

Item No. 5

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL**
(Through Video Conferencing)
Original Application No. 19/2023(CZ)
(I.A. No. 47/2023)

Devidas Khatri

Applicant(s)

Versus

State of Rajasthan & Ors.

Respondent(s)

Date of Hearing: **31.08.2023**

CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. A SENTHIL VEL EXPERT MEMBER

For Applicant(s): Mr. Rohit Kumar Tuteja, Adv.

For Respondent(s): Mr. Rohit Sharma, Adv.
Mr. Akshat Tiwary, Adv.
Mr. Shoeb Hasan Khan, Adv.

ORDER

1. Issue raised in this application is operation of illegal mining without any environmental clearance and also within 10 kilometers of the National Park and Wildlife Sanctuary without requisite permission from Competent Authority/NBWL. It is further submitted that the Respondent no. 6 continued the illegal mining for more than 5 years and no action has been taken by the Rajasthan State Pollution Control Board for controlling of illegal mining or calculation and realization of environmental compensation.
2. A report was called from Joint Committee and the joint committee has submitted that the project proponent has applied for environmental clearance on 04.10.2018 but at present EC has not been issued and there is no EC and the unit is operating without any environmental clearance.
3. It is reported that the matter of issue of EC or re-validation of environmental clearance under the Environmental Impact Assessment Notification, 2006 is under consideration at the level of MoEF&CC. The activities are in violation of environmental rules.

4. The contention of the learned counsel for the State and respondent is that consent to operate was issued for a period of one year with specific condition that the environmental clearance under the EIA Notification dated 14.09.2006 must be submitted before the particular date, failing which bank guarantee of Rs. 05 crore shall be forfeited without any further notice.
5. The matter is surprising how the State of Rajasthan and the State PCB issued the consent to operate order without the environmental clearance. Accordingly, we direct the State PCB to submit the report on the following points :-
- i. Why the Consent To Operate application was kept pending by RSPCB from 2017 to 2022 ?
 - ii. How many consent to operate applications of mining lease are issued without environmental clearance ?
 - iii. How many mining lease were accorded condition consent to operate for a period of one year without environmental clearance ?
 - iv. Number of inspections carried out by the RSPCB of the mining lease being in Red Category Industry and not taking any action for want of environmental clearance.
 - v. The quantum of mineral, excavated by the respondent no. 6 with details of area excavated from 2017 till date.
 - vi. The amount paid and use of power for mining.
6. State PCB is directed to take necessary action with regard to the assessment and calculation of environmental compensation and to realize it. Since the mining has been done from 2017 to till date without any valid EC in accordance with EIA Notification, 2006. Thus, the matter is required to be placed before the Chief Secretary to take necessary actions against the officers responsible for issue of permission of mining or not taking any legal action against the violators of law.

7. Since the illegalities are continuing in connivance with State PCB, Rajasthan and thus it is necessary that some independent agency may monitor and examine the matter. Thus, we constitute a committee consisting :-

- i. One representative from MoEF&CC
- ii. One representative from CPCB
- iii. One representative from State PCB. The State PCB shall be the nodal agency.

8. The MoEF&CC is directed to take necessary actions for illegal mining in violation of environmental rules and without any valid EC in favour of the project proponent. Action taken report may be filed within three weeks, with affidavit of Member Secretary, State Pollution Control Board who will remain present at the time of hearing through video conferencing on the next date.

List it on **26th September, 2023.**

Sheo Kumar Singh, JM

Dr. A Senthil Vel, EM

31st August, 2023
O.A No. 19/2023(CZ)
PN