

Item No.2

(Court No. 2)

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH**

Original Application No. 423/2022
(I.A. No. 143/2022)
(By Video Conferencing)

Mohinder Pal & Anr.

Applicants

Versus

State of Haryana & Ors.

Respondents

Date of hearing: 31.05.2022

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: Mr. Jitender Mohan Sharma, Sr. Advocate with Mr. Mayank Agrwal, Advocate.

Respondents: Mr. Rakesh Kumar Khana, Sr. Advocate with Md. Fuzali Khan and Mr. Gautam Singh, Advocates.

ORDER

1. The applicants have filed present application under Section 14 read with Section 18 of the National Green Tribunal Act, 2010 seeking following reliefs:

- “ a. Direct the State of Haryana to stop mining activity by the private Respondents at Villages Mandoli Ghaggar (West), Mandoli Ghaggar (East), Vill. Kanalsi, and Vill. Jairampur Jagir, all in District Yamuna Nagar, Haryana;*
b. Direct the Pollution Control Board, Haryana and SEIAA to recover environmental compensation from the private Respondents for mining Boulder & Gravel illegally without any environmental clearance or consent for mining of such minerals;
c. Direct the private Respondents to pay penalty for illegal extraction of ground water in terms of the Notification dt. 17th March 2022 issued by Haryana Water Resources Authority;
d. Quash the mining permits issued by State Government in favour of the private leaseholders for causing environmental damage due to illegal mining and for violating the Haryana Minor Mineral Concession Rules, 2012;
e. Direct Respondents to pay the costs of the present Application to the Appellant; and
f. Pass any other order that this Hon'ble Tribunal may deem fit.”

2. The applicants have pleaded that pursuant to bidding at auction conducted on 10.06.2015 respondents no. 7 to 9 were granted mining leases for mining of sand only in the respective mining sites mentioned in the application and environmental clearance and CTO and CTE were also granted to them by SEIAA and State PCB and mining lease contracts were executed for mining sand only. The Project Proponents were bound under rule 56 (17) of the Haryana Minor Mineral Concession, Stocking, Transportation of Minerals and Prevention of Illegal Mining Rules, 2012 to inform without any delay regarding discovery of new mineral at the lease site but the Project Proponents did not inform the mining department regarding the discovery of boulder and gravel on the lease site and indulged in illegal mining of boulder and gravel.

3. The applicants have further pleaded that the Director, Mines and Geology issued show cause notices regarding mining of boulder and gravel and subsequently vide orders dated 05.02.2021 and 05.01.2022 permitted mining of boulder and gravel along with sand on payment of additional royalty.

4. The applicants have further submitted that the mining leases could not be expanded to include mining of boulder and gravel without environmental clearance and CTO/CTE by the concerned statutory authorities. No Environmental Impact Assessment has been conducted. Environmental clearance, CTE/CTO and ground water permission have not been granted so far. State PCB has failed to impose environmental compensation for such illegal mining and extraction of ground water.

5. The applicants have further submitted that no replenishment study has been conducted for District Yamuna Nagar. Mining activity is

being carried out inside the main stream of river by using heavy machinery. Environmental clearance for Mandoli Ghaggar (East) expired on 20.12.2021 and environmental clearance for Kanalsi site has expired on 14.09.2021 but mining is still continuing on the above said mining sites.

6. We have heard learned Counsel for the applicant and gone through the relevant record.

7. *Prima facie* the averments made in the petition raise substantial questions relating to environment arising out of the implementation of the enactments specified in Schedule-I to the National Green Tribunal Act, 2010 and illegal mining and extraction of ground water.

8. Let notices be issued to respondents requiring them to file replies specifically responding to all material averments made in the application within two months.

9. Mr. Rakesh Kumar Khana, Sr. Advocate has appeared with Md. Fuzali Khan and Mr. Gautam Singh, Advocates on behalf of respondents no. 7 to 9 and submitted that Appeal no. 19/2022 titled as Junaid Ayubi and another Vs. State of Haryana and others has been filed challenging grant of environmental clearance for proposed mining of boulder, gravel and sand in favour of by M/s Balaji Infra and raising other similar issues in respect of mining at Jairampur Block YNR/B-6 (ML area-33.85 hectares) Village Jairampur Jagir, Tehsil Jagadhari, District Yamuna Nagar, Haryana as have been raised in the present application and the applicants have suppressed material facts from this Tribunal. Learned Counsel for respondents no. 7 to 9 has also placed on record a copy of order dated 24.05.2022 passed by this Tribunal in

Appeal no. 19/2022 titled as Junaid Ayubi and another Vs. State of Haryana and others.

10. In response thereto, learned counsel for the applicants has made statement giving up respondent no. 9 with further prayer that the name of respondent no. 9 may be struck out from the array of respondents. Accordingly, the prayer is allowed and the name of respondent no. 9 is ordered to be deleted from the array of respondents. The applicants are directed to file amended memo of parties within two weeks.

11. The applicant is directed to take requisite steps for service of notices on respondents no 1 to 6 and file affidavit regarding the same by email at judicial-ngt@gov.in within seven days.

12. Learned counsel for the applicants has stressed his prayer for interim relief restraining mining of boulder and gravels by respondents no. 7 and 8.

13. Learned counsel for respondents no. 7 and 8 has further stated that respondents no. 7 and 8 did not carry on, are not now carrying on and will not carry on mining of boulder and gravel from the mining sites in question.

14. Even though respondent no. 7 and 8 shall be bound by under taking given by their learned counsel but we consider it appropriate to give specific direction that till further orders no mining of boulder and gravels shall be carried out on the mining sites in question by respondents no. 7 and 8. The Director, Mines and Geology, Government of Haryana, State PCB, Deputy Commissioner and Superintendent of Police, Yamuna Nagar are directed to take all requisite steps for

ensuring that no illegal mining of boulder and gravel takes place on the mining sites in question.

15. List for further consideration on 13.07.2022 along with appeal no. 19/2022.

16. A copy of this order along with copy of application and documents sent therewith be sent to the Director, Mines and Geology, Government of Haryana, State PCB, Deputy Commissioner and Superintendent of Police, Yamuna Nagar for compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

May 31, 2022
Original Application No. 423/2022
AG