

Item No. 05

Court No. 1

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

M.A. No. 35/2023  
IN  
Original Application No. 169/2020

Kuldeep Singh

Applicant

Versus

State of Haryana & Ors.

Respondent(s)

Date of hearing: 10.05.2023

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

Respondent(s): Mr. Rahul Khurana, Advocate for HSPCB with Mr. Anil, Mining  
Officer, Bhiwani

**ORDER**

1. The matter has been listed to consider the report filed by Additional Chief Secretary, Mining, Haryana in compliance of order of this Tribunal dated 26.08.2022, By the said order, the Tribunal disposed of the matter with certain directions to be monitored by the statutory regulators.

2. Before considering the report, brief background may be mentioned. The issue considered by the Tribunal related to remedial action against violation of environmental norms in the operation of 'Dadam' mine at Dadam Hills, Tosham, District Bhiwani. The matter was dealt with vide orders dated 20.08.2020, 20.07.2021 and 18.01.2022 by which the Tribunal constituted fact finding committees and issued directions. Finally, the matter was dealt with on 26.08.2022 in the light of factual

reports on the subject and response of the project proponents (PP). The Tribunal concluded as follows:-

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**Consideration today, findings and directions**

14. It is patent from the reports of the fact finding Committees that the PP has undertaken mining illegally beyond the mining area and in violation of mining plan as confirmed by the satellite imagery. The PP has failed to provide necessary green belt of 7.5 metre width along the lease boundary in the lease area and to provide safety zone inside the leased mining boundary. Compensation thus has to be assessed and recovered from the PP for undertaking mining beyond the permissible mining area and beyond permissible depth and also the cost of restoration of damage to the plantation, apart from cost of illegally mined material. It is well acknowledged that unregulated mining activities result in serious damage to air, water and land. The same involves blasting, drilling, cutting and blowing natural hills affecting the natural environment. Mining operations in the present case have resulting in generation of tons of dust emissions without requisite mitigation measures. This calls for remedial action for future and fixing accountability for the past.

15. Only point emphasized on behalf of the PP during hearing is that the Committee has found the percentage of illegal mining attributable to the PP i.e. 6.33% needs to be further reduced as the PP commenced mining only on 25.02.2019 while the last date of the image considered is 08.02.2019. For the period from 08.02.2019 to 24.02.2019, mining was done by somebody else and not by the PP.

16. We do not find any merit in this submission. There is no material to rebut the last image dated 8.2.2019. Liability of the PP has been taken only from 25.02.2019. However, we note that even on 08.02.2019 the PP was in possession of the mine and there could be no scope for mining by anyone else. Vide order dated 04.12.2018 in CWP No. 28378-2018(O&M), M/s. Goverdhan Mines & Minerals vs. State of Haryana & Ors., the High Court allowed the PP to commence mining. Further, Director, Mining vide order dated 20.12.2018 permitted the PP to undertake mining on the basis of EC already obtained. The PP filed application for Consent to Establish on 21.01.2019 which was allowed by the State PCB on 10.02.2019. Thus, it is not possible to accept that from 08.02.2019 to 24.2.2019, someone was in control of the mine in question. Learned Counsel for the PP fairly stated that in case the plea that mining was done prior to 25.02.2019 by the unknown persons is not accepted, quantum of penalty towards illegal mining has to be upheld. In this view of the matter, penalty for illegal mining equal to the cost of mined material already assessed has to be treated as final. We thus uphold the report with the observation that from the date the PP came in possession and was permitting to commence mining, none else can be presumed to have undertaken mining without consent of the PP. Further, PP needs to not only follow requisite safeguards but also to contribute to restoration of the environment.

17. With regard to the cost of damage to the environment, the PP has disputed liability of Rs.7.5 crores. According to it, there is no basis for the observations that this amount was equal to 25% of the profit of the PP as per balance sheet supplied by the PP. Further, figure of Rs 310 crore as turnover is also disputed. It is submitted that levy of compensation has also to be on its predecessor for damage to environment.

18. While we hold the PP to be accountable for the illegal mining, in absence of clarity about data of turnover and profit of the PP, we find it safe to consider value of illegally mined material, noted earlier in the report of the Chief Secretary, as the basis for calculating compensation for damage to the environment. Thus, instead of accepting recommendation for compensation of Rs.7.5 crore towards damage to environment, we fix interim compensation for damage to environment @10% of the value of mined material, in terms of judgment of Hon'ble Supreme Court in Goa Foundation, (2014) 6 SCC 590, pr 78, pending final compensation being determined by a Joint Committee headed by the Additional Chief Secretary, Mining, Haryana with Member Secretary, Haryana State PCB, Regional Officer, CPCB, Indian Bureau of Mines, Dhanbad and PCCF (HoFF), Haryana as members. The Joint Committee may specify components for restoration of environment as well as for creating prospective natural environment. We further note that value of mined material is to be recovered in terms of judgement in Common Cause (2017) 9 SCC 499, prs 128-129 in view of section 21(5) of the MMDR Act, apart from compensation for damage to the environment. It is well settled that as per precautionary principle of environmental law, non-availability of adequate scientific reports/study/data is no ground to ignore the environmental degradation, as observed in Vellore Citizens' Welfare Forum v. Union of India (1996) 5 SCC 647, prs 16 to 18. The matter be finalised within three months. Since predecessor of the PP is not before us, the said Committee may finalise compensation in respect of the said party for damage to the environment as well as for illegal mining, alongwith all other pending issues in the light of the two reports. It will be open to the aggrieved parties to take remedies against decision of the Committee as per law.

19. **In view of above, the PP may deposit the remaining amount of penalty and compensation as above within two months. The amount towards restoration of amount may be deposited with the State PCB to be utilized as per utilization plan to be prepared by the State PCB, District Magistrate and Forest Department within two months and the rest with the concerned authority of the Mining Department. The PP may also comply with other recommendations in the two reports to be overseen by the statutory regulators."**

3. As per report dated 03.03.2023 filed by ACS, Mines and Geology Department, Haryana, restoration plan has been prepared and steps taken for finalizing the compensation for violations reported. Relevant extracts from the report are as follows:-

*“1. In the light of above, the joint committee had undertaken several meetings but due to repeated absence of the counsel appearing on behalf of the predecessor company, the final report will take time, however, the committee has decided to file the present interim report before the Hon'ble NGT placing the prepared restoration plan of Aravalli Forest Land in Dadam hills, Bhiwani. Accordingly, please find enclosed the said restoration plan finalized by the committee containing component for restoration for environment as well as for creating prospective natural environment in the Dadam stone mine area in which illegal mining had been undertaken during the tenure of former as well as present mineral concession holder/PP.*

*2. It is respectfully submitted that the committee after examining all the facts as well as background of the illegal mining operations undertaken by the above stated PP/mineral concession holders would submit the final report in the due course of time.”*

4. We have considered the matter and approve the restoration plan. Further action be taken accordingly. Pending issue of compensation be also finalized in accordance with law.

5. We also note that *Civil Appeals No.8067-68 of 2022, Govardhan Mines and Minerals Through Wazir Singh Kuhar v. State of Haryana & Ors.* have been filed by the PP - Govardhan Mines and Minerals before the Hon'ble Supreme Court in which following interim order has been passed on 20.03.2023:-

*“Issue notice, returnable in the month of July, 2023.*

*Notices would be served by all modes, including dasti.*

*Mr. Anand Sanjay M. Nuli, advocate, who is present in the Court appears on behalf of the complainant in O.A No. 132 of 2020. It will be open to the complainant to file an application for impleadment. If any such application for impleadment is filed, the same would be considered in accordance with law.*

*In the meanwhile, the appellant- Govardhan Mines and Mineral, without prejudice to their rights and contentions, albeit subject to the quantification proceedings which are pending adjudication, shall make an ad-hoc deposit of Rs.3 crores before the authorities, within a period of six weeks' from today.*

*We clarify that the pendency of the present proceedings does not interdict the quantification proceedings, which are pending.”*

6. The ACS, Mines, Haryana may file a further status report as on 31.08.2023 by September 15, 2023 with the Registrar General, NGT by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF. If any further direction is found necessary, he may place the matter before the Bench.

Subject to above, the proceedings stand closed.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

May 10, 2023  
M.A. No. 35/2023  
IN Original Application No. 169/2020  
AB