

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(BY HYBRID MODE)**

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: 05.09.2023

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

Applicant: Mr. Ajit Sharma & Mr. Kanchan Kumar, Advocates
Respondent: Mr. Nikhil Rohatgi & Ms. Anjali Rajput, Advs. for the State of
Uttarakhand
Mr. Shariq Ahmed, Adv. for MoEF & CC
Mr. Amit Singh Chauha, Adv. for CPCB
Mr. Mukesh Verma, Adv. for UKPCB

ORDER

1. Earlier, this original application was tagged with Appeal No. 39/2022, *Deepak Kumar & Anr. vs. State of Uttarakhand & Ors.* The appeal was filed against the order of SEIAA, Uttarakhand granting Environmental Clearance (EC) raising the ground of establishing the stone crusher plant without considering the impact on environment, particularly its location on the bed of Sheetla river.

2. The Tribunal by order dated 30.01.2023 had decided the appeal by mentioning that the OA be listed separately and further directing the applicant to serve a set of papers on MoEF&CC, CPCB, State PCB, State of Uttarakhand and SEIAA, Uttarakhand to enable them to furnish their

response. It has been pointed out that appeal (Civil Appeal No. 3235-3236/2023) has been preferred before the Hon'ble Supreme Court against the order of the Tribunal dated 30.01.2023 deciding the Appeal No. 39/2022 and the matter is pending before the Hon'ble Supreme Court.

3. Learned Counsel appearing for the applicant submits that the larger issue is involved in the present OA and pendency of the appeal before the Hon'ble Supreme Court against the order of the Tribunal in Appeal No. 39/2022 wherein the only issue was in respect of validity of EC granted to a particular stone crusher, will not come in the way of deciding this OA. He has submitted that in this OA, the notification issued by the State categorizing the area as "Orange" category is under challenge and that a large number of stone crushers are operating in Doon Valley which is a very environmentally eco-sensitive area as per notification dated 01.02.1989 in pursuance of judgment of Hon'ble Supreme Court dated 30.08.1988 in Rural Litigation & Entitlement Kendra vs. State of U.P. & Ors. (1989 Supp 1 SCC 504) and if the matter is kept pending before the Tribunal without deciding the issue then serious consequences will ensue.

4. Learned Counsel appearing for the State of Uttarakhand has opposed the hearing of OA and sought adjournment to argue on the issue, if there is any bar in hearing the OA at this stage. Learned Counsel appearing for the MoEF&CC seeks four weeks' time to file an additional affidavit and also to comply with the direction of the Tribunal contained in the order dated 26.07.2023. Learned Counsel appearing for the State PCB also seeks four weeks' time to comply with the direction contained in the order dated 26.07.2023.

5. Meanwhile, we also direct the learned Counsel appearing for the applicant to implead and serve offending stone crusher owners of that area,

at least in the representative capacity so that they can also be heard in the matter. Let the affidavit of service be filed within three weeks.

6. List on 11.10.2023.

Prakash Shrivastava, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

September 05, 2023
Original Application No. 702/2022
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DV