



Government of Jammu and Kashmir
J&K Pollution Control Committee

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email: membersecretaryjkpcb@gmail.com

The Consultant (Judicial)
Hon'ble National Green Tribunal (P.B)
New Delhi.

No. JKPCC/NGT/23/143/ **331-333**

Dt. **04**-12-2023.

Sub: -Hon'ble NGT Order Dt. 11-09-2023 in OA 538 of 2023 titled "Gypsum Jam: Rampant mining troubles Kashmir villagers" appearing in Village Square dated 20-08-2023.

Ref.: Hon'ble National Green Tribunal email dated **18-10-2023**.

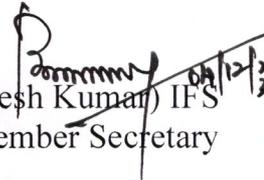
Sir,

In compliance to the **Hon'ble NGT Order Dt. 11-09-2023 in OA 538 of 2023 titled "Gypsum Jam: Rampant mining troubles Kashmir villagers" appearing in Village Square dated 20-08-2023**, kindly find enclosed herewith the Compliance Report of J&K Pollution Control Committee, in this regard.

The Compliance Report may kindly be taken on record and placed before the Hon'ble NGT for consideration please.

Yours faithfully,

Encl: (As above).


(K. Ramesh Kumar) IFS
Member Secretary

Copy to the: -

1. Sh. G.M. Kawoosa, Additional Standing Counsel for J&K Govt. in Hon'ble NGT matters in New Delhi, for information and necessary action. This is in reference to Govt. of J&K Order No. 8495-JK(LD) of 2022 Dated 12-10-2022.
2. PA to Chairman, J&K PCC for kind information of Chairman.



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Government of Jammu and Kashmir
J&K Pollution Control Committee



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Compliance report of Jammu and Kashmir Pollution Control Committee to the directions of Hon'ble National Green Tribunal Order Dt. 11-09-2023 in OA 538 of 2023 titled "Gypsum Jam: Rampant mining troubles Kashmir villagers" appearing in Village Square dated 20-08-2023.

Background:

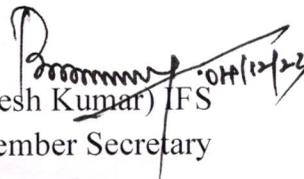
The Hon'ble National Green Tribunal **Order Dt. 11-09-2023 in OA 538 of 2023** has directed that:-

"to place on record a copy of the order of Hon'ble Jammu and Kashmir High Court in the matter of Tower Chemical & Others on which the reliance has been placed in the report and also file air and water quality analysis report on or before the next date of hearing."

Accordingly, the Compliance is submitted as under: -

- (a) The copy of Writ Petition No. 2649/2022 and the copy of the Orders Dated 25-11-2022, 31-01-2023 and 09-02-2023 of Hon'ble Jammu and Kashmir High Court in the matter of M/s Tower Chemicals and Ors. is enclosed as **Annexure 'A, B, C & D'**.
- (b) **Water Quality Analysis** of stream near Gypsum Mining at Bagna Uri and **Air Quality Monitoring Report** in the vicinity of Gypsum Mining at Subayee Mohalla Bagna, and Govt. Boys Primary/Middle School Bagna, conducted by Water & Air Labs of J&K Pollution Control Committee Kashmir, respectively is enclosed as **Annexure 'E'**.

The Report may kindly be taken on record and placed before the Hon'ble NGT for consideration, please.


(K. Ramesh Kumar) IFS
Member Secretary

(5)

BEFORE THE HON'BLE HIGH COURT OF J&K AND LADAKH AT SRINAGAR

WP(c) No. 2649/2022Petition under Article 226 of the
Constitution pertaining to District Baramulla

In the case of:

1. M/s Tower Chemicals having allotted mine at Bagna Tehsil Boniyar, Baramulla through its proprietor Mohammad Farooq Wani Aged 60 years S/o Ghulam Qadir Wani R/o Jawahar Nagar, Srinagar.
2. M/s New Sigma Industries having allotted mine at Bagna Tehsil Boniyar, Baramulla through its managing partner Suhail Andleeb Wani Aged 40 years S/o Bashir Ahmad Wani R/o Peer Bagh, Srinagar.
3. M/s Kohinoor Gypsum having allotted mine at Bagna Tehsil Boniyar, Baramulla through its managing partner Muzamil Ahmad Bhat Aged 59 years S/o Manzoor Ahmad Bhat R/o Madina Colony, Kanispora, Baramulla.
4. Gee Emm Industries having allotted mine at Bagna Tehsil Boniyar, Baramulla through its managing partner Muzamil Ahmad Bhat Aged 59 years S/o Manzoor Ahmad Bhat R/o Madina Colony, Kanispora, Baramulla.

...Petitioners

vs.

1. Union Territory of J&K through Commissioner/Secretary to Government, Forest, Ecology and Environment Department, Government of J&K, Civil Secretariat, Srinagar.
2. Principal Chief Conservator of Forests, J&K, Srinagar
3. Chief Wildlife Warden, J&K, Srinagar
4. Wildlife Warden (Technical), J&K, Srinagar
5. Wildlife Warden, North Division, Sopore
6. Deputy Commissioner, Baramulla
7. Sub-Divisional Magistrate, Uri
8. Divisional Forest Officer, Demarcation Division, Srinagar

Feroz

Muzamil
Suhail

Suhail



9. District Mineral Officer, Baramulla.
10. Senior Superintendent of Police, Baramulla
11. Regional Wildlife Warden, Kashmir, Srinagar.
12. Divisional Forest Officer, JV Division, Baramulla.
13. Range Officer, Wildlife Department, Boniyar, District Baramulla.
14. District Law Officer, Baramulla.
15. Commissioner/Secretary to Government, Geology and Mining Department, Civil Secretariat, Srinagar.
16. Director, Department of Geology and Mining, J&K, Srinagar.
17. Assistant Commissioner (Revenue), Baramulla.
18. Tehsildar, Boniyar, District Baramulla
- ... Respondents

In the matter of:-

(Other) Writ petition under Article 226 of the Constitution of India.

May it please your Lordships:

The Petitioners humbly submit as under:

1. That the Petitioners are the residents of Jammu and Kashmir and citizens of India and as such have legal and constitutional right to invoke writ jurisdiction of this Hon'ble Court because no other alternate and efficacious remedy is available to them. No other petition or legal proceedings in this Hon'ble Court or in any other court or in the Hon'ble Supreme Court of India on the present cause of action and for seeking reliefs prayed herein has been filed by them.
2. That the Petitioners are aggrieved of the impugned communication dated 17.11.2022 issued by Respondent No. 9 (District Mineral Officer) directing the Petitioners and other mining lessee to stop mining activities in Bagna area of Uri. Copy of the impugned order dated 17.11.2022 is annexed herewith as Annexure I.

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3. That the Petitioners have been allotted mines for extraction of various minerals at village Bagna, Noorkha in Tehsil Boniyarm, Uri District Baramulla by the Department of Geology and Mining, Government of J&K. Copies of the orders issued in favour of the Petitioners are annexed herewith as Annexure II.
4. That ever since the approval of the mining plans of the Petitioners in different years, 2005 onwards and ever since the handing over the mines to the them, the Petitioners have been extracting and transporting the minerals from the mines. The respective leases are subsisting as on date.
5. That the Hon'ble Supreme Court in its judgment dated 03.06.2022 passed in the case of T. N. Godaverman Thirumulpad vs. Union of India & ors has directed as under:

(a) Each protected forest, that is national park or wildlife sanctuary must have an ESZ of minimum one kilometre measured from the demarcated boundary of such protected forest in which the activities proscribed and prescribed in the Guidelines of 9th February, 2011 shall be adhered to.

Copy of the relevant part of the judgment is annexed herewith as Annexure III.

6. That on the basis of the said judgment, Respondent No. 2 (Principal Chief Conservator of Forests) issued a communication dated 09.06.2022 addressed to Respondent No. 3 (Chief Wildlife Warden) (Annexure IV) to comply with the judgment dated 03.06.2022. The Respondent No. 4 (Wildlife Warden) issued a communication dated 17.06.2022 to the Regional Wildlife Warden, Jammu/Kashmir (Annexure V) directing compliance of the judgment dated 03.06.2022.
7. That Respondent No. 5 (Wildlife Warden, North Division, Sopore) wrote to the Respondent No. 6 (Deputy Commissioner, Baramulla) vide communication dated 30.06.2022 (Annexure VI) directing the

closure of as many as 12 mining units in district Baramulla falling in the eco-sensitive zone of Lachipora Wildlife Sanctuary.

8. That upon obtaining the knowledge of the communication dated 30.06.2022 (Annexure VI), the Petitioners along with other mining unit holders approached the Respondent No. 6 (Deputy Commissioner, Baramulla) informing him that the Hon'ble Supreme Court had directed that an Eco-sensitive Zone of minimum one kilometre has to be measured from the demarcated boundary of the protected forest and in case of Lachipora Wildlife Sanctuary, there was no demarcated boundary. Taking cognizance of the plea of the Petitioners, the Respondent No. 6 (Deputy Commissioner, Baramulla) constituted a team of as many as seven (07) officers headed by Respondent No. 7 (Sub-Divisional Magistrate, Uri) vide order No. DCB/SQ/640-46 dated 26.07.2022 (Annexure VII)
9. That Respondent No. 5 (Wildlife Warden, North Division, Sopore) wrote to Respondent No. 8 (Divisional Forest Officer, Demarcation Division, Srinagar) vide communication dated 26.07.2022 to substantiate the distance between Mining Units and the boundary of nearest protected area (Annexure VIII). It is worthwhile to mention here that the same Respondent No. 5 had on 30.06.2022 written to Respondent No. 6 (Deputy Commissioner, Baramulla) that all the mines are within 1 kilometre and thus requested for closure of the mines.
10. That Respondent No. 7 (Sub-Divisional Magistrate, Uri) called for a meeting of the team constituted by the Respondent No. 6 (Deputy Commissioner, Baramulla) vide order 26.07.2022 on 18.08.2022 (Annexure IX).
11. That the Respondent No. 7 (Sub-Divisional Magistrate, Uri) issued a communication dated 03.09.2022 addressed to Respondent No. 8 (Divisional Forest Officer, Demarcation Division, Srinagar) requesting for deputation of a team along with demarcation records and maps on 5th or 6th September, 2022 in order to determine the boundary line of Lachipora on ground. (Annexure X)

M. J. ...
D. ...

...

12. That Respondent No. 7 (Sub-Divisional Magistrate, Uri) without conducting any demarcation on the ground owing to differences between the officers of various departments, viz, revenue, forest, submitted a report to Respondent No. 6 (Deputy Commissioner, Baramulla). A copy of the report dated 13.09.2022 is annexed herewith as Annexure XI. The report was prepared by superimposing the geo-coordinates on high resolution satellite imagery of the Lachipora Wildlife Sanctuary. The Respondent No. 7 (Sub-Divisional Magistrate, Uri) in his report mentions that on 02.09.2022, the committee members visited the protected area to locate the boundary pillars, however, no boundary pillar or fencing was found at any place. An observation made by the Respondent No. 9 (District Mineral Officer) and District Legal Officer, Baramulla observed that since no boundary pillar was found on spot in order to ascertain the actual aerial distance of 1 kilometre ESZ and for this reason the committee members could not arrive at a decision, therefore, it was decided that the demarcation shall be carried on ground.
13. That Respondent No. 6 (Deputy Commissioner, Baramulla) vide communication dated 07.11.2022 addressed to Respondent No. 5 (Wildlife Warden, North Division, Sopore) (Annexure XII) stating therein that a team was constituted to demarcate the boundary of protected area for measurement of 01 kilometre of ESZ, however, the report was found to be inconclusive. It was further stated that in a follow up meeting held on 07.11.2022, the representative Wildlife Department categorically declared that all the mining sites fall within one (01) kilometre of Lachipora Wildlife Sanctuary. The said Respondent No. 5 (Wildlife Warden, North Division, Sopore) was directed to implement the order of the Hon'ble Supreme Court.
14. That Respondent No. 5 (Wildlife Warden, North Division, Sopore) issued a communication dated 10.11.2022 addressed to Respondent No. 9 (District Mineral officer) (Annexure XIII) to implement the order of the Hon'ble Supreme Court on the basis of the report

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submitted by Respondent No. 7 (Sub-Divisional Magistrate, Uri). Complying with the communication dated 10.11.2022, the Respondent No. 9 (District Mineral officer) issued the impugned order directing the Petitioners to stop the mining activities.

15. That the Petitioners are aggrieved of the impugned order dated 17.11.2022 and challenge the same on the following grounds taken in alternate and without prejudice to each other:

GROUNDS:

- I. That the impugned order has been issued by Respondent No. 9 (District Mineral officer, Baramulla), without authority as well as without application of mind and without appreciating the facts in the proper perspective. The impugned order has been passed in haste. The Hon'ble Supreme Court in its judgment dated 03.06.2022 has clearly directed that the ESZ has to be maintained from the demarcated boundary of the protected area. In the present case, there is no demarcated boundary which is clear from the report of Respondent No. 7 (Sub-Divisional Magistrate, Uri) as well as the observation of Respondent No. 9 (District Mineral officer) himself. He has ignored his own observations appended to the report of Respondent No. 7 (Sub-Divisional Magistrate, Uri) and proceeded to act arbitrarily.
- II. That in the communication dated 07.11.2022 (Annexure XII), the Respondent No. 6 (Deputy Commissioner, Baramulla) has himself stated that the report was found inconclusive, therefore, issuance of the impugned order based on such inconclusive report is bad in law and cannot be sustained.
- III. That Respondents on one hand categorically state that there is no demarcated boundary of Lachipora Wildlife Sanctuary from where one (01) Kilometre ESZ is to be maintained, and on the other hand on mere declaration by a representative of Wildlife department proceed to close the mining units of the Petitioners and others.

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- IV. That the Respondents without conducting actual demarcation on spot which was the real purpose of constituting a team by the Respondent No. 6 (Deputy Commissioner, Baramulla) 26.07.2022 could not have issued the impugned order dated 17.11.2022.
- V. That the report of the Respondent No. 7 (Sub-Divisional Magistrate, Uri) on one hand states that no boundary/fencing/ pillars were found on spot and on the other goes on to state that the mining units were found within one (01) kilometre from the boundary of the Lachipora Wildlife Sanctuary, however, the said Respondent in his report has not stated as to how did he ascertain the boundary or the point from where a distance of one (01) kilometre had to be ascertained. The said report was rightly declared inconclusive by the Respondent No. 6 (Deputy Commissioner, Baramulla), however, reliance on such report was uncalled and unwarranted.
- VI. That in the entire exercise, the Department of Geology and Mining, being the most concerned department, it having issued the allotment orders/executed the leases, has been kept at bay and not involved at all. Also, the Respondent No. 9 (District Mineral Officer) has not consulted with its Administrative Department, prima facie indicating that the impugned order has been issued in haste.
- VII. Other legal grounds shall be taken at the time of hearing of the petition before this Hon'ble Court.
16. That the Petitioners are not against the protection of Wildlife Sanctuary, however, the same cannot be at the cost of livelihood and rights of the Petitioners.

In the premises, it is, therefore, prayed that:

- i. By issuance of an appropriate writ or direction, including one, in the nature of Certiorari, the

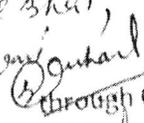
(12)

- impugned order dated 17.11.2022 issued by the Respondent No. 9 (District Mineral officer, Baramulla) be quashed.
- ii. By issuance of an appropriate writ or direction, including one, in the nature of Mandamus, the Respondents be directed to demarcate the area of the Lachipora Wildlife Sanctuary and demarcate its boundary *on ground*.
 - iii. By issuance of an appropriate writ or direction, including one, in the nature of Mandamus, the Respondents be directed to measure the distance of one (01) kilometre from the demarcated boundary of the Lachipora Wildlife Sanctuary for maintenance of ESZ.
 - iv. Any other relief, which this Hon'ble Court deems just and proper, be granted in favour of the petitioners and against the respondents.

Petitioners


1. Mohd Farooq Wani


2. Muzamil Ahmad Bhat


3. Muzamil Ahmad Bhat,
4. Suhail Adil Sheikh 
through Counsel


13

BEFORE THE HON'BLE HIGH COURT OF J&K AND LADAKH AT SRINAGAR

In the case of:-

M/s Tower Chemicals and ors

... Petitioners

vs

Union Territory of J&K & ors

... Respondents

In the matter of:-

Affidavit in support of Petition/Application.

I, Suhail Andleeb Wani Aged 40 years S/o Bashir Ahmad Wani R/o Peer Bagh, Srinagar, do hereby state on oath /solemn affirmation that I have read the enclosed Petition/Application and that all the paras of the Petition/Application are true to the best of my knowledge.

I solemnly swear/affirm that this affidavit is true, no part of this is false and nothing has been concealed.

[Signature]

Deponent

Verification

I, deponent further affirm that the above statement is true and correct to the best of my knowledge

[Signature]

Deponent

23rd Nov-17
Suhail Andleeb Wani
Peer Bagh
Halem Sulem
18/11/17

RECORDED

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**WP(C) 2649/2022
CM(6675/2022)**M/S Tower Chemicals and Others**

... Petitioner/Appellant(s)

Through: Mr. Hakim Suhail Ishtiaq, Advocate

V/s

UT of J&K and others

... Respondent(s)

CORAM: **HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE****ORDER**
25-11-2022

The case set up in the instant petition by the petitioners is that they are allottees of gypsum mines allotted to them by the Geology and Mining department for extraction of gypsum mineral and that in the process of the operation of the said mines, the respondent no. 9 issued a communication dated 17.11.2022 in terms whereof the petitioners and other mining lessees came to be directed to stop mining activities on the ground that the area of their operation falls within eco-sensitive zone and mining operations in such areas have been banned by the Supreme Court in the case of **T. N. Godaverman Thirumulpad Vs. Union of India and others** vide dated 3.6.2022.

According to counsel for the petitioners, the respondent no. 9 has issued the impugned communication dated 17.11.2022 arbitrarily and without first ascertaining the location of the area wherein the mines in question are being operated by the petitioners. Counsel for the petitioners invited attention of this court to the report of a committee constituted for the purpose by the Deputy Commissioner, Baramulla, which committee in its report dated 13.9.2022 could not find any boundary pillars or fencing in the area suggesting the mines in question to be falling within eco-sensitive zones, as such, the committee decided to go as per the Geo Coordinates and maps notified for the said area.

According to counsel for the petitioner without having the entire area in question including the mining areas in question demarcated for arriving at a definite conclusion as to whether the mines in question are falling within the eco-sensitive zone or outside the said zone in the light of the opinion of the Committee *supra*, the respondent no. 9 issued a blanket ban for undertaking any mining activities against the petitioners in terms of the impugned order.

Learned counsel for the petitioners would further submit that respondent no. 9 during the deliberations of the committee, wherein the respondent no. 9 was also a member, had made an independent opinion as well that the members of the committee could not arrive at a decision about the demarcation and, as such, the demarcation on the ground was proposed.

According to counsel for the petitioners, the impugned order has been issued on the back of the petitioners and in essence violates the fundamental right of the petitioners as enshrined in Articles 14, 19 and 21 of the Constitution.

Heard learned counsel for the petitioners and perused the record.

Having regard to the sensitive nature of the controversy involved in the petition being related to the environment, as also the judgment passed by the Apex Court, *supra*, it is deemed appropriate in the first instance to defer the consideration of application for interim relief and instead direct the respondents 5, 7, 8, 9, 11, 17 and 18 to undertake an effective demarcation on the ground in the area in question urgently without any delay preferably within a period of two weeks, and make a report thereafter to this court within one week.

At this stage, Mr. Fayaz Ahmad Bhat, AAG and Mr. Faheem Shah, GA vice Mr. Mohsin Qadiri, Sr. AAG waive notice on behalf of respondents. Appearing counsel for the respondents shall ensure compliance of the order and also in the meantime shall be free to file response to the petition.

A copy of this order shall be furnished to counsel for the parties.

List on 20.12.2022.

(JAVED IQBAL WANI)
JUDGE

S. No. 06

Regular Cause List

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKHAT SRINAGARWP (C) No. 2649/2022CM No. 6675/2022**M/S Tower Chemicals and Ors.**

...Petitioner(s)

Through: Mr. T. H. Khawaja, Adv.

Vs.

UT of JK and Ors.

...Respondent(s)

Through: Mr. Mohsin Qadri, Sr. AAG
Mr. F. A. Bhat, AAG
Mr. Rais-u-din Ganai, Dy. AG**CORAM:****HON'BLE MR. JUSTICE JAVED IQBAL WANI, JUDGE****ORDER****31.01.2023**

In terms of order dated 25th November, 2022, passed by this Court respondents 5, 7, 8, 9, 11, 17 and 18 came to be directed to undertake an effective demarcation on the ground in the area in question preferably within a period of two weeks and to make a report thereafter to this Court within one week after Court noticed the sensitive nature of controversy involved in the petition as also the Judgment/Order dated 03-06-2022 passed by the Apex Court in the case of "*T. N. Godaverman Thirumulpad vs. Union of India and Ors.*" dated 3rd June, 2022.

Mr. F. A. Bhat, AAG and Mr. Faheem Shah, GA on the said date i.e. 25-11-2022 had entered appearance on behalf of the respondents and consequently came to be directed to ensure compliance of the order as also in the meantime to file response to the petition.

Perusal of the record of the proceedings would reveal that no response to the petition has been filed by the respondents.

Mr. F. A. Bhat, AAG appearing counsel for the respondents Forest/Wild Life Department however, would submit that a compliance report stands filed on 10th January, 2023. Mr. F. A. Bhat, AAG while inviting the attention of the Court to the said compliance report would submit that the respondents instead of undertaking the demarcation in compliance to the order passed by this Court on 25th November, 2022 have in essence resolved to seek dismissal of the petition in the light of the notifications issued by the Government of India on 25th March, 2022 and 19th March, 1987.

Mr. T. H. Khawaja, appearing counsel for the petitioners while controverting the submissions made by Mr. F. A. Bhat, AAG would contend that the respondents have deliberately decided not to comply with the order of this Court but to wriggle out the said order on the basis of the notifications referred in the compliance report which notifications are inapplicable and do not operate as an impediment to the demarcation as ordered by this Court in terms of order dated 25th March, 2022. Mr. Khawaja, also produced a copy of communication dated 22-12-2022 addressed by the District Mineral Officer, Baramulla (respondent 9) to Regional Wild Life Warden, Kashmir (respondent 11) requesting therein for communicating a date for conducting demarcation on the ground for complying with the order passed by the Court as also for resolving the controversy once for all. Communication dated 22-12-2022 produced by Mr. T. H. Khawaja, is taken on record.

As noticed in the preceding paras, the aforesaid respondents came to be directed in specific terms by this Court to conduct the demarcation on ground in the area in question and to make a report to this Court for enabling the Court to resolve the controversy at the earliest effectively

and conclusively, however the said order admittedly has not been complied with by the respondents as emerge from the perusal of the compliance report filed by the respondents. The non-compliance of the order *prima facie* is blatant and writ large warranting initiation or appropriate proceedings against the said respondents, more so, in view of failure of the respondents to file any response to the petition. However, before proceeding to initiate such proceedings against the respondents, the respondents 2, 3, 7, 8, 9 & 11 are directed to appear in person along with the record of the case on the next date of hearing.

List on 9th February, 2023.

Copy of this order shall be furnished to Mr. F. A. Bhat, AAG for compliance. It is made clear that the respondents in the meantime shall be free to comply with the Court order supra in so far it directed demarcation of the area in question.

(JAVED IQBAL WANI)
JUDGE

SRINAGAR
31.01.2023
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S. No. 17
Regular Cause List

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

WP(C)No. 2649/2022
CM No. 6675/2022

M/s Tower Chemicals and Ors. ...Petitioner(s)

Through: Mr Tasaduq H. Khawaja, Advocate.

Vs.

UT of J&K and Ors. ...Respondent(s)

Through: Mr Mohsin Qadri, Sr. AAG with
Mr Allaudin Ganaie, AAG and
Ms Maha Majid, Advocate

CORAM:

HON'BLE MR JUSTICE JAVED IQBAL WANI, JUDGE

ORDER

09.02.2023

The matter came up for consideration in terms of order dated 31.01.2023 where under respondents 2, 3, 7 8, 9 and 11 were directed to remain present in person along with record of the case, after it came to be noticed in the compliance report filed on 13.01.2023 that the demarcation of the area directed by this court was suggested to be not warranted.

Mr. Mohsin Qadri, Sr. AAG, along with Mr. Allaudin Ganaie, AAG, appearing counsel for the respondents would submit that the respondents 2 and 3 could not appear in compliance to the order passed by this Court for the reasons beyond their control and have, as such, filed applications for dispensing with their personal appearance.

Having regard to the reasons detailed out in the applications, same are allowed and personal appearance of respondents 2 and 3 are dispensed with for today's hearing.

Mr. Qadri and Mr. Ganie would further submit that separate replies stand filed to the petition on behalf of respondents 7, 9 and 16.

Mr. Qadri would submit that the directions passed by this Court on 25.11.2022 for effecting demarcation on ground of the area, a Committee has been constituted under the Chairmanship of respondent no. 3 and that the said demarcation could not be bona fide undertaken immediately and that the same is likely to take around three months of time having regard to the terrain and topography of the area.

Mr. Tasaduq H. Khawaja, appearing counsel for the petitioners in principle do not oppose the timeframe suggested by Mr. Qadri, however, Mr. Khawaja would submit that the notification referred by the respondents qua Wild Life Sanctuary Litchipora does not cover the areas where the mines of the petitioners are located having regard to the Section 24-A of Wild Life Protection Act, as according to Mr. Khawaja the said notification is applicable to only the Forest/State land and not to the private lands where the mines of the petitioners are located and the mines of the petitioners as well do not fall within an area of one km from the Sanctuary in question.

The submissions of Mr. Khawaja *prima facie* is fortified by the reply filed by respondents which *per se* suggest that there is huge ambiguity and uncertainty insofar as the existing boundary of Sanctuary in question is concerned. This position also lends support from the Policy of the Government as emerges from two communications dated 03.02.2023 addressed by the Under Secretary to the Government Mining Department to the Director Geology & Mining and by Director Geology and Mining to the Joint Director (K) Geology and Mining respectively produced by Mr. Khawaja wherein it is stated that the mining operations shall be stopped

once demarcation takes place thus, in explicit terms suggesting that the respondents themselves are not sure whether the mines of the petitioners are located in the prohibited zone or not.

Mr. Khawaja in view of aforesaid facts and circumstances would pray for grant of an interim relief on the premise that the petitioners have a strong *prima facie* case as also balance of convenience lie in their favour and that withholding of an interim relief in their favour would adversely and harshly effect their rights including right to livelihood.

Having regard to the aforesaid position, facts, circumstances and record available, there appears to be substance in the submissions made by Mr. Khawaja. The petitioners thus, have been able to carve out of a case for grant of indulgence and an interim relief at this stage. Therefore, in order to maintain the scales of balance evenly the respondents are directed to permit the petitioners to carry out mining activities till such time the process of demarcation of the area is undertaken and concluded by them on ground.

It is made clear that in case after said demarcation the mines of the petitioners are found to be situated within the prohibited zone/s, the respondents shall forthwith stop the petitioners from carrying out the said mining activities.

List the matter for further consideration on 10.04.2023.

In the meanwhile, rest of the respondents to file reply.

The personal appearance of the officers summoned in terms of order dated 30.01.2023 shall stand dispensed with for the time being.

(JAVED IQBAL WANI)
JUDGE

SRINAGAR

09.02.2023

Ishaq



Government of Jammu & Kashmir
J&K POLLUTION CONTROL COMMITTEE
OFFICE OF THE REGIONAL DIRECTOR - KASHMIR

Sheikh-ul-Alam Campus, Rajbagh, near Government Silk Factory, Srinagar-190008
www.jkspcb.in Email: regionaldirectorkmr@gmail.com, Tel/fax 0194-2311842



The Member Secretary
 J&K Pollution Control Committee
 Jammu.

No:- JKPCC/RDK/PS/2023/...³⁴⁹

Dated:- 30 -10-2023

Sub:- Hon'ble NGT Order dt. 11-09-2023 in OA 538 of 2023 titled
 "Gypsum Jam: Rampant mining troubles Kashmir villagers,

Ref:- i) Your office endorsement No. JKPCC/PS/MS/23/2056 dt. 19.10-2023

Sir,

With regard to the subject and references captioned above, kindly find enclosed herewith the Water Quality and Air Quality monitoring reports as received from the concerned Lab incharges for information and further necessary action at your end.

Enclosed (as)

Yours faithfully

30.X.2023
 Regional Director
 PCC Kashmir

30/X/2023



J & K Pollution Control Committee
Shiekh-ul-Alam Complex Rajbagh Kashmir

✓ Regional Director
J&K Pollution Control Committee
Kashmir

NO:- PCC/ROK/23-24/W.Lab/ 115

Dated:-25/10/2023

Sub:- Water quality Analysis of stream near Gypsum Mining at Bagna Uri.

Ref No:-MS letter no JKPCC.NGT/2023/193/244-46 DATED 18/09/2023

Sir ,

In compliance to Hon'ble NGT order dt 11/09/2023 in OA No.538/2023 ,Kindly find attached herewith water quality analysis report of samples collected from stream flowing near Gypsum mines Bagna uri. The samples were collected at three locations. The description of the sites is as under:-

- Sampling location 1= The location is above the gypsum mines
- Sampling location 2= The location is opposite to the gypsum mines(Central)
- Sampling location 3= The location is Downstream of the gypsum mines

The test analysis report reveals that water quality from U/S (up-stream) to D/S (Down stream) of the stretch is within the prescribed permissible norms for class B (Outdoor Bathing organized) in terms of physico- chemical parameters analyzed.

Submitted for favour of information and further necessary action please.

PSCR)

Put up alongwith
the report for AW lab
27/10

Yours Faithfully

[Signature] 25/10/2023
I/C Water lab



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J&K Pollution Control Committee
Shiekh-ul-Alam Complex Rajbagh Kashmir
Analysis Report

Physico Chemical Characteristics of Water Body near Gypsum Mines Bagna uri .Baramulla

S.NO	Date of Sampling= 14/10/2023		Weather condition:-Partially cloudy		Primary water quality criteria for Outdoor Bathing (Organised)Class B
	Parameters	Exeme end above Gypsum unit(U/S)	opposite Gypsum Mine(Central)	Down stream of Gypsum Mines	
	Geo -coodinates	34.165683, 74.118584	34.159834, 74.119628	34.15404, 74.123253	
	Depth of Water Body	3.0 inch	3.20 inch	3.0 inch	
1	Air Temp. °C	18.80	19.2	19.20	-
2	Water Temp. °C	16.30	17.20	17.6	-
3	pH	8.60	8.20	8.50	6.5 - 8.5
4	Conductivity µs/cm	764.0	876.0	1052.0	-
5	T.D.S	406.0	460.0	555.0	-
6	D.O	6.80	7.00	7.40	>5mg/l
7	C.O.D	8.00	11.20	12.20	-
8	B.O.D	0.40	1.00	1.00	< 3mg/l
9	Phosphate	0.04	0.04	0.06	-
10	Ammonical Nitrogen	0.390	0.432	0.414	-
11	Sulphate	301.48	328.75	342.39	-
12	Hardness	362.00	402.00	446.00	-
13	Calcium	108.21	120.24	144.28	-
14	Magnesium	22.36	24.78	20.89	-
15	T. Alkalinity	60.0	90.0	106.0	-
16	Chloride	10.0	13.0	14.0	-
17	Turbidity NTU	9.0	7.0	5.0	-

All parameters are in mg/l except p H , Conductivity, Temperature and Turbidity

Samples collected by

[Signature]

Analyzed by

[Signature]

[Signature]
I/C Water lab

**Government of Jammu & Kashmir
J&K State Pollution Control Board
Regional Directorate-Kashmir**

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The Regional Director,
J & K State Pollution Control Board
Srinagar.

No:- *JKPCC/RDK/AL/MR/746*. Dated:- *28/10/2023*.

Subject:- Hon'ble NGT order dt: 11-2-2023 in OA No:- 583/2023 in
re: News item titled "Gypsum Jam: Rampat mining troubles Kashmir
villages"

Sir,

Kindly find enclosed, here with the Air Quality Monitoring report with regard to
the above cited subject.

Yours faithfully,


Scientist-"A"
JKPCC, Air lab.

The In-charge,
Air lab, JKPCCK Kashmir.

No:- JKPCCK/RDK/AL/MR/746. Dated:- 28/10/2023.

Subject:- Hon'ble NGT order dt. 11-2-2023 in OA No. 538/2023 In re: News item titled "Gypsum Jam : Rampant mining troubles Kashmir villages"

Ref:- Hon'ble NGT email dt. 15th September 2023.

Air Quality Monitoring Report

The Air lab team along with Field team of District Office Baramulla visited the site on 20-10-2023 to 21-10-2023 and carried out Ambient Air quality Monitoring of following parameters and the results are given below:-

S.No.	Location	PM10	PM2.5	SO ₂	NO ₂
1	Within the premises of Abdul Rehman Khan S/O Shah wali Khan, Subayee Mohalla Bagna Baramulla	148.98	64.48	10.58	20.33
2	Within the premises of Govt.Boys Primary/Middle School Bagna Baramulla	139.56	53.42	8.32	17.69

Note:- (1) Ambient Air Quality standard limits:-

24 Hours Avg:- (i) PM 2.5=60 µg/m³. (ii) RSPM=100 µg/m³. (III) SO₂=80 µg/m³
(IV) NO₂=80 µg/m³.

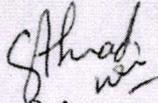
(2) All values are in µg/m³.

(3) The monitoring data is confined to the collected samples and operation of three mines only.

(4) The operation of mines was suspended for few days, specifically 2 to 3 days prior to the day of monitoring due to rain fall.

(5) Only three mines were found operational during monitoring namely M/S Kohinoor Gypsum, M/S Tower Chemicals & M/S New Sigma Industries, out of 04 mines in the said area, M/S GEE EMM Industries was found non operational during the monitoring period, However M/S Baba Chemicals is located far away from this spot and hence needs separate Air Monitoring.

(6) The production of raw material was confined to 3 to 4 dumpers (Tipper) due to low Demand as stated by owners of the mines.


R.A.

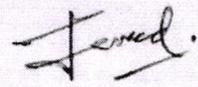
Air Lab.Sgr.


F.I.

Air Lab.Sgr


R.A.

Air Lab.Sgr


F.I.

Baramulla District