

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

(Through Physical Hearing with Hybrid VC Option)

Original Application No. 454/2023

IN THE MATTER OF:

Mr. Vijay Kumar Sharma
S/o Mr. Matadin Sharma
Resident of Village Golva, Tehsil
Nangal Choudhary, District
Mahendragarh, Haryana
Mobile No. 9306212231

...Applicant

Versus

1. State of Haryana
Through its Chief Secretary
4th Floor, Haryana Civil Secretariat, Sector-1, Chandigarh
Email: cs@hry.nic.in

2. Director, Mining and Geology, Haryana
Second Floor, DHL Square, Plot No. 9, Sector-22,
IT Park, Panchkula, Haryana
Email: dmg.mines-hry@gov.in/me.mines-hry@nic.in

3. District Magistrate, Mahendragarh
1st Floor Mini Secretariat Narnaul, Haryana
Email: dcnrl@hry.nic.in/ctmnrl@hry.nic.in

**4. Haryana State Pollution Control Board,
Through its Member Secretary,
Sector No. 55, HUDA, Panipt.
Email:- hspcbropn@gmail.com/hspcbromg@gmail.com.**

5. M/s Satish Kumar Garg
(Project Proponent)
(Marble Mining at Khasra No. 212, Village Bayal,
Tehsil Nangal Chaudhary, District Mahendergarh)

...Respondents

Counsel for Applicant:

Mr. Vijay Kumar Sharma, the Applicant in Person (through VC).

Counsel for Respondents:

Mr. Rahul Khurana Advocate for Respondents No. 1 to 4.
Mr. Saurabh Rajpal and Mr. Vinay Kumar Singhal, Advocates for
Respondent No. 5-Project Proponent.

PRESENT:

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

Judgment Reserved on:- 22.03.2024

Judgment pronounced on :- 28.05.2024

Application is registered based on a letter petition received by Post**Judgment**

PRONOUNCED BY: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JM

1. The applicant **Mr. Vijay Kumar Sharma** has sent by post to this Tribunal the present letter petition which has been treated and registered as Original Application (O.A.) No. 454 of 2023.

2. The applicant has submitted that Satish Kumar Garg is carrying on marble mining in Khasra No. 212, in Village Bayal Tehsil Nangal Chaudhary, District Mahendragarh for the last 3-4 years in the open without any boundaries, tin shed etc. and is resorting to heavy blasting everyday due to which stones fall into the fields and cracks are appearing in the houses of the villagers. The dust generated is spread over the crops affecting the yield. The noise caused frightens the livestock and disturbs the studies of children and social work. The project proponent carried out blasting on 21.11.2022 without intimation and without blowing siren. The applicant had narrow escape from danger thereby caused. Boundary wall

around his fields was also damaged by the blasting. Complaints were made to the authorities but no action has been taken on the same.

3. The relevant part of the letter petition enumerating his grievances is reproduced as under:-

"विषय - सतीश कुमार गर्ग द्वारा मार्बल माइनिंग चलाने पर हैवी ब्लास्टिंग करने पर खेतों में पत्थर आने व मकानों में दरार पड़ने व जान माल की हानि होने बाबत।

श्रीमान जी,

निवेदन है कि मैं विजय कुमार शर्मा पुत्र श्री मातादीन शर्मा गांव गोलवा का स्थाई निवासी हूँ हमारी जमीन बायल में पड़ती है मैंने कुंए पर 1990 में ही मकान बनाकर हमने रहना शुरू कर दिया था। लगभग 32 वर्ष हो गए हैं हमारी जो जमीन है वह खसरा नम्बर 212 के साथ लगती है। खसरा नम्बर 212 बायल में ही श्री सतीश कुमार गर्ग ने मार्बल माइनिंग चला रखी है। जिसको लगभग 3-4 साल हो गए हैं। यह माइनिंग खुले में चलाई जा रही है ना चारदीवारी है ना ही टीन शैड वगैराह है। रोजाना हैवी ब्लास्टिंग होती है, ब्लास्टिंग होने से खेतों में पत्थर आ रहे हैं व मकानों में दरार आ रही है।

1. दिन रात पत्थर तोड़ने का कार्य होने के कारण तेज आवाज व धूल भरी हवा भारी मात्रा में आती है। धूल की परत हमारी फसल पर जम जाती है जिसके कारण तीन साल में कोई फसल नहीं हो रही है।

2. भारी मात्रा में शोर शराबा होने के कारण दुधारू पशु भयभीत रहते हैं। व तीन साल में मेरी दो भैंसों का नुकसान भी हो चुका है तथा बच्चों की पढ़ाई व सामाजिक कार्यों में भी व्यवधान पड़ रहा है।

3. दिनांक 21.11.2022 को बिना सूचना व बिना साईरन बजाते हुए ब्लास्टिंग की जिससे उस दिन भी हमारे बच्चे बाल-बाल बचे।

4. दिनांक 05.03.2023 को ब्लास्टिंग की जिससे भारी मात्रा में धूल व पत्थर खेतों में आये जो कि आज भी मौजूद है। जिसका आप स्वयं आकर देख सकते हैं।

5. हैवी ब्लास्टिंग के कारण 2 किलो से 10-15 किलो तक के पत्थर के टुकड़े खेतों में फसल पर आकर गिर रहे हैं। और अभी भी सबुत के तौर पर पत्थर फसल पर पड़े हुए हैं व पत्थरों की धूल की मोटी परत फसल पर जम जाने के कारण काफी वर्षों से फसल नहीं हो रही है।

6. हमने ढाई से तीन एकड़ भूमि पर निम्बू का बाग लगा रखा है जिस पर पत्थरों की धूल व पत्थर गिरने से बाग में कई पौधे नष्ट हो चुके हैं तथा पौधे विकसित भी नहीं हो पा रहे हैं। और निम्बू पर जो फॉल आता है वो भी पत्थर गिरने के कारण झड़ जाता है। जिससे भारी मात्रा में नुकसान हो रहा है।

7. धूल के कारण मैं कोई भी सब्जी की फसल नहीं कर सकता हूँ। 2020 में भी मैंने भिंडी व लौकी की फसल लगाई थी वो भी सारी नष्ट हो गई थी।

8. मैंने हमारे खेतों के चारों तरफ पत्थरों की दीवार लगा रखी है वह भी ब्लास्टिंग के कारण सारी दीवार टूट चुकी है। अतः आपसे निवेदन है कि मौके पर स्वयं जाकर निरीक्षण करे व हमें न्याय दिलाये।

9. हमने एस.पी नारनौल व थाना एस.एच. औ निजामपुर व माईनिंग नारनौल व जिला उपायुक्त को भी शिकायत के बारे में पहले भी अवगत करा चुके हैं लेकिन आज तक कोई समाधान नहीं हुआ है।

अतः आपसे निवेदन है कि गिरती हुई फसल व बाग पर धूल व पत्थरो का स्वयं निरीक्षण करने की कृपा करे। जिससे जल्दी से जल्दी हमारा इस शिकायत का समाधान किया जावे ।"

4. Vide order dated 02.08.2023 this Tribunal constituted a Joint Committee with direction to verify the factual position, take appropriate remedial action and submit factual and action taken Report within one month. The relevant part of the order is reproduced below:-

"3. Prima facie, the averments made in the application raise questions relating to environment arising out of the implementation of the enactments specified in Schedule I to the National Green Tribunal Act, 2010. In view of the averments made in the application, we consider it appropriate that a Joint Committee be constituted to verify the factual position and take appropriate remedial action. Accordingly, we constitute a Joint Committee comprising of Director, Mines & Geology, Haryana, Haryana State Pollution Control Board (HSPCB) and District Magistrate (DM), Mahendragarh and direct the same to meet within one week, undertake visits to the site, look into the grievances of the applicant, associate the applicant and representative of the concerned project proponent, verify the factual position including damages caused to environment, property, agriculture and take appropriate remedial action by following due course of law and giving opportunity of being heard to the project proponent. The Committee may further report operation of similar type of mining activities in the area. The State PCB will be the nodal agency for coordination and compliance.

4. Factual and Action taken Report may be submitted within one month by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF."

5. However, report of the Joint Committee was not filed within stipulated period of one month which was extended vide order dated 03.11.2023 whereby the Joint Committee was directed to submit its report within one month and State of Haryana, through Chief Secretary; Director, Mining and Geology, Haryana; District Magistrate, Mahendragarh; HSPCB through its Member Secretary and Project Proponent- M/s Satish Kumar

Garg were impleaded as respondents no. 1 to 5 and notices were ordered to be issued to them.

6. In compliance of order dated 03.11.2023 report of the Joint Committee was filed by HSPCB vide email dated 05.12.2023. The relevant part of the report is reproduced below:-

"Joint Report in compliance with Hon'ble NGT directions in the order dated 02.08.2023 in OA No. 454/2023 titled as Vijay Kumar Sharma versus State of Haryana: -

...Prima facie, the averments made in the application raise questions relating to environment arising out of the implementation of the enactments specified in Schedule I to the National Green Tribunal Act, 2010. In view of the averments made in the application, we consider it appropriate that a Joint Committee be constituted to verify the factual position and take appropriate remedial action. Accordingly, we constitute a Joint Committee comprising of Director, Mines & Geology, Haryana, Haryana State Pollution Control Board (HSPCB) and District Magistrate (DM), Mahendragarh and direct the same to meet within one week, undertake visits to the site, look into the grievances of the applicant, associate the applicant and representative of the concerned project proponent, verify the factual position including damages caused to environment, property, agriculture and take appropriate remedial action by following due course of law and giving opportunity of being heard to the project proponent. The Committee may further report operation of similar type of mining activities in the area. The State PCB will be the nodal agency for coordination and compliance. Factual and Action taken Report may be submitted within one month by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF. List for further consideration on 03.11.2023 and 07.12.2023".

In compliance of the above direction, the status report in this matter is as follows:-

1. The unit M/s Satish Kumar Garg Marble Mines Lease Owner, Village- Bayal, Tehsil-Nangal Chaudhary, Distt-Mohindergarh is a mining project at Khasra No. 212 of area 3.35 Ha and has obtained consent to establish from the Board on dated 23.07.2019 after obtaining Environmental Clearance from SEIAA vide Endst. No. SEIAA/HR/2019/152 dated 08.07.2019. The unit has obtained consent to operate for the period 23/08/2019 - 30/09/2021. Thereafter, the unit obtained consent to establish for expansion of the mining project from the Board on 04.08.2021 after obtaining Environmental Clearance for quantity expansion from SEIAA, Haryana vide No. SEIAA

(128)/HR/2021/645 dated 13.07.2021 and accordingly obtained consent to operate valid upto 30/09/2025 from the Board.

2. In compliance with the Hon'ble NGT order dated 02.08.2023, a meeting was conducted vide order No. 1333/DA dated 20.09.2023 under the chairmanship of Ms, Monika Gupta, IAS, Deputy Commissioner, Mahendragarh at Narnaul on dated 23.08.2023 (Annexure-1) in the presence of Sub Divisional Magistrate, Narnaul, City Magistrate, Narnaul, Regional Officer, HSPCB, Mahendragarh, Mining Officer, Narnaul, ADA, DC Office, Narnaul, AEE, HSPCB, Mahendragarh. Further, Deputy Commissioner, Mahendragarh nominated Sh. Manoj Kumar, HCS, Sub Divisional Magistrate, Narnaul vide order dated 20.09.2023 (Annexure-2) on behalf of her and Director, Mines & Geology Department vide letter No. DMG/HY/CY.A No. 454/2023/5356 dated 18.09.2023 (Annexure-3) has nominated Sh. Sanjay Simberwal, Mining Engineer to carry out the inspection of the site and submit report.

3. Accordingly, the site was inspected on 06.10.2023 by the members of the Committee i.e. Sub Divisional Magistrate Narnaul, Sh. Rajender Parsad, Assistant Mining Engineer, HQ (replaced Sh. Sanjay Simberwal, vide email message dated 05.10.2023 from Mines & Geology, Haryana, Copy attached) Panchkula, Sh. Bhupinder Singh Mining Officer, Narnaul and Regional Officer Mahendragarh Region alongwith Sh. Satish Kumar Garg (project proponent), Sh. Vijay Kumar Sharma R/o Village Golwa (complainant) and others local persons were also present. Joint inspection report is enclosed as Annexure-4 alongwith relevant annexures and observations/findings of the site inspection are reproduced as below: -

a). There is no any dust found on the leaves of the plants of lemons on the field and observed that all the plants of the lemon found well safe at the time of inspection.

b), The lease holder having the permission of control deep hole blasting near the permanent structure within 100-300 meter renewed by Director, Mines Safety Ghaziabad region vide memo no. 252390 dated 09.01.2023 and unit also produced the record of blasting register and vibration report dated 03.10.2023 & 06.10.202. Moreover, health of the pet animals of the complainant are looking good and there is no any adverse effect found on the health of the buffalos and cows.

c). Regarding blasting operation conducted in the mine 21.11.2022 it was intimated that as per the report of Director, Mines Safety Ghaziabad region vide memo no. 2072 dated 03.10.2023, no blasting operation was conducting on 21.11.2022 in the mine.

d). Regarding the complaint about distance of complainant house and fields. It was found that distance is about 290 meter from the present working of mine towards the western site and 175.35 meter away from mined area. Some old cracks are seen on the wall of the complainant house on back side. There are no any damages/cracks on the front wall of the house as well as no any broken glass of windows of ttle rooms of the house of the complainant are noticed.

e). The lease holder has already established a wind wall towards western side boundary of agricultural field of the complainant with tin sheet approximate 04 meter height and a length of 360 feet alongwith the boundary of the mining lease for prevention of dust/ stone pieces.

f). The Deputy Director of Mines Safety Ghaziabad region has conducted visit on 17.05.2023 of the said mining project and send an action taken report dated 13.10.2023 and intimated that as per the record of ground vibration observed (ppv, frequency & air over pressure) and distance up to which flying fragments resulting out of blasting projected, required to be maintained at the mine as per permissions conditions was not kept maintained in the mine.

Conclusion of Joint Inspection site report and Complaint Enquiry:

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The House of Sh. Vijay Sharma, the complainant was located at a distance of about 200m & 260m from the Mining Lease Boundary & workings of Mine to the western side of the mine. The plantation area/agricultural fields were situated between the house of complainant and the mine and situated at a distance of 40m from the Mining Lease boundary and about 100m from the working area of Mine. The Complaint regarding conducting the blasting operation on 21.11.2022 without any information and without playing sirens which was found to be not genuine as no blasting operation was conducted on 21.11.2022. With regard to alleging cracks being developed in the houses due to blasting in the Mine, it cannot be ascertained that the single crack found developed in the rear portion of the house of complainant was occurred only due to blasting conducted in the Mine. Other factors like ageing effect, construction quality etc. may also be responsible for the crack. Director Mines Safety Gaziabad Region has intimated that management of Mine was issued violation letter vide letter dated 09.10.2023 for rectification of contraventions observed during inspection & enquiry of the mine and a follow up inspection was made and found that contraventions pointed out were fully complied by the mine management and also directed the mining project to control the fly rock to further minimum through reduction in total charge per round (Kg) & Maximum charge per delay by 10 against the values recommended in condition no. 3.1 (b) of the permission granted under Regulation 164(1-B) of Metalliferous Mines Regulations 1961, vide No. / 164(1B)/Perm/3564 dt 12.12.2019.

Conclusion: -

In view of the above facts, allegations in Sr. No. 1,2,4,5,6,7,8& 9 are concerned about loss of crop/crop yields,safety & health of milchanimals, stones falling in the field and damage cause due to heavy blasting were not found to be established during joint committee inspection and as per report dated 03.10.2023 submitted by DGMS. Copy of same is enclosed as Annexure-5. Also, allegations in Sr. No. 3 is regarding blasting was done without playing siren on dated 21.11.2022 which was found to be not genuine as per report submitted by DGMS after site inspection.

It is, therefore, prayed that the above Joint Report in compliance with the directions issued by this Hon'ble Tribunal vide order dated 02.08.2023 and 03.11.2023, may kindly be considered please."

7. Reply has been filed by respondent no. 5 vide email dated 06.12.2023. The relevant part of the reply is reproduced below:-

"REPLY ON BEHALF OF RESPONDENT NO.5 - M/S SATISH KUMAR GARG.

X X X X
2. That further this Hon'ble Tribunal vide order dated 03.11.2023 impleaded the Respondent Authorities and the answering Respondent as the party to the captioned Original Application and directed to file the reply.

3. That pursuant to above, the present reply is being placed by the answering Respondent. The answering Respondent has carefully gone through the contents of the Letter Petition/ Original Application and Inspection Report, after having read and understood the contents thereof. Further the Letter Petition/Original Application does contain any facts and evidences qua the allegations made hence, the answering Respondent is filing the present Reply to bring out the true and correct facts and documents on record for the proper adjudication of the present issue in hand.

4. The answering Respondent denies each and every averment, allegation, contention and submission made by the Original Applicant in the captioned Original Application (Letter Petition), unless the same are specifically admitted herein below.

5. That the answering Respondent is M/s. Satish Kumar Garg is a proprietorship firm and engaged in the business of mining of marbles since 1995 over an area 63 kanals (Khasra No. 212) in village Bayal, District – Mehindergarh, Haryana.

PRELIMINARY SUBMISSION:

6. At the outset, it is submitted that the Project Proponent, M/s. Satish Kumar Garg has valid lease deed, Consent to Operate letter issued by Haryana State Pollution Control Board and Certificate of Environmental Clearance granted by SEIAA Haryana, necessary permission from DGMS and all other requisite permission. The Project Proponent, M/s. Satish Kumar Garg has been following all the terms and conditions, and requisite guidelines for the mining of marbles on the leased land in accordance with law.

7. It is further submitted that Project Proponent has necessary permission of Director, Mines Safety Ghaziabad for controlled blasting in accordance with rules and guidelines as mentioned in the said permission. It is submitted that there is no danger to the health and life of the pet animals of the Applicant, there are no any damages/cracks on the front wall of the house as well as no any broken glass of windows of the rooms of the house of the Applicant.

8. *It is most humbly submitted that the allegation qua the blasting on 21.11.2022 on the area in question is completely false as from the records of the explosive and other record of the blasting, it is amply clear that there was no blasting on the said date i.e. 21.11.2022. Moreover, in fact no cracks were found in the Applicant's area. Thus the present compliant is abuse of process of law in order to harass the answering Respondent and has approached this Hon'ble Tribunal with unclean hands.*

9. *That the Project Proponent has already established wind wall towards western side boundary of agricultural field of the Applicant with tin sheet approximate 04 meters height and a length of 360 feet along with the boundary of the mining lease for prevention of dust/stone pieces and there is no dust on the leaves of the plants of lemons on the field and plants of the lemon is safe as well.*

A copy of the Photograph depicting the Wind Wall is annexed herewith and marked as ANNEXURE R-1.

10. *That this Hon'ble Tribunal vide order dated 02.08.2023 in the captioned matter constituted a Joint Committee and directed to visits to the site, look into the grievances of the applicant, associate the applicant and representative of the concerned project proponent, verify the factual position including damages caused to environment, property, agriculture and take appropriate remedial action by following due course of law. In compliance with the said order, the Joint Committee was constituted which has verified the factual position of the case and submitted its report dated 05.12.2023 before this Hon'ble Tribunal which clearly depicts that the Original Application filed the Applicant Vijay Kumar Sharma is baseless, false and wrong. The relevant portion of the Joint Committee report is reproduced herein for the sake of kind perusal.*

a). *There is no any dust found on the leaves of the plants of lemons on the field and observed that all the plants of the lemon found well safe at the time of inspection.*

b). *The lease holder having the permission of control deep hole blasting near the permanent structure within 100-300 meter renewed by Director, Mines Safety Ghaziabad region vide memo no. 252390 dated 09.01 .2023 and unit also produced the record of blasting register and vibration report dated 03.10.2023 & 06 .10.2023. Moreover, health of the pet animals of the complainant are looking good and there is no any adverse effect found on the health of the buffalos and cows.*

c). *Regarding blasting operation conducted in the mine 21 .11 .2022 it was intimated that as per the report of Director, Mines Safety Ghaziabad region vide memo no. 2072 dated 03.10.2023, no blasting operation was conducting on 21.11 .2022 in the mine.*

d). *Regarding the complaint about distance of complainant house and fields. It was found that distance is about 290 meter from the present working of mine towards the western site and 175.35 meter away from mined area. Some old cracks are seen on the wall of the complainant house on back side. There are no any damages/cracks on the front wall of the house as well as no any broken glass of windows of the rooms of the house of the complainant are noticed.*

e). The lease holder has already established a wind wall towards western side boundary of agricultural field of the complainant with tin sheet approximate 04 meter height and a length of 360 feet alongwith the boundary of the mining lease for prevention of dust/ stone pieces.

f). The Deputy Director of Mines Safety Ghaziabad region has conducted visit on 17.05.2023 of the said mining project and send an action taken report dated 13.10.2023 and intimated that as per the record of ground vibration observed (ppv. frequency & air over pressure) and distance up to which flying fragments resulting out of blasting projected, required to be maintained at the mine as per permissions conditions was not kept maintained in the mine

11. It is worthwhile to mention that on 06.03.2023, the Applicant Vijay Kumar Sharma also wrote a same complaint to Directorate General of Mines Safety, Ministry of Labour & Employment, Government of India, Ghaziabad Region, Ghaziabad inter-alia alleging that the mine of answering Respondent is opencast and daily heavy blasting is carried out in the mine due to which rocks are coming to fields and cracks are developed in the houses.

12. That pursuant to the aforesaid compliant, the Directorate General of Mines Safety, Ministry of Labour & Employment, Government of India, Ghaziabad Region, Ghaziabad conducted the inspection and vide reply dated 12.06.2023 disposed of the complaint of the Applicant by imposing additional precaution and modifying the certain condition which have been duly complied with.

A copy of the reply to complaint by the Directorate General of Mines Safety, Ministry of Labour & Employment, Government of India, Ghaziabad Region, Ghaziabad is Annexed herewith as ANNEXURE R-2.

13. That it is important to mention here that contents of the complaint by the Applicant to the Directorate General of Mines Safety, Ministry of Labour & Employment, Government of India, Ghaziabad Region, Ghaziabad and contents of the Application by the Applicant before this Hon'ble Tribunal are same. Thus the Applicant herein is approaching various forums, with the utmost malafide intention, only to unnecessarily harass the Project Proponent and the same is tantamount to abuse of process of law.

BRIEF FACTS:

1. That the Director, Mines & Geology, Haryana vide letter dated 13.03.1995 executed a lease Deed for extraction of Marble over an area 63 kanals (Khasra No. 212) in village Bayal, District – Mehindergarh, Haryana for a period of five years with effect from 13.03.1995 in favour of the answering Respondent.

A copy of lease deed dated 13.03.1995 executed by the Director, Mines & Geology, Haryana in favour of the M/s Satish Garg is annexed herewith and marked as ANNEXURE R-3.

At this juncture, it is pertinent to note that time to time requisites permission were obtained by the answering Respondent as and when required.

2. That on 12.07.1999, the answering Respondent- M/s. Satish Kumar Garg wrote a letter to Director, Mines & Geology, Haryana for renewal of lease Deed for extraction of Marble over

an area 63 kanals (Khasra No. 212) in village Bayal district Mahendergarh, Haryana.

3. *That thereafter Director, Mines & Geology, Haryana extended the lease Deed for extraction of Marble over an area 63 kanals (Khasra No. 212) in village Bayal, District-Mehendergarh for a further period of five years with effect from 13.03.2000.*

A copy of extended lease deed executed by the Director, Mines & Geology, Haryana is annexed herewith and marked as ANNEXURE R-4

4. *That thereafter Director, Mines & Geology, Haryana, by taking reference of State Government endorsement no. 5/1/16-21B-H-95 dated 30.03.2018 on subject of Renewal of mining lease for extraction of Marble over an area of 3.35 hectares in village Bayal, District-Mahendergarh in favour of Shri Satish Kumar Garg, sanctioned for second renewal of a mining lease in favour of the Project Proponent for extraction of Marble over an area of 3.35 hectares of a land in village Baya1, district Mahendergarh for a period of 20 years from the date of end of the earlier period of Lease period i.e., with effect from 12.03.2005 as per provisions, of the Marble Development and Conservation Rules, 2002.*

A copy of extended lease deed executed by the Director, Mines & Geology, Haryana is annexed herewith and marked as ANNEXURE R-5.

5. *That on 30.06.2021 Project Proponent M/s. Satish Kumar Garg wrote an Application to Haryana State Pollution Control Board to grant Consent-to-Operate for mining of minerals in the above-mentioned leased area.*

6. *That thereafter Haryana State Pollution Control Board by considering the letter of Project Proponent M/s. Satish Kumar Garg, vide letter dated 04.08.2021 granted consent to M/s SATISH KUMAR GARG, subject to certain Terms and conditions, Period from 04.08.2021 to 03.08.2026 for mining of minerals in the above-mentioned leased Land. At this juncture it is important to mention here that villagers of that village had also consented that mining should be allowed in the above described area by citing the reason that mining in the described area will create job opportunity to the surrounded persons and the same will consequently lead to enhance the income of the surrounded persons.*

A copy of letter dated 04.08.2021 of consent to establish is annexed herewith as ANNEXURE R-6.

7. *That thereafter Haryana State Pollution Control Board by considering the letter of Project Proponent M/s. Satish Kumar Garg, vide letter dated 16.08.2021 granted Consent-to-Operate to M/s Satish Kumar Garg, subject to certain Terms and conditions for a period from 12.08.2021 to 30.09.2023 for mining of minerals in the above-mentioned leased area in accordance with law.*

A copy of letter dated 16.08.2021 for grant of Consent-to-Operate by the HSPCB is annexed herewith and marked as ANNEXURE R-7.

8. *That on 23.09.2023, the said Consent-to-Operate was renewed by the Haryana State Pollution Control Board (HSPCB) vide letter bearing no. HSPCB/Consent/:*

313100423MAHCT046058275, period from 01.10.2023 – 30.09.2025. Thus the CTO is presently valid.

A copy of letter dated 23.09.2023 of renewal of Consent-to-Operate by the HSPCB is annexed herewith and marked as ANNEXURE R-8.

9. That thereafter Project Proponent, M/s. Satish Kumar Garg submitted an application to State Environment Impact Assessment Authority Haryana (Herein referred as SEIAA, Haryana) to grant Environmental Clearance as per the EIA Notification, 2006.

10. That SEIAA Haryana granted Environmental Clearance certificate to Project Proponent, M/s. Satish Kumar Garg by perusing the relevant and mandatory documents enclosed with the application viz., Form- I, Prefeasibility report, copy of approved Mining Plan, Certified Compliance Report and the additional clarifications furnished in response to the observations of the State Expert Appraisal Committee (SEAC) constituted by MoEF&CC, GoI vide their Notification dated 30.01.2019, in its meeting held on 19.04.2021.

A copy of Environmental Clearance granted by SEIAA Haryana dated 13.07.2021 is annexed herewith and marked as ANNEXURE R-9.

11. That the Original Applicant herein has also filed the similar complaint before the Directorate General of Mines, Safety qua the blasting among other complaints however, after the aforesaid complaint, the inquiry was made and inspection was done which reveals that there is no illegal mining in the area in question and the blast were being done after following the proper procedure.

12. That thereafter above-mentioned complaint has been filed by the Original Applicant and vide order dated 03.11.2023, this Hon'ble Tribunal was please to issue notice and directed to file the reply.

13. That, in view of the above facts and circumstances of the case and the answering Respondent has a good case on merits and the Original Applicant has made bald allegation without any proofs/evidence to substantiate its allegation hence, the present original Application may be dismissed.

14. That the answering Respondent further reserve its right to file additional reply as and when required by this Hon'ble Tribunal.

15. That the supporting Affidavit is being filed along with this Reply."

8. Vide order dated 07.12.2023 Respondent no. 5 was directed to file additional reply giving requisite details regarding blasting permissions obtained, blasting operations carried out and compliance with conditions imposed vide blasting permissions and compliance with consent conditions

and respondents no. 1 to 4 were granted time to file their replies/responses.

9. Reply has been filed by respondents no. 1 to 4 vide email dated 08.01.2024. The relevant part of the reply filed by respondents no. 1 to 4 is reproduced below:-

“Reply on behalf of respondent No. 1 and 4 through Member Secretary, HSPCB, Panchkula

1. That vide order dated 02.08.2023 as per direction of Hon'ble NGT constituted a joint committee comprising of Director, Mines & Geology, Haryana, HSPCB and District Magistrate, Mahendragarh. Accordingly, inspection of the said mining project was made by joint committee on 06.10.2023 and action taken report duly signed by Director, Mines & Geology Department, Panchkula (Respondent No. 2), Deputy Commissioner, Mahendragarh (Respondent No. 3) and Regional Officer, HSPCB, Mahendragarh (Respondent No. 4 on behalf of HSPCB) and same has been already filed on 05.12.2023 before the Hon'ble NGT. Copy of joint committee report is annexed as Annexure-R/ 1

2. That the content of the complaint point at Sr. No. 1, 2, 4, 5, 6, 7, 8 and 9 allege about loss of crops and crops yield of the complainant due to fly rocks and dust from the mining activity and safety & health of milch animals and damages due to heavy blasting. As per report submitted by Joint committee, said allegations were not found to be established.

3. That the content of para no. 3 of complaint alleged that on 21.11.2022, blasting was done without playing sirens. This allegation was also found not genuine as per report dated 03.10.2023 submitted by Director General of Mines & Safety, Ghaziabad (Annexure-R/2).”

10. Additional reply has been filed by respondent no. 5 vide email dated 08.01.2024 The relevant part of the additional reply filed by respondent no. 5 is reproduced below:-

“ADDITIONAL REPLY, IN COMPLIANCE WITH THE ORDER DATED-07.12.2023 PASSED BY THIS HON'BLE TRIBUNAL, ON BEHALF OF RESPONDENT NO.5-M/S SATISH KUMAR GARG IN THE ABOVE CAPTIONED MATTER.

X X X X X X

2. That the Respondent No.5 has a valid lease deed of mineable area of 63 kanals/3.35 Hec. (Khasra No.212) in village Bayal, District- Mahendragarh, Haryana, Consent to Operate letter Haryana State Pollution Control Board and Certificate of

Environmental Clearance granted by SEIAA Haryana, necessary permission from DGMS and all other requisite permission as required under law. The Respondent No.5 has been following all the terms and conditions, and requisite guidelines for the mining of marbles on the leased land in accordance with law. At this juncture it is important to mention here that the Marble which is being extracted by the answering Respondent is of very low quality/substandard and the same is being used only for dust purposes in building material.

3. That the Respondent No.5 is complying all the requisite conditions of the Consent condition. It is submitted that the Respondent No.5 vide letter dated 12.12.2019 obtained blasting permissions from Directorate General of Mines Safety, Ministry of Labour & Employment, Government of India, Ghaziabad Region, Ghaziabad for the period of three years.

A copy of the blasting permissions obtained from Directorate General of Mines Safety, Ministry of Labour & Employment, Government of India, Ghaziabad Region, Ghaziabad dated-12.12.2019 is Annexed herewith as ANNEXURE R-1.

4. That on 09.01.2023 blasting permissions was further renewed, for which the Respondent No.5 had applied on 24.11.2022 through online bearing application Id. 252390, by Directorate General of Mines Safety, Ministry of Labour & Employment, Government of India, Ghaziabad Region, Ghaziabad for the further period of three years.

A copy of the renewed blasting permissions dated-09.01.2023 obtained from Directorate General of Mines Safety, Ministry of Labour & Employment, Government of India, Ghaziabad Region, Ghaziabad is Annexed herewith as ANNEXURE R-2.

5. That Mr. Gaj Raj Singh, S/o- Ramanand Singh Yadav, Village-Delhawas, Post Office-Gulab Pur, Rewari, Haryana, authorised by the Directorate General of Mines Safety, Ghaziabad- Uttar Pradesh, has been appointed, as a Mining Mate in the answering Respondent Proprietorship for the period of 5 Years from 03.12.2020 to 02.12.2025.

A copy of the certificate issued to Mr. Gaj Raj Singh to work as a Mining Mate in the Respondent Proprietorship is Annexed herewith as ANNEXURE R-3.

6. That Mr. Gaj Raj Singh, Mining mate, prepares blasting report from time to time as per the Mines Act, 1952 which includes Quantity of Explosive taken, Quantity of Explosive used, Quantity of Explosive returned. At this juncture it is important to mention here recent date of controlled blasting occurred on 07.12.2023, 11.12.2023, 14.12.2023, 18.12.2023, 24.12.2023 & 30.12.2023 under the supervision of mining mate in accordance with the rules and guidelines.

A copy of the Blaster's Report Book prepared by Mr. Gaj Raj Singh/ Mining Mate is Annexed herewith as ANNEXURE R-4.

7. That the Controlled blasting is being conducted at Mining site of the answering Respondent to minimize blast induced ground vibrations and to manage the noise pollution within permissible limits. At this juncture it is important to mention here that Regular monitoring of every blast is being conducted from time to time (recently on 01.11.2023, 04.11.2023, 30.11.2023, 07.12.2023, 11.12.2023, 14.12.2023, 18.12.2023 & 24.12.2023) through

seismograph instrument to check the blast induced ground vibration within permissible limit.

A copy of the Event Report of Regular monitoring of every blast conducted (recently on 01.11.2023, 04.11.2023, 30.11.2023, 07.12.2023, 11.12.2023, 14.12.2023, 18.12.2023 & 24.12.2023) through seismograph instrument is Annexed herewith as ANNEXURE R-5(Colly).

8. That the monitoring of Ambient air quality is being carried out by Overseas Test House & Research Centre Pvt. Ltd. certified & NABL & Accredited Laboratory. The Photographs of location showing monitoring of Ambient air is also annexed.

A copy of the Test Results of Ambient Air Quality Analysis and Photographs of location showing monitoring of Ambient air is Annexed herewith as ANNEXURE R-6 (Colly).

9. That the monitoring of Ground water quality was carried out by Overseas Test House & Research Centre Pvt. Ltd. certified & NABL & Accredited Laboratory. That the sample of water was collected, on 20.09.2023, from three different locations namely Pond Near Golwa Village, Golwa -Village and Village-Bayal by the Overseas Test House & Research Centre Pvt. Ltd. And the report of the same came on 30.09.2023, which shows that the quality of water is within the permissible limit. At this juncture it is important to mention here that obtaining the permission regarding withdrawal of ground water from CGWA before the start of the project is not required because extraction of Ground water is not required in the process of mining.

A copy of the Test Results of Ground water quality carried out by Overseas Test House & Research Centre Pvt. Ltd. Of the three different places is Annexed herewith as ANNEXURE R-7(Colly).

10. That the answering Respondent has required mine machineries with closed operator cabins to mitigate/control the Noise level. That the workers engaged in the operations have been provided with earplugs / muffs along with adequate training, awareness and information regarding safety and health issues. At this juncture it is pertinent to mention here that the monitoring of Ambient Noise level was carried out by Overseas Test House & Research Centre Pvt. Ltd. certified & NABL & Accredited Laboratory. That the monitoring of Ambient Noise was conducted from 15.09.2023 to 20.09.2023 locations Nr. Mine Site, & Nearby Village by the Overseas Test House & Research Centre Pvt. Ltd., and the report of the same was came on 30.09.2023, which shows that the level of is within the permissible limit as CPCB Guidelines Limit. That the Photographs of location showing monitoring of Noise is also annexed.

A copy of the Test Results of Ambient Noise carried out by Overseas Test House & Research Centre Pvt. Ltd. and Photographs of location showing monitoring of Noise is Annexed herewith as ANNEXURE R-8 (COLLY).

11. That the Plantation is being carried out and maintained as per conditions of the Clearance granted to the Respondent No.5. That the answering Respondent has bought 1000 plants, from 2020 to 2023 (250 plants each year) from forest department Narnaul, Haryana and the same have been planted as well. That

on 03.01.2024, 160 plants more (purchased from Private Nursery) have been planted by the answering Respondent; that the photographs showing planting the trees have also been annexed. A Copy of receipts issued by the forest department Narnaul, Haryana of plant bought by answering Respondent and photographs showing planting the trees are Annexed herewith as ANNEXURE R-9 (Colly).

12. That the answering Respondent has development the green belt safety zone in order to arrest pollution emanating from mining operations as per the guidelines of Central Pollution Control Board. That the Photographs displaying the green belt developed by the answering Respondent is annexed herewith as ANNEXURE R-10.

13. That there is regular sprinkling of water, through water tanker, is being carried out by the answering Respondent at the mining site and its vicinity in order to curb the dust caused because of the mining.

A copy of photographs sprinkling of water, through water tanker, by answering Respondent is Annexed herewith as ANNEXURE R- 11(Colly).

14. That the medical examination of the workers employed in the mines has been conducted as per the DGMS guidelines and will be carried out accordingly as well.

A copy of certificate issued to workers of medical check-ups is Annexed herewith as ANNEXURE R-12 (Colly).

15. That the answering Respondent provides basic facilities like Toilet room, Manager Room, First Aid Box and receipts of medicines are also available at the Mining site.

A copy of photographs displaying the Toilet room, Manager Room, First Aid Box and receipts of medicines is Annexed herewith as ANNEXURE R-13 (Colly).

16. That the Standard Operating Procedure (SOP) for all the mining activities have been made and distributed to the mining workers to work towards zero harm to protect the health and wellbeing of workers and nearby community. There has not been any harm and minor accident reported since beginning of the mining activities.

A copy of photographs displaying the Standard Operating Procedure (SOP) is Annexed herewith as ANNEXURE R-14.

17. That the answering Respondent has actively involved in Corporate Environment Responsibility (CER) and Corporate Social Responsibility (CSR). That the answering Respondent has even planted trees in the nearby schools to sustain the required number of plants under Corporate Environment Responsibility and also distributed school's uniform to the students, made water tank in nearby village and donated money in temple as well under the liability of Corporate Social Responsibility (CSR).

A copy of photographs displaying the plantation of tress in the nearby schools, distributing school's uniform, water tank made by answering Respondent and money donated to temple is Annexed herewith as ANNEXURE R-15 (Colly)."

11. Applicant Rajesh Sharma sent email dated 06.01.2024 complaining that due to heavy blasting stones are scattered. After passing of orders by this Tribunal the project proponent has installed tin shed and carried out plantation for formal compliance but the same is not adequate and inspection be made in the presence of the applicant. Photographs of solar plate broken due to fall of stone were also enclosed with the email.

12. Vide order dated 09.01.2024 this Tribunal observed that there is no specific mention in the report of the Joint Committee and replies filed by the respondents regarding compliance with EC and consent conditions by Respondent No. 5 with requisite details. HSPCB was directed to verify the aspects of compliance with EC and consent conditions, plantation and corporate social responsibility activities by Respondent No. 5 and file reply/response in this regard within two months.

13. In compliance thereof report has been filed by HSPCB vide email dated 20.03.2024. In its report HSPCB has given the EC and Consent status and details of respondent No.5 Project Proponent and the relevant part of the report is reproduced as under:-

***“Inspection Report of Haryana State Pollution Control Board, Mahendragarh Region in the matter of OA No. 454/2023 titled as Vijay Kumar Sharma Vs State of Haryana.*”**

- | | | | |
|---|---|---|---|
| X | X | X | X |
|---|---|---|---|
- *The mining site of M/s Satish Kumar Garg Marble Mines Lease Owner, Village-Bayal, Distt-Mohindergarh on the total land measuring 3.35 Hectare on Khasra No. 212 of Vill.- Bayal, Tehsil- Nangal Chaudhary. The date of LoI granted by Mines and Geology Department, Haryana with lease period from 12.03.2005 to 11.03.2025. Lease of the mining project has been renewed vide memo No. 1640 dated 03.04.2018 for a period of 20 years from the date of earlier period of lease i.e. w.e.f. 12.03.2005.*

- The clarification for renewal of mining lease was obtained regarding non- involvement of Forest Land and Wild life sanctuary in Mine Lease Area Vide no. 940 dated 28.05.2018 (Annexure-II) from Divisional Forest Officer, Distt. Mahendragarh.
- The unit has obtained 1st Consent to Establish vide No. HSPCB/Consent/: 313100419MAHCTE6753157 Dated: 23.07.2019 valid upto 22.07.2024 and after obtaining Environment Clearance from SEIAA, Haryana vide letter No. SEIAA/HR/2018/152 dated 08.07.2019 for mining of miner mineral (Marble Mining) having Mine lease area 3.35 hectare for expansion of production capacity from 7319 MT to 1,00,000 MTPA. The Unit has obtained 1st Consent to Operate vide No. 313100419MAHCTO6804553 dated 23.08.2019 for the period 23.08.2019 to 30.09.2020 vide No. HSPCB/Consent/: 313100419MAHCTO6804553 Dated:23/08/2019 and thereafter renewal of the same valid upto 30.09.2020 and thereafter, unit again obtained CTO for the period 01.10.2020 to 30.09.2021 under the Provisions of Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 from Pollution Control Board.
- Thereafter, unit obtained Consent to Establish expansion vide letter No. 313100421MAHCTE13806135 dated 04.08.2021 valid upto 03.08.2026 and after obtaining Environment Clearance from SEIAA, Haryana vide letter No. SEIAA(128)/HR/2021/645 dated 13.07.2021 for quantity expansion of production capacity from 1,00,000 MTPA to 4,00,000 MTPA. The unit obtained CTO for expansion for the period 12.08.2021 to 30.09.2023 and further renewed obtained upto 30.09.2025.
- The details of M/s Satish Kumar Garg Marble Mines Lease Owner is as under:

Sr. No.	Category/Item no. (in schedule)	1 (a) B- 2
1	Location of Project	Total area 3.35 hectare mining of miner mineral (marble mining).
2	Project Details Production Capacity	Khasra No. 212, Village Bayal, Tehsil Nangal Chaudhary, District Mahendragarh, Haryana Production capacity 4,00,000 MT/Annum
3	Project Cost	1.90 Cr.
4	Water Requirement & Source	• 12.90 KLD (approx. 13) through tankers • 0.30 KLD for drinking (for 30 workers @ 10 LPCD. • 10.2 KLD (for dust suppression @ 02 Ltr/SQM for 850 mts road). • 2.4 KLD approx. for Green Belt (600 trees).

5	Environment Management Plan	39.30 Lacs
6	CER Budget	4.0 Lacs
7	Production (Year Wise)	4,00,000 MT/Annum
8	Green belt/plantation	600 plants/Annum, Plantation will be mainly done Along the road side/ Gram Panchayat land with Permission of District Administration and local authorities.
9	Machinery required	Excavator, Dozer, Dumper, Wagon Drill machine with inbuilt Compressors, Air Compressor, Rock Breaker, Diesel Operated Pump, Explosive Van.
10	Date of grant of EC	1 st Environment Clearance granted from SEIAA, Haryana vide letter No. SEIAA/HR/2018/152 dated 08.07.2019. 2 nd Environment Clearance granted for quantity expansion from SEIAA, Haryana vide letter No. SEIAA(128)/HR/2021/645 dated 13.07.2021.

- Compliance verification of Environment Clearance conditions:

Sl. No.	Specific Conditions imposed by SEIAA	Compliance
1	The PP shall construct the three pucca link roads connected to the Main Road at the mining site before the start of mining.	Complied as unit has provided connecting pucca road. Photographs attached.
2	The PP shall construct Haul roads of 10 meters wide as proposed in EIA.	Complied as unit has constructed haul road connecting to nearby road.
3	Traffic management plan as submitted shall be implemented in letter and spirit. Apart, a detailed traffic management and traffic decongestion plan shall be drawn up to ensure that the current level of the service roads within a 05 kms radius of the project is maintained and improved upon after the implementation of the project.	Complied as unit has maintained the nearby connecting roads for ease of traffic movement.
4	The Mining lease holders shall, after ceasing mining operations, undertaking regassing the mining area and any other area which may have	Mining operation is commenced in 2019 and the same is applicable after ceasing of Mining operation.
	been disturbed due to their mining activities and restore the land to a condition which is fit for growth of fodder, flora, fauna etc.	

5.	<i>No tree cutting has been proposed in the project. 2500 Plants per hectare should be planted and maintained. The Existing trees will be counted for this purpose. The landscape planning should include plantation of native species. The species with heavy foliage, broad leaves and wide canopy Cover are desirable. Water intensive and/or invasivespecies should not be used for landscaping. As proposed the plantation in 1.23 hectares area will be carried out including statutory boundary barrier, 106 plants/year shall be planted for 29 years.</i>	<i>During inspection it is observed that plantation has been made around the Mining site, however, only on one side unit has provided with sufficient number of trees/greenbelt but on the remaining three sides green belt/plantation has been made recently only and not fully develop as only saplings were grown.</i>
6	<i>The PP shall take all effective arrangements for drainage and provision of adequate dewatering capacity in the pits under mining.</i>	<i>No natural water body has been observed in and around mine site.</i>
7	<i>The PP shall provide the site services like managers office, canteen-cum rest centre, Store First Aid room, Electricity supply, Water supply.</i>	<i>Complied as provided services like Manager office, store, electricity supply, water supply etc. at the site.</i>
8	<i>The PP has submitted that 26 manpower will be provided at the site.</i>	<i>It has been intimated by PP that 26 Nos will deployed in advanced stage of mining as at present production need not such manpower.</i>
9	<i>The PP shall take all preventive measures to minimize vibrations due to blasting, manage the noise pollution within limits and shall provide the ear plugs to the workers.</i>	<i>Controlled blasting is being conducted in the mines to minimize blast induced ground vibrations and managed the noise pollution within permissible limits. Now, unit has renewed the permission from DG Mine Safety vide letter dated 09.01.2023 for controlled deep hole blasting within 300 m but beyond 100 m of structures as previously obtained vide directorate letter No. 3564 dated 12.12.2019.</i>
10	<i>The PP shall manage the overburden at the mining site.</i>	<i>The overburden is being managed at the site by the PP via providing an dedicated area for storage of overburden.</i>

11	<i>The Project Proponent shall obtain all necessary clearance/permission from all relevant agencies before commencement of work.</i>	<i>All the necessary clearances and permissions has been obtained such as Environmental Clearance, CTE/CTO, Forest Department, permission under Mines Regulation, 1961 from DGMS etc.</i>
12	<i>Consent to establish/operate for the project shall be obtained from the state pollution Control Board as required under the Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of pollution) Act, 1974.</i>	<i>Complied as obtained valid CTE & CTO from the Board under the Air (Prevention and Control of Pollution) Act, 1981 and the Water (Prevention and Control of pollution) Act, 1974 valid upto 30.09.2025.</i>
13	<i>The PP shall take precautions to suppress the dust in and around the mining site. The PP shall use mixed cannon water sprinkle for dust suppression instead of conventional sprinkles for efficient dust suppression.</i>	<i>Water sprinkling is being done through sprinklers fitted water tankers to suppress dust in and around mining site. Unit has provided 02 No. permanent tankers for sprinkling</i>
14	<i>The PP Shall create environment division unit in the project for implementing the conditions of Environment clearance.</i>	<i>PP has provided manager office for management of the implementation of conditions of EC at the site.</i>
15	<i>The PP shall obtain the permission regarding withdrawal of ground water from CGWA before the start of the project and also obtained the CTO from HSPCB after the approval from CGWA</i>	<i>Ground water is not being extracted. Hence, not obtained approval from authority.</i>
16	<i>The PP shall adhere to the approved mining plan and approved closure plan by the competent authority</i>	<i>Mining operation is being adhere to approved mining plan and as per report from Mining Department no illegal mining has been observed. Further, no stage of closure plan as mining commenced in 2019.</i>
17	<i>The Proponent will provide adequate sanitary facility in the form of mobile toilets to the labours engaged for the project work.</i>	<i>The PP has provided adequate sanitary facility in the form of toilets at the site.</i>
18	<i>Project proponent shall comply all the measures, conditions suggested in the approved mining plan with post closure mine plan, Environmental Management Plan (EMP) in a letter and spirit.</i>	<i>Complied as PP has provided Measures as per approved plan w.r.t. legal mining, overburden, site services, employment and EMP such as air monitoring, dust suppression, tree plantation.</i>
19	<i>PP shall make channels to divert rain water run- off from surrounding catchment area to enrooted water in the excavated pit to ensure water collection for sustained ground water recharge</i>	<i>No natural water body has been observed in and around mine site.</i>

20	<i>The PP shall restrict maximum mining depth 4 meters above the Ground Water Table i.e. up to 269 MRL.</i>	<i>Complied, as currently the mining activity has been made upto 20 meter approx. only.</i>
21	<i>The PP shall divert the first order stream in post mining to save the natural drainage system.</i>	<i>No natural water body has been observed in and around the mining site.</i>
22	<i>Any change in stipulations of EC of the approved mining plan will lead to Environment Clearance void-ab-initio and PP will have to seek fresh Environment Clearance.</i>	<i>No such changed noticed.</i>
Air Quality monitoring and preservation		
i)	<i>The Project Proponent shall install a minimum of 3 (three) online Ambient Air Quality Monitoring Stations with 1 (one) in upwind and 2 (two) in downwind direction based on long term climatologically data about wind direction such that an angle of 120° is made between the monitoring locations to monitor critical parameters, relevant for mining operations, of air pollution viz. PM10, PM25, NO2, CO and SO2 etc. as per the methodology mentioned in NAAQS Notification No. B- 29016/20/90/PCI/I, dated 18.11.2009 covering the aspects of transportation and Use of heavy machinery in the impact zone. The ambient air quality shall also be monitored at prominent places like office building, canteen etc. as per the site condition to ascertain the exposure characteristics at specific places. The above data shall be digitally displayed within 03 months in front of the main Gate of the mine site.</i>	<i>Partially complied, as PP has installed only 01 No. Ambient Air Quality Monitoring Station at the site. However, Ambient Air Quality monitoring is being done by external NABL approved laboratory and 6 monthly compliance report is being Submitted to the concerned department on regular basis. Further as per ambient Air Quality Monitoring conducted by HSPCB at 03 different locations around the mining site and as per analysis report No. 322-24 dated 21.09.2023 parameters are Found well within the prescribed limits (Annexure-III).</i>
ii)	<i>Effective safeguard measures for prevention of dust generation and subsequent suppression (like regular water sprinkling, metalled road construction etc.) shall be carried out in areas prone to air pollution wherein high levels of PM10 and PM25 Are evident such as haul road, loading and unloading point and transfer points. The Fugitive dust emissions from all sources shall be regularly controlled by installation of required equipment/ machineries and preventive maintenance. Use of suitable water-soluble chemical dust suppressing agents may be explored for better effectiveness of dust control system. It shall be ensured that air pollution level conform to the standards prescribed by the MoEF & CC/Central Pollution Control Board.</i>	<i>Water sprinkling is being done Through sprinklers fitted water tankers to suppress dust in and around mining site. Unit has provided 02 No. permanent tankers for sprinkling to curb the dust generation in an around areas prone to air pollution and parameters are found within the prescribed limits.</i>
Corporate Environment Responsibility (CER)/ Corporate Social Responsibility		

I	<i>The activity and budget earmarked for Corporate Environment Responsibility (CER) as per Ministry O.M No 22-65/2017- /1. II (M) dated 01.05.2018 or as proposed by EAC should be kept in a separate bank account. The activities proposed for CER shall be implemented in a time bound manner and annual report of implementation of the same along with documentary proof viz. photo — graphs, purchase document latitude & longitude of infrastructure developed & road constructed needs to be submitted to Regional Office MoEF&CC annually along with audited statement.</i>	<i>The activities proposed for CER are being implemented and report of the same along with documentary proof viz. photographs, purchase document latitude & longitude of infrastructure developed are being submitted by the unit. Also the unit has also planted trees in nearby schools and also distributed school uniform to the students, made water tank in nearby village. However, PP has not provided details of expenditure made.</i>
II	<i>Project Proponent shall keep the funds earmarked for environmental protection measures in a separate account and refrain from diverting the same for other purpose. Year wise expenditure of such funds should be reported to the MoEF&CC and its Concerned Regional Office.</i>	<i>PP intimated that the funds Earmarked for environmental Protection measures are kept in a separate account and refrain from diverting the same for other purpose. Year wise expenditure of such funds is being reported to the concerned Regional Office.</i>

• **Compliance verification of Consent to Operate conditions:**

Sl. No	Specific Conditions of Consent to Operate	Compliance
1	<i>The unit will comply with provision of all applicable Acts/Rules/Direction of the Board/CPCB/ NGT/CAQM along with general conditions of the board.</i>	<i>Compliance status on above point retreated.</i>
2	<i>The unit will maintain its APCM / dust suppression system in well working condition.</i>	<i>Complied as provided dust suppression through tankers at site.</i>
3	<i>The unit will plant & maintain trees within & outside the premises and submission of DFO report.</i>	<i>Unit has plantation around the mining pit as mentioned at Sr. No. 05 above.</i>
4	<i>Unit will procure water for sprinkling from approved source and will maintain log book for the same.</i>	<i>Provided dust suppression through tankers at site and deputed two number tankers for sprinkling.</i>
5	<i>CTO so granted is without prejudice to the any violation caused by unit in past and will be deemed cancelled on account of any such observation.</i>	<i>Noted for relevant stage.</i>
6	<i>The unit will strictly comply with all the conditions of EC granted by MoEF&CC, CTE & CTO granted by the Board and in case of non-compliance of the</i>	<i>Compliance status is explained in above points.</i>
7	<i>The unit will abide by all the directions / orders issued from time to time by all the</i>	<i>Complied.</i>

8	Unit will deposit balance CTO fee if found pending at on later stage as per prescribed	Complied.
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14. We have heard the applicant and learned Counsel for the respondents and we have gone through the relevant record carefully.

15. In the present case the applicant has raised grievances in the original application regarding carrying on of marble mining in the open without any boundaries, tin shed etc.; resorting to heavy blasting everyday due to which stones fall into the fields and cracks are appearing in the houses of the villagers; the dust generated spread over the crops affecting the yield; the noise caused frightening the livestock and disturbing the studies of children and social work and the project proponent having carried out blasting on 21.11.2022 without intimation and without blowing siren. Respondents No.1 to 4 have asserted that the allegations made in the original application are not established. Respondent No. 5 Project Proponent has also denied the averments made in the application.

16. In view of the averments made in the application and submissions made in the reports/replies following environmental questions arise for adjudication:-

- (i) **Whether the Project Proponent is carrying on marble mining in the open without any boundaries, tin shed etc.?**
- (ii) **Whether the Project Proponent is resorting to heavy blasting everyday due to which stones fall into the fields endangering life and property of the local residents?**
- (iii) **Whether the Project Proponent carried out blasting on 21.11.2022 without intimation and without playing siren?**
- (iv) **Whether house of the applicant has suffered cracks and boundary wall around his fields was also damaged due to heavy blasting?**
- (v) **Whether the dust generated and scattering of stones is causing loss of crop/crop yields and endangering safety and health of residents and the livestock/milch animals?**
- (vi) **Whether the Project Proponent has complied with EC and CTO conditions?**

17. Our findings on the above mentioned environmental questions along with reasons for the same are mentioned hereinafter.

(i) Whether the Project Proponent is carrying on marble mining in the open without any boundaries, tin shed etc.?

18. As per report of the Joint Committee lease holder has already established a wind wall towards western side boundary of agricultural field of the applicant with tin sheet of approximate 04 meter height and a length of 360 feet alongwith the boundary of the mining lease for prevention of dust/stone pieces.

19. The applicant has not filed any objections to the report of the Joint Committee. Mr. Rajesh Sharma, who had made written submissions vide email dated 06.01.2024, has admitted that after passing of orders by this Tribunal respondent no. 5-Project Proponent has installed tin shed.

20. Consequently, the allegations regarding mining without boundaries and tin shed are negated by the material on record.

(ii) Whether the Project Proponent is resorting to heavy blasting everyday due to which stones fall into the fields endangering life and property of the local residents?

And

(iii) Whether the Project Proponent carried out blasting on 21.11.2022 without intimation and without playing siren?

21. The Joint Committee found that the lease holder is having the permission of control deep hole blasting near the permanent structure within 100-300 meter renewed by Director, Mines Safety, Ghaziabad Region vide memo no. 252390 dated 09.01.2023 and unit also produced

the record of blasting register and vibration reports dated 03.10.2023 and 06.10.2023.

22. As per the Joint Committee Report, the Deputy Director, Mines Safety, Ghaziabad Region visited the said mining project on 17.05.2023 and sent an action taken report dated 13.10.2023 and intimated that the record of ground vibration observed (PPV frequency & air over pressure) and distance up to which flying fragments resulting out of blasting projected required to be maintained at the mine as per conditions laid down in the permissions was not maintained in the mine.

23. The Director, Mines Safety, Ghaziabad Region has intimated that respondent no.5-Project Proponent was issued violation letter vide letter dated 09.10.2023 for rectification of contraventions observed during inspection and enquiry of the mine and a follow up inspection was made and found that contraventions pointed out were fully complied by the mine management and also directed the mining project to control the fly rock to further minimum through reduction in total charge per round (Kg) and Maximum charge per delay by 10 against the values recommended in condition no. 3.1 (b) of the permission granted under Regulation 164(1-B) of Metalliferous Mines Regulations 1961, vide No. /164(1B)/Perm/3564 dated 12.12.2019.

24. It may be observed here that while granting permission for blasting vide letter dated 12.12.2019 Director, Mines Safety, Ghaziabad imposed conditions for strict compliance by respondent no. 5-Project Proponent. Conditions No. 3.7 and 3.8 which are particularly relevant to the present case are reproduced as under:-

“3.7 (a) Before deep-holes are charged, stemmed and fired, sufficient warning by siren or other suitable means shall be given to warn persons within a radius of 500 m, including to the habitants of structures and dwellings, not belonging to the management.

(b) It shall be ensured that no person remains in the dwellings/ structures falling within a radial distance of 500 m of the place of firing at the time of blasting unless the dwelling/ structure provides adequate/ proper shelter from flying fragments resulting out of blasting. Guards shall be posted to ensure that no person inadvertently enters the danger zone, and to ensure that all persons within the danger zone have taken proper shelter. All precautions provided under Regulation 164 of the Metalliferous Mines Regulations, 1961, regarding taking shelter, shall be complied with.

3.8 Owners of structures and dwellings and land, not belonging to the management and habitants/occupants of such dwellings/buildings shall be indemnified against damage to property/injury to persons, if any, arising out of mining operations.”

25. Issuance of violation letter for rectification of contraventions observed during inspection lends support to allegations regarding stones flying/scattering due to heavy blasting. Photographs attached with the original application show flying of the stones in the fields and also damage caused to solar power panel due to flying of stone. The applicant is not stated to be owner of the solar power panel. The owner of the solar power panel damaged by flying stone will be entitled to payment of compensation from respondent no. 5-Project Proponent for damage caused to the solar power panel by filing appropriate proceedings, if so desired. However, no damage is shown to have been caused to crops due to scattering of stones on blasting by respondent no. 5-Project Proponent and the applicant is not entitled for any compensation for the same.

26. In his reply filed vide email dated 08.01.2024 respondent no.5-Project Proponent has submitted that he obtained blasting permissions from Directorate General of Mines Safety, Ministry of Labour &

Employment, Government of India, Ghaziabad Region, Ghaziabad vide letter dated 12.12.2019 for the period of three years. Respondent No.5 had applied on 24.11.2022 through online application bearing Id. 252390 on which on 09.01.2023 blasting permission was further renewed by Directorate General of Mines Safety, Ministry of Labour & Employment, Government of India, Ghaziabad Region, Ghaziabad for the further period of three years.

27. In his reply respondent no.5-Project Proponent has also mentioned that Mr. Gaj Raj Singh, S/o- Ramanand Singh Yadav, Village- Delhawas, Post Office-Gulab Pur, Rewari, Haryana, authorised by the Directorate General of Mines Safety, Ghaziabad- Uttar Pradesh, has been appointed, as a Mining Mate for the period of 5 Years from 03.12.2020 to 02.12.2025 and he prepares blasting report from time to time as per the Mines Act, 1952 which includes Quantity of Explosive taken, Quantity of Explosive used and Quantity of Explosive returned. Controlled blasting is being conducted at Mining site to minimize blast induced ground vibrations and to manage the noise pollution within permissible limits.

28. As per the report of Director, Mines Safety Ghaziabad region vide memo no. 2072 dated 03.10.2023, no blasting operation was conducted on 21.11.2022 in the mine and complaint made regarding the same was found to be not genuine. Joint Committee has relied on above said report.

29. The applicant has not filed any objections to the reports and has not produced any evidence to the contrary creating doubt to correctness thereof and warranting discarding of the same.

30. Consequently the allegations regarding heavy blasting endangering life and property and blasting on 22.11.2022 without intimation and without blowing siren are not established.

31. However, Respondent no. 5-Project Proponent is directed to carry out blasting by giving advance intimation to residents of the locality and blowing siren while ensuring strict compliance with the conditions imposed by blasting permissions.

(iv) Whether house of the applicant has suffered cracks and boundary wall around his fields was also damaged due to heavy blasting?

32. As per report of the Joint Committee some old cracks were seen on the wall of the applicant's house on back side but there were no cracks on the front wall of the house and glasses of windows of the rooms of the house of the applicant were not broken.

33. The Joint Committee has submitted that it cannot be ascertained that the single crack found developed in the rear portion of the house of complainant was occurred only due to blasting conducted in the Mine. Other factors like ageing effect, construction quality etc. may also be responsible for the crack.

34. The applicant has not filed any objections to the reports and has not produced any evidence to the contrary regarding cracks in his house and alleged damage to boundary wall to create doubt regarding correctness of the above said reports which deserve due credence by this Tribunal.

35. Consequently, old cracks seen on the wall of the applicant's house on back side and also alleged damage to boundary wall are not established to be due to blasting by respondent no.5 Project Proponent.

(v) Whether the dust generated and scattering of stones is causing loss of crop/crop yields and endangering safety and health of residents and the livestock/milch animals?

36. The Joint Committee found that there is no dust on the leaves of the plants of lemons on the field and observed that all the plants of the lemon were safe. The Joint Committee also observed at the time of inspection that there is no adverse effect found on the health of the buffalos and cows and health of the pet animals of the complainant was looking good.

37. The Joint Committee also found that allegations about loss of crop/crop yields, safety and health of milch animals, stones falling in the field and damage cause due to heavy blasting were not established during joint committee inspection.

38. The applicant has not filed any objections to the reports and has not produced any evidence to the contrary creating doubt regarding correctness thereof and warranting discarding of the same.

39. Consequently, the allegations that the dust generated and scattering of stones are causing loss of crop/crop yields and endangering safety and health of residents and the livestock/milch animals are not substantiated.

(vi) Whether the Project Proponent has complied with EC and CTO conditions?

40. A perusal of compliance report of HSPCB shows that condition was imposed on respondent no.5-Project Proponent that 2500 Plants per hectare should be planted and maintained. The Existing trees will be counted for this purpose. The landscape planning should include plantation of native species. The species with heavy foliage, broad leaves and wide canopy Cover are desirable. Water intensive and/or invasive

species should not be used for landscaping. As proposed the plantation in 1.23 hectares area will be carried out including statutory boundary barrier, 106 plants/year shall be planted for 29 years.

41. During inspection it was observed by HSPCB that plantation has been made around the Mining site. However, only on one side unit has provided with sufficient number of trees/greenbelt but on the remaining three sides green belt/plantation has been made recently only and not fully developed as only saplings were grown.

42. Respondent no.5-Project Proponent is directed to carry-out the requisite plantation of native species involving experts in the forestry during forth coming monsoon season and to file compliance report in this regard within three months.

43. A perusal of compliance report filed by HSPCB also shows that conditions were imposed on respondent no.5-Project Proponent that the PP shall take precautions to suppress the dust in and around the mining site. The PP shall use mix cannon water sprinkle for dust suppression instead of conventional sprinkles for efficient dust suppression. Effective safeguard measures for prevention of dust generation and subsequent suppression (like regular water sprinkling, metalled road construction etc.) shall be carried out in areas prone to air pollution wherein high levels of PM10 and PM25 are evident such as haul road, loading and unloading point and transfer points. The Fugitive dust emissions from all sources shall be regularly controlled by installation of required equipment/machineries and preventive maintenance. Use of suitable water-soluble chemical dust suppressing agents may be explored for better effectiveness of dust control system. It shall be ensured that air pollution level conform

to the standards prescribed by the MoEF & CC/Central Pollution Control Board.

44. During inspection HSPCB found that water sprinkling is being done through sprinklers fitted water tankers to suppress dust in and around mining site. Unit has provided 02 No. permanent tankers for sprinkling to curb the dust generation in an around areas prone to air pollution and parameters are found within the prescribed limits.

45. However, neither the Joint Committee nor respondent no.5 Project Proponent has given any information regarding number of water tankers used every day and the remedial measures taken in compliance to EC condition. Respondent no.5 Project Proponent is directed to comply with the EC condition and maintain log book regarding number of water tankers used every day and also to provide complete details to HSPCB.

46. A perusal of compliance report filed by HSPCB shows that conditions were imposed on respondent no.5-Project Proponent at the time of grant of EC that the activity and budget earmarked for Corporate Environment Responsibility (CER) as per Ministry O.M No 22-65/2017- | 1. II (M) dated 01.05.2018 or as proposed by EAC should be kept in a separate bank account and respondent no.5-Project Proponent shall refrain from diverting the same for other purpose. The activities proposed for CER shall be implemented in a time bound manner and annual report of implementation of the same along with documentary proof viz. photographs, purchase document, latitude and longitude of infrastructure developed and road constructed needs to be submitted to Regional Office of MoEF & CC annually along with audited statement.

47. During inspection by HSPCB it was found that the activities proposed for CER are being implemented and report of the same along with documentary proof viz. photographs, purchase document latitude and longitude of infrastructure developed are being submitted by the unit. Also the unit has also planted trees in nearby schools and also distributed school uniform to the students, made water tank in nearby village. However, respondent no.-5-Project Proponent has not provided details of expenditure made to show utilization of the budget earmarked for CER activities.

48. We are of considered view that the CSR/CER activities implemented/being implemented by respondents no. 5- Project Proponent should be oriented to social and environmental management goals and CER activities should be carried in the vicinity of the project and surrounding areas with active participation of the Gram Panchayats of the affected/neighbouring villages and the District Environment Committee and the budget earmarked for CER activities should be meaningfully utilized for restoration/protection and improvement of environment.

49. In view of the above the original application is disposed of with the following directions :-

- (i) Respondent no. 5-Project Proponent is directed to carry out blasting by giving advance intimation to residents of the locality and blowing siren while ensuring strict compliance with the conditions imposed by blasting permissions.
- (ii) Respondent no.5-Project Proponent is directed to carry out the requisite plantation of native species, in consultation with experts in

the forestry, during forth coming monsoon season and to file compliance report in this regard within three months with HSPCB.

- (iii) Respondent no.5 Project Proponent is directed to comply with the EC condition regarding suppression of dust in an around the mining site and maintain log book regarding number of water tankers used every day and also to provide complete details to HSPCB every three months.
- (iv) Respondents no. 5- Project Proponent is directed to execute CER projects in the vicinity of the project and surrounding areas with active participation of the Gram Panchayats of the affected/neighbouring villages and the District Environment Committee by meaningful utilization of the budget earmarked for CER activities and send report giving details of CER activities and expenses incurred to HSPCB every three months.
- (v) HSPCB is directed to verify compliance and file verification report within two months after submission of compliance reports by respondent No.5-Project Proponent before the learned Registrar General, National Green Tribunal, Principal Bench, New Delhi who may, if necessary, put up the matter before the Bench for further directions.

50. A copy of this order be forwarded by email to the Member Secretary, Haryana State Pollution Control Board and respondent no.5-Project Proponent for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

May 28th 2024
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