

Item Nos. 01&02

Court No. 2

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

(Through Hybrid Mode)

Appeal No. 39/2022

WITH

Original Application No. 702/2022
(I.A. No. 229/2022)

Deepak Kumar & Anr.

Applicant(s)

Versus

State of Uttarakhand & Ors.

Respondent(s)

Date of hearing: 03.01.2023

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. Ajit Sharma, Advocate for Appellants/Applicants

Respondent: Mr. Rahul Verma, AAG for the State of Uttarakhand
Mr. Mukesh Verma, Advocate for UKPCB
Mr. Sanjay Upadhyay, Advocate for M/s Balaji Stone Crusher

ORDER

1. This Appeal has been preferred against order of the SEIAA, Uttarakhand dated 12.08.2021 granting EC for establishment of proposed stone crusher plant at Khasra No. 1125 Ka and Ga, village Baluwala, Pargana Pachhwadoon, Tehsil Vikasnagar, District Dehradun.

2. Objection of the appellant is that Doon Valley is a protected area as per Notification dated 01.02.1989 where stone crushing is not permissible in the light of judgement of Hon'ble Supreme Court in *Rural Litigation & Entitlement Kendra v. State of U.P & Ors.*, AIR 1988 SC 2187. Mining can

be commenced only with the permission of the Central Government which has not been obtained in the present case. The location of the stone crusher is on the flood plain of river in violation of Uttarakhand Mineral (Prevention of Illegal Mining, Illegal Transport and Illegal Storage) Rules, 2020. EC has been granted even before license to operate the stone crusher and without conducting any environment impact assessment. There is no permission for extraction of ground water while the EC notes that water requirement will be met from bore-well. This is not permissible in absence of permission for extraction of ground water. It is further stated that in Form-I which is an application for EC, the project activity is said to be building and construction project under Entry 8(a) of the Schedule to the EIA Notification dated 14.09.2006 but the EC mentions the project to be for stone crusher. It is also stated that EC is for 1.433 hectares while the stone crusher is on the area of 3.043 hectares. It is also stated that Director, Geology and Mining is father of Anuj Patrick, the project proponent (PP) and thus the EC/permission is vitiated by bias and conflict of interest.

3. Considering the issue raised in the matter, this Tribunal found it appropriate to constitute a joint committee comprising CPCB, State PCB and District Magistrate, Dehradun to furnish a factual situation and action taken, if any, report within two months. This order was passed on 27.09.2022. More than three months have passed but no report has been submitted by the said committee.

4. Mr. Mukesh Verma learned counsel for UKPCB is present and states that the report to some extent is ready but he could not give any valid justification for not filing the same for such a long time i.e. even after expiry of one month after the time granted by this Tribunal to submit report. This

kind of laxity on the part of the authorities cannot be appreciated as it results in obstructing proceedings of the Tribunal which is not appreciable.

5. We therefore direct the Member Secretary, UKPCB to appear before the Court on next date. Further, the report shall be filed within 15 days from now failing which all members of the committee shall also appear before the Tribunal on next date.

6. On behalf of the R-6, Sh. Sanjay Upadhyay, Advocate has put in appearance. He may also file his response to the appeal by next date. On behalf of R-1 to 4, 8 & 10, Sh. Rahul Verma, Ld. AAG has appeared and he may also file his response by next date.

7. List the matter for further consideration on 20.01.2023.

8. A copy of this order be forwarded to Member Secretary, UKPCB and members of the committee by email for compliance.

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

January 03, 2023
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AB