

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

ORIGINAL APPLICATION No.70/2023/EZ

IN THE MATTER OF:

Kuldeep Prasad Yadav Applicant(s)

Versus

State of Bihar Respondent(s)

Date of hearing and reserving of order: 02.08.2023

Date of uploading of order on the Website: 04.08.2023

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

For Applicant(s) : None

For Respondent(s): Mr. Surendra Kumar, Advocate

ORDER

1. Case called out. No one is present on behalf of the Applicant.
2. This Original Application was taken up by the Principal Bench of the National Green Tribunal on the basis of a letter petition dated 27.01.2023 sent by one Mr. Kuldeep Prasad Yadav of Village-Jamuawa, Tehsil-Nawada Sadar, District-Nawada, State of Bihar, and was registered as Original Application No.330/2023 and thereafter transferred to the Eastern Bench of the Tribunal and re-numbered as Original Application No.70/2023/EZ.
3. The grievance of the Applicant in the present Original Application is that on the bank of Sakri River at Jamuawa Patwasarai Sand Ghat illegal mining is going on by creating boundaries in an illegal manner covering the impermissible area of the river for the purpose

of mining and causing huge environmental damage and destruction. It is also alleged that the sand mining is being carried on in violation of the Sustainable Sand Mining Management Guidelines, 2016 as well as the Enforcement and Monitoring Guidelines for Sand Mining, 2020.

4. The Principal Bench of the National Green Tribunal, vide its order dated 29.05.2023 had constituted a Joint Committee comprising of;
 - (i) District Magistrate, Nawada, and
 - (ii) Bihar State Pollution Control Board,
5. The Joint Committee was directed to file the Factual Report with regard to the allegations of illegal mining.
6. Factual Report dated 31.07.2023 has been filed through e-mail by the District Magistrate, Nawada; the same is taken on record.
7. Mr. Surendra Kumar, learned Counsel who is present in Court, accepts notice on behalf of the State Respondents, State of Bihar and has submitted his arguments on the Report.
8. The English translated copy of the Factual Report dated 31.07.2023 is reproduced herein below:-

“Joint Investigation Report related to conservation of settlement sand Ghat on Sakri river in Jamuawa, Patwasarai, in the matter of O.A. No. 330/2023, order dated 29.05.2023, Kuldeep Prasad Yadav Vs. The State of Bihar, in the compliance of the Hon’ble National Green Tribunal, Principal Bench, Delhi,

*As per the complaint dated 27.01.2023 lodged by Mr. Kuldeep Prasad Yadav, Vill – Jamuawa, Circle-Nawada Sadar, Dist- Nawada, in the matter of O.A. No. 330/2023, **Kuldeep Prasad Yadav Vs. The State of Bihar**, in the compliance of order of Hon’ble National Green Tribunal, Principal Bench, Delhi dated 29.05.2023, Member Secretary, Bihar State Pollution*

Control Board Patna vide letter P/Legal01-28/2023/1128 dated 28.06.2023 and Collector Nawada vide his memo no. 3182/Kha. dated 21.07.2023, a committee was constituted, nominating members; Sub-Divisional Officer, Nawada Sadar, Land Reforms Deputy Collector, Nawada Sadar, Mineral Development Officer, Nawada, Executive Engineer Irrigation Circle, Nawada, Regional Officers of Forest, Nawada and Bihar State Pollution Control Board, Bihar, and directed to submit the report after inspecting the site in question.

The relevant complaint is related to illegal settlement and excavation of sand from Balu Ghat of Jamuawa, Patwa Sarai, Sakri River in Nawada District.

Site inspection carried out by the joint committee on 24.07.2023 of settlement sand Ghat in question after the public auction-cum-tender under the District Survey Report approved by the said committee and the referred records were also observed. Point wise factual report is as under:-

Sl.	Points of complaint	Fact	Remarks of Committee
1.	Ms. Suman Kumari, Mineral Development Officer and Sh. Amit Kumar Mines Inspector, District Mining Office, Nawada, used his position by getting involved in personal gain by conducting surveys and demarcations, in hast issued a public auction-cum-tender notice and	In the light of the interim order dated 10.11.2021 passed in the civil appeal no.3661-3662/2020 (State of Bihar & Ors. Vs. Pawan Kumar & Ors.) filed by the government in the Hon'ble Supreme Court, New Delhi, and the order issued by the Principal Secretary, Mines and Geology Department, Bihar Patna, in the letter no.3350 dated 12.11.2021 and in connection with the said order, District Collector issued a memo no.1792/Kha. dated 16.11.2021 forming a Sub-	On the District Survey Report and concerned file and observation, it is clear that demarcation has been done on the basis of geographical location, topography of sand ghats, in the light of the interim order dated 10.11.2021 passed by the Hon'ble Supreme Court in Civil Appeal Nos. 3661-3662/2020 (State of Bihar &

	issued various settlements to settlers. Demarcations of Balu Ghat of Jamuavan, Patwa Sarai, Sakri River which is the example of corruption and bribery in any cost.	Division Level Committee to prepare the Survey Report under the District. The Committee prepared the District Survey Report (DSR) as per the provisions of the Guidelines 2016 and 2020 issued by the Ministry of Environment, Forest and Climate Change, Government of India, for surveying the rivers and sand ghats under the area. The said format was placed in the public domain for receiving objections and suggestions from the general public. After no objections or suggestions were received from the local people, the said District Survey Report was finally approved by the Bihar State Environment Impact Assessment Authority (SEIAA).	Ors. Vs. Pawan Kumar & Ors.) filed by the Govt. The District Survey Report of Nawada District has been prepared by the members of the DSR level committee comprising of Sub-Divisional Officer, Land Reforms/ Deputy Collector, Executive Engineer, Irrigation Division, Mining Development Officer, Regional Officer of Forest and representative authorized by Bihar State Pollution Control Board, Bihar. Mines Inspector Nawada was not the member committee. It is clear from the above that the allegation made by the complainant against the mentioned officials is baseless.
2.	Settlement has been done in spite of the dense population settled on both	The determination of the relevant sand ghats has been done by the competent authority after the report of the sub-division level committee on	In the site inspection by the committee, no evidence of population or cremation ground has been found near

	sides of the river bank of the said Ghat and many cremation grounds, which is a gross violation of the state.	the basis of the guidelines 2016 and 2010 issued by the Ministry of Environment, Forest and Climate Change, Government of India. It is pertinent to mention that during the preparation of the said mining plan of sand ghat mentioned as river by the Zonal Officer after verification of land details and Khata, Khasra no., types of the land of the said sand ghat. In the report of the Zonal Officer, it has not been mentioned as a crematorium or densely populated related to the concerned sand ghat.	the concerned sand ghat, so it is clear that the complaint filed by the complainant is fabricated and wrong.
3.	As per para-2 of the order dated 29.05.2023 passed by Hon'ble National Green Tribunal, Principal Bench, Delhi, in the matter of O.A. No. 330/2023, Kuldeep Prasad Yadav Vs. The State of Bihar , a complaint has been lodged related to illegal mining of sand from Jamuawa,	It is known that for the prevention of illegal mining, transportation and storage, regular raids and mitigation etc. are being done. On 09.02.2023, an FIR vide case no. 234/2023 has been registered (copy enclosed) in Kadirganj O.P. (Observation Post) against a tractor Chassis No.932215454774, Engine No.532126767492 which was involved in illegal mining/transportation of sand at Balu Ghat as well as the said tractor was	Evidence of illegal mining, transportation was not found on the sand ghat during the inspection on 24.07.2013 (Photograph enclosed). It is pertinent to mention that the amount of fine has been recovered from the complainant being involved in the illegal mining/ business of sand on the sand ghat in

directions of the Hon'ble Supreme Court given in its order dated 10.11.2021 passed in Civil Appeal No. 3661-3662/2020 (*State of Bihar & Ors. Vs. Pawan Kumar & Ors.*) and is as per the Sustainable Sand Mining Management Guidelines, 2016, as well as the Enforcement and Monitoring Guidelines for Sand Mining, 2020, which was in public domain so that affected/concerned authorities may file their objections/suggestions, if any, but no objection or suggestions were filed and the DSR was finally approved by the State Environment Impact Assessment Authority (SEIAA), Bihar.

10. As per the DSR and the observations of the various departments, it is clearly seen that the DSR has been approved by the Sub-Divisional Level Committee comprising of the following:-

- (i) *Sub-Divisional Officer,*
- (ii) *Land Reforms/ Deputy Collector,*
- (iii) *Executive Engineer, Irrigation Division,*
- (iv) *Mining Development Officer,*
- (v) *Regional Officer of Forest, and*
- (vi) *Authorized Representative of the Bihar State Pollution Control Board,*

11. It is stated that the Joint Committee constituted by the Tribunal during inspection of the site in question did not find any traces of residence or human habitation on the land belonging to Samshan Ghat and the complaint has been filed on false and concocted allegations.

12. The Report further discloses on 24.07.2023 during inspection no traces of use of heavy vehicle was found and mining activities were also not seen.

13. The Report further discloses that on 09.02.2023 during surprise inspection illegal sand mining with the use of tractor and heavy vehicle was found at the Jamuawa Patwasarai Sand Ghat and tractor bearing Chassis No.932215454774, Engine No. 532126767492 was seized and thereafter again on 03.06.2023 during surprise inspection tractor was found involved in illegal mining and was seized and proceedings initiated against the owner of the vehicle and FIR in Case No.842/23 was lodged at Kadirganj Observation Post/Police Station (O.P.).
14. The Report further mentions that on 12.03.2023 during surprise inspection illegal mining was found and one Hyva vehicle bearing Registration No.BR27G9546 was seized and handed over to the Kadirganj O.P. and a penalty of Rs. 2,97,750/- (Rs. Two Lakhs Ninety Seven Thousand Seven Hundred Fifty only) was also imposed against the complainant Kuldeep Prasad Yadav which has been deposited by him on 15.03.2023.
15. Consider the Inspection Report, we do not find any merit in the complaint and the Original Application No.70/2023/EZ is accordingly dismissed.
16. There shall be no order as to costs.

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B. Amit Sthalekar, JM

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Prof. A. Senthil Vel, EM

August 02, 2023,
Original Application No.70/2023/EZ
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