

Item No.3

(Court No. 2)

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

(Through Physical Hearing with Hybrid V.C. Option)

Original Application No. 480/2022

Kuldeep

...Applicant

Versus

State of Haryana

...Respondents

Date of hearing: 22.11.2023

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

Applicants: None for applicant.

Respondents: Mr. Rahul Khurana Advocate for HSPCB.
With Mr. Shakti Singh RO Charkhi Dadri and Mr. Navneet
Bardwaj AEE HSPCB.
Mr. Kanishk Chaudhary and Mr. Harsh Vardhan Singh
Rajawat and Mr. Chetan Jadon, Advocates for Baba
Raghu Nath Stone Crusher, Chirag Stone Crusher, Jai
Baba Jamna Giri Stone Crusher, Baba Hari Dass Stone
Crushing Co and Shiva Stone Crusher

Application is registered based on a complaint received by Post.

ORDER

1. The grievance in the present application is regarding running of stone crushers in Birhi Kalan, District Charkhi Dadri in violation of Haryana Government notification dated 11.05.2016 and the environmental norms.

2. Vide order dated 12.08.2022, this Tribunal constituted a Joint Committee comprising of HSPCB, District Agricultural Officer and Deputy Commissioner, Charkhi Dadri with direction to verify the factual position and submit Factual and Action Taken Report.

3. In compliance thereof HSPCB submitted Interim Report of the Joint Committee vide email dated 31.10.2022 and Status Reports of the Joint Committee vide emails dated 15.02.2023 and dated 30.10.2023 respectively. Action Taken Reports were submitted by Deputy Commissioner, Charkhi Dadri vide email dated 18.11.2023 and HSPCB has also submitted Action Taken Report vide email dated 20.11.2023.

4. We have gone through the reports and find the reports to be contradictory.

5. In the interim report filed vide email dated 31.10.2022 Joint Committee had mentioned that out of 30 stone crushers situated at village Birhi Kalan, Charki Dadri 05 stone crushers were dismantled, 01 stone crusher was abandoned, 02 stone crushers were closed by its own, 04 stone crushers (1) Jai Hind Stone Crushing Co., (2) Kanhaiya Stone Crusher, (3) Mahaluxmi Stone Crusher and (4) Shiv Shankar Stone Crusher were found to be non-compliant while remaining 18 stone crushers were found to be compliant during inspections in **October, 2022**. In Status Report filed by email dated 15.02.2023 the Joint Committee issued letters/notices of hearing to all 30 stone crushers but due to the complainant being aggrieved from 02 stone crushers namely (1) M/s Balaji Stone Crusher and (2) M/s Maha Laxmi Stone Crusher the Joint Committee inspected them and found M/s Balaji Stone Crusher, Birhi Kalan, Charkhi Dadri to be compliant and M/s Maha Laxmi Stone Crusher, Birhi Kalan, Charkhi Dadri to be non-compliant. In the Status Report filed vide email dated 30.10.2023 the Joint Committee found that 05 stone crushers were dismantled while out of the remaining 25 stone crushers 19 stone crushers were found to be compliant and 06 stone crushers (1) Baba Raghu Nath Stone Crusher, (2) Chirag Stone Crusher, (3) Jai Baba Jamna Giri Stone Crusher, (4) Baba Hari Dass Stone Crushing Co (5) Shiv Shankar Stone

Crusher and (6) Shiva Stone Crusher, were found to be non-compliant at the time inspection in **October, 2023**. It may be added here that 02 stone crushers which were earlier found to have closed by its own and 01 stone crusher which was earlier found to have been abandoned were found to be operational. The Joint Committee and HSPCB have not enclosed copies of relevant documents to show how the stone crushers which were earlier found to be non-compliant became compliant and how the stone crushers which were earlier found to be compliant became non-compliant. It is but logical to assume that such stone crushers cannot become compliant or non-compliant on drop of hat and, therefore, reports mentioning the stone crushers to be compliant or non-compliant without supporting documents do not deserve any credence. It may also be added here that in the interim report filed vide email dated 31.10.2022 show cause notices are stated to have been issued to non-compliant 04 stone crushers but HSPCB has not mentioned anything about action taken on the basis of said show cause notices and about proceedings for imposition of environmental damage compensation for past violations. It may be added here that the Joint Committee has attached list of stone crushers as annexure A in which details regarding status of shed, dust control devices, wind breaking wall, metalled road, green belt, water sprinklers, covering of vehicle and compliance status of compliance of CTO conditions etc, have been mentioned. No photographs have been attached in support of the report.

6. In the present application, the applicant has disputed the existence of wind breaking walls, green belts and metalled roads. In view of the material deficiencies in all the three reports submitted by the Joint Committee affecting credibility thereof, we consider verification of factual position by another Joint Committee to be necessary. Accordingly, we constitute a Joint Committee comprising of representatives of CPCB, MoEF & CC and Mr. Narender Pal, Advocate and direct the same to undertake visits to the stone crushers, look

into the grievances of the applicant, associate the applicant and representatives of the concerned project proponents at the time of visits, verify the factual position regarding compliance status of the stone crushers with respect to all relevant parameters laid down in Haryana Government Notification dated 11.05.2016 and HSPCB consent conditions imposed at the time of grant of CTE/CTO and suggest appropriate remedial action. The Members of the Committee will be paid amount of Rs. 50,000/- each as honorarium and TA/DA at the rates admissible to Class I Gazetted Officer. The amount of honorarium and TA/DA shall be payable by HSPCB out of environmental compensation lying deposited with it. HSPCB will be the nodal agency for coordination and compliance. The Deputy Commissioner and Superintendent of Police, Charkhi Dadri and concerned Divisional Forest Officer are directed to extend requisite support, co-operation and facilities and also provide the relevant record to the Joint Committee as may be required/requested for by the Joint Committee.

7. In its report, the Joint Committee shall mention all requisite specifications/measurements regarding the wind breaking wall, pollution control devices, metalled road, green belts with particulars regarding number, species of trees/plants, area covered etc.

8. Report of the Joint Committee be submitted **on or before 15.12.2023** at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

9. In view of the averments in the application and observations in the reports of the Joint Committee, we also consider it appropriate to have response of (1) State of Haryana through Chief Secretary, Government of Haryana, (2) Director, Department of Mines and Geology, State of Haryana, (3) Deputy Commissioner, Charkhi Dadri, Haryana (4) HSPCB and (5) Gitesh

Stone Crusher Vill-Birhi Kalan, Distt Charkhi Dadri, (6) Jai Baba Jamna Giri Stone Crusher, Vill. Birhi Kalan, Charkhi Dadri, (7) Chaudhary Stone Crusher Vill-Birhi Kalan, Distt Charkhi Dadri (8) Jai Baba Jamna Giri Stone Crusher, Vill. Birhi Kalan, Charkhi Dadri, (9) N K Builders & Stone Crusher Vill-Birhi Kalan, Charkhi Dadri, (10) Rapid Stone Crusher Vill-Birhi Kalan, Charkhi Dadri, (11) V K Stone Crushing Co Vill-Birhi Kalan, Charkhi Dadri, (12) Baba Hari Dass Stone Crushing Co Vill- Birhi Kalan, Charkhi Dadri (13) Baba Raghu Nath Stone Crusher Vill- Birhi Kalan, Charkhi Dadri, (14) Balaji Stone Crusher, Village Birhi Kalan, Charkhi Dadri, (15) Dada Shakti Stone Crusher Vill-Birhi Kalan, Charkhi Dadri, (16) Jagdish Pahal Stone Crusher Village Birhi Kalan Charkhi Dadri, (17) New Rapid Stone Crusher old Name Jai baba Shyam Stone Crusher, Birhi kalan, Charkhi Dadri, (18) Jai Dada Budha Stone Crusher, Village Birhi Kalan, Charkhi Dadri, (19) Jai Mata Di Stone Crusher, Village Birhi Kala, Charkhi Dadri, (20) Mahadev Stone Crusher, Birhi Kalan, Charkhi Dadri, (21) Mayur Stone Crusher, Village Birhi Kala, Charkhi Dadri, (22) Neelkanth Mahadev Grit Udyog Vill-Birhi Kalan, Charkhi Dadri, (23) Purpal Stone Crusher, Village Birhi Kala, Charkhi Dadri, (24) Sangwan Stone Crusher, Village Birhi Kalan, Charkhi Dadri, (25) Shiv Shakti Grit Udyog, Village Birhi Kala, Charkhi Dadri, (26) Shiva Stone Crusher, Village Birhi Kalan, Charkhi Dadri, (27) Shree Radhe Stone Crusher, Birhi Kalan, Charkhi Dadri, (28) Shri Rattan Grit Udyog Village Birhi Kala Charkhi Dadri, (29) Swastik Stone Crusher, Village Birhi Kalan, Charkhi Dadri, (30) Chirag Stone Crusher, Village Birhi Kalan, Charkhi Dadri, (31) Jai Hind Stone Crushing Co., Village Birhi Kalan, Charkhi Dadri, (32) Kanhaiya Stone Crusher Vill-Birhi Kalan, Charkhi Dadri, (33) Mahaluxmi Stone Crusher Village Birhi Kalam, Charkhi Dadri and (34) Shiv Shankar Stone Crusher Vill-Birhi Kalan, Charkhi Dadri , who stand impleaded as respondents No. 1 to 35. The Registry is directed to prepare and attach memo of parties to the application.

10. Interim Applications No. 830/2023 to 834/2023 have been filed for impleadment of Baba Raghu Nath Stone Crusher, Chirag Stone Crusher, Jai Baba Jamna Giri Stone Crusher, Baba Hari Dass Stone Crushing Co and Shiva Stone Crusher who have been impleaded as respondents as mentioned above and the interim applications are disposed of accordingly.

11. Mr. Rahul Khurana, Advocate has appeared for respondents no. 1 to 4 and Mr. Kanishk Chaudhary and Mr. Harsh Vardhan Singh Rajawat and Mr. Chetan Jadon, Advocates for Baba Raghu Nath Stone Crusher, Chirag Stone Crusher, Jai Baba Jamna Giri Stone Crusher, Baba Hari Dass Stone Crushing Co and Shiva Stone Crusher and they seek time to file their replies/responses.

12. Replies/responses be filed by them on or before 15.12.2023 at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

13. HSPCB is directed to finalize action on the basis of show cause notices issued and also take proceedings for imposition of environmental damage compensation for the past violations and mention the relevant details regarding the action taken by it in its reply/response.

14. The Registry is directed to issue notices to remaining respondents requiring them to file their reply/response on or before 15.12.2023 at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

15. Notices be served on them through the Deputy Commissioner, Charkhi Dadri and for this purpose notices issued to them be sent to the Deputy Commissioner, Charkhi Dadri by E-mail for getting service of the same effected on them and sending his report in this regard

16. List for further consideration on 20.12.2023.

17. In view of the facts and circumstance of the case, we also consider personal appearance of the Deputy Commissioner, Charkhi Dadri, concerned Divisional Forest Officer physically or through VC and Regional Officer, HSPCB physically on the next date of hearing to be essential for producing the relevant record and assisting this Tribunal in just and proper adjudication of the questions involved in the case. Accordingly they are directed to remain present before this Tribunal on that date with the relevant record.

18. A copy of this order, along with a copy of the application and documents attached with the same, be forwarded to CPCB, MoEF & CC, HSPCB, Mr. Nareinder Pal, Advocate, Deputy Commissioner, Charkhi Dadri and concerned DFO, by e-mail for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

November 22nd, 2023
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