

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

**Original Application No.128/2023(WZ)
Earlier L.P. No.03/2023(WZ)**

Nileshbhai Lakhabhai Garenia

.....Applicant

Versus

The Collector, Junagadh

....Respondent

Date of hearing: 09.08.2024

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : None appeared
Respondent : Mr. Parth H. Bhatt, Advocate along-with
Collector, Junagarh, Gujarat in-person for R-1
Mr. Maulik Nanavati, Advocate for GPCB

ORDER

1. The Registry has informed the applicant by e-mail dated 07.08.2024 about the today's hearing fixed in the matter. But despite repeated calls, none has appeared from the side of applicant.
2. In compliance with our previous order dated 04.03.2024, the District Collector, Junagarh, Gujarat in-person along-with learned counsel Mr. Parth H. Bhatt have appeared before us through Video Conferencing and submitted report dated 31.07.2024, which is to the following effect:-

" 1. PREAMBLE

Shri Nileshbhai Lakhabhai Garenia had filed a letter petition to Hon'ble National Green Tribunal which was converted as Original Application. L.P No.03/2023(WZ)
Hon'ble NGT issued an order of dt:07/07/2023 in which Hon'ble NGT had directed District Collector Junagadh to submit a report on the matter of above mention applicant but copy of the order was not received here.

in this order Hon'ble NGT had directed Collector Junagadh to appear in-person before the Tribunal on dt:24/04/2024 but due to my duty as Returning Officer (R.O) for 13- Junagadh Parliamentary constituency, I requested to provide opportunity for action taken report after election and I had sent District Geologist shri V.K. Sumera to appear in-person. I also authorized him to appear and brief Hon'ble NGT for this matter on behalf of Collector Junagadh. District Geologist remained present at Hon'ble NGT-PUNE office on given date and place but hearing date of this case was postponed to dt: 14/08/2024.

District Geologist had contacted registry Branch of Hon'ble NGT (WZB)- Pune and submitted authorization letter, reply of Collector Junagadh and above-mentioned order. He also corrected district Collector Junagadh's email ID in registry Branch of Hon'ble NGT (WZB)- Pune. registry branch.

On receiving this order District Collector Junagadh had directed District Geologist Junagadh and Regional Officer GPCB Junagadh to take further necessary action for this matter.

2. DESCRIPTION OF EVENTS OF MATTER IN SHORT.

The Government of Gujarat has granted a quarry lease to Jay Khodiyar Enterprises vide grant order dated dt:15/10/2012 and Lease deed on dt: 28/01/2013 for 10 Years of Lease Period Land bearing survey no 355/4, 136/4/P/2, 136/4/P/3 area 02-56-98 hec. (Hec-Are-Sqmt.) situated at village: Maliya Hatina, Taluka: Maliya Hatina, District: Junagadh State: Gujarat for the purpose of mining and quarry operations of black trap mineral. Its grant order and lease deed which are annexed to this report and marked as Annexure-1.

That time the Gujarat minor mineral concession rules -2010 were prevailing for administration and legislation of minor minerals in Gujarat.

Jay Khodiyar Enterprises here after will be mention as 'the lease holder' got approved his mining plan by Commissionerate of geology and mining government of Gujarat Head office Gandhinagar for tentative 75474 cum/Year Black trap excavation and 1,88,836 MT/Year Recoverable Black trap in year 2017 which is annexed to this report and marked as Annexure-2

The lease holder got approved his Environment Clearance Certificate by DEIAA (District Level Environment Impact Assessment Authority District-Junagadh-Gujarat.) for 72000 MT/year in 2018 which is annexed to this report and marked as Annexure-3.

The lease holder's production and dispatch information for FY-2015-16 to 2019-20 (up to Jan-20) is annexed to this report and marked as Annexure-4.

Shri. Nileshbhai Lakhbhai Garenia here after will be mention as 'the applicant' has obtained all this Annexure-1 to Annexure-4 information of the lease holder by use of RTI ACT-2005 from Authorize Authorities.

The applicant has written a letter on dt:28/12/2020 to Additional Director (Development) of Commissionerate of geology and mining government of Gujarat Head office and informed him about violations of rules by the lease holder. Gandhinagar is annexed to this report and marked as Annexure-5.1. This letter is also marked to vigilance officer and Gujarat Pollution Control Board, Gandhinagar which is annexed to this report and marked as Annexure-5.2

The additional Director had intimated District Geologist Junagadh to take actions on the representation of the applicant vide letter dated 01/02/2021 is annexed to this report which is marked as Annexure-6.

District Geologist Junagadh had informed Regional Officer of GPCB-Gujarat Pollution Control Board -Junagadh District vide letter dated 02/11/2021 to take actions against the lease holder as they made violations of rules entrusted with the central Acts and relevant rules for pollution control and notified from time to time which is annexed to this report and marked as Annexure-7.1.

Central Pollution Control Board had informed Regional Officer of GPCB-Gujarat Pollution Control Board -Junagadh District vide letter dated 02/11/2021 to take actions against the lease holder as they had made violations of rules which is annexed to this report and marked as Annexure-7.2.

Regional Officer of GPCB-Gujarat Pollution Control Board -Junagadh District has given notice to the lease holder by letter no GPCB/RO-Junagadh/JNG-1395/1416 dt:08/07/2021.

Environmental Engineer for and on behalf of Gujarat Pollution Control Board has given Show Cause Notice to the lease holder by no: GPCB/CCA-JNG-635/ID-40849/599300 dt:31/08/2021 which is annexed to this report and marked as Annexure-8.

The applicant has also filed R/Special Civil Application no 6585 of 2022 (converted from SCA/7706/2022 dt:31/03/2022) in Hon'ble Gujarat High Court which is annexed to this report and marked as Annexure-9.

Regional Officer of GPCB-Gujarat Pollution Control Board -Junagadh District has visited and inspected lease area on dt:29/07/2022 and given a notice to the lease holder which is annexed to this report and marked as Annexure-10.

GPCB-Gujarat Pollution Control Board's unit head Junagadh has also given the lease holder a notice on dt:6/9/2022 which is annexed to this report and marked as Annexure-11.

Hon'ble Gujarat High Court has disposed of the applicant's application by oral order date: 07/12/2022 which is annexed to this report and marked as Annexure-12.

A Note on illegal mining which is annexed to this report and marked as Annexure-13.

The applicant had filed a letter petition to Hon'ble National Green Tribunal which had converted as Original Application. LP No.03/2023(WZ), which is annexed to this report and marked as Annexure-14

Hearing of the application was on dt: 04-03-2024 which is annexed to this report and marked as Annexure-15

District Collector of Junagadh has received NGT's order of dt:07/07/2023 for Original Application. LP No.03/2023(WZ) on dt: 24/04/2024 by email which is annexed to this report and marked as Annexure-16

District Collector's authorization letter which is annexed to this report and marked as Annexure-17

District Collector's reply to registry Branch of Hon'ble NGT (WZB)- Pune which is annexed to this report and marked as Annexure-18

Then District Collector has directed District Geologist Junagadh and Regional Officer GPCB Junagadh to take further necessary action in this matter.

Regional Officer GPCB Junagadh's team had visited the lease area and taken actions according to rules. GPCB Junagadh's Action taken Report is annexed to this report and marked as Annexure-20.

District Geologist's team had measured the lease area and issued Penalty Order of Rs.13,18,66,288/- (Rs. thirteen Caror eighteen Lakh sixty-six thousand two hundred eighty-eight) to 'The Lease Holder' Jay khodiyar Enterprises on dt-19-07-2024 for mining by violations of rules is annexed to this report and marked as Annexure-19.

3.CONCLUSION:

Different state agencies like GPCB and Geology and Mining Department has visited the lease area and communicated this matter to each other for coordination and also given notices to the lease holder and taken actions as per rules. District geologist had issue Penalty Order of Rs.13,18,66,288/- (Rs. thirteen Caror eighteen Lakh sixty-six thousand two hundred eighty-eight) to Jay khodiyar Enterprises on dt-19-07-2024 for mining by violations of rules.

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3. It is apparent from the perusal of the above-mentioned report that violations were found to be there on the part of the Project Proponent i.e. Jay Khodiyar Enterprise and a penalty to the tune of Rs.13,18,66,288/- (Rs. Thirteen Crore Eighteen Lakh Sixty Six Thousand Two Hundred Eighty Eight only) has been imposed for violations of the rules for mining.

4. We are of the view that the said Project Proponent needs to be impleaded as one of the respondents in the present Original Application and direct the Registry to implead the said party as respondent No.2 and place on record an amended memo of parties.

5. From the side of Gujarat Pollution Control Board (GPCB), learned counsel Mr. Maulik Nanavati has appeared before us, who submits that there are several issues involved in this matter (i) whether violations of the terms and conditions of the EC have been done by the Project Proponent or not and for this, SEIAA, Gujarat would be a necessary party in the present Original Application; and (ii) for mining to have been done beyond the permissible limit, as extraction of black trap mineral has been done beyond 72000 MT/year (as provided in the EC dated 11.01.2018, which is annexed at page nos.24 to 29 of the paper book), as against that,

quantity of extraction is given in Annexure-4, which shows exceeding the said limit in the years 2015-16, 2016-17, 2017-18, 2018-19 and 2019-20 (Jan- 20). Therefore, GPCB should also be impleaded as one of the respondents in the present Original Application to submit a detailed reply in this matter.

6. Apart from this, learned counsel Mr. Maulik Nanavati representing GPCB has also admitted before us that the EC has been granted to the said Project Proponent by the DEIAA and there is a Judgment of the Principal Bench of this Tribunal directing therein that all the EC granted by the DEIAA would have to be reviewed by the SEIAA. Therefore, we would like to know from the learned counsel for GPCB as to whether the said EC has been reviewed by the SEIAA or not.

7. We direct the Registry to implead the GPCB and SEIAA as respondent Nos.3 & 4 respectively in the present Original Application and place on record an amended memo of parties and notices be issued to the above-mentioned parties, returnable within four weeks.

8. Since learned counsel Mr. Maulik Nanavati accepts notice on behalf of respondent No.3-GPCB, hence notice is waived against them.

9. Respondents are directed to file their reply affidavits within four weeks.

Put up this matter for further consideration on 04.11.2024

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

August 09, 2024
Original Application No.128/2023(WZ)
Earlier L.P. No.03/2023(WZ)
P.Kr