are not continuing since March 2024.

22. The basic grievance raised before us in OA, vide letter petition dated 23.04.2023, sent by Raghubir Singh Garia, was about alleged illegal mining of soap stone in village and post-Papon, District-Bageshwar, State of Uttarakhand causing damage to environment and leading to depletion of natural resources whereagainst no action was taken by concerned authorities.

23. Joint Committee Report dated 01.11.2023 shows that the lease holder i.e., respondent 5 has used machines for mining activities and there was an incident of land slide on the north-east direction of the mining area. There is a storm water drain on the north side at a distance of about 15 meters from the mining area wherein mining was found to

have been carried out outside the mining area to the extent of 15 x 10 x 15 m i.e., 225 m³. Project proponent had also not raised any wire crate retaining wall leaving a possibility of discharge of malba in storm water drain which was violation of the consent conditions. Joint Committee also found land slide in the eastern direction of mining area. The villagers also informed Joint Committee that there was land slide in 2020-21 also at the same place. The land slide is attributable to the mining activities and visualising this situation; project proponent has accepted to construct residential houses of the affected villagers. The said letter given by project proponent is dated 09.05.2023 which is annexure-7 to the Joint Committee Report. With regard to geo graphical condition and topography of the mining area, Joint Committee has observed that the mining site is situated in the middle of developed steps of Lesser Himalayan Mountain range in Berinag Formation of the Jaunsar group. Quartzite rock is visible due to fall of overburden material/debris material of the slope due to landslide in the north-east direction of the mining site which is jointed and fractured. There are dolomite soapstone rocks at the site in question and appears to be of weak strength. Joint Committee has also stated in its report that the land slide affected area and nearby area appears to be made up of over-burdened material/debris material. Dolomite and talc soapstone pieces on the site are present in mixed condition with soil and due to excessive rain, water absorption increases and results in increase of the soil cover on the land since it is situated on highly sloped terrain which results in land slide.

24. With regard to illegal mining, we find that the mining authorities have imposed penalty upon project proponent but it is evident that no environmental compensation has been imposed by UKPCB and no other

action has been taken for illegal mining carried out by project proponent under environmental laws. In these facts and circumstances, we find it appropriate that environmental compensation must be assessed and recovered by UKPCB from respondent 5 for illegal mining carried out by it after giving due opportunity of hearing and in compliance of principles of natural justice.

25. Further, since the area in question where mining has been allowed to respondent 5 appears to be delicate/fragile comprising weak stone structure and land slides have occurred frequently, therefore, no further mining should be allowed to be carried out unless an appropriate study is conducted by the experts in the area in question and report is submitted about the probability and feasibility and ecological viability of the mining without causing impact on the geo-tectonic conditions.

26. We have already held, in similar circumstances, in **OA No. 78/2023, Durga Singh Pawar vs. State of Uttarakhand & Ors.** decided vide judgment dated 08.11.2024, which was a matter relating to District Pithoragarh, that in geo-tectonic area i.e., fragile area ecologically, mining activities must not be allowed without proper study of seismic impact on the ecology and environment else the consequences will be very serious. Mining authorities should not allow mining activities in a mechanical manner in such ecologically fragile areas without having got an appropriate study conducted about the mining activities, whether probable or feasible or environmentally sustainable or not.

27. In **Durga Singh Pawar vs. State of Uttarakhand (supra)**, this Tribunal has already issued general directions in paras 112, 113 and 114 which read as under:

“112. In these facts and circumstances, we direct UKSPCB, SEIAA UK, Principal Secretary, Forest, Environment and Climate Change, Uttarakhand, Dehradun and Principal Secretary, Mining to ensure that no mining activities shall be allowed in such area which comes within geo-tectonic zones like Himalayan Mountain System, Indo-Gangetic Plains, and Peninsular Plateau unless a proper study on ecological and environmental sustainability in such area is conducted by an experts committee comprising of seismology experts from reputed and recognised institutions and in the light of their observations and recommendation, appropriate decision is taken by SEIAA UK.

113. In respect to the existing mining continuing in the State of Uttarakhand in areas which falls in geo-tectonic zones, all such mining activities shall be reviewed/revisited within next 04 months by getting study as directed above conducted through experts committee and thereafter only, the mining activities, if permitted, with or without precautionary conditions, shall be allowed. This exercise shall be completed by 15.03.2025 and all existing mining activities shall be revisited by the concerned mining authorities accordingly.

114. The study of geo-tectonic zones by seismology experts before allowing any mining activities shall be a condition applied PAN India and for this purpose, we direct communication of this order to MoEF&CC, all Chief Secretaries of different States and Union Territories as also SEIAAs of all the concerned States/Union Territories.”

28. In view of the above, in the present case also, we direct District Magistrate, Bageshwar to ensure that no mining activities are carried out unless the seismic study in geo-tectonic sensitive area like the one with which we are concerned in the present case is conducted by an Experts' Committee which must include Seismological experts from reputed and recognised institutions.

29. In the present case, such study may be conducted by a Joint Committee comprising SEIAA, a representative of UKPCB, a nominee of G.B. Pant National Institute of Himalayan Environment, Almora and any other expert which the above Committee find appropriate to be included for the purpose of the above stated study.

30. No mining activity shall be allowed to be carried out in the area in question unless a probability and feasibility clearance is given by the expert committee, as constituted as above.

31. The above Committee shall submit its report within three months and District Magistrate, Bageshwar thereafter shall proceed accordingly.

32. A Compliance report shall also be submitted by 30.09.2025 before Registrar General of this Tribunal by UKPCB and District Magistrate, Bageshwar. If find any further order is required, Registrar General of this Tribunal shall get the matter placed before the concerned Bench.

33. With the above directions, OA is disposed of.

34. Pending IA also stands disposed of accordingly.

35. Copy of this order be forwarded to SEIAA, Uttarakhand; Director, G.B. Pant National Institute of Himalayan Environment; District Magistrate, Bageshwar and UKPCB for information and compliance.

SUDHIR AGARWAL,
JUDICIAL MEMBER

DR. AFROZ AHMAD,
EXPERT MEMBER

April 22, 2025
Original Application No.453/2023
R