

Item No. 07

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

Original Application No. 117/2023

In Re : Article published in the News paper
"Dainik Bhaskar Daily" dated 24.09.2023,
Bhopal edition reported by Manish
Kushwah with regard to illegal mining in
district Vidisha, Madhya Pradesh.

Applicant(s)

Vs.

State of Madhya Pradesh & Ors.

Respondent(s)

Date of Hearing: **23.10.2024**

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

For Applicant (s): None.

For Respondent(s): Mr. Mehul Bhardwaj, Adv.
 Mr. Gaurvanvit Jain, Adv.

ORDER

1. Issues raised in this application are :-

- i. that land for mining is being sold in a private capacity by sand mafia for a certain amount and approximately 100 trucks are being transported from this place to other places and are sold for financial gain, causing loss to the environment, loss to the State exchequer and in this way mining of more than 240 crores annually is being done damaging the forest area.
- ii. that the old Neel Kanteshwar Temple is situated near the explosion site and the walls are cracking due to high explosions. The mining

area is being sold from Rs. 50,000 to Rs. 04 lakh for illegal mining by sand mafias with security guarantee and that despite repeated direction issued by the Hon'ble the Supreme Court of India and this Tribunal, the District Administration of Vidisha has failed to control the illegal mining in District Vidisha, Ganjbasauda, Tehsil in the Villages Udaipur, Pathari, Ghatera, Pathari, Noorpur, situated 120 km from the State Capital Bhopal. It is reported that there are various illegal mining activities in the forest area and more than 500 illegal mining are being done within the area of 5 km by use of heavy machines by sand mafias.

2. The matter was taken up by this Tribunal on 25.09.2023 and a committee was constituted to submit the report with regard to the following points :-

- i. Number of minings sanctioned by the authorities with consent conditions and EC as required.
- ii. Number of illegal minings with details of violators involved in the process of illegal mining.
- iii. Mining excavated by illegal mining mafia, the value.
- iv. Status of DPR and the replenishment study of area.
- v. Loss of the forest area and plantation.
- vi. Environmental compensation against each violator in accordance with the parameter laid down by the CPCB and this Tribunal.
- vii. Number of transport vehicle seized or action taken by the state authorities.

3. The committee visited the site and submitted following illegalities :-

- i. The illegal mining is being continued for last five years through use of tractor, trolleys, trucks, poclain, JCB Machines, Motorcycle, blasting equipments, compressors, diesel engines and other instruments. More than 13 mines were operating without any valid environmental clearance within the forest area.
 - ii. The forest area under question is very vast and not properly accessible except two sites located along the road side. Approximately seven illegal mining pits were found near the road side in the forest land.
 - iii. Low intensity blasting is generally preferred by the violators.
 - iv. Instead of control of illegal mining, cutting of the trees and protection of the forest area the Divisional Forest Officer, Forest Department District Vidisha has recommended and suggested for de-notifying the forest land, which is against the policy of the forest and against the departmental rules. It is surprising that the DFO is recommending for deforestation of already notified area when the responsibility to protect the forest land is with DFO concerned.
4. Vide order dated 11.03.2024 Principal Chief Conservator of Forest and Principal Secretary, Mining was directed to take action and submit the report. In compliance thereof, the Divisional Forest Officer filed the reply with the facts that :-
- i. That barriers have been erected at Ghatera and Udaipur, with forest personnel deployed for continuous 24x7 surveillance and furthermore forest guards engage in day and night patrols within

the forest range to thwart illegal mining activities, augmented by monitoring through drone cameras.

- ii. That over the past five years (January 2019 to September 2023), the forest staff, in the course of range patrolling, have taken various measures against illegal miners, resulting in the registration of 144 cases of illegal mining and transportation including the seizure of 44 tractors, 42 trollies, 20 trucks, 5 JCB machines, 1 Poclain machine, 5 motorcycles, 3 blasting equipment, 2 compressors, 1 diesel engine, in addition to confiscating 2191 stone pieces and 637 instruments. The details of action taken on illegal mining for the last five years, from 2019 to 30.09.2023 is marked.
- iii. Thereafter a total monetary penalty of Rs 5,82,916/- has been imposed in 46 cases and duly deposited into the government treasury. The Divisional Forest Officer (DFO) of the Forest Department has established an inter- departmental committee to comprehensively review mine pits within the Forest area, aiming to prepare a detailed map of mine pits, including geographical locations, area/depth of the pit, and stock of overburden dump. A copy of Letter dated 27.10.2023 is marked.
- iv. That a total of 19 mining leases have been duly sanctioned on privately-owned or revenue land situated outside the Basoda forest range. Within this subset of 19 leases, nine are in immediate proximity to forested areas, while the remaining ten are situated at a distance from any forest land. That out of the 19 mines, it is pertinent to note that six of these mines have obtained environmental clearance from the Madhya Pradesh State

Environment Impact Assessment Authority and the remaining 13 mines have acquired their environmental clearance from the District Environment Impact Assessment Authority. The details of ECs from DEIAA and MP-SEIAA are marked.

5. The report submitted by the Forest Officer reveals that the mining on the basis of the authority issued by the DEIAA was still continuing.
6. It is further alleged that in violation of order of Hon'ble the Supreme Court of India Deepak Kumar vs. State of Haryana and Ors. (2012) 4 SCC 629 the operation of the mining activities or granting of EC by the DEIAA are still continuing and there is no check by the respondents. There are non-compliances of Sustainable Sand Mining Management Guidelines, 2016 and the Enforcement and Monitoring Guidelines for Sand Mining, 2020.
7. It is contended that the authority of the DEIAA was under consideration before Principal Bench of this Tribunal in Execution Application No. 55/2018 of Original Application No. 520/2016. Order dated 11.12.2018 runs as follows:

- i. Grievance in this application is that there is non-compliance of the judgment of this Tribunal dated 13.09.2018 in Original Application No. 186/2016, Satendra Pandey Vs. Ministry of Environment, Forest & Climate Change & Anr. The Hon'ble Supreme Court, vide judgment in Deepak Kumar Vs. State of Haryana & Ors.: (2012) 4 SCC 629, required proper Environmental Clearance before grant of lease of minor minerals, including sand mining. Vide Notification dated 15.01.2016 issued by MoEF&CC, environmental

clearance was to be given by the District Environment Impact Assessment Authority (DEIAA) which defeat the direction of the Hon'ble Supreme Court.

- ii. This Tribunal noted that the Notification dated 15.01.2016 issued by the Ministry of Environment, Forest and Climate Change (MoEF&CC) was not consistent with the mandate in Deepak Kumar (supra).
- iii. The District Expert Appraisal Committee (DEAC) comprised officers having no expertise or scientific knowledge to assess environment implications. Permitting DEAC to make assessment was also not consistent with the Sustainable Sand Mining Management Guidelines, 2016. Accordingly, MoEF&CC was directed to take steps to revise the procedure laid down in the Notification dated 15.01.2016.
- iv. According to the applicant, the MoEF&CC failed to issue appropriate Notification. Moreover, the State of Uttar Pradesh vide the letter dated 25.10.2018 and State of Kerala vide the letter dated 29.10.2018 directed Environmental Clearance to be given in accordance with the Notification dated 15.01.2016 in violation of the judgment of this tribunal dated 13.09.2018 which in turn is to implement the direction of the Hon'ble Supreme Court in Deepak Kumar (supra).
- v. Accordingly, we direct the MoEF&CC to comply with the order dated 13.09.2018 forthwith and furnish a

report of compliance on or before 31.12.2018 failing which coercive measures may have to be taken. We also make it clear that till a fresh Notification is issued by the MoEF&CC, Notification dated 15.01.2016 will not be acted upon.

vi. Since our attention has been drawn to letter dated 29.10.2018 issued by the State Environment Impact Assessment Authority, Kerala addressed to the District Environment Impact Assessment Authorities of various districts in Kerala that Notification dated 15.01.2016 having not being stayed, the same be followed. This interpretation is clearly contrary to the order of this Tribunal disapproving the Notification dated 15.01.2016 and requiring the same to be revised. The direction that 15.01.2016 should still be acted upon is clearly illegal and in violation of judgment of this Tribunal. The same will stand suspended till a fresh Notification is issued by the MoEF&CC as directed hereinabove.

vii. This direction will apply to all the State Environment Impact Assessment Authorities/State Governments.

8. In compliance of the above, MPSEIAA vide order dated 27.12.2021 issued office memorandum as follows:

“NGT(PB), New Delhi vide order dated 13-09-2018 in OA No. 186/2016 Satyendra Pandey V/s MoEF&CC, GoI and others has inter-alia directed as follows :-

- i. *Providing for EIA, EMP and therefore, Public Consultation for all areas from 5 to 25 ha falling member category B-2 par with Category B-1 by SEAC/SEIAA as well as for cluster situation wherever it is not provided;*
- ii. *Form 1M by made more comprehensive for areas of 0 to 5 ha by dispensing with the requirement for public Consultation to be evaluated by SEAC for recommendation of grant EC by SEIAA instead of DEAC/DEIAA;*
- iii. *If a cluster or an individual lease size exceeds 5 ha the EIA/EMP be made applicable in the process of grant of prior environment clearance;*
- iv. *EIA and/or EMP be prepared for the entire cluster in terms of recommendation 5 (supra) of the Guidelines for the purpose of recommendation 6, 7 and 8 thereof;*
- v. *Revise the procedure to also incomplete procedure with respect to annual rate of replenishment and timeframe for replenishment after mining closure in an area;*
- vi. *The MoEF&CC to prepare guidelines for calculation of the cost of restitution of damage caused to mined out areas along with the Net Present Value of Ecological Services forgone because of illegal or unscientific mining;*

As per above order of NGT(PB), Ministry of Environment, Forest & Climate Change (MoEF&CC), Govt. of India vide Office Memorandum F.No.L-11011/175/2018-IA-II (M) dated

12-12-2018, has directed to compliance the above direction of NGT. Besides this, NGT(PB) in its order dated 11.12.18 in OA 520/2016 has suspended the activities of issuing EC by DEIAA/DEAC for minor minerals as per MOEF&CC Notification dated 15.1.2016 till a fresh notification is issued by ministry. Therefore, in compliance of MoEF&CC, GoI, OM dated 12-12-2018, it is decided that all mining cases of minor minerals having 0 to 5 ha area will be appraised by MP-SEIAA for Environmental clearance and hence all concerned Project Proponent will apply in MP-SEIAA in Form-1 with other required supporting documents on online MoEF&CC website www.environmentclearance.nic.in for process of application for grant of prior environmental clearance with immediate effect till further order.

9. The matter was taken up by this Tribunal on 01.05.2024 and it was observed as follows :-

“1. The matter was again considered by the Principal Bench of this Tribunal in Original Application No. 319/2022 in I.A No. 152/2022 in the matter of Dileep Singh vs. State of Uttar Pradesh & Ors and vide order dated 01.07.2022 the Tribunal observed as follows :-

i. The applicant has filed the present application seeking setting aside/quashing of the impugned Environmental Clearance dated 31.03.2018 issued in respect of Sand Ghat/ Mine located at Khand No. 11/15 and 11/16 at Village- Diya Upahar, Tehsil, Manjhanpur, District- Kaushambi, Uttar

Pradesh for an area admeasuring 24.28 hectares and restraining respondent no. 6 from transferring impugned environmental clearance in favor of respondent no. 7 on the grounds that the impugned environmental clearance is defective/invalid having been granted without EIA/EMP/Public Consultation and contrary to order dated 13.09.2018 passed by this Tribunal in O.A No. 186/2016 titled as Satendra Pandey Vs. MoEF & CC and others.

- ii. *The applicant has pleaded that the impugned environmental clearance for the said Sand/Morrum Mining Project was awarded on 31.03.2018 by SEIAA, Uttar Pradesh in favor of M/s Rishab Herbal Pvt. Ltd. At the time of awarding of the environmental clearance the Project being less than 25 hectares was categorized as Category – B2 Project in view of MoEF & CC Notification dated 15.01.2016 and was exempted from EIA study, EMP and Public consultation. Subsequently, the MoEF & CC Notification dated 15.01.2016 was partly quashed by this Tribunal vide order dated 13.09.2018 passed in Satendra Pandey's case (supra) and Category B-2 projects were brought at par with Category B-1 Projects and EIA/EMP and Public Consultation were made mandatory for all projects having area above 5 hectares. The MoEF &*

CC vide Office Memorandum dated 12.12.2018 communicated the Judgment passed in Satendra Pandey' case (Supra) to all State Chief Secretaries and SEIAAs for requisite compliance. The SEIAA/SEAC, Uttar Pradesh in compliance of the Judgment passed by this Tribunal in Satendra Pandey's case (Supra) and the MoEF & CC Office Memorandum dated 12.12.2018 treated all mining projects from 5 hectares to 25 hectares, earlier falling under Category B-2, as Category B-1 and decided to revoke 19 ECs granted without following the requisite procedure of EIA, EMP and Public Consultation. The mining lease was revoked and fresh E-auction notice was issued on 24.06.2021. Respondent no. 7 was granted LOI with liberty to get the existing environmental clearance transferred in his favour. Respondent no. 7, accordingly, submitted an application for transfer of the Impugned environmental clearance dated 31.08.2018 which was during pendency of the present application transferred in favour of respondent no. 7 vide transfer order dated 04/22.04.2022. Environmental clearance dated 31.03.2018, which was coterminous with mining lease granted in favour of M/s Rishab Herbal Pvt. Ltd. and had expired with revocation thereof, could not be transferred in favour of Respondent no. 7.

Respondent no. 4- MoEF & CC had under SSMG, 2016 and EMGSM, 2020 made conducting of replenishment study necessary for river bed mining. This Tribunal quashed environmental clearance for sand ghats situated in the District Saharanpur, Uttar Pradesh granted without conducting a replenishment study. No replenishment study has been conducted for mining lease granted in favour of respondent no. 7. Environmental clearance for mining lease granted in favour of respondent no. 7 without EIA, EMP, Public Consultation and replenishment study is defective /invalid and liable to be set aside.

iii. Main contention of the applicant is that grant of EC without EIA, EMP and replenishment study is not permissible in view of judgment of the Hon'ble Supreme Court in Deepak Kumar Vs. State of Haryana & Ors.¹ following which this Tribunal passed order dated 13.09.2018 in Satendra Pandey's case (supra). In Deepak Kumar (supra), the Hon'ble Supreme Court observed:

"xxx.....xxx.....xxx"

11. We find that it is without conducting any study on the possible environmental impact on/in the river beds and elsewhere the auction notices have been issued. We are of the considered view that when we

are faced with a situation where extraction of alluvial material within or near a riverbed has an impact on the rivers physical habitat characteristics, like river stability, flood risk, environmental degradation, loss of habitat, decline in biodiversity, it is not an answer to say that the extraction is in blocks of less than 5 hectares, separated by 1 km, because their collective impact may be significant, hence the necessity of a proper environmental assessment plan.

1. The Tribunal held in Satendra Pandey's case (supra) that the directions in Deepak Kumar (supra) cannot be diluted by any administrative orders or notifications and laid down procedures have to meet the mandate of judgment of the Hon'ble Supreme Court. Observations of this Tribunal are as follows :-

"xxx.....xxx.....xxx"

22. For all these reasons, we direct that the procedure laid down in the impugned Notification be brought in consonance and in accord with the directions passed in the case of Deepak Kumar (supra) by (i) providing for EIA, EMP and therefore, Public Consultation for all areas from 5 to 25 ha falling under Category B-2 at par with Category B-1 by SEAC/ SIEAA as well as for cluster situation(2012) 4 SCC 629 wherever it is not

provided; (ii) Form-1M be made more comprehensive for areas of 0 to 5 ha by dispensing with the requirement for Public Consultation to be evaluated by SEAC for recommendation of grant EC by SEIAA instead of DEAC/DEIAA;

7. According to the applicant, EC already granted could also not be enforced being in conflict with the judgment of the Hon'ble Supreme Court in Deepak Kumar (supra) and should have been revoked.

9. In view of above undisputed facts, we direct SEIAA, UP to revisit the EC and related issues as per law, including the SSMG-2016 and EMGSM-2020, within two months. It will be open to the parties to put forwarded their viewpoint, if any, before SEIAA, UP. Pending such consideration, the interim order will continue.

2. The MoEF&CC vide OM dated 12.12.2018 communicated the order passed in Satyendra Pandey Vs Union of India quashing the action taken by the DEIAA for the reasons that District officers deciding the matter lacked expertise, experiences and scientific knowledge in the matter of environment and were incapable of assessing the potential implications to the environment.

3. It is reiterated that any attempt to split the lease area for the purpose of avoiding the applicable regulatory regime shall be viewed seriously. This in our view will be in the interest of the environment as deliberated in detail in the case of Deepak Kumar (supra) and would also satisfy the Precautionary

Principle and the Principle of Sustainable Development contemplated under Section 20 of the National Green Tribunal Act, 2010.

4. Further, this Tribunal has observed that mining leases in which is environmental clearance was granted by DEIAA in view of amendment notification dated 15.01.2016 are still continuing even after passing of order dated 13.09.2018 by this Tribunal in Satendra Pandey (supra) and issuance of OM dated 12.12.2018 by MoEF&CC without any reappraisal by SEIAA and appropriate remedial action on the basis of such re-appraisal. All such mining leases in which environmental clearance was granted by DEIAA need to be brought in consonance with the directions given by Hon'ble Supreme Court in Deepak Kumar (supra) and order dated 13.09.2018 by this Tribunal in Satendra Pandey (supra) by re-appraisal by SEIAA and only such mining leases may be continued which have been on re-appraisal granted environmental clearance by SEIAA. MoEF&CC is, therefore, directed to take appropriate steps for compliance in this regard by issuance of requisite directions in exercise of the statutory powers under the Environment (Protection) Act, 1986. For this purpose, MoEF&CC is directed to collect information regarding such mining leases in which environmental clearance was granted by DEIAA and the period of which has not yet expired and are still continuing in all the States and Union Territories and by issuing appropriate directions for compliance with directions given by Hon'ble Supreme Court in Deepak Kumar (supra) and

order dated 13.09.2018 passed by this Tribunal in Satendra Pandey (supra) by re-appraisal for grant of EC by SEIAA.

5. Admittedly, the DEIAA has no authority and MP SEIAA has issued office memorandum clarifying the position that in compliance of the MoEF & CC, Government of India O.M dated 12.12.2018, it has been decided that all mining cases of minor minerals having 0 to 5 ha area will be appraised by MP-SEIAA for Environmental clearance and hence all concerned Project Proponent will apply in MP-SEIAA in Form-1 with other required supporting documents for process of application for grant of prior environmental clearance with immediate effect.

6. Thus, the orders as quoted above and the chart submitted reveals that orders and actions initiated on the basis of the EC issued by DEIAA is void-ab-initio having no force of law and thus against the provision of Sustainable Mining Management Guidelines, 2016 and Sustainable Sand Mining Management Guidelines, 2020, and against the orders of Hon'ble Supreme Court of India and orders passed by this Tribunal quoted above.

7. Accordingly, in light of the order dated 01.07.2022 passed by Principal Bench of this Tribunal in Dilip Singh vs. State of Uttar Pradesh & Ors in O.A. No. 319/2022, we direct that the Environment Clearances granted by the DEIAA could not be enforced, being in contravention with the judgment of the Hon'ble Supreme Court of India in Deepak Kumar vs. State of

Haryana and Ors. (2012) 4 SCC, 629 and should have been revoked immediately and not to be acted upon.

8. *The matter was considered in Original Application No. 75/2023(CZ) and this Tribunal directed as follows :-*

- i. *In view of the above undisputed facts, we direct MPSEIAA to revisit the EC's and related issues as per law including the SSMG, 2016 and EMGS, 2020 decide afresh in accordance with lawful procedure and in view of the orders/directions quoted above and also of the office memorandum dated 27.12.2018 passed by MPSEIAA.*
- ii. *It may be open to the parties to put forward their view points if any before MP SEIAA and pending such consideration, no mining lease can be permitted on the basis of transferred EC granted by DEIAA.*

9. (a) *The MoEF&CC vide letter no. F. No. IA3-22/11/2023-IA.III (E-208230) dated 28.04.2023 has further clarified position as follows :-*

Subject: Compliance of order dated 07.12.2022 passed by Hon'ble NGT in O.A.142 of 2022 in the matter of Jayant Kumar vs. Ministry of Environment, Forests and Climate Change - reg.

- i. *The National Green Tribunal (Principal Bench), New Delhi vide order dated 13.09.2018 in O.A. No. 186 of*

2016 (*Satendra Pandey vs Ministry of Environment Forest & Climate Change & Anr*) had observed that the Ministry's Notification S.O. 141(E) dated 15.01.2016 was not in consonance with the directions given by Hon'ble Supreme Court in the matter of *Deepak Kumar Vs. State of Haryana and Others* and passed certain directions.

- ii. In the above case, Hon'ble NGT had inter-alin directed that mining projects with lease areas of 0 to 5 ha are to be evaluated by State Level Expert Appraisal Committee (SEAC) for recommendation and grant of Environmental Clearance (EC) by State Level Environment Impact Assessment Authority (SEIAA) instead of District Level Environment Impact Assessment Authority (DEIAA). In compliance of the said directions, Ministry issued an OM dated 12.12.2018 addressed to Chief Secretaries of all the States/ UTs directing to comply with the directions of NGT.
- iii. Subsequently, NGT vide its order dated 07.12.2022 in O.A.142 of 2022 in the matter of *Jayant Kumar vs. Ministry of Environment, Forests and Climate Change* inter-alia observed that “mining leases in which environmental clearance was granted by DEIAA in view of amendment notification dated 15.01.2016 are still continuing even after passing of order dated 13.09.2018 by this Tribunal in *Satendra Pandey (supra)* and issuance of OM dated 12.12.2018 by MoEF&CC without any re-appraisal by SEIAA and appropriate remedial action on the basis of such re-appraisal. All such mining leases in which environmental clearance was granted by DEIAA need to be brought in consonance with the directions given by Hon'ble Supreme Court in

Deepak Kumar (supra) and order dated 13.09.2018 by this Tribunal in Satendra Pandey (supra) by re-appraisal by SEIAA and only such mining leases may be continued which have been on re-appraisal granted environmental clearance by SEIAA. MoEF&CC is, therefore, directed to take appropriate steps for compliance in this regard by issuance of requisite directions in exercise of the statutory powers under the Environment (Protection) Act, 1986.

(b) Thus, office notification makes it clear :-

- i. All such mining leases in which environmental clearance was granted by DEIAA need to be brought in consonance with the directions given by Hon'ble Supreme Court in Deepak Kumar vs. State of Haryana & Ors.*
- ii. Only such mining leases may be continued which have been on re-appraisal granted environmental clearance by SEIAA.*
- iii. SEIAA shall re-appraise the ECs issued by DEIAA and all fresh ECs in this regard shall be granted only by SEIAA, as based on such appraisal.*
- iv. No mining shall be permitted to be continued without EC granted by SEIAA.*
- v. Meaning thereby, no person shall be permitted to continue for mining on the basis of EC granted by DEIAA.*

10. *The main issue involved in this application is validity of the EC granted by DEIAA. The matter was raised in an appeal, Civil Appeal No. 8181-8182 of 2023 and vide order dated 13.12.2023 Hon'ble the Supreme Court of India has finally disposed of petition that mining shall be permitted only after the fresh EC granted by the SEIAA. This issue stands disposed of in accordance with the terms and orders passed by the Hon'ble Supreme Court of India quoted above.*

11. *Another issue which has been raised is taking necessary legal actions to control the illegal mining and in other matters this Tribunal has already directed as follows :-*

- i. Controlled blasting of low intensity should be adopted with blasting time fixed between 1 PM and 2 PM on need basis.*
- ii. GI Sheet barricading of 40 feet high shall be erected along the mine lease boundary in the direction of residence of complainant.*
- iii. Green belt (with 5 feet tall saplings) shall be planted all along the barrier zone of the lease area, which acts as a noise barrier to attenuate the noise generated from crusher.*
- iv. Interlocking of all the pollution control arrangements in crusher and water sprinkling system shall be ensured with a siren system to caution the dry operation of crusher, if any.*
- v. Garland drain -siltation pond network needs to be strengthened.*

- vi. *Peripheral greenbelt needs to be strengthened in the barrier zone of the lease area by planting 5ft high saplings*
- vii. *Controlled blasting of low intensity should be adopted with blasting time fixed between 1 PM and 2 PM on need basis.*
- viii. *Garland drain -siltation pond network needs to be strengthened*
- ix. *Interlocking of all the pollution control arrangements in crusher and water sprinkling system shall be ensured with a siren system to caution the dry operation of crusher, if any.*
- x. *Tube wells (dug prior to the issuance of latest CGWA guidelines) available in the mine premises of Bhupendra nahar and Rehan Khan needs to obtain NOC from CGWA.*
- xi. *Strict compliance of Environmental Guidelines for Stone Crushing Units (issued by Central Pollution Control Board, Delhi in July. 2023) by the stone crushers concerned in the interest of Environmental Conservation in their vicinity. MPPCB shall monitor the compliance as per the timelines stipulated by CPCB.*
- xii. *Taking into consideration the concerns of the local community and the proximity of the village to the mines. Heavy blasting shall be completely banned in the entire area and the mining department shall ensure strict compliance of the same.*

12. The matter of authority of DEIAA was also considered by Hon'ble the Supreme Court of India in Civil Appeal Diary

No. 49608/2023 and vide order dated 13.12.2023 the Tribunal while disposing the application has directed that in the meanwhile, after the State Environment Impact Assessment Authority grants approval/clearance, the mining will be permitted. The SEIAA will be also entitled to pass interim order to ensure availability to sand etc., while also ensuring proper compliance with the norms.

13. In view of the above facts the State and the Mining Officer are directed to comply the guidelines issued by the Tribunal and Hon'ble the Supreme Court of India.

14. This Tribunal vide order dated 11.03.2024 directed the PCB to calculate the Environmental Compensation as per parameter laid down by the CPCB. In compliance thereof, the Joint Committee of PCB calculated the Environmental Compensation in following method and reported as follows :-

- 1. "In reference to above order, following procedure is adopted to assess the Environmental Compensation as the illegally excavated quantity details are not available with MPPCB:*

a) Based on the available data with MPPCB, the Environmental Compensation is calculated. In this regard, Forest Department, Distt. Vidisha vide letter no. 1990 dated 27/10/2023 is considered. A list of cases filed against illegal mining

operators from Jan, 2019 to 2023 is provided along with the above letter. A total of 151 cases were registered by Forest Department, Vidisha.

b) Based on above information, number of violation days are calculated.

c) As per the CPCB Environmental Compensation guidelines point 1.3.1 off it is mentioned that "In any case, minimum Environmental Compensation shall be Rs. 5000 per day".

d) Assessment of violation days – Number of violation days from 01/01/2019 to 30/04/2024 = 1947 days

e) Assessment of Environmental Compensation in Rs. –
= minimum EC per Day as per CPCB guidelines X No of violation days
= Rs 5000 X 1947
= Rs 97,35,000/-

2. Accordingly, the calculated environment compensation is proposed to imposed equally on these 151 illegal mining operators i.e., Rs. 64,500/- each.

RECOMMENDATIONS:

i. Forest Department, Distt. Vidisha is proposed to recover the environmental compensation from the

illegal mining operators as per the list provided by them vide letter no. 1990 dated 27/10/2023 with the help of District Administration and District Mining Office, Vidisha.

ii. The environment compensation recovered by Forest Department, Distt. Vidisha is to be submitted to MPPCB, Bhopal.”

15. The Divisional Forest Officer, Forest Department, Vidisha is directed to realize the environmental compensation as calculated by the MPPCB quoted above and after realization, the amount be deposited in the account of Forest Department to be utilized for the improvement of the environment of the area and plantation within the area.

16. We further direct the Principal Chief Conservator of Forest, State of Madhya Pradesh, Principal Secretary, Mining and Principal Secretary, Environment to take action with regard to the protection to the forest land and to ensure that no illegal mining shall be continued or permitted in violation of environmental rules. In case of any violation of rules, necessary action must be initiated by the MPPCB. Further action taken report be filed within three weeks. Rest of the respondents are directed to submit their reply within three weeks.”

10. A report was called from the State PCB and the respondent in compliance thereof number of mining sanctioned and EC issued has been reported as follows :-

Sr. No.	Points of Order	Action Taken
1	<i>Number of mining sanctioned by the authorities with consent conditions and EC as required.</i>	<i>As per the information furnished by the District mining department (details mentioned at point no D (I) above, there is no mining lease currently sanctioned in the forest area.</i>
2	<i>Number of illegal minings with details of violators involved in the process of illegal mining.</i>	<i>Director, Geology and Mining Directorate, Bhopal vide order no 30 dated 0210112024 appointed a geologist to assess the quantity of mineral excavated in the forest land. Based on the details furnished by the District Mining Department, the joint committee noted that 75 sanctioned mines (during the period from 1961 to 1993) were operational in the said Forest area prior to transfer of revenue land to Forest. Current location of the said sanctioned leases could not be identified by the local mining department to arrive at the number of illegal mines operated in the Forest area. The local mining department cited the absence of personnel (mostly due to retirement) who were in the know-how of the sanctioned leases operated earlier. Further, the joint committee noted that the local Forest Department, the details of which are enumerated at Bullet point C(1 &2) above. In addition to above, the Mining department also</i>

		<i>had taken several actions against illegal miner sand in the last 03 years, Rs 20.00 lacs penalty was recovered from 41 cases.</i>
3	<i>Mining excavated by illegal mining mafia, the value</i>	<i>The quantum of mineral excavated by illegal mining mafia is yet to be evaluated. Director, Geology and Mining Directorate, Bhopal vide order no 30 dated 0210112024 appointed a geologist to assess the quantity of mineral excavated in the forest land taking into consideration the revenue receipts and sanctioned mineral quantity from the sanctioned leases operated earlier in the forest area.</i>
4	<i>Status of DPR and the replenishment study of area</i>	<i>The illegal mining sites mentioned by the reporter of Dainik Bhaskar Mr. Manish Khushwaha mainly pointed out to the illegal mining of Flag stone in the forest area around Ganj Basoda and hence, it was noted that preparation of DPR and replenishment study of the area is not applicable in the instant case.</i>
5	<i>Loss of the forest area and plantation.</i>	<i>The figures related to loss of forest area and plantation can be arrived at after the appointed Geologist furnishes the data related to extent of illegal mine pits taking into consideration the excavated mineral data from the sanctioned leases operated in the forest area.</i>
5	<i>Environmental</i>	<i>The joint committee noted that</i>

compensation against each violator in accordance with the parameters laid down by the CPCB and this Tribunal.	Environment there are Guidelines framed for environmental Compensation by CPCB which particularly targets the illegal sand mining activities, which can also be made useful in current case also. Therefore, the joint committee recommends the calculation of environment compensation on the basis of the document mentioned here. Also the calculations may be done on the basis of judgement passed by Hon'ble Supreme Court of India dated 2nd August, 2017 in WP No. 11412014 in the matter of 'Common Cause Vs. UoI in which the interpretation of section 21(5) of the Mines and Minerals (Development and Regulation) [MMDR] Act, 1957 can be found. In the judgement it is stated that wherever violations were carried out with regard to the Water (Prevention and Control of Pollution) Act 1974, the Forest (Conservation) Act 1980, the Air (Prevention and Control of Pollution) Act. 1981 and the Environment (Protection) Act. 1986, 100% cost/value of the illegally mined mineral needs to be compensated by the mining entity project proponent. Accordingly, environment compensation needs to be recovered from the mining entities whose details are already
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		<i>available in the records of Forest Department and Mining Department.</i> <i>However, the joint committee noted that recovery of environment compensation from the other illegal mining entities who were engaged in illegal mining but not on the records of the Forest Department and Mining Department is an impossible task. Therefore, to avoid future illegal mining activities in the region, the joint committee strongly recommends strict implementation of the recommendations mentioned at the end of this report.</i>
7	<i>Number of transport vehicle seized or action taken by the state authorities.</i>	A. Action taken by the Forest Department: <i>As per the records furnished during the site visit, it was noted that the forest staff during patrolling of the range has taken several actions against the illegal miners during the last 05 years (January 2019 to September 2023) and registered 144 cases of illegal mining and transportation. The actions include seizure of 44 nos. of tractors, 42 nos. trollies, 20 nos. trucks, 05 nos. JCB, machine, 01 no. Poclain, 05 nos. motorcycle, 03 nos. blasting equipment, 02 nos. Compressor, 01 no. diesel engine along with 2191 nos. of stone pieces and 637 nos. of</i>

		<i>instruments. A monetary penalty of Rs 5829161/- was imposed in 46 cases and deposited into govt. treasury. Further, the forest staff during patrolling has taken several actions against the illegal miners during the period (January 2023 to December 2023) and registered 31 cases. The actions include seizure of 01 nos. of tractors, 06 nos. trollies, 02 nos. trucks, 03 nos. Motor Cycle. 01 no. diesel engine along with 74 nos. of stone pieces and 133 nos. of instruments etc. A monetary penalty of Rs 35417/- was imposed in 31 cases and deposited in to govt. treasury.</i> <i>B. Action taken by Mining Department:</i> <i>Mining department also had taken several actions against illegal miners and in the last 03 years, Rs 20.00 lacs penalty was recovered from 41 cases.</i>
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11. State of M.P. has filed the reply with the facts that in the last five years actions against illegal mining have been taken and penalty to the tune of Rs. 582916/- was imposed and realised and was deposited to the revenue account concerned.
12. It is further submitted that the 90 mining leases have been duly sanctioned on privately owned land and they have obtained requisite environmental clearance. Further action taken report was called from the

State PCB and State PCB vide action taken report submitted on 01.05.2024 and informed the criteria for the calculation of environmental compensation and further submitted that the amount has been deposited or are under process.

13. In view of the above facts and report submitted by the joint committee it reveals that the actions are being taken by the state authorities for control of illegal mining. Accordingly, we direct the respondent to regularly monitor the illegal mining and to ensure to control illegal sand and in-case there are violation of environmental rules necessary action must be initiated in addition of prosecution and realisation of environmental compensation.
14. With these observations **Original Application no. 117/2023** stands **disposed of.**

Sheo Kumar Singh, JM

Dr. A Senthil Vel, EM

23rd October, 2024
O.A. No. 117/2023(CZ)
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