

Item No. 03

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

Original Application No.196/2023(CZ)

Gaur Singh Nishad

Applicant(s)

Vs

State of Chhattisgarh & Ors.

Respondent(s)

Date of Hearing: **20.02.2024**

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

For Applicant (s): None

For Respondent(s): Ms. Parul Bhadoria, Adv.

ORDER

1. By means of filing this petition the applicant has raised the issue of illegal sand mining and violation of EC guidelines regarding excavation and mining of sand by the respondent in gram Saildeep, Kurud, Dhamatri, Chhattisgarh. It is alleged that the contractor Sunil Kumar Kandeliya is involved in illegal sand mining and excavating the sand mining beyond the permissible limits and against the prescribed guideline. He has permission of excavating sand from Khasra No. 409 admeasuring 4.9 hectare upto the limit 1.5 meters depth and only upto the extent of 73.500 m³ every year but excavation is done three times more that the prescribed limit and adversely affecting the plantation near the area. It is further alleged that the Khasra No. 410, 411, 415 & 416 is also being used for sand mining and excavation without any authority by

use of heavy JCB machines adversely affecting the environment.

2. The matter was taken up by this Tribunal on 03.01.2024 and a committee was constituted to submit the report as follows :

a) We deem it just and proper to call a report on the matter in issue, in present application, from a Joint Committee consisting of:-

- (i) One representative of Dhamtari, Collector, (Chhattisgarh)
- (ii) One representative from the Chhattisgarh Environment Conservation Board, (Chhattisgarh)
- (iii) One representative from the Central Pollution Control Board, (Chhattisgarh)

b). The Committee is directed to visit the place and submit the factual and action taken report within six weeks. The CECB will be the nodal agency for coordination and logistic support.

3. In compliance of the order the members of the committee visited the site and submitted the report as follows :

The main issues raised in the petition by the Applicant are as under:-

- 1. Illegal sand mining and violation of EC guidelines regarding excavation and mining of sand by the respondent in gram Saildeep, Kurud, Dhamatri.
- 2. Khasra No. 410, 411, 415 & 416 is also being used for sand mining by use of heavy JCB machines.
- 3. Sand is being stored illegally on Khasra no 254/1, 258/1 and 252 and damaged the grasses on government land.

The committee made the following observation during site visit on the above mentioned issues:-

Issue No. 01: Illegal sand mining and violation of EC guidelines regarding excavation and mining of sand by the respondent in gram Saildeep, Kurud, Dhamatri.

- 1. GPS location of the River Mahanadi at Saildeep village has been recorded using a mobile-based GPS application. The google map of the site and photographs taken during the inspection are enclosed herewith. The geographical coordinates of Saildeep mining site are 20°46'27.23"N, 81°46'26.46"E.

2. River Mahanadi flows from east to west direction however no flow of water in the river was observed during inspection. The location of this site partially falls in Saildeep village and partially in Choti Kareli Village of district Dhamtari.
3. As per the information given by Mining Officer, Dhamtari the Khasra no 939 is submerged government land having area of 70.69 hector and out of this 8.0 hector land lease allotted to Panchayat Saildeep for sand mining purpose, however the same permission is expired on 14.06.2019 and after that no sand mining activity carried out at this location. The Gram Panchayat also given a letter in this regard which stated that since 2020 no mining permission has been given to any person and no revenue collected under this head. District Mining officer, Dhamtari also informed that presently no sand mining leases are allotted at river bank of at Saildeep village.
4. Committee visited the entire stretch of river Mahanadi located between Saildeep village to Choti Kareli village and no sand mining activity was found in the jurisdiction of Saildeep panchayat. The gram panchayat obtained permission from SEIAA Chhattigarhin 2016 for excavation of 50,000 Meter cube sand per year. The permission obtained from the SEIAA is enclosed as Annexure-05. During the visit no tractors, dumpers, trollies and sand excavation activity were observed at the bank of river at Saildeep side. No transportation of sand was observed by the committee at the time of visit. Information regarding the same was also collected from locals during the visit, who denied visualization of any commercial sand mining activity from this side since long. Large size tranche and pits was also not observed during visit.
5. The committee observed that between Saildeep and Choti Kareli a temporary sand pathway constructed across the river that may be used for transferring the sand which was excavated from the other side (Choti Kareli) of the river which is allotted for sand mining. This pathway may hinder the natural flow of the river during monsoon period.

6. As per guidelines and EC conditions, the lease boundary must be clearly demarcated, such demarcations were not observed at river site to verify the lease area if allotted in future.

Issue No. 02 : Khasra No. 410, 411, 415 & 416 is also being used for sand mining by use of heavy JCB machines.

The committee visited all the khasra number mentioned in the petition along with revenue officers and it was observed that all the khasra number away from river bank and presently rice is being cultivated and even in future also there is no possibility of sand mining from these khasra numbers because since beginning it is used for agriculture purpose only. Hence the statement given in petition regarding mining activity in above mentioned khasra number is found incorrect.

Issue No. 03: Sand is being stored illegally on Khasra no 254/1, 258/1 and 252 and damaged the grasses on government land.

The committee visited all the khasra no for verification of present status of sand storage at this site and it was observed that only at khasra no 254/1 & 254/2 small quantity of sand is being stored by Mr Parag Bade resident of Bhilai for that he has obtained permission from Collector office vide order no 566 issued on 27.05.2021 and valid for next three year the permission letter is enclosed as Annexure-06. It was observed that 02 JCB kept at sand stock yard for sand transferring purpose this stock yard is approx. 300 Meter away from the river Mahanadi. The committee also visited other khasra no 252, 258 and 266 and it was observed that either there is agriculture activity or barren land. Hence allegation made in petition regarding illegal storage of sand found incorrect by the committee.

Conclusion:-

No illegal sand mining and storage at village Saildeep was observed by the committee, however a temporary sand pathway was observed across the river that may obstacle for free flow of river during monsoon period. The issues raised in the OA with respect to Saildeep village District Dhamtari district were not found correct. Hon'ble NGT (CZ) already given judgement in the similar type of matter in OA no 136 of 2023.

Recommendations:

1. Warning boards intimating the penalty for illegal mining and transportation of sand should be placed by the Mining Department at Village Saildeep.
 2. The Water Resources Development Department of the state should also keep vigil on the river and if any kind of unauthorized construction or obstacle observed, immediately may take appropriate action.
 3. All precaution shall be taken to ensure that the water stream flows unhindered and process of natural river meandering doesn't get affected and local administration may remove the pathway which is made across the river near village Saildeep.
 4. All the project proponents of sand mining Chhattisgarh state must obtain CTE/CTO from CECB under Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981.
 5. Use of heavy vehicles and digging armatures strictly be prohibited in the river bed.
 6. District authorities shall strengthen the site inspection by the Revenue Department and Mining Department of State Government at regular intervals for the mines as well as the stock yards.
 7. The mining department should ensure the compliance of Sustainable Sand Mining Guidelines, 2016 and Enforcement and Monitoring Guidelines for Sand Mining 2020.
4. The perusal of the report it seems that there is no violation as stated in the letter petition. The necessary actions are being taken by the District Authorities. There is no specific mention of the violation by any specific person. The site which has been narrated by the applicant has been specifically examined by the committee. Learned Counsel for the State Pollution Control Board has submitted that the same application (O.A. No. 136/223) has already been disposed of vide order dated 06.02.2024.

5. In view of the report no interference is required by this Tribunal. However, we direct that the Sustainable Sand Mining Guidelines, 2016 and the enforcement of monitoring guidelines for Sand Mining 2020 must be strictly observed with and in case of violation the State Pollution Control Board have to take necessary legal and punitive actions in addition to the prosecution and realisation of environment compensation.
6. With these observations, the Original Application No. 196/2023 (CZ) stands **disposed** of.

Sheo Kumar Singh, JM

Dr. Afroz Ahmad, EM

20th February, 2024
O.A. No. 196/2023 (CZ)
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