

Item No. 07

Court No. 2

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

Original Application No. 446/2022

Balwinder Kumar

Applicant

Versus

State of Haryana & Ors

Respondent

Date of hearing: 19.07.2024

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

Applicant: Applicant in Person (through VC)

Respondents: Mr. Rahul Khurana, Advocates for Respondent No. 1 to 6 with Capt. Manoj Kumar, IAS, DC Yamunanagar with Mr. Narender Singh DDPO, Mr. Virender Gill, DFO, Yamunagar (through VC). Mr. Narender Pal Singh and Ms. Anjali Advocates for Respondent No. 7, 8 & 11.

ORDER

1. Complaint of illegal mining was entertained by this Court exercising *suo-moto* jurisdiction on a letter petition received on 07.04.2022 from Balwinder Kumar S/o Lakkhi Ram, R/o Village Kohliwala, Tehsil Chhachrauli, District Yamuna Nagar.

2. Complainant has said Villages Kohliwala and Mandewala under Bhudkala Panchayat had Panchayat land, measuring 156 acres, where illegal mining is going on since 2016 and Khair trees standing thereon have been illegally cut as per report No. 3815 dated 14.09.2017 submitted by Block Development and Panchayat Officer, Chhachrauli. The names of the persons who carried out illegal mining and cutting of trees are also noticed in the order dated 26.07.2022 as Shri Ram Screening Plant, Devbhumi

Screening Plant, Jaimaa Laxmi Screening Plant, Shivalik Stone Crusher, Jai Maa Santoshi Screening Plant, Sandeep son of Premchand-Nambardar, Mohan Ram-present Sarpanch, Subhash Chand son of Pala Ram-Ex. Sarpanch of village Kohliwala and Amit Kumar son of Pawan Kumar resident of village Kohliwala.

3. Tribunal however constituted a joint committee comprising Director, Mines and Geology, Government of Haryana, State PCB, DFO and Deputy Commissioner, Yamuna Nagar to submit a factual report.

4. Pursuant thereto, factual report has been submitted. The Private proponents were impleaded as respondent 7 to 11 and various orders were passed from time to time giving opportunity to all parties to submit their responses.

5. It has come on record that large scale illegal mining has been carried out and as much as 22 FIRs have been lodged under Section 379 IPC read with Section 21 (4) (1) of Mines and Minerals (Development and Regulation) Act, 1957, details whereof are given in reply filed vide email dated 22.03.2023 by respondents 1 and 2.

6. It is also stated in para 3 that 1615 vehicles were seized transporting illegal mineral from August 2019 to 28.02.2023 and a sum of Rs. 17, 90,65,142/- towards compensation and 14,5,59,880/- towards royalty price on mineral and fine, etc has been recovered.

7. Deputy Commissioner, Yamuna Nagar is present through V.C and stated that for last three years there is no illegal mining but this statement is belied by what has been stated in para 3 of reply dated 22.03.2023 filed by respondents 1 and 3 which clearly shows that illegal mineral was being transported and found upto 28.02.2023 therefore it cannot be said that

there is/was no illegal mining in the last three years and this statement is factually incorrect as is evident from record.

8. Sh. Rahul Khurana appearing for State and Haryana State Pollution Control Board (hereinafter referred to as '**HSPCB**') stated that the figures mentioned in para 3 of reply dated 22.03.2023 are in respect of entire district and the statement is in respect of two villages but could not explain as to wherefrom he found that entire district did not include the two villages wherefrom illegal mining has been carried out and transported by vehicles which were seized and released after payment of fine, etc.

9. Be that as it may, we also find that so far as HSPCB is concerned it has not taken any action whatsoever under provisions of Environment (Protection) Act, 1986 and other Environmental Statutes and neither any punitive action by initiating criminal action under provisions of Environment Statutes has been taken nor any environmental compensation has been imposed upon any violator(s) It is evident from record that so far as HSPCB is concerned, it has been a silent spectator for entire period till date. This conduct of officials of HSPCB shows apparent collusion with violators and negligence whereby they are abating the crime by not taking appropriate action against violators. Even role of District Administration is not free from doubt.

10. In these facts and circumstances, we find that here is fit case which require appropriate action against the officials also. Therefore, we direct Chief Secretary, State of Haryana to look into the matter, get appropriate investigation into the conduct of District officials and also the officials of HSPCB and take appropriate action for showing negligence in discharge of their statutory duties which has abated and encouraged large scale illegal

mining in the area in question. Chief Secretary shall submit a compliance report within two months.

11. Sh. Rahul Khurana, Advocate has also stated that HSPCB now may take appropriate action in the matter. He prays for two months' time for the purpose. We make it clear that it is open for the officials of HSPCB to take whatever action as may be required to be taken in law but that does not absolve them from past negligent conduct and dereliction of duties in discharge of their statutory functions.

12. In case no report is submitted by Chief Secretary, Haryana, as directed above, he shall appear in person on the next date.

13. List this matter 24.09.2024.

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

July 19, 2024
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AB