

Before Hon'ble National Green Tribunal,
Principal Bench, New Delhi

OA No. 752 of 2023

IN THE MATTER OF:

Narender Kumar

.....Applicant

Versus

Union of India & Ors

.....Respondents

**ACTION TAKEN REPORT ON BEHALF OF RESPONDENT NO.4 IN
COMPLIANCE OF ORDER DATED 10.05.2024**

1. That above captioned OA has been filed impleading the Department of Mines and Geology, Haryana as Respondent no. 4.
2. That the applicant has raised the grievance that the Respondent no. 10 has done illegal mining much in excess of the permissible limit in violation of the Environmental Clearance (EC) conditions.
3. That this Hon'ble Tribunal vide its order dated 4th January 2024 had constituted a Joint Committee with a direction to the Committee to carry out spot inspection, examine the relevant record and submit the report relating to extent of illegal mining undertaken by Respondent No. 10, further to evaluate the extent of environmental damage caused in the process and remedial action.
4. That the aforesaid Joint Committee vide its interim report dated 28th February 2024 had made the following recommendations:-

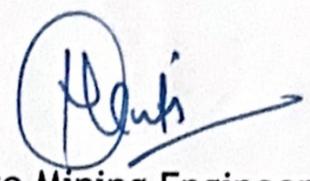
“Recommendation/Remedial Action:

Joint Committee observed that the PP has not complied with the EC conditions hence LOI may be suspended by the Mines and Geology Department, Haryana till verification is completed by Joint Committee and final report is submitted by the Mining Department as stated in observation No.2”

5. That on the basis of the above recommendation this Hon’ble Tribunal vide its order dated 10th May 2024 had directed the Respondent No. 4 (Mines and Geology Department, Haryana) to consider the recommendation made by the Joint Committee and after following the principles of Natural Justice to take appropriate decision.
6. That following the principles of Natural Justice, the Respondent No.10 was afforded an opportunity of hearing and after hearing the submissions made by the counsel for Respondent No. 10, a detailed order was passed by the Director General Mines and Geology, Haryana. The said order dated 22nd May 2024 is annexed as Annexure R/1.
7. That vide the afore mentioned order dated 22nd May 2024, the mining operations of Respondent No. 10 have been suspended with immediate effect.

On the facts stated and submissions made, it is, therefore, respectfully prayed that this Hon’ble Tribunal may be pleased to take the

present report on record and delay in filing the report may kindly be condoned.



State Mining Engineer,
Department of Mines and Geology, Haryana.

Date: 12/2/2011
Place: Panchkula

Annexure R-1

Keep in record
 & further NA
 Panchkula

282
 18/06/24

Before the Appellate Authority-cum-Director General,
 Mines & Geology Department

Appeal under sub-rule (1) of Rule 109 of Haryana Minor Mineral Concession, Stocking and Transportation of Mineral and Prevention of Illegal Mining Rules, 2012 (hereinafter referred as State Rules, 2012) for setting aside the impugned demand notices dated 22.08.2023, 18.10.2023 and 19.02.2024 issued by Mining Officer, Mines and Geology, Panchkula.

M/s Tirupati Roadways.

---Appellant

Vs.

Mining Officer, Mines and Geology, Panchkula.

---Respondent

Present:-

1. Vaneet Soni, Advocate

...on behalf of the appellant.

2. Deepak Kumar, State Geologist.

.....on behalf of the Department.

ORDER

The present appeal has been filed by the appellant Shri Gurpreet Singh Sabharwal through his Counsels Vaneet Soni (P/1239/2011) & Naveen Kumar (P/2459/2014), Advocates, challenging the demand notices dated 22.08.2023, 18.10.2023 and 19.02.2024 issued by Mining Officer, Mines and Geology, Panchkula. In the interest of natural justice, appellant was afforded opportunity of hearing on 08.05.2024 and on request of the counsel for the appellant, next date was fixed 22.05.2024. Advocate Vaneet Soni, appeared on behalf of the appellant firm and Deepak Kumar, State Geologist was present on behalf of the department.

2. On asking about the facts of the case, Deepak Kumar, State Geologist submitted that in the e-auction held on 24.05.2017 and 25.05.2017 at the State Government web portal, appellant-M/S Tirupati Roadways gave highest bid of Rs. 11,72,50,000/- per annum for the grant of mining contract of Rattewali Block/PKL B-10, district Panchkula having an area of 45 hectares for extraction of boulder, gravel and sand for a period of seven years. The highest bid of the appellant was accepted by the State Government and a "Letter of Intent" was granted to him on 16.06.2017 so as

to enable him to get environment clearance (EC) from the Ministry of Environment, Forest and Climate Change, Government of India (in short MoEF&CC) under its notification dated 14.09.2006.

3. That, a contract agreement on Form MC-1 of the State Rule 2012 was also executed on 4.12.2018 by the appellant and his solvent sureties with the DGMG on behalf of the State Government. In compliance with condition No 3(xvii) and 3(xviii) of the LOI referred to above appellant obtained environment clearance from the State Environment Impact Assessment Authority (SEIAA) on the recommendations of State Environment Appraisal Committee (SEAC) on 21.02.2020. Its perusal shows that the appellant was permitted to extract 8,39,000/- MT of boulder, gravel and sand per annum. After seeking Consent to Establish and Consent to Operate from Haryana State Pollution Control Board, the appellant commenced mining w.e.f.21.03.2020.

4. That it is pertinent to point out that a surprise checking was conducted by the State Vigilance Bureau, Haryana (ACB) at the site of M/s Tirupati Roadways and during inspection, it was found that the contractor i.e. M/s Tirupati Roadways had misappropriated the Government property and extracted 47,66,079.68 MT of mineral illegally. Further to verify the fact, the then DMG Haryana constituted a committee. The said committee, inspected the mine of the appellant on 23.11.2022 and further detected illegal mining to the tune 18,467 MT (allegedly mining done up to the depth of 1.75 meter instead of permissible 1.33 meter) inside the contracted area and 2,75,456 MT from the area adjoining the contracted area. Further, the said team again inspected the above said area on 15.06.2023 and also found fresh illegal excavation of mineral to the tune of 16,44,500 MT. Mining Officer, Panchkula issued a show cause notice to the appellant firm on 22.8.2023 based on direction of the then Director, Mines and Geology Haryana in light of report given by the inspection team and directed the appellant firm to deposit a sum of Rs 134,09,45,600/- as royalty, price and fine for 67,04,503 MT of boulder, gravel and sand illegally mined by appellant firm. On the said notice, the contractor firm submitted their response on 04.09.2023. The contents in the reply were found not on merits/satisfactory by the Mining Officer, Panchkula therefore the same was rejected by him and the contractor firm was directed to pay the price, royalty and fine against the total quantity which comes out of Rs.1,34,09,45,600/- into Government Treasury within a period 07 days failing which no further opportunity shall be afforded and mining operation of Rattewali Block/PKL B10, District Panchkula would be suspended and the case for termination

of your contract will also be forwarded to the Director, Mines and Geology, Haryana and Government dues shall be recovered under Arrear of Land Revenue Act.

5. Thereafter, the appellant firm filed Civil Writ Petition No. 1254 of 2024 titled as Tirupati Roadways V/s State of Haryana and others before the Hon'ble Punjab and Haryana High Court, Chandigarh and the said case was disposed of by Hon'ble Mr. Justice Sureshwar Thakur and Hon'ble Mrs. Justice Sukhvinder Kaur, the contents of order dated 20.01.2024 exactly reads as under:-

**"CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

**Present: Mr. R.S. Rai, Sr. Advocate with
Mr. Vaneet Soni, Advocate for the petitioner.**

**Mr. Ankur Mittal, Addl. AG Haryana with
Mr. Saurabh Mago, DAG, Haryana.**

SURESHWAR THAKUR, J. (ORAL)

1. Learned State counsel, does not oppose the prayer made today before this Court, by the learned counsel for the petitioner, that the Authority which issued impugned notices, but without at this stage making any insistence, upon the petitioner to make the deposit of the amounts mentioned in the table, as, occurring in Annexures P-16 and P-18, may proceed to afford an opportunity of personal hearing to the petitioner.

2. Consequently, the writ petition is disposed of with a direction to the author of the above annexures, to within a period of 10 days from today, afford an opportunity of personal hearing to the petitioner.

3. Furthermore, after the said opportunity becoming granted to the present petitioner, he shall expeditiously proceed to, in accordance with law, if otherwise deemed fit, re-draw fresh notices.

**(SURESHWAR THAKUR)
JUDGE**

**(SUKHVINDER KAUR)
JUDGE"**

20.01.2024

6. In compliance of above order, the Mining Officer, Panchkula afforded an opportunity of personal hearing to the petitioner/appellant firm on 15.02.2024 wherein

483

Gurpreet Singh Sabharwal appeared on behalf of the contract firm. He stated that in response to notice dated 22.08.2023 issued by the department, a reply/response was submitted by the firm vide their letter dated 04.09.2023. The Mining Officer, Panchkula after examining the contents/facts of reply dated 04.09.2023 concluded that same was without any merit, therefore the same was rejected by him in the light of report submitted by the Vigilance Department and inspection reports of the Departmental Committee constituted by the Director, Mines and Geology, Haryana.

7. Aggrieved by the above order of Mining Officer, Panchkula, the contractor firm now through counsels namely Vaneet Soni (P/1239/2011) & Naveen Kumar (P/2459/2014), Advocates has filed the present appeal for setting aside the impugned demand notices dated 22.08.2023, 18.10.2023 and 19.02.2024 passed by the Mining Officer, Panchkula

8. During course of hearing, counsel of the appellant firm stated that they were awarded the contract to mine an area of 45 hectares situated in Rattewali Block/PKL B-10 in District Panchkula. Since 21.03.2020, Tirupati has been carrying out mining in the contract area in accordance with the law.

9. That notice dated 19.02.2024 was given by Mining Officer is not a speaking order and against the principle of natural justice. He (counsel of the appellant) further stated that while deciding the matter, Mining officer, Panchkula did not consider their reply dated 04.09.2023 annexed as Annexure A-4. Para No. 4 to 16 of reply by the appellant are relevant so as to prove their contentions. With this counsel of the appellant said that main contention against the notice dated 19.02.2024 are two fold. One is regarding quantity shown as extracted illegally within contract area beyond depth and second is regarding quantity shown as extracted illegally outside the contract area.

10. With regard to quantity shown as extracted illegally from outside the contract area, he stated that prior to the grant of mining contract, there was rampant illegal mining in the area and qua the same various FIR's had been registered by the office of Mining Officer, Panchkula and the appellant was not even in the picture at that stage. The appellant firm is only responsible for mining within the allocated area and has no relation whatsoever with any mining outside the mining area. Any such mining is illegal and deserves to be investigated to determine the actual culprits involved in the case. Copy of the FIRs registered by the department between the years 2017 to 2020 have also been provided by them at various occasions to the Mining Officer,

Panchkula and they cannot be burdened with the cost of material so excavated by those persons.

11. Further with regards to Vigilance inspection, they claimed that vigilance inspection was done without following scientific measures, it was duly objected and on 5th December 2022 a proper survey report submitted to the Vigilance Department. The counsel for the appellant also stated that they have filed a CWP before Hon'ble High Court qua quashing of the FIR filed by the Vigilance department and same is listed for final arguments on 11.07.2024.

12. They further also stated that appellants were neither issued any notice nor associated with any inspection done by the department. Appellant submitted that with regards to first allegation qua illegal mining outside the contract area, they are in no position to make submissions in respect of this finding as they were/are not concerned with mining outside the mining area and it was the duty of the department to ensure that illegal mining is not carried out.

13. With regards to the second allegation pertain to exceeding the depth prescribed for mining in 7.68 acres of land. No details of the land area were provided along with this notice, neither the copy of the report prepared behind their back was supplied and the extent of illegal mining being alleged is not possible considering that the mined mineral has to be transported on open roads, where nakkas are setup and regular checking are made.

14. That appellant were surprised to receive a letter dated 22nd August 2023 demanding a sum of Rs.134,09,45,600/- which is not only without basis but also exaggerated. Response to this notice requires the segregation of the demand into area which falls within the mining contract and that which falls outside and this has no concern with the mining contract.

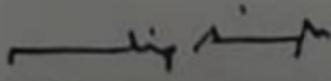
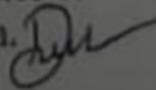
15. Appellant has also submitted a report of Tehsildar/ Patwari wherein it was stated that they are doing mining within pillar erected by them and no illegal mining observed outside.

16. Whereas on asking, Mining Engineer, Head Quarter stated that whenever visit was conducted, the contractor firm was informed by the Mining Officer Panchkula well within time and representatives and their staff were always present during every inspection done and nothing had been done on their back. This is strengthened by the fact that this is an active mine with staff of the appellant always present at the site. The demand notices given are valid in lines with inspection so conducted by

Vigilance department and the department. Further he also submitted that in compliance of direction of Hon'ble National Green Tribunal in OA No.752 of 2023, another inspection was made by a committee constituted by Hon'ble NGT. He further stated that Copy of the FIRs between years 2017 to 2020 submitted by the appellant firm have also been examined and they have no proper details of areas which can relates that the same were being done for the alleged adjoining area for which demands are raised by the Mining Officer. With regards to the report of Tehsildar he stated that the report prepared without ascertaining boundary pillars with any technical instruments.

I have gone through the records and facts placed before me and after giving thoughtful consideration to the facts and record it is being observed the Vigilance department (Now ACB) conducted survey involving surveyors of the department and HARSAC which is an established technical organisation of the State with expertise in Geo surveys. To assist ACB, they prepared a detailed report with depth level maps. However, the same has been challenged by the appellant before Hon'ble High Court but there is no stay qua applicability. With regard to illegal excavation detected near the contract area by department teams, it has not been established that the earlier FIRs submitted by the appellant relates to these specific areas. Therefore, it is clear that all the demand notices given by the Mining Officer were/are valid as they are based on inspection reports of Vigilance (ACB) as well as the department and the appellant firm were well aware of the said inspections. Further since they have not deposited any amount demanded under the impugned notices so as to prove their bonafide therefore their mining operation are suspended with immediate effect with direction to deposit penalty as demanded by the Mining Officer, Panchkula. If the penalty demanded by the mining Officer is not deposited within one month, the contract will be terminated with other consequences as per law.

Panchkula, Dated the
22nd May, 2024

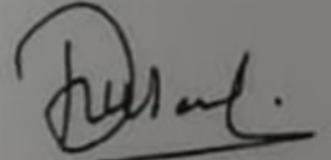

(Mandip Singh Brar, IAS)
Director General, Mines & Geology,
Haryana. 

Endst. No.: DMG/HY/Cont./Rattewali-Block/PKL-10/2017/2489

Dated: 22/05/2024

A copy is forwarded to the following for information and necessary action:-

1. The Deputy Commissioner, Panchkula.
2. Assistant Mining Engineer, Mines and Geology Department, Panchkula with the direction to ensure that no mining activity takes place at the site till further orders.
3. M/s Tirupati Roadways, #3, Sadashiv Properties, Katras Road Bank More, Dhanbad, Jharkhand, Haryana.



State Geologist,
for Director General, Mines & Geology,
Haryana.