

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Original Application No. 176 of 2022

In the matter of:

Aman Chaudhary

Applicant

Vs.

Union of India & Ors.

Respondents

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**(Nazimuddin)**
Scientist 'F'

Central Pollution Control Board

Place: Delhi

Dated: 09.07.2024

Compliance Report in the matter of O.A. No. 176/2022 order dated-21.03.2024

Hon'ble NGT(PB) vide order dated **30.05.2023** in the matter of O.A. No. 176/2022, titled as Aman Chaudhary Vrs Union of India and Ors, directed CPCB and MoEF&CC to look into the matter of classification/categorisation of Extraction of sand from riverbed (excluding manual excavation).

In compliance of the order dated-30.05.2023, CPCB categorised 'Sand/riverbed material mining from the riverbed and its floodplains (excluding manual excavation)' in red and orange categories, based on the size and location of mining area, and vide letter dated **22.09.2023** directed all State Pollution Control Boards (SPCBs) / Pollution Control Committees (PCCs) to adopt and implement the categorisation. Based on ATRs submitted by concerned SPCBs/PCCs, a 'compliance report in the matter of Hon'ble NGT O.A. No. 176/2022 titled as Aman Chaudhary vs Union of India and Ors' was submitted on **09.01.2024** before Hon'ble NGT(PB) regarding adoption and implementation of classification / categorisation of sand/riverbed material from riverbed and its floodplains (excluding manual excavation) by 24 SPCBs/PCCs, and apprising that the action taken reports were awaited from 12 SPCBs/PCCs.

The matter was heard on **12.01.2024** by Hon'ble NGT(PB) and CPCB was directed to submit additional report regarding adoption and implementation of classification / categorisation by remaining 12 SPCBs/PCCs.

In compliance of the order dated-12.01.2024, an 'additional report' was submitted by CPCB on **19.03.2024** before Hon'ble NGT (PB) regarding status of adoption and implementation of classification / categorisation by remaining 12 SPCBs/PCCs.

The matter was heard on **21.03.2024** and Hon'ble NGT (PB) directed as below:

".....

*13. A perusal of the report shows that in compliance of order dated **30.05.2023**, CPCB categorized 'Sand/riverbed material mining from the riverbed and its floodplains (excluding manual excavation)' in red and orange categories, based on the size and location of mining area, and vide letter dated **22.09.2023** CPCB directed all State Pollution Control Boards (SPCBs) / Pollution Control Committees (PCCs) to adopt and implement the categorization. CPCB followed-up with SPCBs/PCCs and based on the ATRs received submitted report to this Tribunal on **09.01.2024** that 24 SPCBs/PCCs have adopted the categorization of 'Sand/riverbed material mining from riverbed and its floodplains (excluding manual excavation)' while mentioning that Action Taken Reports were*

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awaited from 12 SPCBs/PCCs. CPCB further followed up the matter with remaining 12 SPCBs/PCCs and obtained the action taken reports from them. Out of remaining 12 SPCBs/PCCs 09 have adopted and implemented the classification while A&N PCC informed that there are no sand or riverbed material mining Projects in Andaman and Nicobar Islands, Daman and Diu PCC informed that sand mining activity has already been classified and Goa State PCB informed that there are no sand mining projects operating in the state and only manual sand mining is being carried out. **It will be appropriate that Andaman and Nicobar Islands PCC, Daman and Diu PCC and Goa State PCB also adopt and implement the classification, and CPCB is directed to take further action and file further report in this regard within two months at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.**

.....”

In compliance of the order dated-21.03.2024, CPCB followed-up with Andaman and Nicobar Islands PCC, Daman and Diu PCC and Goa SPCB for action taken report in this regard.

- Andaman and Nicobar PCC has informed vide letter dated 29.04.2024 that the classification has been adopted and implemented.

- Daman and Diu PCC has informed by e-mails dated 12.06.2024 and 25.06.2024 that the matter of categorization of ‘sand/ riverbed material mining activities’ is under process.

- Goa SPCB had informed vide letter 05.01.2024 about acceptance of the classification by their Board and has been requested to confirm its adoption/implementation.

Action Taken Reports (ATR) received from 03 SPCBs/PCCs			
Sl. No.	State/UT	Reference no.	Action Taken Report
1	Andaman & Nicobar	Letter no. 7-47/PCC/NGT/Misc/2023/55, dated 29.04.2024	Adopted and implemented the classification
2	Daman & Diu	DNH&DD PCC e-mails dated 12.06.2024 and 25.06.2024	The matter of categorization of "sand / riverbed material mining activities" is under process.
3	Goa	Letter no. 2024/GSPCB/Letter/14140/Tech/21693, dated 05.01.2024	Categorization accepted by Board (CPCB has requested SPCB to confirm adoption/implementation)

Copies of the responses/ATRs received from the SPCBs/PCCs are given at **Annexure-I**.

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GOA STATE POLLUTION CONTROL BOARD**गोंय राज्य प्रदूषण नियंत्रण मंडळ****(An ISO 9001:2015, ISO 14001:2015, ISO 45001:2018 Certified Board)**

Phone Nos : 0832- 2407700,
2407701, 2407703



Email Ids:
Chairman, GSPCB: chairman-gspcb.goa@nic.in
Member Secretary, GSPCB: ms-gspcb.goa@nic.in
Office: mail.gspcb@gov.in

No. 2024/GSPCB/Letter/14140/Tech/21693

Speed Post

Dated: 05/01/2024

To,
The Member Secretary,
Central Pollution Control Board
Parivesh Bhavan, East Arjun Nagar, Delhi -110032

Sub: Harmonization of Classification of Industries Sectors into Red, Orange, Green and White Categories, regarding sand/river bed material mining activities.
Ref: Your letter No. CPCB/IPC-IV/ROGW dated 22/09/2023

Sir,

With reference to your letter dated 22/09/2023, pertains to Harmonization of Classification of Industries Sectors into Red, Orange, Green and White Categories, this is to inform you that the said categorisation regarding sand/river bed material mining activities issued by CPCB in vide letter dated 22/09/2023 has been accepted by the Board.

Further, it is also hereby inform you that there is no Mechanised Sand mining operating in the Sate of Goa, only Manual Sand mining is being carried out.

This is for your information.

Yours faithfully,


(Dr. Shamila Monteiro)
Member Secretary

For Goa State Pollution Control Board

Copy to:

1. Office file.
2. Guard file.



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Nothing Like Voting, I Vote for Sure

No. 7-47/PCC/NGT/Misc/2023/55

अंडमान तथा निकोबार प्रशासन

ANDAMAN & NICOBAR ADMINISTRATION

प्रदूषण नियंत्रण समिति

POLLUTION CONTROL COMMITTEE

DEPARTMENT OF SCIENCE AND TECHNOLOGY

Dollygunj, Port Blair-744 103, Ph: 250370,

E-mail: dstpcc-andamans@nic.in



Toll Free 1950

Port Blair, dated 29-04-2024

To

Shri P.K Gupta
Director & Div. Head, IPC-VI
Central Pollution Control Board
Parivesh Bhawan, East Arjun Nagar, Delhi-110032
Email: pkgupta.cpcb@nic.in

Sub : Categorization of sand / riverbed material mining from riverbed and its floodplains (excluding manual excavation) – reg

Ref: 1. Your Office Letter vide No. CPCB/IPC-IV/ROGW dated 22-09-2023
2. Your Office letter vide No. CM-13011/137/2022-LAW-HO-CPCB-HO/206 dated 09-04-2024

Sir,

This is with reference to letter dated 22-09-2023 issued by CPCB categorising the non-industrial operations- Sand / riverbed material mining from riverbed and its floodplains (excluding manual excavation) into the following categories, considering the ecological damages-

Sl.No (as per CPCB Document)	Non-industrial operations	Category	Remarks
Sand / riverbed material mining from riverbed and its floodplains (excluding manual excavation).			
63	(i) Mining lease area more than 5 hectares or Mining lease area up to 5 hectares which is part of cluster mining	Red	i. Sand / riverbed material mining from riverbed and its floodplains may cause ecological disturbances, erosion of riverbed, change in hydro-geological conditions & river ecosystem, etc.
	(ii) Standalone mining lease area up to five hectares in areas (not a part of any cluster mining)	Orange	ii. Cluster mining means that the distance of mining lease area is less than 500 m from periphery of another lease area. iii. This categorization is made considering the ecological damages and not based on pollution potential/index.

The Hon'ble NGT in its order dated 21-03-2024 in O. A. No. 176/2022 Aman Chaudhary Vs. Union of India & Ors, has taken cognizance of this matter and directed the following:

"It will be appropriate that the Andaman and Nicobar Islands PCC, Daman and Diu PCC and Goa State PCB also adopt and implement the classification and CPCB is directed to take further action and file further report in this regard within two month."

In compliance of directions issued by the Hon'ble NGT, the above categorization is now adopted by the Andaman and Nicobar Pollution Control Committee (ANPCC) for the UT of Andaman and Nicobar Islands for its future implementation. The same has been uploaded in departmental website for the information of general public and stakeholders concerned.

Yours faithfully,

Encl: A/a

Director(S&T) cum Member Secretary ANPCC

Copy to:

1. PS to Secretary S&T/Chairman ANPCC for kind information of Secretary S&T/Chairman ANPCC, A&N Administration.

Signed by Abhishek Bhukal

Date: 29-04-2024 23:42:29

Reason: Approved

Director(S&T) cum Member Secretary ANPCC

ItemNo.05

(Court No. 2)

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

(Through Physical Hearing with Hybrid VC Option)

Original Application No.176/2022

I.A No. 39/2023, I.A No. 40/2023

Aman Chaudhary

...Applicant

Versus

Union of India & Ors.

...Respondents

Date of hearing: 21.03.2024

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

Applicant: Applicant in Person.

Amicus Curiea: Mr. Raj Panjwani, Senior Advocate.

Respondents: Mr. Somesh Chandra Jha and Mr. Amartya A. Sharan Advocates respondent no. 1-MoEF & CC.
Mr. R. P. Mehrotra Senior Advocate with Ms. Pallavi Pratap, Ms. Muskan Jain and Ms. Apoorv Srivastava, Advocates for respondent no. 2-Project Proponent.
Mr. Saurabh Balwani, Advocate for respondent no. 3-CPCB.
Mr. Pradeep Misra Advocate for respondent no. 4-UPPCB. (Through VC)
Mr. Mukesh Verma Advocate for respondent no. 6-Mining Department.
Mr. Amit Kaushik, Joint Director and Mr. K G Shukla Law Officer, Mining Department (Through VC).
Mr. Ranjan Singh CEO and Mr. Amit Mishra RO, UPPCB (Through VC)

Application under Sections 14, 15 and 18 (1) of the National Green Tribunal Act, 2010.

ORDER

1. In compliance of order date 12.01.2024 affidavit has been filed by Director, Geology and Mining, Uttar Pradesh vide email dated 12.01.2024. report has been filed by UPPCB vide email dated 19.03.2024 and additional report has been filed by CPCB vide email dated 19.03.2024.

2. In Action Taken Report dated 12.03.2024 submitted by Mr. Faresh Kumar, Assistant Environmental Officer, Regional Office, UPPCB, Kanpur Nagar, it has been mentioned that environmental compensation of Rs. 4,29,37,500/- was imposed on the Project Proponent and recovery certificate dated 13.10.2023 was sent to the District Magistrate, Kanpur Nagar and thereafter reminder letter dated 07.03.2024 was sent to the District Magistrate, Kanpur Nagar.

3. The relevant part of the affidavit of compliance filed by the Director, Geology and Mining, Uttar Pradesh reads as under:-

“AFFIDAVIT OF COMPLIANCE

X

X

X

3. That in compliance of the above direction of this Hon'ble Tribunal Director, Geology and Mining, Uttar Pradesh vide letter no.1796/M-NGT Vaad/2022 dated 29.12.2023 sought comment from District Magistrate, Kanpur Nagar regarding action taken against respondent no. 2 (Project Proponent). The District Magistrate, Kanpur Nagar vide its letter no. 13/ tees-Upkhanij/2024 dated 10.01.2024 sent the report regarding action taken against respondent no. 2 (Project Proponent).

4. That as per the report District Magistrate, Kanpur Nagar,

(i) SDM Bilhaur along with tehsildar Bilhaur and concerned Lekhpal and Revenue Inspector Inspected the site of lease executed in favor of M/S Vaishnavi Enterprises Proprieter Shri Nagendra Singh on 07.12.2020 and found that 700 meter to the

west of Patta site in revenue Village Katri Atwa, Tehsil Bilhaur, District Kanpur Nagar, there was a flat bandha, due to which flow of water in a branch of river Ganga had stopped. The flat bandha was removed and tehsildar reported the matter of obstruction of flow of water in the branch of Ganga river by means of flat bandha to Police Station Chaubepur for legal action against unknown persons.

(ii) That on the basis of the inquiry report dated 13.01.2021 of joint team constituted by Directorate of Geology and Mining, U.P.2 in which illegal mining/transportation of 54219 cubic meter sand was reported and 02 overloaded vehicles were handed over to Police Station Bithoor, a total penalty amount Rs. 2,39,06,360/- was imposed on the lessee and until deposit of the said amount, mining was prohibited.

(iii) Mining inspector and Tehsildar Bilhaur in their joint inspection report dated 05.12.2021 found that the lessee had made a 10x145x1 cubic meter road along side the river. In view of the above, penalty of Rs. 72,500/- was imposed on the lessee, which the lessee deposited on 09.12.2021.

(iv) Mining Officer, ARTO, Tehsildar Bilhaur in their inspection dated 31.05.2022 found that PTZ Camera had not been installed at the patta site. Mines Officer, Kanpur Nagar, Tehsildar, Junior Engineer Irrigation in their inquiry report dated 21.06.2022 reported additional mining of 769 cubic meter. Thus, a notice dated 10.08.2022 in respect of depositing Rs. 11,55,837/- was issued. Revision against this notice has been filed by the lessee which is under consideration at the level of State Government.

(v) As CTO had not been obtained by the lessee, mining operation was prohibited vide order dated 13.12.2022.

(vi) Lease period ended on 06.04.2023.

(vii) In compliance of the order dated 21.08.2023 passed by Hon'ble High Court Allahabad, Lucknow bench, Lucknow in Civil miscellaneous writ petition no. 18966/2021 M/S Vaishnavi Enterprises Proprieter Shri Nagendra Singh Versus State of U.P. and others, an opportunity of hearing has been provided to the lessee by the District Magistrate. The lessee has submitted his reply on 29.09.2023. Based on examination of the reply, decision is to be taken in the matter at the level of District Magistrate, Kanpur Nagar.

4. The affidavit filed by the Director, Geology and Mining, Uttar Pradesh is materially deficient as complete details regarding compliance of EC conditions and action taken for violation of environmental norms have not been given therein.

5. In the present case a flat bandha was observed by SDM, Bilhaur on visit during 07.12.2020 regarding which complaint was made to the Police. Further details regarding action taken by the Police have not been submitted. The Mining Inspector and Tehsildar, Bilhaur mentioned in their Joint Inspection Report dated 05.12.2021 that the Project Proponent had made 10x145x1 cubic meter road alongside the river. Penalty of Rs. 72,500/- was imposed on the lessee which was deposited on 09.12.2021. Copies of the report and receipt have not been filed. The Project Proponent carried out illegal mining/transportation of 54219 cubic meter sand regarding which penalty of Rs. 2,39,06,360/- was imposed on the lessee but there is no mention as to what is the status of recovery thereof. The lessee was found to have carried out additional (illegal) mining of 769 cubic meters regarding which show cause notice for penalty of Rs. 11,55,837/- was issued regarding which revision is stated to be pending. In compliance of order dated 21.08.2023 passed by Hon'ble Allahabad High Court in W.P No. 18966/2021 the lessee is stated to have filed reply on 29.09.2023. The District Magistrate, Kanpur Nagar was directed by the above said order to pass fresh order expeditiously say within a period of six weeks from the date of submission of reply by the Petitioner in accordance with law but it seems that no further order has been passed by the District Magistrate, Kanpur Nagar as present status of the proceedings is not mentioned. In the present case the lessee was alleged to have constructed temporary bridge in the mining lease area and the Joint Committee found that the lessee had not constructed any temporary bridge on the other hand the lessee had constructed approach road at the mining lease site in the main stream of the river which obstructed the flow of the river. The Director, Geology and Mining, Uttar Pradesh filed response dated 13.09.2022 that the approach

road was within lease boundary 300 meters away from the active channel of the river which stand was contrary to the report of the Joint Committee and was evidently false. In said response Mine Officer, Kanpur Nagar was stated to have issued notice dated 29.06.2022 to the lessee but what further action was taken on said notice has not been mentioned. The lessee did not install 360 degree CCTV camera in mining area for which penalty of Rs. 25,000/- was imposed on the lessee but there is no mention as to whether penalty was deposited and CCTV camera was installed subsequently. Present status of the recovery certificate sent by UPPCB for recovery of amount of Rs. 4,29,37,500/- has also not been mentioned.

6. This case is a classic example to show how the authorities entrusted with the task of ensuring compliance with environmental norms collude and fail to take appropriate action for remediation of environmental violations.

7. In the facts and circumstances of the case the Director, Geology and Mining, Uttar Pradesh and the District Magistrate, Kanpur Nagar are directed to file additional affidavits with complete details at least one week before the next date of hearing hereby fixed and produce the complete original record pertaining to mining lease in favour of the Project Proponent before this Tribunal on the next date of hearing hereby fixed.

8. In the present case this Tribunal had vide order dated 17.10.2023 directed the Director Geology and Mining Department, Uttar Pradesh, the District Magistrates and the Superintendents of Police in the State of Uttar Pradesh to ensure that no mining is allowed to commence or continue without obtaining of CTE/CTO from UPPCB as the case may be which fact was to be verified by them with reference to the information uploaded by UPPCB on its website from time to time.

9. In the course of interaction, Member Secretary, UPPCB has stated that all the mining lease holders have not yet obtained CTO from UPPCB.

10. The directions issued vide order dated 17.10.2023 are reiterated and it is clarified that if in any case it is found that commencement and/or continuance of mining without obtaining of CTO from UPPCB, the concerned District Mining, Officer, District Magistrate and the Superintendent of Police shall be liable to be prosecuted under Section 26 of the National Green Tribunal Act, 2010.

11. Further, the Director, Geology and Mining, Uttar Pradesh is also directed to personally look into and take appropriate action for cancellation of the mining lease in all the cases in which the respective mining lease holder has not obtained CTO from UPPCB despite expiry of reasonable time and to file action taken report by way of separate affidavit within two months at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

12. In compliance of order dated 12.01.2024 the CPCB has compiled the further information received and summarized the same in its report filed vide email dated 19.03.2024.

13. A perusal of the report shows that in compliance of order dated 30.05.2023, CPCB categorized 'Sand/riverbed material mining from the riverbed and its floodplains (excluding manual excavation)' in red and orange categories, based on the size and location of mining area, and vide letter dated 22.09.2023 CPCB directed all State Pollution Control Boards (SPCBs) / Pollution Control Committees (PCCs) to adopt and implement the categorization. CPCB followed-up with SPCBs/PCCs and based on the ATRs

received submitted report to this Tribunal on 09.01.2024 that 24 SPCBs/PCCs have adopted the categorization of 'Sand/riverbed material mining from riverbed and its floodplains (excluding manual excavation)' while mentioning that Action Taken Reports were awaited from 12 SPCBs/PCCs. CPCB further followed up the matter with remaining 12 SPCBs/PCCs and obtained the action taken reports from them. Out of remaining 12 SPCBs/PCCs 09 have adopted and implemented the classification while A&N PCC informed that there are no sand or riverbed material mining Projects in Andaman and Nicobar Islands, Daman and Diu PCC informed that sand mining activity has already been classified and Goa State PCB informed that there are no sand mining projects operating in the state and only manual sand mining is being carried out. It will be appropriate that the Andaman and Nicobar Islands PCC, Daman and Diu PCC and Goa State PCB also adopt and implement the classification and CPCB is directed to take further action and file further report in this regard within two months at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

14. List for further consideration on 11.07.2024.

15. In view of the facts and circumstance of the case, we also consider personal appearance of the officers duly authorized by Director, Directorate of Geology and Mining, Uttar Pradesh and Member Secretary, UPPCB and the District Magistrate, Kanpur Nagar physically or through VC on the next date of hearing to be essential for producing the relevant record and assisting this Tribunal in just and proper adjudication of the questions involved in the case. Accordingly they are directed to remain present before this Tribunal on that date with the relevant record.

16. A copy of this order be sent to the Director, Directorate of Geology and Mining, Uttar Pradesh and Member Secretary, UPPCB and the District Magistrate, Kanpur Nagar by email for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

March 21st, 2024

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