

ORDER & Petition in Original Application No. 1274/2024

न्यायिक अनुभाग Judicial Section <judicial-ngt@gov.in>

Tue, 28 Jan 2025 4:20:32 PM +0530 •

To "Deepto Ghosh" <registrarngt-kolkata@gov.in>, "National Green Tribunal, Eastern Zone Bench, Kolkata" <ngtjudicial-kolkata@gov.in>

Reading 6 / 6

Respected Sir/Madam,

I am directed to forward a copy of the Order dated 08/01/2025 passed in Original Application No. 1274/2024 Dharmender Chaudhary & Others Applicants Versus State of Bihar & Ors. Respondents. for your kind perusal & necessary action.

It is also intimated have that, henceforth no pleadings/ report/ documents etc in pending case will be accepted except through E-filing module of NGT.

Pleadings/ report/ documents, etc. filed through E-mail will not be taken on record, unless otherwise directed.

भवदीय / Regards 🌸

परामर्शदाता (न्यायिक) / Consultant (Judicial) 🌸

राष्ट्रीय हरित अधिकरण / National Green Tribunal 🌸

प्रधान न्यायपीठ / Principal Bench 🌸

नई दिल्ली / New Delhi - 110001 🌸

📎 **2 Attachment(s)** • Download as Zip • Add To >Dharmender Chaudhary Ot... .pdf
103 KB • 📎OA NO 1274 of 2024 LR.Nopdf
817.3 KB • 📎

Joint Committee Report as mentioned in para 3
not received.

Observations of Research Coordinator as per Rule 9, Form 4 of NGT Act, 2010

Letter Petition (Regn No.1332/LP/2024) dated 09.07.2024

Diary No. 1289-1335/LP/2024

Dated 03.07.2024 - 09.07.2024

S. no	Issue raised	Significance	Suggested solutions
1	<p>Illegal sand mining is taking place in Sone Nadi at Keshav Balu ghat at village Khemda Barun, District Aurangabad, Bihar, on ghat no. 4, 9 and 21 and sand is transported below the National Highway Road and rail bridge damaging the environment and posing danger of damage to bridge, loss of govt. revenue. Heavy Pocklan machines, JCB etc. are used for sand mining in violation of environmental norms, causing loss of livelihood to poor local labourers.</p>	<ul style="list-style-type: none"> Following matter has been considered by Tribunal in Original Application No. 305/2023 <i>In re : News item published in The Siasat Daily dated 18.04.2023 titled "Sand mafia attacks Bihar Mines Department team, beats up woman official" dated 11.07.2023, Bihar.</i> In Original Application No. 360/2015 dated 26.02.2021 it was observed:- "15. It is undisputed that there is huge degradation of environment on account of unregulated sand mining remains which is otherwise lucrative activity. It poses threat to bio-diversity, could destroy riverine vegetation, cause erosion, pollute water sources, badly affecting riparian ecology, damaging ecosystem of rivers, safety of bridges, weakening of riverbeds, destruction of natural habitats of organisms living on the riverbeds, affects fish breeding and migration, spell disaster for the conservation birdspecies, increase saline water in the rivers. It has direct impact on the physical habitat characteristics of the rivers such as bed elevation, substrate composition and stability, in-stream roughness elements, depth, velocity, turbidity, sediment transport, stream discharge and temperature. Increase in demand of sand has placed immense pressure in the supply of sand resource and mining activities were going on illegally as well as legally without requisite restrictions. It was noted that in-stream mining lowers the stream bottom of rivers which may lead to bank erosion. Depletion of sand in the stream bed causes deepening of rivers which may result in destruction of aquatic and riparian habitats. It has impact on stream's physical habitat characteristics. 16. In State (NCT of Delhi) v. Sanjay, (2014) 9 SCC 772, at page 790, it was observed : "32. The policy and object of the Mines and Minerals Act and Rules have a long history and are the result of an increasing awareness of the compelling need to restore the serious ecological imbalance and to stop the damages being 	<p>Application may be considered in view of observation of Tribunal on the relevant matter as referred.</p>

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30.8.2024

		<p>caused to the nature. The Court cannot lose sight of the fact that adverse and destructive environmental impact of sand mining has been discussed in the UNEP Global Environmental Alert Service Report. Cognizance was taken by this Tribunal on the issue of rampant illegal mining in Bihar taking place near bridges to get access to trucks affecting safety of the pillars supporting the bridges. 3. The matter was taken up by this Tribunal on 09.05.2023 and a Committee was constituted consisting Chief Secretary, Bihar, DGP, Bihar and ACS/PS, Mining and ACS/PC, Environment with direction to submit factual and action taken report. Bihar State Mining Corporation Ltd. (BSMCL) has been conducting sand mining in the state by appointing contractors in terms of the orders passed by the Hon'ble Supreme Court in the matter of State of Bihar & Ors. vs. Pawan Kumar & Ors., Civil Appeal No. 3661-3662 of 2020. The entire sand mining activity being undertaken in the State of Bihar, as on date, is being done under the supervision of the Hon'ble Supreme Court in the abovementioned pending matter. V. Steps to further improve the mechanism: 1. The Council of Minister, State of Bihar has already granted approval for services of National Informatics Centre (NIC) in Department of Mines and Geology Department for Next Generation Mining Management Software and incorporation of latest technologies and best practices which being followed across country in mining sector for delivery of services which aims at the following :- a) Integrated Web, Mobile technology as enabler for transparency, robustness, and Secured platforms. b) Dashboards for all stakeholders along with alerts will be generated for smooth operations. c) The software has been architecturally designed to ensure that there is no technical issue when the number of concurrent users increases. d) The software will be integrated with the Central mParivahan (MORTH) Portal to ensure that vehicle details are verified before issuing a challan. However, the dependency on Central server during challan issue has been eliminated. e) A command-and-control centre will be established to monitor the vehicle movements. f) A new feature has been added to the portal, allowing vehicle owners to register their vehicles and get vehicles verified with mParivahan</p>	
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		<p>(MORTH) Portal before issuing a challan. g) Departmental officers will also be able to verify the loaded vehicle and its challan through the Mobile App. The QR Code 10 of Challan will be securely encrypted so that only verified Mobile App users can scan and check challan/vehicle information. h) The software will be integrated with VLTS (Vehicle Location Tracking System), which is currently running in the transport department, to track vehicles. The route chart will also be digitized to track deviations in the route and generate alerts. i) Vendors for GPS devices empanelled with MORTH will be shared with vehicle owners so that they can procure and install standard devices as per MORTH guidelines. j) Mining plans will be digitized, and geo-fencing of the mining area will be done. Entire resources are being digitised bring them on GIS platform."4. We may note the salient features of the EMGSM-2020, which are supplemental to existing SSMG-2016 and seek to provide effective enforcement and monitoring from the stage of identification of source to its dispatch and end use which requires involvement of all stakeholders viz. Central Government, State Government, Leaseholders/Mine Owners, Distributors, Dealers, Transporters and Consumers (bulk & retail). EMGSM refer to the judgment of the Hon'ble Supreme Court in Deepak Kumar Vs. State of Haryana & Ors. (2012) 4 SCC 629 making EC mandatory irrespective of the area of mining lease, followed by monitoring in terms of the Environment Management Plan, using IT and IT enabled services. Further reference has been made to the directions in the order dated 05.04.2019 requiring the 17 States, which were party before the Tribunal viz. West Bengal, Gujarat, Karnataka, Maharashtra, Punjab, Uttar Pradesh, Haryana, Madhya Pradesh, Andhra Pradesh, Bihar, Uttarakhand, Jammu and Kashmir, Goa, Kerala, Telangana and Tamil Nadu and Himachal Pradesh, to follow the revised Guidelines and to review their respective monitoring mechanism. It is then stated that with the object of regulating the mining, the sources of sand and steps required are mentioned which provide for District Survey Report (DSR), Mining Plan, replenishment study, consideration of environment impact while granting EC, laying down conditions for EC,</p>	
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		<p>monitoring of transportation to the end user to ensure that only legally mined material is transported. 9.4. Monitoring Mechanism 1. All precaution shall be taken to ensure that the water stream flows unhindered and process of Natural river meandering doesn't get affected due to mining activity. 2. River mining from outside shall not affect rivers, no mining shall be permitted in an area up to a width of 100 meters from the active edge of embankments or distance prescribed by the Irrigation department. 3. The mining from the area outside river bed shall be permitted subject to the condition that a safety margin of two meters (2 m) shall be maintained above the groundwater table while undertaking mining and no mining operation shall be permissible below this level unless specific permission is obtained from the Competent Authority. Further, the mining should not exceed ninemeter (9 m) at any point in time. The following action may be taken to achieve this deterrence against illegal business: 1. The action should be taken under all legal options available simultaneously. Thus, after identifying the case of illegal excavation, storage and/or transport of minor minerals (including sand), fine should be levied as per the land revenue laws/code(s) of the state. In addition, FIR should be lodged in the police station under relevant sections of law including sec 379 IPC. In addition, action under the Motor Vehicle Act, 1989 and relevant rules should initiate to cancel/suspend the driving license of the driver and permit of the vehicle. Further, action should be initiated under provisions in the Income Tax Act, 1961 for unaccounted income and under the Central Goods and Services Act, 2017 for nonpayment of GST. (Earlier this was done under the state act pertaining to Value Added Tax/Sales Tax). Habitual offenders should also be taken up under local state laws for extermment and/or preventive action It is necessary to identify all those involved in the offence. It is usually not possible to reach the place of excavation without creating a motorable pathway up to the same through land which may be 18 private land. Such role of such landowners needs to be looked into for each offence and proceeded against simultaneously. Further, the role of vehicle owners needs to be probed. Role of the person who allowed his land to be used for illegal</p>	
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		<p>excavation and storage should also be examined. Lastly, the person who purchases such sand should also be probed. The legal proceedings stated above needs to be initiated against all of these together. An attempt should be made to fix the financial responsibility in joint and several ways so that recovery is easier. Most important to ensure that the IT-based system works. If these exemplary actions are not taken against everyone, it shall create a strong disincentive to those involved in legal excavation and transportation. For ITbased (or any other) legal system to work, it is necessary to ensure that illegal system stops working altogether." 5. Since, Chief Secretary of Bihar has taken action and proper mechanism have been suggested to control the illegal mining thus we direct the Chief Secretary to monitor the mechanism and direct the Competent Authority of District Headquarter to regularly monitor by checking of illegal mining and to comply SSMG 2016 and EMGSM, 2020. 6. State PCB is directed to take necessary visit and inspect periodically and in case it is found that there is a violation of environmental rules or mining rules, penal action in addition to 19 assessment and imposition of environmental compensation must be taken against the violators.</p>	
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Pratima Akolkar
Research Co-ordinator (NGT)
22.08.2024

सेवा में,

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राष्ट्रीय हारित न्यायिकरण, न्यू दिल्ली।

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विषय - बिहार राज्य औरंगाबाद जिला बारुण नगर पंचायत क्षेत्र के अंतर्गत विभिन्न बालू घाट के संचालन के सम्बन्ध में।

माननीय,

निवेदनपूर्वक कहना है कि हमलोग आम जनता बारुण नगर पंचायत जिला औरंगाबाद के निवासी है। बारुणक्षेत्र में बालू घाट सं० - 22, 23 एवं 24 अवस्थित है जो खेमदा एवं बारुण बालू घाट के नाम से जाना जाता है। उक्त बालू घाट को छः विभिन्न कोड में बाँटा गया है। हमलोग श्रीमान को निम्नलिखित अति आवश्यक बिन्दुओं पर ध्यान आकृष्ट करवाना चाहते हैं :-

1. बालू माफिया उदय सिं, पिता - स्व० नारायण सिंह, निवासी ग्राम - खेमदा बारुण, जिला - औरंगाबाद कुछ भ्रष्ट नेताओं के साथ मिल कर पिछले 25 साल से केशव बालू घाट का संचालन करते आ रहे हैं। ये लोग नहीं चाहते है की खेमदा एवं बारुण बालू घाट का संचालन हो क्योंकि इन दोनों घाटों के संचालन से इन लोगों की अवैध कमाई पर अंकुश लग जाएगी। चूँकि इनका घाट राष्ट्रीय राजमार्ग सं० - 2 के ठीक बगल में है और इन्होंने वर्तमान में सोन नदी में घाट सं० - 4,9 एवं 21 बंदोबस्ती करा रखा है जिसके बालू का निकासी राष्ट्रीय राजमार्ग अवस्थित सोन नदी पर बने दो रोड पुल एवं दो रेल पुल के नीचे से रास्ता बनाकर रात - दिन बिना चालान के बालू लदे वाहन धड़ले से निकालते है जिससे अवैध खनन को बढ़ावा के साथ साथ राष्ट्रीय राजमार्ग पर और रेलवे के लिए बने चारों पुल के अस्तित्व पर खतरा मंडरा रहा है एवं कभी भी अप्रिय घटना घट सकती है और जान - माल की गंभीर क्षति हो सकती है एवं राजस्व की भी अपूरणीय क्षति हो रही है।
2. बालू माफिया उदय सिंह एक बहुत ही दबंग व्यक्ति है एवं उनका साठ- गाँठ कुछ केन्द्रीय मंत्रियों एवं राज्य मंत्रियों से भी है और वे हर समय कमजोर, पिछड़ों, अति पिछड़ों, अनुसूचित जाती के लोगों को गाली- गलौज, अपशब्द एवं जाती सूचक शब्द कह कर आये दिन अपमानित करते है एवं दबाते हैं।
3. माननीय को यह अवगत कराना चाहेंगे कि सोन नदी किनारे पिछड़ा, अति पिछड़ा, अनुसूचित जाति, गरीब लोगों का वास है और अपना जीविकोपार्जन मजदूरी कार्य करके करते हैं परन्तु

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- उदय सिंह एक सामंती मानसिकता वाले दबंग व्यक्ति है जो कतई नहीं चाहते है की गरीब लोगों को रोजगार मिले जिससे समाज के गरीब गुरबा एवं दबे - कुचले लोगों का उत्थान हों।
4. उदय सिंह स्वयं भी बालू घाट में वाहनों की लोडिंग बड़ी बड़ी मशीन जैसे पोकलैन, जे सी बी से करते हैं जिस कारण मजदूर लोगों को काम नहीं मिल पाता है एवं नियमानुसार 3 मी० तक बालू खनन करना है परन्तु मशीनों के द्वारा 10 मी० तक खनन कार्य करते हैं जिससे जल स्तर निचे चला जाता है एवं पर्यावरण संतुलन खराब होने की स्थिति में आ जाता है, जिससे मानव, एवं जलीय जीव - जन्तु के साथ पशुओं के जीवन पर भी घोर संकट उत्पन्न हो गया है। इस तरह राष्ट्रीय हरित प्राधिकरण के नियमों एवं दिशा - निर्देशों का खुलेआम धज्जियाँ उड़ाते है।
5. उदय सिंह घाट सं० - 4, 9, 21 का संचालन करते हैं जिसको उन्होंने अपने विभिन्न खास आदमियों के नाम से ले रखा है परन्तु मुख्य आदमी वो खुद हैं। इन सभी घाटों का संचालन स्वयं उदय सिंह करते हैं। इन घाटों में से केशव बालू घाट जो राष्ट्रीय राजमार्ग सं० - 2 के एकदम ठीक सटा हुआ है। सोन नदी पर दो रेल पुल एवं राष्ट्रीय राजमार्ग पर दो पुल हैं जिसके निचे से रास्ता बनाकर ट्रकों एवं हाईवा से बालू की निकासी होती है को की चारों पुल के लिए बेहद ही खतरनाक है और कभी भी पुल क्षतिग्रस्त हो सकता जिससे जान - माल के नुकसान की संभावना और भी कई गुणा बढ़ जाती है।
6. माननीय को अवगत कराना चाहेंगे कि उदय सिंह द्वारा संचालित घाट सं० 4, 9, 21 में वर्तमान में अवैध खनन हो रहा है जिसके चलते सरकार को राजस्व की क्षति हो रही है। सरकार द्वारा निर्धारित खनन क्षेत्र से बाहर जाकर उनके द्वारा खनन किया जा रहा है। उनका बालू भण्डारण भी बहुत ज्यादा है। अतः माननीय से निवेदन है कि खनन क्षेत्र से बाहर खनन एवं भण्डारण की जाँच करायी जाये। जाँच जिले के अधिकारियों से न कराया जाये बल्कि पटना स्थित विभाग के वरिष्ठ अधिकारियों से कराया जाये। सही जाँच होने पर सरकार के राजस्व में करोड़ों रुपये की वृद्धि होगी।

अतः श्रीमान से हम सभी स्थानीय ग्रामीण जनता करबद्ध निवेदन करते है की केशव बालू घाट को अविलम्ब बंद किया जाये ताकी चारों पुल का अस्तित्व बरकार रहे एवं घाट सं० 4, 9, 21 में पोकलैन, जे सी बी जैसे भारी मशीनों को बंद कराया जाये ताकि स्थानीय मजदूरों को रोजगार मिल सके एवं पर्यावरण का संतुलन भी बरकरार रहे। बिना किसी के दबाव में आये खेमदा एवं बारुण बालू घाट के संचालन की अनुमति दी जाये ताकि हमलोगो को एक समुचित रोजगार मिल सकें और साथ ही साथ ये विशेष विनती भी करते हैं की चारों पुल के नीचे से जो रास्ता बनाया गया उसे अविलम्ब बंद किया जाये ताकि भविष्य में किसी भी प्रकार के अनहोनी से बचा जा सके।

आपका विश्वासी

हम सभी ग्रामीण जनता

नाम

हस्ताक्षर

आधार सं०

- ① धर्मेश कुमार चौधरी - 58 96 52 93 1985
- ② विवेक कुमार - 59 22 68 49 6787
- ③ अमित कुमार - 4102 9795 02 59
- ④ प्रबोध कुमार - 3116 97 40 6615
- ⑤ धर्मा कुमार - 3610 67 11 1862
- ⑥ मन्ना कुमार - 4763 8865 47 88
- ⑦ सुरज कुमार - 8269 2858 50 02
- ⑧ सुरेश कुमार
- ⑨ गुरु कुमार - 8310 888 99 777
- ⑩ प्रमोद चौधरी - 4419 76 71 91 76
- ⑪ Prato Kumar - 5798 57 74 89 00
- ⑫ रमेश कुमार - 4371 08 39 30 35
- ⑬ आनंद कुमार - 3433 81 80 66 98
- ⑭ कर्तव्य कुमार - 2946 74 51 35 67
- ⑮ कलक कुमार - 777 66 39 48 88
- ⑯ रमेश चौधरी - 6954 3507 2868
- ⑰ रामा कांत कुमार - 32 78 79 14 5324
- ⑱ सुनील कुमार सिंह - 8102 35 67 71
- ⑳ सवि कुमार - 5782 83 22 07 34
- ㉑ ललन चौधरी - 4174 92 66 27 18
- ㉒ रवि कुमार - 2081 99 77 41 76

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(44) विद्यांत कुमार 9602 1213 9955

(45) : Ajay Kumar 9162155313

(46) DILIP KUMAR 9507611610

(47) श्रीकांत कुमार 7324919077

(48) विशाल कुमार 6207778683

(49) उमेश कुमार 9142962409

(50) Pooja Kumar 9858628900

(51) गौतम कुमार 9262617142

(52) मंदु कुमार 7739634936

(53) सन्ध्या कुमार 9801747732

(54) उषा कुमार 9507522349

(55) Jai Prakash Kumar 8210143095

(56) Amit Kumar 7903584662

(57) Pankaj Kumar - 7004848773

(58) Ankit Kumar - 6201586238

(59) Mandana 6204340954

(60) लवण कुमार 9738708009

(61) Jitendra Kumar 7992336679

(62) रवी प्रजापती 8434130543

(63) उषा कुमार 9973745562

(64) आनंद कुमार 6299106293

(65) नथु जी सिंह

- (90) संकय कुमार - 9709424083
- (91) Bhalla Yadav - 9835850136
- (92) धिरज पाठक - 7909063127
- (93) मंजु कुमार - 9123250528
- (94) वासुदेव कुमार - 9199311305
- (95) विनय कुमार - 6204509695
- (96) विवेक कुमार शर्मा - 7004326566
- (97) सुनील कुमार - 9279485939
- (98) आकाश कुमार -
- (99) सरोज कुमार -
- (100) Ranjan kumar - 9838917212
- (101) - राजु कुमार -
- (102) राकेश कुमार - 9693557847
- (103) मंजु कु 410 997990819
- (104) शंजीव चौधरी



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Vikas Singh
- 824112
Amrjyabed

NATIONAL GREEN TRIBUNAL
Principal Bench, New Delhi
Receipt & Issue Branch
Received
06 JUL 2024
Dairy No. 2944
Signature

Chairman
National Green Tribunal
Paridhat House
Copernicus Marg
New Delhi - 110001

**BEFORE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No.1274/2024

Dharmender Chaudhary & Others

Applicants

Versus

State of Bihar & Ors.

Respondents

Date of hearing: 24.01.2025

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

Applicant: None for the applicant.

Respondents: Ms. Soni Singh, Advocate for CPCB.

Mr. Abhimanyu Singh. Advocate for BSPCB (through VC).

ORDER

1. Mr. Dharmender Chaudhary and other residents of Nagar Panchayat Barun, District Aurangabad have sent the present letter petition, which has been treated and registered as O.A. No. 1274/2024, complaining about illegal mining in Khemda and Barun Balu Ghat of River Sone.

2. Vide order dated 22.11.2024 this Tribunal constituted a Joint Committee comprising District Magistrate, Aurangabad, Bihar State Pollution Control Board and Central Pollution Control Board with direction to collect relevant information, visit the site and submit factual report within one month.

3. In compliance thereof report dated 31.12.2024 of the Joint Committee has been filed by the CPCB vide forwarding letter dated 07.01.2025.

4. In the report it has been mentioned that O.A. No. 189/2024 based on complaint of Shri Ranjit Chaudhary resident of Nagar Panchayat Barun District Aurangabad, Bihar having the same allegations of illegal mining is pending before the Eastern Zone Bench of this Tribunal at Kolkata.

5. Learned Counsel for the CPCB has submitted that the above said O.A. is now fixed for hearing on 06.02.2025.

6. In view of the fact that the place of accrual of cause of action lies within jurisdiction of the Eastern Zone Bench of this Tribunal at Kolkata and another O.A. having the same allegations is pending before the above said Bench, we are of the considered view that it will be appropriate if the substantial environmental questions involved in the case are heard and decided by Eastern Zone Bench of this Tribunal at Kolkata.

7. Accordingly, the Registry is directed to list the matter before the Eastern Zone Bench of this Tribunal at Kolkata on 06.02.2025 after obtaining orders from Hon'ble the Chairperson for transfer of the case.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

January 24, 2025
O.A. No.1274/2024
AG