

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

Original Application No.134/2023/EZ
(Earlier O.A. No.430/2021/PB)

IN THE MATTER OF:

Sonu Sharma,
R/o Garhwa, Jharkhand,

...Applicant(s)

Versus

1. State of Jharkhand,
Through Chief Secretary, Govt. of Jharkhand,
1st Floor, Project Building, Dhurwa, Ranchi,
Pin – 834004,
2. State Environment Impact Assessment Authority, Jharkhand,
Dhurwa Nursery Complex,
Near Dhurwa Bus Stand, Ranchi,
Jharkhand – 834004,
3. Mining and Mineral Department, Jharkhand,
Yojna Bhawan, 3rd Floor, Nepal House, Doranda,
Ranchi – 834002.
4. Jharkhand State Pollution Control Board,
H.E.C., Dhurwa, Ranchi,
Pin – 834004,
5. District Magistrate, Garhwa,
Collectorate Building, Garhwa,
Pin – 822114,
6. Superintendent of Police, Garhwa, Jharkhand,
S.P. Office, Garhwa,
7. Mr. Amit Gupta,
S/o Jaganannarayan,
Abadganj, Paluma,

...Respondent(s)

Date of hearing: 13.03.2024

**CORAM: HON’BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON’BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : None

For Respondent(s) : Ms. Aishwarya Rajyashree, Adv. for R-1,3,5&6, (in Virtual Mode)
Mr. Ashok Prasad, Advocate for R-2,

Mr. Kumar Anurag Singh, Advocate (in Virtual Mode) a/w
Mr. Surendra Kumar, Advocate for R-4, (in Virtual Mode)
Ms. Paushali Banerjee, Advocate for R-7,

ORDER

1. Case called out. No one is present on behalf of the Applicant.
2. Cognizance of the Original Application No.430/2021/PB was taken up by the Delhi Bench of the National Green Tribunal on 27.01.2022 on the basis of a complaint sent by one Mr. Sonu Singh resident of Garhwa, Jharkhand, complaining about illegal mining of sand from Koel and Danro Rivers (life of Village-Garhwa, Jharkhand) from the sand ghat at Belchampa, Garhwa, Jharkhand, by the lessee one Mr. Amit Gupta.
3. It is stated that due to illegal sand mining by Mr. Amit Gupta, the existence of Koel and Danro rivers stands threatened. It is also stated that about 10 to 13 feet deep trenches and 50 to 60 meters diameter ditches have been dug which has lowered the water level and has resulted in scarcity of drinking water.
4. Thereafter the said Original Application was transferred to this Bench of the Tribunal and re-numbered as Original Application No.134/2023/EZ and vide order dated 26.09.2023 the Tribunal issued notice to the Applicant, returnable within three weeks, for filing his response to the Action Taken Report filed by the Jharkhand State Pollution Control Board, Respondent No.4.
5. Along with the Action Taken Report of the Jharkhand State Pollution Control Board filed before the New Delhi Bench of the Tribunal, an order dated 16.09.2022 has been filed as Annexure-5, (page no.53 of the paper book), stating therein that Environmental Compensation of Rs.68,50,000/- (Rupees Sixty Eight Lakhs Fifty

Thousand only) has been determined against the violator (Respondent No.7).

6. The Respondent No.7 has filed affidavit dated 01.02.2024 stating that the State Government has already received back possession of the Sand Ghat in question vide their letters dated 11.12.2021 and 14.12.2021 whereas the inspection of the Sand Ghat was carried out on 06.04.2022 after almost four months of return of the sand block to the Government. It is also stated that the time period of operation of the Belchampa Sand Ghat at Plot No.01 (P), Khata No.56, Area 4.20 hectares situate at Village-Belchampa, Thana-Garhwa, District-Garhwa, had expired way back on 07.12.2021 and that the said Respondent was having valid Consent to Operate, Environmental Clearance and Mining Plan.
7. A further affidavit dated 01.03.2024 has been filed on behalf of the Respondent No.4, Jharkhand State Pollution Control Board, bringing on record an order dated 11.03.2024 (Annexure-A to the affidavit), whereby the Environmental Compensation of Rs.68,50,000/- (Rupees Sixty Eight Lakhs Fifty Thousand only) has been imposed against the Respondent No.7.
8. Ms. Paushali Banerjee, learned Counsel for the Respondent No.7 submitted that before passing the said order, no opportunity of hearing has been given to the Respondent No.7.
9. However, the order dated 11.03.2024 refers to a reply dated 13.02.2023 submitted by the Respondent No.7. This order also indicates that an opportunity of hearing was provided to the Respondent No.7 on 23.09.2022 vide letter No. B-1942 dated 16.09.2022. The Regional Office of the Jharkhand State Pollution Control Board, Ranchi, also submitted its opinion vide reference

No.431 dated 21.09.2023 stating that *‘The lessee has said nothing about the approach road which was found in the river during the inspection of the committee. Hence his plea may be rejected and Environmental Compensation may be imposed.’*

10. The order of 11.03.2024 further shows that the Respondent No.7 was granted another opportunity of hearing on 21.11.2023 issued vide letter No. B-656 on 14.11.2023 but thereafter the said Respondent neither appeared before the Board nor submitted any reply with supporting documents. It is thereafter that the order dated 11.03.2024 has been passed imposing Environmental Compensation of Rs.68,50,000/- (Rupees Sixty Eight Lakhs Fifty Thousand only) directing the Respondent No.7 to deposit the same within fifteen days of issuance of the said order.
11. Ms. Paushali Banerjee, learned Counsel further submitted that since the order of 11.03.2024 has been passed under Section 33A of the Water (Prevention and Control of Pollution) Act, 1974, (hereinafter referred to as ‘the Water Act, 1974’), the Respondent No.7 has a statutory remedy of appeal against the said order.
12. Section 33B of the Water Act, 1974, provides that any person aggrieved by an order under Section 33A passed by the State Board may prefer an appeal before the National Green Tribunal.
13. In this view of the matter, we dispose of the Original Application No.134/2023/EZ with liberty to the Respondent No.7 to pursue such statutory remedies as may be available to him under the law.
14. We also restrain ourselves from making any observations on the quantum of Environmental Compensation determined against the Respondent No.7.

15. There shall be no order as to costs.

.....
B. Amit Sthalekar, JM

March 13, 2024,
Original Application No.134/2023/EZ
(Earlier O.A. No.430/2021/PB)
AK

.....
Dr. Arun Kumar Verma, EM