

SECOND REPORT OF JOINT COMMITTEE IN THE MATTER OF O.A. 171 OF 2020 (DR. SARVABHOUM BAGALI) SUBMITTED BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL, SOUTHERN ZONE, CHENNAI, AS PER ORDER DATED 27.01.2021.

1.0 PREAMBLE

In the Original Application No. 171 of 2020 (SZ), filed by Dr.Sarvabhoom Bagali, Vs The State of Karnataka &Ors, the Hon'ble National Green Tribunal (NGT), Chennai vide Order dated 08.09.2020 constituted a Joint Committee to inspect the sites in question and submit a Report. Accordingly, the Joint Committee has inspected the sand mines at Raichur District and submitted a report. Hon'ble NGT vide order dated 27.01.2021 issued following directions:

“6. The committee is also directed

(i) to submit a further report regarding the adequacy of the penalty recovered for the excess mining and whether that calculation was made in tune with the direction issued by the Principal Bench of National Green Tribunal in such matters and also in tune with the penalty provided under the respective mining laws in that State, (DMG)

(ii) to ascertain as to whether any further royalty has been recovered from the licensee who have been permitted to do the quarrying for the excess mining that has been done by them over and above the penalty imposed and whether the penalty imposed for transportation of more than the permit against the 78 lorries will include the amount that has been mentioned by this Tribunal above and (DMG)

(iii) to submit what are all the action taken by them against the alleged mining operators, including imposition of Environmental compensation (MoEFCC)

2.0 DELIBERATIONS OF THE COMMITTEE

In order to deliberate on the above directions, the Committee, had collected the information from concerned Departments and deliberated in detail. Following are the details/ observations/comments:

2.1 Adequacy of the penalty recovered for the excess mining and whether that calculation was made in tune with the direction issued by the Principal Bench of National Green Tribunal in such matters and also in tune with the penalty provided under the respective mining laws in that State, (DMG)

According to the DMG, following are the details of quantity permitted and mined by both the sand mines which are the subject matter of the OA:

Table -1: Details of Mine leases in Joladahadegi, Devadurga taluk, Raichur District with quantity permitted and mined.

SL. No	Name of the lessee	Date of EC	Quantity permitted per year, MT	Quantity extracted, MT			
				2017-18	2018-19	2019-20	2020-21 (till date)
1	Sri.Anand.B. Doddamani	08.06.2017	38500	0	5000	35351	10800
2	Sri. P L Kamble	08.06.2017	48000	0	19500	43974	12804

It can be seen from the table that there is no excess sand mining by these leases. Hence, environmental compensation has not been worked out. However, Rs 19.01 Lakhs collected by District Sand Committee from Lessee Sri. P L Kamble as penalty for transporting sand without permit/by multiple trips.

The Committee also noted that District Sand Committee, Raichur has collected Rs 12,64,500 Lakhs from three mines in the District for transporting sand without permit/ multiple trips. Details are given in the Table 2 below:

Table 2: Details of the mines leases transported sand without permit/by multiple trips.

SL. No	Name of the lessee	Date of EC	Lease area, acre	Quantity transported without permit, MT	Penalty levied (Rs)	Penalty Collected, Rs
1	Myadargol-2	08.06.2017	12.20	270	2,43,000/-	2,43,000/-
2	Myadargol-3	08.06.2017	12.20	435	3,91,500/-	3,91,500/-
3	Myadargol-5	08.06.2017	12.20	700	6,30,000/-	6,30,000/-
4	Arshangi-2	08.06.2017	12.20	1750	6,30,000/-	Nil
5	Apparal-1	08.06.2017	12.20	600	RS:2,16,000 /-	Nil
6	Madlapur	29.09.2018	12.20	240	Rs:2,20,150 /-	Nil

The Committee also noted that District Sand Committee, Raichur has imposed penalty on the following three mines who have extracted sand by encroaching areas outside the lease area and collected Rs.16,11,200 Lakhs. Details are given in the Table 3 below:

Table 3: Details of the sand mining outside lease areas in Raichur District

SL. No	Name of the lessee	Date of EC	Quantity extracted outside lease area, MT	Penalty Imposed, Rs	Penalty Collected, Rs
1.	Apparal-2	08.06.2017	1300	4,68,000/-	1,00,000/-
2.	Chikkarayakumpi-1	08.06.2017	6200	22,32,000/-	15,11,200/-
3.	Singapur	29.09.2018	500	8,35,500 /-	Nil

Based on the direction of Hon'ble Tribunal, the Joint Committee has calculated environmental compensation based on the Judgement of Hon'ble NGT(PB) dated 26.02.2021 in OA 360 of 2015. The Joint Committee considered the entire quantity mined outside lease area as illegal sand mining. The details are given in the Table 4 below:

Table 4: Details of the Environmental compensation

SL. No	Name of the lessee	Quantity extracted outside lease area, MT	Environmental compensation calculated based on the above, Rs
1.	Apparal-2	1300	10,78,286
2.	Chikkarayakumpi-1	6200	51,42,603
3.	Singapur	500	4,14,725

Calculation on Environmental Compensation is enclosed at **Annexure- I**.

It can be seen from the above two table that the Environmental Compensation worked out based on the Judgement of Hon'ble NGT(PB) dated 26.02.2021 in OA 360 of 2015 is more than the penalty levied by DMG in respect of two mine leases (Apparal-2 and Chikkarayakumpi-1) and less in case of Singapur mine lease.

2.2 Whether any further royalty has been recovered from the licensee who have been permitted to do the quarrying for the excess mining that has been done by them over and above the penalty imposed and whether the penalty imposed for transportation of more than the permit against the 78 lorries will include the amount that has been mentioned by this Tribunal above and (DMG)

The Committee noted that the penalty collected from the above sand lease holders includes five times of the royalty, tender bid amount, over and above the penalty.

The penalty imposed and collected from 76 vehicles for transporting of more than the permit quantity does not include the penalty collected for transporting without permit/ by multiple trips. Rs 13.01 lakhs collected against transporting of more than the permit quantity and Rs 45.45 lakhs collected against transporting sand without permit/by multiple trips.

2.3 Action taken by them against the alleged mining operators, including imposition of Environmental compensation (MoEFCC)

The Committee noted that apart from penalty, the District Sand Committee has taken following actions on the defaulters:

- In the Year 2017-18, 27 FIRs against 27 Survey number & in the Year 2018-19, 38 FIRs against 68 Survey numbers have been registered for unlawful collection of sand on Patta land.
- Out of 77 vehicles who have transported sand without permit/ by multiple trips, 26 vehicles failed to pay penalty and hence those have been block listed.
- Six FIRs have been filed for using heavy machineries -Hitachi's for mining.
- An amount of Rs 14 lakhs has been collected as penalty for using Hitachi's for mining.
- 995 FIR's filed against illegal transportation (1090 Tippers, 320 Tippers/lorry Seized)
- 105 FIR's filed against illegal Storage of sand (54118 MT Seized)

As regards the non- compliances of EC, mine owners have been directed to take action to comply with the conditions and submit a Action taken report / Action plan with time schedule on or before 25th February, 2021. The two sand mine leases which are subject matter of this OA have submitted compliance report along with latest ambient air quality monitoring reports, noise level reports etc,. The monitoring report reveals that all the parameters are within the limit. However, there are few short comings such as improvement & maintenance of approach road, wearing of personnel protective equipment by workers, advertisement about grant of EC etc,.

In view of the least importance given by the lease owners on EC compliances and to bring attention and importance on EC, the committee felt that a lumpsum amount, say Rs five lakhs may be imposed on all mines as Environmental compensation.

3.0 CONCLUSION AND RECOMMENDATIONS:

- i. Joint Committee noted that there is no excess sand mining in both the sand mines which are the subject matter of this OA. Imposition of Environmental Compensation is therefore does not arise.
- ii. The Joint Committee noted that DMG has imposed penalty of Rs 35,35,000 on three mines and collected Rs 16.11,200 for mining in encroachment areas outside the lease area. All these three mines are not part of present OA. The Joint Committee has worked out Environmental Compensation based on the methodology approved by Hon'ble NGT(PB) vide Judgement dated 26.02.2021 in OA 360 of 2015. It is noted that the Environmental Compensation calculated is more than the penalty levied by DMG in respect of two mine leases (Apparal-2 and Chikkarayakumpi-1) and less in case of Singapur mine lease. Since these mine leases are not part of this present OA,

the Joint Committee felt that it would be appropriate to leave to Hon'ble Tribunal to decide on imposing Environmental Compensation.

- iii. Apart from penalty, the District Sand Committee has taken various actions on the defaulters including collecting penalty for using heavy machineries, filing FIR, etc.,
- iv. The DMG to take necessary action to collect the balance penalty.
- v. In view of the least importance given by the lease owners on EC compliances and to bring attention and importance on EC, the Committee recommends for imposing a lumpsum amount, say Rs five lakhs on all mines as Environmental compensation.
- vi. In case of continuance of non- compliances, the SEIAA, Karnataka to take action as per the powers delegated under S.O 637 (E) dated 28.02.2014.



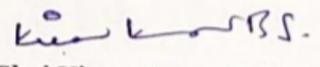
Shri Santhosh Kumar Gouda, KAS
Assistant Commissioner, Raichur Sub
Division.



Smt. Suganda B Kuri
Deputy Environmental Officer
KSPCB, Raichur.



Shri M Viswanath
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Department of Mines & Geology,
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Shri Kiran Kumar B S
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Shri E. Thirunavukkarasu
Scientist 'E', Integrated Regional
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ENVIRONMENTAL COMPENSATION

The environmental compensation for capital dredging is calculated based on the method approved by the Hon'ble NGT (PB) vide Judgement dated 26.02.2021 in OA 360 of 2015. The Joint Committee considered the entire quantity mined outside lease area as illegal sand mining.

Present Value of Foregone Ecological values (@5-8% discount rate and over 5 years)

$$PV = \sum_{t=1}^5 (D \times RF) / (1+r)^t$$

Where D is Market Value of Illegally mined Material

Risk factor (RF) = 0.25, 0.50, 0.75, 1.00 as per the extent of severity of damage and ecological fragility of the river basin

Severity of Impact	Mild	Moderate	Significant	Severe
Risk level	1	2	3	4
Risk Factor	0.25	0.50	0.75	1.00
Discount Rate	8%	7%	6%	5%

Net Present Value (after netting out market value of illegally mined material) – i.e, Total Compensation to be levied, NPV= PV-D

CALCULATION

The Committee noted that three mines – Apparal-2, Chikkarayakumpi-1 and Singapur have extracted sand by encroaching areas outside the lease area. The entire quantity mined outside lease area has been considered as illegal.

RF is considered as 0.5 (Moderate).

Market value of Rs 790 as per the District Sand Committee, Raichur is considered.

1. Mine lease -Apparal-2

Quantity mined out =1300 MT

Market value, D, Rs= 1300 x 790= Rs 10,27,000

$$PV = [1027000 \times 0.5] / (1+0.07)^1 + [1027000 \times 0.5] / (1+0.07)^2 + [1027000 \times 0.5] / (1+0.07)^3 + [1027000 \times 0.5] / (1+0.07)^4 + [1027000 \times 0.5] / (1+0.07)^5 = \text{Rs } 21,05,286$$

$$NPV = PV-D = 21,05,286 - 10,27,000 = \text{Rs } \mathbf{10,78,286}$$

2. Chikkarayakumpi-1

Quantity mined out =6200 MT

Market value, D = 6200 x 790=Rs 48,98,000

$$PV = [4898000 \times 0.5 / (1+0.07) + [4898000 \times 0.5] / (1+0.07)^2 + [4898000 \times 0.5] / (1+0.07)^3 + [4898000 \times 0.5] / (1+0.07)^4 + [4898000 \times 0.5] / (1+0.07)^5 = 1,00,40,603$$

$$NPV = 1,00,40,603 - 48,98,000 = \text{Rs } \mathbf{51,42,603}$$

3. Singapur

Quantity mined out = 500 MT

Market value, D = 500 x 790 = Rs 3,95,000

$$PV = [395000 \times 0.5] / (1.07)^1 + [395000 \times 0.5] / (1.07)^2 + [395000 \times 0.5] / (1.07)^3 + [395000 \times 0.5] / (1.07)^4 + [395000 \times 0.5] / (1.07)^5 = \text{Rs } 8,09,725$$

$$NPV, \text{Rs} = 8,09,725 - 3,95,000 = \text{Rs } \mathbf{4,14,725}$$
