

Item No. 3

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL
(Through Video Conferencing)**

Original Application No.148/2023(CZ)

Bhanwar Lal Gurjar

Applicant (s)

Vs.

State of Rajasthan & Ors..

Respondent(s)

Date of Hearing: **19 .09.2024**

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

For Applicant (s): Mr. Dharamivir Sharma, Adv.

For Respondent(s): Mr. Rohit Sharma, Adv.
 Mr. Om Shankar Shrivastav, Adv.

ORDER

- 1 The present application is filed for the preservation and conservation of Rivers Khari and Mansi, which originated in District Pali and is lifeline of Bhilwada, Shahpura and Kekdi Districts of Rajasthan. The place Daneshwar is Sangam Sthal, falls in Fuliakalan Tehsil, where more than 40 temples and many festivals, numerous Marriage Ceremonies takes place every year. The applicant approached this Hon'ble Tribunal because of illegal excavation of Bazri sand in violation of norms, conditions of Environmental Rules by the Respondent No. 6/PP who has not only demolished Farmers Open wells, irrigation pipelines, standing crops, full grown trees causing huge financial losses to the villagers and residents of Shahpura but made huge adverse impact on river Khari & Mansi no n perennial river of Rajasthan. The respondents is in violation of

installing and excavating by using Heavy JCB & Poclain Machines which is not permissible for bajri mining. Upon Complaint the a Spot Mauka Parcha was prepared in presence of concerned Tehsildar on 27.09.2023 regarding destruction of pipe lines and full grown trees due to rampant and illegal mining activities of the PP.

- 2 The matter was taken up by this tribunal and a committee was constituted with direction to submit the report. In addition to that the respondents were directed to submit the reply. In compliance of the order members of the committee visited the site and submitted the report with the following facts :

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During the visit, lease area of M/s Ashu Singh Bhati s/o Sh. Magan Singh Bhati, M.L. No. 111/2012, (River Sand/Bajri Mining), of Town Phooliya Kalan, village Kheda Hetam, Kajodiya and nearby area of Dhaneshwar Dham stretches were inspected, as prominent mining activities were carried out in these stretches. No illegal mining activities were found during visit in theses stretches. During, field visit, no mining activities were going on in the area.

2. Lease is operating after obtaining Environmental Clearance (EC) granted by MoEF &CC vide dated 14/10/2020, amended EC dated 27/10/2023 and having valid consent to operate dated 17/03/2023 with validity up to 19/01/2024. (Annexure-2a, Annexure-2b & Annexure-2c).

3. Sign marks of mining activities were observed in Village- Phooliya Kalan, Village Kheda Hetam District- Shahpura, however depth of mining pits was not more than permitted depth.

4. A permitted stock point found near Ratadeh Chaurahaya (25°47'5.04"N, 75° 2'11.08"E) Village- Kajodiya (Phooliya Kalan), District- Shahpura was also visited. Mineral loading and transportation machineries/ vehicles were deployed at permitted stock site. 20 trees were planted at this site. Water spray arrangement for dust suppression was provided in form of flexible pipe mounted on water tanker.

5. Natural protected trees were found at the embankment of River Khari in Kajodiya (Phooliya Kalan) stretch near the stock point. No damage to the natural plants was found at this site. No signs of mining activity were observed in this stretch. No damage to open well and pipeline was found at this location.

6. Signs of mining activities were observed in river Khari at village- Kheda Hetam, Tehsil- Phooliya Kalan, District- Shahpura. Rain water was accumulated in the river bed at various places. A number of open wells were also observed in the river bed. It was informed by the concerned Patwari that the wells inside the river bed constructed by nearby farmers for irrigation purposes.

During the visit, no damage to open well and pipeline was observed in the Kheda Hetam stretch and mining activities were also not going on. No crop damage observed.

Naturally protected trees were found at the embankment of River Khari in village Kheda Hetam. No damage to plants was observed at this site.

No mining activity found within 45 meters of embankment and crematorium. No damage to place of cremation found during site visit.

7. During the visit of nearby area of Dhaneshwar Dham, no bajri mining activity was observed in the river bed area. Rain water was found accumulated in the area and dense naturally protected trees were observed at the embankment of the River Khari in this stretch.

No damage to the wells was found at this location, neither sign of bajri mining activity was observed.

8. As per Environment Clearance (EC) dated 14/10/2020 issued in favour of lease holder, there are no restrictions to use excavators for excavation of Bajri from river bed. Consent to operate for production of River Sand at capacity 8,40,000 Ton per Annum has been granted in favor of lease holder, the same is not violated as per production report received from Mines Department, Bhilwara, lease holder has excavated nearly 1.32 lac Tons of Bajri in the year 2023-2024 till November, 2023 .

9. Rs. 56/- per ton of river sand in the form of Royalty, DMFT and RSMET are being paid by the mining lease holder. Other than that, expenditures related to establishment, transportation, premium, loading charges are controlled by lease holders. As per the report dated 01/11/2023 from Mining Department, no illegitimate recovery of royalty by the lease holder from the villagers has been observed.

10. As per Mines Department, Bhilwara, joint demarcation has been done khasra wise in the presence of concerned Revenue Department according to Rajasthan Minor Mineral Concession Rules, 2017. There is no provision in the rule and agreement to wire fence the demarcated area.

As reported by Station Police Officer, Phooliya Kalan no accident due to overloaded bajri transport vehicles has been reported since 01/03/2023.

11. As per report of Mining Department dated 23/11/2023, no mining pit was found deep more than 03 meter and mining activities were well above the ground water level. Water level in open wells near the lease area was approx. 6 meters deep only, which reveals that water scarcity does not prevail in the area .

As reported by Incharge, Ground Water Scientist, Ground Water Department, Bhilwara, during ground water survey conducted in the year 2023, ground water level has been risen up to 2.40-meter nearby villages Phooliya Kalan .

It has also been reported by PHED, Block-Shahpura, that no departmental open wells/tube wells are present in river bed area of Khari & Mansi River, in theses villages Phooliya Kalan, Dhaneshwar, Kheda Hetam and water supply in this area is catered through Chambal Project by house hold tap connections.

As per SDM, Phooliya Kalan open wells established with the river bed area have not been recorded in the revenue records under the jurisdiction of the office.

12. As per approved mining plan, lease shall have to plant 6000 plants in the first year after of operation of mining lease, but no such dense plantation found during the visit by the joint committee. However, the lease holder has been bounded to submit the compliance.

13. Regional Office, RSPCB, Bhilwara has conducted ambient air quality at the mineral stock point near village Kajodiya and PM 10 was found 129 µg/m³ and prominent activities found during monitoring are mineral handling & vehicular movement.

14. A show cause notice was issued against the lease holder for non-compliance by Regional Office, RSPCB, Bhilwara.

3 Submission of the Learned Counsel for the respondent
no. 1, 2 and 3 are that complaint were made by the villagers

before the District Collector and after receiving the complaint a report was called from Mining Department. Mining Department visited the site and submitted that no trees were found to have been cut in the river and/or on the banks of the river as well as there were no fresh mining within the radius of 45 meters from the crematorium and culvert etc. located in the area. Agriculture land is situated on both banks of the Khari river, no damage was found to the agriculture land or crops located on the banks.

4 The submission of the learned Counsel for the State PCB are that no illegal mining activities were found during the visit and the lease holders are operating the mining after obtaining environmental clearance from the MoEF&CC. No mining activity relating to Bajri was observed in the river bed area and there is no violation based on the production report received from the Mining Department. The report submitted by the In-charge Ground Water Scientist from the Ground Water Department, Bhilwara discloses that the ground water survey conducted in 2023 in the case discloses rise in the ground water level. On the point of Ambient Air Quality the State PCB had issued notices to the Project Proponents.

5 On the request of the Learned Counsel for the applicant the Chief Secretary was directed to examine the matter and submit the report and respondent no. 1 has filed the reply on behalf of the State of Rajasthan to the fact that no mining activities were going on in the area in question and the respondent no 6 is operating after obtaining the Environmental Clearance from the

MoEF&CC. There are no damage to open wells and pipelines and there is no excavation beyond the sanctioned capacity, a dense plantation has been done in the area and plantation proposal to the tune of 43,333/ have been reported by the authorities. On the objection raised by the Learned Counsel for the applicant the Regional Office, MoEF&CC, Jaipur was directed to submit the report on point and the report has been filed with the following facts.

Factual Observations

1. With respect to the illegal excavation of Bath sand, the area was inspected in presence of representative of Department of Mines and Geology, GoR and mining activity was found within the lease limiis. Further, the Department of Mines and Geology, GoR vide their letter dated 18/08/2023 has informed that there are no financial dues from the lessee.
2. The open wells situated in the course of river were inspected and it was observed that no borewell has been damaged. It is pertinent to mention that number of borewells have been constructed in the riverbed on revenue land through which water is being taken out by nearby situated agriculture fields. Relevant site photographs have been • attached with this report.
3. Cremation ground has not been damaged and No damage to the natural plants was found at this site. Relevant site photographs have been attached.

4. Machinery is being used for excavation of bajri and as per visual observation of active working and old workings it appears that mining has not been done beyond the permissible depth.
 5. It was observed that the transfer of mineral Bajri is through dumpers from the stockyard, overloading of vehicle was not observed during the inspection.
 6. Demarcation of lease was not adequate and pillars were not observed in place and there is a need to increase plantation in a scientific manner with adequate planning.
6. We have gone through the report submitted by the MoEF&CC, Regional Office and found that no such violation has been reported, accordingly no further action is required to be taken. However, we direct the State Authorities concerned and State PCB to strictly enforce the guidelines issues by the MoEF&CC named Sustainable Sand Mining Management Guidelines 2016 and Sustainable Sand Mining Management Guidelines 2020 and in case of any violation strict action in addition to realisation of environment compensation must be assessed according to rules.

With these observations the O.A. No. 148/2023 stands **disposed** of.

Sheo Kumar Singh, JM

Dr. Afroz Ahmad, EM

19th September 2024
O.A. No. 148/2023(CZ)
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