

From

The Additional Chief Secretary,
Government of Haryana,
Mines and Geology, Department,
New Civil Secretariat,
Sector-17, Chandigarh.

To

The Registrar General,
National Green Tribunal,
Faridkot House, Copernicus Marg,
New Delhi-110001.

Memo No. DMG/HY/Comp./Dadam/Rakesh Dalal/3rd part/ 1844
Dated Panchkula, the 16/4/24

Subject:

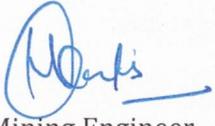
Final report of the committee constituted by NGT vide orders dated 26.08.2022 in OA No. 169/2020 with OA No. 1/2022-regarding.

This is in continuation of this office memo No. 1098 dated 03.03.2023 on the subject noted above.

2. In this behalf, please find attached final report of the committee constituted by Hon'ble NGT in the above captioned cases, for consideration of Hon'ble Tribunal.

This is for your kind consideration.

DA: as above,


State Mining Engineer,
for Director, Mines and Geology, Haryana,
Panchkula.

Endst. No. DMG/HY/Comp./Dadam/Rakesh Dalal/3rd part/ Dated:

A copy is forwarded to following for information and necessary action please.

1. Principal Chief Conservator of Forests (HoFF).
C 18-A, Van Bhawan, Sector 6, Panchkula.
2. Member Secretary,
Haryana State Pollution Control Board, C-11, Sector 6, Panchkula.
3. Regional Controller of Mines, Indian Bureau of Mines, 100, Nehru Colony Rd, C Block, Nehru Colony, Dalanwala, Dehradun, Uttrakhand-248001.
4. Deputy Commissioner, Bhiwani.
5. Regional Officer, CPCB, BSNL Telephone Exchange, Sector 49, D, Chandigarh.

State Mining Engineer,
for Director, Mines and Geology, Haryana,
Panchkula.

Sub: Report of the Joint Committee constituted under Additional Chief Secretary to Government Haryana, Mines and Geology Department, by the Hon'ble National Green Tribunal, New Delhi vide orders dated 22/26.08.2022 passed in OA No.169/2020- Kuldeep Singh Vs State of Haryana and OA No. 1 of 2022.

The Hon'ble National Green Tribunal vide orders dated 22/26.8.2022 in the above OA's (OA No. 169/2020 & 1/2022) while disposing of the stated matter constituted a Joint Committee headed by Additional Chief Secretary to Government of Haryana, Mines & Geology with Member Secretary, Haryana State PCB, Regional Officer, CPCB, Indian Bureau of Mines, Dhanbad and PCCF (HoFF), Haryana as members. The following was mandate for the Joint Committee:

- i. To specify components for restoration of environment as well as for creating prospective natural environment; and;
- ii. Since predecessor of PP is not before NGT, therefore Joint Committee shall finalize compensation in respect of said party for damage to the environment as well as for illegal mining, alongwith all other pending issues in the light of two reports.

Background:

2. As one of the members (representative of IBM Dehradun) of Joint Committee was not aware about the facts of the case, therefore, the committee deliberated the complete background of the case/matter, wherein, the constitution of this Joint Committee arose, which is being described as under:

- a) One **Sh. Kuldeep Singh** filed an **OA No. 169 of 2020** before NGT alleging allegations of illegal mining and other illegal activities being done by M/s Goverdhan Mines and Minerals while undertaking mining operations in Dadam mining area. The Hon'ble NGT vide orders dated 20.07.2021 sought a report by a **Six-member Committee headed by Justice Pritam Pal Retired High Court Judge about the alleged violations by the lessee of Dadam Mine.**
- b) The Joint Committee filed its **interim report before Hon'ble NGT on 13.10.2021**, wherein, the committee on few of the issues gave its findings and about few others submitted that final report will be submitted after having report based on analysis of the satellite imageries. The same was required as the present lease holder on most of the issues was claiming that the same was not done by them rather was done during the period of earlier mining lease holder.

- c) In the meanwhile, on occurrence of incident happened on 01.01.2022, wherein The National Green Tribunal, New Delhi, taking Suo-moto notice of the incident vide orders dated 03.01.2022 constituted an eight-member Committee (*comprising of nominees of Ministry of Environment, Forests and Climate Change, GoI, Central Pollution Control Board, Regional Office, Chandigarh, National Disaster Management Authority, Government of India, Director General of Mines Safety, Government of India, Principal Chief Conservator of Forests, Haryana, State Environment Impact Assessment Authority, Haryana, Pollution Control Board, Haryana and District Magistrate, Bhiwani*) directing to give report by ascertaining the extent of violations, extent of damage to the environment and to the human lives, extent of compensation paid and payable, safety precautions taken and required to be taken, steps to prevent recurrence of such happening in future by the project Proponent and the statutory regulators and submit its report within two months.
- d) The Six –member committee headed by Justice Pritam Pal, Retd. High Court Judge in OA No. 169/2020- Kuldeep Singh submitted its final report before Hon'ble NGT on 25.03.2022. The Joint Committee after considering various reports and after analyzing the action taken by related departments gave its findings on issues mentioned below:
- i. Illegal Mining in forest area (non minable area) in 0.8 hectare area in Dadam mining Hills in village Dadam, Tehsil Tosham.
 - ii. Illegal mining in Dadam mining area done up to depth of 109 m.
 - iii. Abandoned/damaged Dadam Distributary/ minor constructed by the Department of Irrigation.
 - iv. Procurement of ground water from private agency by M/S Govardhan Mines & Minerals for suppression of dust and plantation etc. in Dadam mine area.
 - v. Implementation of mining closure plan by the predecessor of the project proponent i.e. M/s Sunder marketing Associate Pvt. Ltd.
 - vi. Closing of deep mining pits as per order dated 5.8.2020 of Department of Mining.
- e) Subsequently, another eight-member Committee constituted by the Hon'ble NGT in OA No. 1 of 2022, submitted its report in April 2022 and apart from the findings on violation which was almost same as founded by the Justice Pritam Pal committee, recommended to levy a sum of Rs. 7.5 Crore for undertaking mining in violation of the mining plan and EC.

- f) In view of the both reports, Show cause notice was issued to M/s Goverdhan Mines and Minerals vide dated 07.04.2022 and 12.04.2022 to submit their response on the same. Further, an opportunity of hearing was fixed on 18.04.2022. In order to assess the quantity of stone mineral excavated as per the findings of the committee constituted by NGT, a committee was constituted by the then Director General, Mines and Geology, Haryana (herein after refer As DGMG) vide order dated 26.04.2022, comprising of the Geologist (Sr.). Mining officer, Bhiwani & Sr. Surveyor of the Department.
- g) The then DGMG, having taken the reports in consideration after issuing notice and affording opportunity of hearing, vide order dated 02.05.2022 held that the lease firm undertook mining operations in certain areas outside lease hold area and also excavated mineral beyond permissible depth from lease hold area and also held that in certain parts mining was so undertaken, which resulted in unsafe mining.
- h) The DGMG while imposing penalty amount equal to Rs. 29,64,71,146/- (out of which an amount of Rs. 23,03,00,000/- was ordered to be adjusted as part payment and the lessee company was directed to deposit Rs. 6,61,71,146), suspended the mining for a period of one month or till such time mine is rectified and made safe as per terms of grant/mining plan/directions of the Director Mines Safety, Ghaziabad rectified and granted time period of one month. The said penalty was imposed on account of following:

Sr. No.	Detail of the area from where mineral was excavated illegally	Quantity of Mineral in MT
1	From 300 sq. meter area from where mineral was excavated illegally	5250
2	Forest area of 0.097 hectare	16,990
3	Excavation from 0.37 hectare area within 7.5-meter safety zone/barrier around lease boundary	64,167
4	Mineral excavated from depth beyond permissible depth of 78 meters	9,80,000
	Total	10,66,407

- i) The Hon'ble NGT subsequent to the submission of the action taken report filed by the Chief Secretary Haryana, in compliance with the order dated 20.07.2021 in OA No. 169 of 2020, wherein, it was informed that the Mining Department has imposed a penalty of Rs. 29,64,71,146/-, on the lessee company M/s Goverdhan Mines and Minerals apart from the other action taken/initiated by different concerned departments, while upholding the two reports submitted by the above mentioned

committees, held that the *penalty for illegal mining equal to the cost of mined material already assessed, has to be treated as final*. Further, instead of fixing the environment compensation penalty of Rs. 7.5 crore, directed the lessee company to pay the interim compensation amount @ 10% of the value of mined mineral till the final compensation is decided/determined by the present Joint Committee.

Report

3. Having discussed the complete background as above, the Joint Committee held meetings at various occasions for deciding the final compensation and components for restoration of environment as well as for creating prospective natural environment. The meetings of the Joint Committee were held on 14.09.2022, 29.09.2022, 12.10.2022, 28.10.2022, 15.11.2022, 30.11.2022, 30.12.2022, 10.01.2023, 31.01.2023, 30.06.2023, 24.08.2023 and 31.08.2023. The report of the committee has been finalized as under-issue wise;

A. For restoration of environment and for creating prospective natural environment:

- The committee has prepared a restoration plan in Dadam mining area for this purpose involving Forest Department and has been already submitted before the Hon'ble National Green Tribunal vide dated 03.03.2023 as an interim report of the Joint Committee. The same was taken up as M.A. No. 35/2023 in O.A. No. 169 of 2020, wherein, the Hon'ble NGT vides orders dated 10.05.2023 approved the restoration plan. A copy of said restoration plan is attached as **Annexure-A**, with this report.
- The committee mentions here that for examining as well as for implementation of proposed restoration plan, a committee was constituted at District Level comprising of following:
 - a. Additional Deputy Commissioner, Bhiwani
 - b. Dr. H.R. Dandi, Advisor, Mining Department
 - c. Divisional Forest Officer, Bhiwani
 - d. Mining Officer, Bhiwani
 - e. One nominee of lessee company- M/s Goverdhan Mines and Minerals

Needless to mention here that the works to be under approved rehabilitation plan shall be supervised by the above committee excluding, nominee of Lessee Company.

- The said committee after examining the restoration plan opined for imposing following additional condition in case mining is allowed to M/s Goverdhan Mines and Minerals:
 - i. Mining shall be allowed only from the top bench. In no case, mining can be allowed to operate in mid bench or lower sections. The lessee has already constructed the road up to top bench i.e. 348 mts near pillar 'E'. Hence shall be allowed from the top bench only. The already constructed road needs some improvement near top and sharp curves.
 - ii. The old closed pit have overhang and potential slope failure area, hence shall be fenced completely, all approach road to these pits shall be closed so that any one cannot raise the free failing mineral from the slopes.
 - iii. It shall be operated from single way only (entry-exit)
 - iv. Blasting shall be done only with delay Nonel detonator.
 - v. Party has to submit revised mining plan considering the restoration plan of Forest Department and shall also incorporate Section 22 C plan and slope stability report (lessee has told that they have taken slope stability report. Mining plan shall suggest bench directions based on geological structures and joint slope directions. Six monthly continuous closure plan. Any area reduction on account of above shall not give benefit for financial liabilities, because lessee can achieve the target of production from remaining area.
- The above, conditions have been accepted by the committee considering the fact that for undertaking mining operations these are required for systematic and sustainable mining operations, keeping in view the present status mine/area. The committee further states that the plantation proposed to be carried out in the Dadam mining area shall not to be treated as any kind of Forest or Aravalli Plantation. Hence, the same is being clarified here itself.
- It is also observed that for Restoration and Rehabilitation of any mine, the Department of Mines and Geology, has established a fund non as "**Mines and Minerals, Development, Restoration and Rehabilitation Fund**". The

objective of the said fund is funding of the restoration or reclamation or rehabilitation works in the sites affected by mining operations apart from other objectives. It was informed to the committee that the department is having sufficient amount under R&R Fund obtained from the lessees (present as well as former) of the Dadam stone mining area. Therefore, the committee has decided that cost/expenditure to be incurred for execution of restoration plan finalized by the committee, on ground, shall be made out from this fund.

- It is also clarified here that the above rehabilitation has been proposed under present scenario and in case the department wants to further grant mineral concession of the area again considering the potential of the mineral still remaining, the above conditions as well as rehabilitation plan shall be deemed to expired from the day mineral rights is granted to any other concessionaire, as the committee did not want to halt the revenue, to be generated, of the State.

B. Compensation amount for damage to environment.

- The committee was informed that the in light of the two reports submitted by the duly appointed Committees (Justice Pritampal Committee in O.A. No. 169 of 2020 and 8 member committee in O.A. No. 1/2022), the Mines and Geology Department has imposed a fine of Rs. 29,64,71,146/- (for illegal extraction of 10,66,407 MT stone) on M/s Goverdhan Mines and Minerals (GMM) for undertaking illegal mining in Forest area as well as for unauthorized mining beyond permissible depth, in which the security of Rs. 23,03,00,000/- lying with the Department was adjusted against part payment of the above penalty and remaining penalty of Rs. 6,61,71,146/- has been ordered to be deposited.
- Further, for illegal mining done by previous lessee M/s Sunder Marketing Associates in an area of 1.241 hectares in the adjoining Aravali Plantation area during their lease period, i.e. from 29.10.2015 to 30.11.2017, as well as for illegal mining in Dadam distributary / minor constructed by the Department of Irrigation, the Mining Officer/ Bhiwani vide notice dated 12.07.2022, has directed the ex-lease holder for depositing the penalty amount of Rs. 34,87,86,222/- for the excavation of 12,44,785 MT of stone 1,89,305 MT of ordinary clay (i.e. 2,17,375 MT form 1.241 hectare of Aravali area +10,27,410 MT of stone & 1,89,305 MT of ordinary clay from Dadam

distributary). Hence, the above penalty amount has been tabulated as under:

Sr. No	Name of Lessee	Quantity illegally mined mineral	Type of mineral	Total Penalty (in Rs.)
1.	M/s Sunder Marketing Associates	189305	Ordinary Clay	348786222
		1244785	Stone	
2.	M/s Goverdhan Mines and Minerals	1066407	Stone	296471146
	Total	2500497		645257368

- The committee in order to give an opportunity to both the lessee companies, in the interest of natural justice, invited them for appearance on several occasions and lastly on 31.08.2023. The following representatives who appeared on behalf of the companies/firms are as under:

Sr. No	Name of Lessee	Name of Representative
1.	M/s Sunder Marketing Associates	Sh. Raman Sokhal Sh. Vinod Kumar
2.	M/s Goverdhan Mines and Minerals	Sh. Karanvir Singh Kehar, Council/Advocate Sh. Sanjay Sinha, Mines Manager

- The representative of M/s Goverdhan Mines and Minerals, since the beginning, has submitted that they had not done any legal mining in the area with regard to the mining done beyond permissible depth and the same has been done by the former lessee company, whereas, representative of M/s Sunder Marketing Associated also stated the same that it has been done by their successor and also that they had not been heard till date by any authority/tribunal. The committee has observed that both the above companies/firms want this committee to decide the area as well as quantity of illegal mining, in terms of penalty to be imposed on them respectively. Whereas, the Hon'ble NGT vide order dated 22/26.08.2022, has already upheld the findings/report submitted by the two committees constituted by itself apart from the directions that *penalty for illegal mining equal to the cost of mined material already assessed has to be treated as final*. Hence, this issue has been already decided by the Hon'ble NGT and this committee does not have the mandate to re-relook on the penalty amount. Therefore, the pleas of both the companies in this regard cannot be considered.
- Method for deciding compensation amount- This committee clearly has

been given the mandate to finalize the environmental compensation amount as the earlier decided amount of Rs. 7.5 Cr. in case of M/s Goverdhan Mines and Minerals by the earlier Committee of Justice Pritam Pal (Retd.) was contested before Hon'ble NGT and NGT mandates this committee to reassess the compensation amount in its order dated 26.08.2022. Both the representatives of M/s Sunder Marketing Associates and M/s Goverdhan Mines and Minerals were asked to suggest any criteria's to decide the environmental compensation, but they insisted upon recalculating the penalty amount based on various place and pleaded that no environmental compensation can be imposed upon them as they have not done any illegal mining itself; and penalty of illegal mining has been wrongly imposed. The Committee deliberated upon the issue and while reiterating its position in the processing, decided not to look into the aspect of illegal mining penalty. The Committee felt that there is no yardstick available to link the environmental compensation to illegal mining penalty.

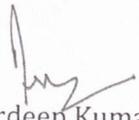
The committee also felt that both the companies are not willing to provide any data regarding turnover profit and hence, the earlier decided penalty amount of Rs.7.5 Cr. by the 8 members committee in OA No. 1 of 2022 for damaged to environment, be recovered from M/s Goverdhan Mines and Minerals. This is based on the method of calculating the environmental compensation on the basis of 25% on Net Profit of the company. Since the company has not contested any figure by the 8 members committee, the said amount is treated as environmental compensation to be recovered from M/s Goverdhan Mines and Minerals. Further, compensation on account of environment in respect of M/s Sunder Marketing Associates is also collected at the same rate/percentage on the Net Profit of the said company for the last 01 year of their mining operations prior to the cancellation of mining lease. As has been stated above that no turn over data/Net Profit has been provided, therefore, the compensation for the damage to environment shall be calculated on this basis itself qua 25% on Net Profit of last 01 year as and when the same is given/supplied by the said company.

- The above compensation amount shall be deposited by the respective companies with the HSPCB and in case the same is not deposited, HSPCB shall initiate necessary action as per Rule for recovering the same.

Dated: 31.08.2023


Suneel Dave
(Director, CPCB)


Deepak Sharma
(Senior Mining Geologist
IBM Dehradun)


Pardeep Kumar
(Member Secretary HSPCB)

Dr. Narhari Banger
(Director, Mines & Geology)


Jagdish Chander,
(PCCF & HOFF)


Arun Kumar Gupta,
(Additional Chief Secretary
to Govt. Haryana,
Mines and Geology.)