

Item No.4 to 6:-

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**

Wednesday, the 21st day of February 2024.

(Through Video Conference)

**Miscellaneous Application No.09 of 2023 (SZ) in
Original Application No.187 of 2021 (SZ)
WITH
**Miscellaneous Application No.10 of 2023 (SZ) in
Original Application No.53 of 2022 (SZ)
WITH
**Execution Application No.04 of 2023 (SZ) in
Original Application No.187 of 2021 (SZ)******

IN THE MATTER OF

Nagendrakumar
Guntur District,
Andhra Pradesh.

...Applicant (s)

Versus

SEIAA
Rep. by its Member Secretary
Andhra Pradesh and Ors.

...Respondent(s)

WITH

D. Hemakumar
Andhra Pradesh

...Applicant (s)

Versus

Union of India and Ors.

...Respondent(s)

WITH

Nagendrakumar,
Guntur District, Andhra Pradesh

...Applicant(s)

Versus

Govt. of India,
Rep. by its Secretary
MoEF&CC, New Delhi & Ors.

...Respondent(s)

M.A. No.09/2023 (SZ):

For Applicant (s): Mr. Ritwick Dutta and
Mr. G. Stanly Hebzon Singh.

For Respondent(s): Dr. Syed Shafi for R1.
Mr. AL. Somayaji, Sr. Adv. a/w.
Mrs. Madhuri Donti Reddy for R2.

M.A. No.10/2023 (SZ):

For Applicant (s): Mr. S. Kamalesh Kannan.

For Respondent(s): Mr. AL. Somayaji, Sr. Adv. a/w.
Mrs. Madhuri Donti Reddy for R2 to R5 & R7.
Dr. Syed Shafi for R6.

E.A. No.04/2023 (SZ):

For Applicant(s): Mr. Ritwick Dutta and
Mr. G. Stanly Hebzon Singh.

For Respondent(s): Mr. AL. Somayaji, Sr. Adv. a/w.
Mrs. Madhuri Donti Reddy for R2 to R18.

CORAM:

HON'BLE Smt. JUSTICE PUSHPA SATHYANARAYANA, JUDICIAL MEMBER

HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER

COMMON ORDER

1. Earlier, this Tribunal had passed a common order on 23.03.2023 in O.A. No.152 of 2021 (SZ) and O.A. No.53 of 2022 (SZ) pertaining to illegal sand mining in the river Aaraniaar which runs through several villages. There was another O.A. No.187 of 2021 (SZ) which related to the sand mining in all the rivers in the State of Andhra Pradesh.

2. The said applications were disposed of by common order dated 23.03.2023, intended by which, the operations were stopped forthwith and the Project Proponents were directed to obtain fresh Environmental Clearance before proceeding further. The said order also directed the MoEF&CC to constitute a committee headed by the Head of Integrated Regional Office, MoEF&CC, Vijayawada and a Scientist from the CPCB to assess

the environmental compensation for mining carried out by the Project Proponents and other directions were also issued and levied a compensation of Rs.18 Crores for each of the Environmental Clearances issued for the violations committed.

3. The said common order was challenged before the Hon'ble Supreme Court in **Civil Appeal Nos.4091 – 4093 of 2023 (Jaiprakash Power Ventures Limited & Anr. Vs. Nagendra Kumar & Ors.)**, wherein the Hon'ble Supreme Court was pleased to stay only the operation of Clause (vii) of the impugned order which would be subject to compliance of the condition in Clause (ii). Clause (ii) specifically directs the Project Proponents to obtain fresh Environmental Clearance before proceeding further.

4. At this juncture, since the Project Proponents had violated the conditions of our order, M.A. Nos.09 and 10 of 2023 (SZ) were filed in O.A. Nos.187 of 2021 and 53 of 2022 (SZ) respectively. Also, an Execution Application [E.A. NO.04 of 2023 (SZ)] was filed in O.A. No.187 of 2021 (SZ).

5. When the matters were listed before us, notices were issued, as we are not aware of the order passed by the Hon'ble Supreme Court in the above-referred Civil Appeals.

6. In the meanwhile, there were newspaper reports and also video clippings reporting that despite the orders of the Tribunal as well as the Hon'ble Supreme Court, illegal mining was continued by the Project Proponents without valid Environmental Clearance and also deploying heavy machinery. The order had specifically directed the Project Proponents only to do manual mining. Therefore, in order to ascertain the factual details, this Tribunal had directed the District Collectors to file reports after inspecting the reaches in question.

7. Pursuant to that, the District Collectors of Anakapalli, Ananthapuramu, West Godavari, NTR, Annamayya, Chittoor, Eluru, Kakinada, Dr. B.R. Ambedkar Konaseema, Krishna, Nandyal, SPSR Nellore, Palnadu, Parvathipuram Manyam,

Prakasam, East Godavari, Sri Sathya Sai, Srikakulam, Tirupati, YSR Kadapa, Vishakhapatnam, Alluri Seetharama Raju, Bapatla, Guntur and Vizianagaram Districts have filed their respective reports.

8. Surprisingly, all the District Collectors have reported uniformly that after a physical inspection, there was no sand mining observed in the respective reaches. During the inspection, no machinery and sand excavation was observed in the vicinity of the sand mining area. With regard to any mining done in the recent past in the area, the team did not find any visibility of excavation of sand. They had also attached the necessary photographs in that regard.

9. When all the reports were taken up, the learned counsel appearing for the applicant in M.A. No.09 of 2023 (SZ) produced a communication sent by the MoEF&CC, Sub Office at Vijayawada addressed to the Registrar of the National Green Tribunal, Southern Zone Bench, Chennai, dated 13.02.2024. The said communication mentions about the inspection of sand reaches located at the erstwhile Guntur and Krishna Districts of the State of Andhra Pradesh from 17.01.2024 to 19.01.2024. It was further mentioned that the sand mining is continuing in the inspected area without prior approval from the competent authorities and the Joint Committee also identified illegal sand mining done since 2021 and the report was to be filed before this Tribunal shortly. Hence, the matter was adjourned to this date i.e. 21.02.2024.

10. Today, the Joint Committee report dated 20.02.2024 was received directly from the MoEF&CC, Sub Office at Vijayawada signed by one Dr. Suresh Babu Pasupuleti, Scientist D.

11. In the Joint Committee report, they referred to the order passed by this Tribunal, constitution of the Joint Committee, Terms of Reference, etc. The report further observed that they had sought for information and documents from the departments concerned in this regard, addressing to

the Government of Andhra Pradesh, Department of Mines and Geology regarding the details of district-wise sand reaches allotted along with individual reach-wise quantities permitted and violations noticed, etc. However, the State of Andhra Pradesh had not furnished any information through the Department of Mines and Geology. Thereafter, the Joint Committee inspected the erstwhile Guntur and Krishna Districts between 17.01.2024 and 19.01.2024 and given the factual details.

12. The Joint Committee further states that for the Guntur District, 103 Environmental Clearances were granted between 01.01.2020 and 11.01.2024 and number of proposals under process for Environmental Clearance till 11.01.2024 for Guntur, Palnadu and Bapatla Districts are 05, 08 and 02 respectively. Similarly, for the Krishna District, the total Environmental Clearance granted was 88, which were in force from 01.01.2020 to 11.01.2024 and number of proposals under process for Environmental Clearance for the NRT District is 30.

13. Finally, the observations and conclusions of the Joint Committee are as follows:-

“Observations / Conclusions of the Joint Committee:

1. The Joint Committee inspected 08 Sand Mining Reach areas in erstwhile Guntur District and 06 Sand Mining Reach areas in erstwhile Krishna district during 17.01.2024 to 19.01.2024. The inspected reach areas are in operation without valid Environmental Clearance issued by SEIAA, Andhra Pradesh.
2. During inspection, it is observed that at all sand reach areas in Guntur and Krishna District, mining is being carried out by M/s GCKC Projects and Works Pvt. Ltd., Vijayawada with Mechanised method with JCB's/Hitachi's of 2.0 to 2.2 Ton Capacity bucket size.
3. In all the sand mining reaches inspected, sand mining is carried without valid Environmental Clearance issued by SEIAA, Consent for Establishment and Consent for Operation issued from Andhra Pradesh Pollution Control Board and sand mine lease from Dept. of Mines and Geology, Govt. of Andhra Pradesh.
4. As per the Sand Way Bill and Cash Memos maintained at the mining site at all sand mining reaches inspected, it is observed that mining is being carried out for 24 hours per day.
5. As per the Sand Way Bill and Cash Memos maintained at all the sand mining reaches, it is observed that in each

sand mining reach approximately 1000 - 2000 Tons of sand per day per reach (one thousand to two thousand tons of sand per reach per day) is being extracted and sold at a rate of Rs. 475/- per Ton of Sand.

6. Issue of manual way bills, non-issue of computer generated Transport Permits with barcode, non-availability of CCTV Cameras at the reach, tracking of vehicles/trucks, etc at all reach areas are violating the compliance of conditions as per "Implementation of Sustainable Sand Mining Management Guidelines, 2016" and "Implementation of Enforcement & Monitoring Guidelines for Sand Mining, 2020" issued by Ministry of Environment, Forest and Climate Change.
7. As per the analysis of satellite Image available since year 2021 in Google Earth, it is observed that sand mining is carried out beyond the granted lease area by the Assistant Director of Mines and Geology (ADMG), Govt. of Andhra Pradesh and M/s Jai Prakash Power Ventures Limited, Vijayawada, without Environmental Clearance issued by SEIAA, Consent for Establishment and Consent for Operation issued from Andhra Pradesh Pollution Control Board.
8. Since 2021, Environmental Clearances for Sand Mining in the State of Andhra Pradesh were issued in favour of The Assistant Director of Mines and Geology (ADMG), Govt. of Andhra Pradesh and M/s Jai Prakash Power Ventures Limited, Vijayawada. The EC holder is liable of illegal sand mining carried out during the EC tenure.
9. The Dept. of Mines and Geology and/or M/s Jai Prakash Power Ventures Limited, Vijayawada continued extraction of Sand till November, 2023 using Mechanised Method with JCB's/HITACHI's of 2.0 to 2.2 Ton Capacity bucket size.
10. As per the documents furnished by SEIAA, AP, new Environmental Clearances were not issued in the State of Andhra Pradesh by SEIAA, AP since April, 2023, but still mining operation is continuing without Environmental clearances.
11. It is observed from the Sand Way Bill and Cash Memos maintained at the mining sites, M/s GCKC Projects and Works Pvt. Ltd., Vijayawada is carrying sand mining at all reaches of Guntur and Krishna District since December, 2023 by using Mechanised Method with JCB's/HITACHI's of 2.0 to 2.2 Ton Capacity bucket size.
12. As per the records available, M/s GCKC Projects and Works Pvt. Ltd., Vijayawada is extracting the sand at all reaches of Guntur and Krishna District of reaches without valid Environmental Clearance issued by SEIAA, Consent for Establishment and Consent for Operation issued from Andhra Pradesh Pollution Control Board and sand mine lease from Dept. of Mines and Geology, Govt. of Andhra Pradesh.
13. Sand Mining is being carried out in approximately 02 - 05 km stretch at various locations. Sand is excavated to the depth of 4 to 5 ft which is beyond 1 m depth.
14. Compliance of conditions stipulated in Environmental Clearances are completely ignored by the EC holder.
15. The sand replenishment study is not carried out for any of the sand bearing areas in a scientific manner considering all the technical parameters by a

competent person/authority and reports are not furnished to the Committee.”

14. The report also furnished the recommendations/suggestions of the Joint Committee.

15. The report which is filed by the MoEF&CC, Sub Office at Vijayawada relates only to the erstwhile Guntur and Krishna Districts, whereas the O.A. No.187 of 2021 (SZ) is about the sand mining happening in the entire State of Andhra Pradesh.

16. Finally, in the additional submissions made by the Joint Committee, it is stated that the representative from the MoEF&CC had observed the sand mining with JCB is being done on Godavari River on 19.02.2024 in Alamuru Mandal, Jonnada Village of Dr. B.R. Ambedkar Konaseema District and he enclosed the photographs.

17. The SEIAA has reported that in compliance with the orders of the Hon'ble National Green Tribunal, on 24.04.2023 directed M/s. Jaiprakash Power Ventures Limited and Director of Mines and Geology Department, Ibrahimpatnam, Vijayawada to stop all Semi-Mechanized sand mining operations immediately and after the issue of directions dated 24.04.2023, the SEIAA has not issued any EC orders to any sand reach till 2024. It was also submitted that SEIAA in its meeting held on 23.01.2024, 24.01.2024 & 07.02.2024 accepting the recommendations of SEAC, issued EC for sand mining with manual method for a period of 1 year to 41 sand reaches to Department of Mines & Geology, Government of Andhra Pradesh. From the above, it is clear that no EC was granted under the 'B1' Category or 'A' Category for mining of river sand by using heavy machinery.

18. As it is evident from the report of the MoEF&CC that the sand mining is being done by the Project Proponents without valid Environmental Clearance and in violation of the conditions imposed during the mining operation by deploying heavy machinery, the Project Proponents are liable for punishment. However, **Civil Appeal Nos.4091 – 4093 of 2023**

(Jaiprakash Power Ventures Limited & Anr. Vs. Nagendra Kumar & Ors.) are pending before the Hon'ble Supreme Court which has granted a stay of levy of the fine subject to the compliance of the condition in Clause (ii) of the Tribunal's order, it would be appropriate for us to refer the matter to the Hon'ble Supreme Court.

19. In light of the above, we direct the MoEF&CC to place all the relevant papers, including the report dated 20.02.2024 before the Hon'ble Supreme Court on the next date of hearing. In the meanwhile, the inspection reports by the MoEF&CC regarding the other districts may also be furnished before the Hon'ble Supreme Court.

20. It is also open to the applicants herein to make appropriate submissions before the Hon'ble Supreme Court regarding the violations noticed.

21. In view of the above, all the applications [M.A. No.09 of 2023 (SZ) in O.A. No.187 of 2021 (SZ), M.A. No.10 of 2023 (SZ) in O.A. No.53 of 2022 (SZ) and E.A. No.04 of 2023 (SZ) in O.A. No.187 of 2021 (SZ)] are closed.

Sd/-
Smt. Justice Pushpa Sathyanarayana, JM

Sd/-
Dr. Satyagopal Korlapati, EM

**M.A. No.09/2023 (SZ) in
O.A. No.187/2021 (SZ) &
M.A. No.10/2023 (SZ) in
O.A. No.53/2022 (SZ) &
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O.A. No.187/2021(SZ)
21st February, 2024. Mn.**