

COMPLIANCE REPORT FILED BY THE 5th RESPONDENT

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL (SZ), CHENNAI

O.A.NO.147/2021

KOSGI VENKATAIAH

.....Applicant

-VS-

UNION OF INDIA

.....RESPONDENT

INDEX

SL.NO.	Particulars	PAGE NO.
1.	Compliance Report	1-2
2.	Show Cause notice	3-4
3.	Reply submitted by Superintending Engineer, PRLIS Circle II, Mahabubnagar	5-9



Mr.A.Sanjeev Kumar
Special Government Pleader for the Respondent No.2 to 5.

Mrs.H.Yasmeen Ali,
Counsel for the Respondent No.2 to 5.

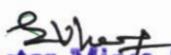
Place : Mahabubnagar.

Dated : 30.08.2023.

COMPLIANCE REPORT FILED BY THE 5th RESPONDENT

As per the Order passed dated 2.8.2023 by the Hon'ble National Green Tribunal (SZ) the Mines and Geology Department submitting the compliance report as follows:

1. While concluding that "There is the extraction of 2,75,59,517 MT of Black Cotton soil and Casing Soil, which are illegally mined in gross violation of the Environmental Laws" has issued orders, directing the 5th respondent, i.e., Asst. Director of Mines & Geology, Mahabubnagar, to assess the penalty for the soil illegally mined and levy appropriate penalty payable to KRMB within 3 months. Further the Hon'ble NGT directed the said exercise to be completed within Four (4) weeks and compliance report to be filed for further action.
2. It is submitted that in compliance to the Orders passed by the Hon'ble NGT, this office vide Show Cause Notice No. 227/irrigation /PRLIS/2021, Dt.11.08.2023, has issued show cause notice to the Superintending Engineer, PRLIS Circle No.II, Mahabubnagar, as to why action should not be initiated for recovery of (10) times penalty as per Rule 26(2) of Telangana State Minor Mineral Concession Rules-1966, for 2,75,59,517 MT of Gravel (Black Cotton Soil & Casing Soil) illegally excavated from various tanks situated in Jadcherla, Rajapur & Nawabpet Mandals and consumed in the construction of Udandapur Reservoir under PRLIS.
3. Accordingly, the Superintending Engineer, Irrigation Circle No.2, Mahabubnagar vide Letter No. SE/IC-2/MBNR/DEE1/T1/mines/149, Dt.23.08.2023, has submitted reply to the aforesaid show cause notice stating that the orders of NGT in Original application No.147/2021 is highly arbitrary illegal and contrary to the evidence on record, and requested this office to differ passing any order pursuant to the aforesaid show cause notice for a period of 8 weeks. Further, the Superintending Engineer, Irrigation Circle No.2, Mahabubnagar stated that, there is no evidence to show that the above quantities of Black Cotton Soils have already been extracted and they have not extracted 2,75,59,517 MT of Black Cotton soils. Further, the project proponent PRLIS, in its reply categorically


**Asst. Director Mines & Geology
Mahabubnagar.**

mentioned that the quantity of 86,60,116 MT BC Soils have been extracted duly paying the Seigniorage charges and also stated that they have not been extracted 2,75,59,517 MT of BC soils. Further, the Irrigation Department of Telangana stated that they have decided to challenge the said order Dt.02.08.2023, in O.A.No.147/2021 - SZ, before Hon'ble Supreme Court of India and finally requested to differ passing of any order pursuant to this Show Cause Notice No. 227/irrigation /PRLIS/2021, Dt.11.08.2023 for a period of 8 weeks.

4. It is submitted that, further on verification of the Seigniorage Fee recovery statement furnished by the Superintending Engineer, Irrigation PRLIS Circle No.II, Mahabubnagar, vide his Letter No. Dt. 11.08.2021, it is found that an amount of Rs.79.40 Crores were already recovered towards Seigniorage Charges from the Contractors work bills, pertaining to the Gravel (Black Cotton Soil and Casing Soil) excavated and utilized for the construction of Udandapur Reservoir under PRLIS Project.
5. In view of the above circumstances, the reply submitted by the Superintending Engineer, Irrigation Circle No.2, Mahabubnagar is considered and accordingly, decided to take further action as per the orders of the Hon'ble Supreme court. Hence, dropped further action in pursuance of the Show Cause Notice.
6. Finally, it is submitted that, in compliance to the Orders passed by the Hon'ble NGT - SZ, in O.A.No.147/2021, the 5th respondent, i.e., Asst. Director of Mines & Geology, Mahabubnagar has issued Show Cause Notice as per Telangana State minor mineral Concession Rules, 1966, and basing on the reply submitted by the Irrigation Department, by satisfying, further action is dropped as that the necessary Seigniorage Charges have already been recovered from the Contractors Work Bills as per records.

Hence the compliance report.

Asst. Director of Mines & Geology (I/c),
Mahabubnagar District

GOVERNMENT OF TELANGANA
DEPARTMENT OF MINES & GEOLOGYShow Cause Notice No. 227/irrigation/PRLIS/2021Dt.11.08.2023.

Sub: Mines & Quarries - Order Dt.02.08.2023 of the Hon'ble NGT in OA.No.147/2021 (SZ) for excavation of 2,75,59,517 MT of Black Cotton soil and Casing Soil illegally and consumed in the construction of Udandapur Reservoir under PRLIS - Penalty assessed - Show Cause Notice - Issued - Regarding.

Ref: Hon'ble NGT Order Dt.02.08.2023 in OA.No.147/2021 (SZ)

Adverting to the subject and reference cited, it is to inform that Hon'ble NGT, in the said order, while concluding that "there is the extraction of 2,75,59,517 MT of Black Cotton soil and Casing Soil, which are illegally mined in gross violation of the Environmental Laws."

In this connection, the Hon'ble NGT has directed this office, to assess the penalty for the soil illegally mined and levy appropriate penalty payable to KRMB within 3 months. Further the Hon'ble NGT directed the said exercise to be completed within Four (4) weeks and compliance report to be filed for further action.

As per the counter affidavit filed by the 2nd respondent, i.e., State of Telangana, represented by its Principal Secretary, Irrigation Department, Hyderabad, an amount of Rs.75.28 Crores were already recovered towards Seigniorage Charges from the Contractors work bills, pertaining to the Gravel (Black Cotton Soil and Casing Soil) excavated and utilized for the construction of Udandapur Reservoir under PRLIS Project.

In this regard, it is informed that as per Rule 26 (1) "If any person carries on quarrying operations or transports minor minerals in contravention of these rules, he shall be liable to pay as penalty, such enhanced seigniorage fee together with assessments as may be imposed by an Officer nominated by the Director of Mines and Geology."

Further as per Rule 26 (2) "Whenever any person raises or transports minor minerals without any lawful authority, such minerals may be seized by an Officer nominated by the Director of Mines and Geology in this behalf in addition to the imposition of the penalty under sub-rule (1) : Provided that in no case, the penalty shall exceed 3 [ten times] the normal seigniorage fee."

In view of the above, the details of penalty assessed as per Rule 26(2) of Telangana State Minor Mineral Concession Rules, 1966 is as under.

(P.T.O)

(4)

::2::

Sl. No.	Minerals	Quantity	Rate of S.Fee	NSF	10 Times Penalty	TOTAL
1.	Gravel	2,75,59,517 MT	20	Rs.55,11,90,340/-	Rs.551,19,03,400/-	Rs.606,30,93,740/-

In view of the above, as the Normal Seigniorage Fee has already been realized from the Contractors work bills, the Superintending Engineer, PRLIS Circle-II, Mahabubnagar is hereby requested to show cause within (7) days from the date of receipt of this notice, as to why action should not be initiated for recovery of (10) times penalty as per TSMML Rules 1966, for 2,75,59,517 MT of Gravel (Black Cotton Soil & Casing Soil) illegally excavated from various tanks situated in Jadcherla, Rajapur & Nawabpet Mandals and consumed in the construction of Udandapur Reservoir under PRLIS.

Asst. Director of Mines & Geology (I/c),
Mahabubnagar District

To,

1. The Superintending Engineer, Irrigation, PRLIS Scheme Circle No.II, Mahabubnagar.
2. the Chief Engineer, PRLIS, Jalsoudha Complex, Erramanzil, Hyderabad

Copy submitted to the Director of Mines & Geology, Hyderabad for kind information.

Copy submitted to the Deputy Director of Mines & Geology, Hyderabad for kind information.

5

**GOVERNMENT OF TELANGANA
IRRIGATION & CAD DEPARTMENT**

From:

Sri K.Srinivas, B.Tech.,
Superintending Engineer,
Irrigation Circle No.2,
Mahabubnagar.

To:

The Assistant Director,
Mines & Geology (I/C),
Mahabubnagar.

Lr. No.SE/IC-2/MBNR/DEE1/T1/ mines /149 Date: 23-08-2023.

Sir,

Sub:-Mines & Quarries – Order Dt.02-08-2023 of the Hon'ble NGT in OA.No.147/2021 (SZ) for excavation of 2,75,59,517 MT of Black Cotton soil and Casing Soil illegally and consumed in the construction of Udandapur Reservoir under PRLIS – Penalty assessed – Submission of reply to Show Cause Notice – Reg.

Ref:-1. Hon'ble NGT Order Dt: 02.08.2023 in OA.No.147/2021 (SZ)
2. Show Cause Notice No. 227/Irrigation/PRLIS/2021, Dt:11.08.2023

It is to inform that original application No.147 of 2021 (SZ) was filed for following relief.

1. The project contractors are indulging in massive extraction of soil from the number of lakes, fields for the construction of the earthen bund of the Udandapur Reservoir.
2. The project does not have any plan or Environmental Clearance from the SEIAA or DEIAA as required.
3. The indiscriminate removal of soil will adversely affect the water storage capacity, quality of the lake and groundwater, as the rainwater may not stay for longer and the entire water will be drained due to percolation.
4. The project was accorded the Terms of Reference (ToR) on 11.10.2017 which states that there is no displacement under the project whereas, there are 3,000 habitants residing in Udandapur Reservoir were directed to vacate which is against the ToR.
5. The extraction of soil by the 2nd Respondent amounts to illegal mining which is against the direction issued by the Hon' ble Supreme Court in Deepak Kumar Vs. State of Haryana &Ors. (2012) 4 SCC 629.

The Irrigation Department, Government of Telangana has filed a detailed reply affidavit. During the course of the hearing of the original application 147/2021(SZ), the Hon' ble NGT called for reports by appointing a joint committee. The Joint committee has submitted report on the following issues.

6

As per the O. A. No. 147/2021(SZ) the Committee was directed to ascertain:

- i) Whether there were any violations of environmental laws committed by respondents 2 and 4 in carrying out the project in question,
- ii) Whether they were doing illegal mining without obtaining necessary permission, if so, what is the quantum of minerals that had been extracted by doing such alleged illegal act and assess the value of the same and also assess damage caused to the environment on account of such alleged illegal activity and assess environmental compensation as well,
- iii) The Committee is also directed to suggest the remediation, if any required,
- iv) Whether in executing the projects, any displacement of persons have taken place as against the undertaking given by them that they are limiting the scope of the project for drinking water purpose alone and
- v) Violations of the Terms and Reference issued when they applied for environment clearance which was later withdrawn.

The committee after inspection submitted the report as under

(i) Whether there were any violations of environmental laws committed by respondents 2 and 4 in carrying out the project in question.

As per MoEF&CC, S.O.141(E) notification dated 15.01.2016 vide paragraph 7 (iii) (B) of 6, certain cases are exempted from requirement of environmental clearance such as dredging and de-silting of dams, reservoirs, weirs, barrages, river, and canals for the purpose of their maintenance, upkeep and disaster management. As per information provided by Chief Engineer, Minor Irrigation, Mahabubnagar, the quantity of BC soil of 3,43,920 cum are extracted from the existing cheruvus (10 minor irrigation tanks) located in and around Mahabubnagar district which are used for the construction of Udandapur Reservoir. Therefore, the committee opined that there is no illegal mining done from the water body which already exists. However, the material being borrowed from the reservoir area of Udandapur Reservoir of PRLIS is being done without prior environmental clearance and hence the committee opined that borrowing of material from reservoir area violates environmental laws.

(ii) Whether they were doing illegal mining without obtaining necessary permission, if so, what is the quantum of minerals that had been extracted by doing such alleged illegal act and assess the value of the same and also assess damage caused to the environment on account of such alleged illegal activity and assess environmental compensation as well.

It is submitted that as per MoEF&CC, S.O.3977(E) notification dated 14.08.2018, project activity having 0-5 ha area of mining of minor minerals requires environmental clearance from DEAC(District Level Expert Appraisal Committee/DEIAA (District Level Environment Impact Assessment Authority) and project activity having >5ha and <25ha area of mining of minerals requires environmental clearance from SEAC/SEIAA State Level Expert Appraisal Committee/SEIAA (State Level Environment Impact Assessment Authority). Further, environmental clearance from EAC/MoEF&CC is required for project activity above 100ha. It is further submitted that, as per MoEF&CC, S.O.141(E) notification dated 15.01.2016 vide paragraph 7 (iii) (B) of 6, wherein it is stated that certain cases are exempted from requirement of environmental clearance such as dredging and desilting of dams, reservoirs, weirs, barrages, river, and canals for the purpose of their maintenance, upkeep and disaster management. Permissions from regulatory bodies (DEIAA/SEIAA/MoEF&CC) are not required, since desiltation is the only activity that was carried out. Therefore, the committee opined that there is no illegal mining done from the water body and the extracted material from the water body is being utilised for the construction of dam/bund for which permissions have already been obtained. In view of the above, the committee opines that the alleged mining being done from the water body has not truth in it. However, the material being borrowed from the reservoir area of Udandapur Reservoir of PRLIS is being done without prior environmental clearance and hence the committee opined that borrowing of material from reservoir area violates environmental laws.

As per information made available to the Committee by Chief Engineer, Minor Irrigation, Mahabubnagar, the quantity of BC soil of 343920 cum are extracted from existing cheruvus (10 minor irrigation tanks) located in and around Mahabubnagar district which are used for the construction of Udandapur Reservoir.

It is pertinent to submit that as environmental compensation of same components in connection with Udandapur reservoir are already included in O.A. 148 of 2021, any imposition of environmental compensation will be double jeopardy on the project. Therefore, the committee is in view of that since there is no illegal mining activities carried out in the cheruvus (MI tanks) by project authority, imposing environmental compensation is not required.

iii) The committee is also directed to suggest the remediation, if any required.

No remediation is required.

iv) Whether in executing the projects, any displacement of persons have taken place as against the undertaking given by them that they are limiting the scope of the project for drinking water purpose alone.

The primary purpose of the PRLIS is to provide irrigation facility only and drinking water is a minor component. People have already been displaced for constructing dam/reservoir at Udandapur and Karvena Reservoirs.

v).Violations of the Terms of Reference issued when they applied for environment clearance which was later withdrawn.

The committee opined that there are violations of terms of reference accorded to PRLIS, as it was committed to MoEF&CC that there would not be any displacement in lifting 90 TMC ft of water whereas the people have already been displaced, even for Phase-I.

Given the above facts and circumstances, the Hon'ble NGT may kindly take decision as deemed fit.

The Hon'ble NGT having not properly considering the evidences on record passed the order dated:02-08-2023 in Original application No. 147/2021(SZ) and the operative portion reads as under.

(i) There is the extraction of 2,75,59,517 MT of Black Cotton Soil and Casing Soil which are illegally mined in gross violation of the environmental laws.

(ii) The Department of Mines and Geology/5th Respondent to assess the penalty for the soil illegally mined and levy appropriate penalty payable to KRMB within 03 months.

(iii) The 5th Respondent to complete the said exercise within a period of 4 (Four) weeks and file a compliance report before this Tribunal, based on which, the environmental compensation has to be assessed by the Central Pollution Control Board.

(iv) Once the Environmental Compensation is arrived at and paid by the project proponent to KRMB, the same shall be utilised for remediation activities in the project site and for Krishna River Restoration activities under the guidance and supervision of an Oversight Committee comprising of Senior Officers above the 24 rank of Joint Secretary to Government of India from MoEF&CC, Ministry of Jal Shakti, Central Pollution Control Board and Krishna River Management Board. KRMB will be the nodal agency. The aforesaid Committee shall be constituted within one month from the date of the judgement. Plan of Krishna River Restoration covering all the riparian States shall be prepared by involving expert agencies such as NEERI. It is open to the authorities to consult any expert in the fields of river basin development, pollution abatement and riparian vegetation development. The proposed works should be implemented for the entire Krishna River on the lines of "NamamiGange" programme with flexibility to incorporate new site specific components also. Once the project plan is prepared and approved by the Committee, Ministry of Jal Shakti may entrust execution of the project to KRMB and obtain necessary approvals, if any from the Central Government in this regard.

9

A perusal of the order of the NGT would makes it clear that there is no basis for the finding that "There is the extraction of 2,75,59,517 MT of Black Cotton Soil and Casing Soil which are illegally mined in gross violation of the environmental laws".

Except, in a statement submitted by the applicant in form-I to ministry of environment, Forests & Climate change Government of India. The project proponent (PRLIS) mentioned that it requires 2,75,59,517 MT of soils, but there is no evidence to show that the above said quantites of BC soils have already been extracted.

The project proponent (PRLIS) in its reply categorically mentioned that the quantity of 86,60,116 MT BC soils have been extracted duly paying the Seigniorage Charges. There fore 2,75,59,517 MT BC soils has not been extracted.

The judgment of NGT of original application 147/2021 is highly arbitrary illegal and contrary to the evidence on record.

Therefore, Irrigation Department of Telangana has decided to challenge the said order dated:02-08-2023 in original application No.147 of 2021 (SZ) before the Hon' ble Supreme Court of India.

Therefore, I request you to differ passing of any order pursuant to this Show Cause Notice No.227/Irrigation/PRLIS/2021, dated:11-8-2023 for a period of 8 weeks.

Yours faithfully,

bnr nival
23/8/23

Superintending Engineer,
Irrigation Circle No.2,
Mahabubnagar.

COMPLIANCE REPORT FILED BY THE 5th RESPONDENT

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL (SZ), CHENNAI

O.A.NO.147/2021

KOSGI VENKATAIAH

.....Applicant

-VS-

UNION OF INDIA

.....RESPONDENT

SVK

Mr.A.Sanjeev Kumar
Special Government Pleader for the Respondent No.2 to 5.

Mrs.H.Yasmeen Ali,
Counsel for the Respondent No.2 to 5.

Place : Mahabubnagar.
Dated : 30.08.2023.