

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH AT NEW DELHI

MA 42/2025 in OA 151/23

IN THE MATTER OF:-

HASSINA WAJID(SARPANCH)

PETITIONER

VERSUS

STATE OF JAMMU & KASHMIR (UT) & ORS.

RESPONDENTS

FINAL SUBMISSION ON BEHALF OF HASSINA WAJID(PETITIONER)

1. That the Original Applicant Hassina Wajid filed the Original Application before the Hon'ble Tribunal stating that Respondent no.6 and 7 and Respondent no. 8 (Shahzad Shabnam) are operating stone crusher/hot mix plant, carrying on illegal mining and thereby causing damage to environment in violation of environmental laws and norms and further alleged the violation of siting norms with respect to the residential area.
2. That the Hon'ble Tribunal while passing the final Order and Judgment dated 04.09.2024 in the Original Application, considered the Joint Committee report dated 17.07.2023 wherein it has come to the fore that within 500 meters, approximately more than 20 houses are existing and education institutions also existed at a distance of about 500 meters and thereby the Hon'ble Tribunal came to the conclusion, inter alia, that the Respondent no. 6 and 7 are not meeting the siting criteria and thus violating the siting norms. The other directions with respect to the Respondent No.6 and 7 include imposition of Environmental Compensation of Rs 7,20,000/- and operation of Unit shall not be allowed at the site.

Below are some finding of Hon'ble Tribunal judgment delivered In OA 151/23

- I. **Within 500 meter from stone crusher/hot mix plant there were 70 houses and 114 families residing (CPCB Report Annexure A1 and para 35 of judgment**
- II. **There is a government middle school Chaktroo having distance of 428 meters from stone crusher/hot mix plant**
- III. There as been a consistent violation on the part of respondent no 6 and 8 , operation of stone crusher in violation of environmental norms caused huge damage to clean air by causing air pollution and water pollution by discharging polluted effluent therein.(finding of hon'ble court in para 65 of judgment (OA/151/2023)
- IV. Respondent no 6 and 8 have been violated environmental laws in operating stone crusher unit also by indulging In illegal river bed mining or by procuring river bed mineral in an illegal and unauthorised manner (finding of Hon'ble Court in para 63/OA/151/2023)
- V. Respondent 8 also preferred Appeal no 5022/2024 before Hon'ble Supreme Court challenging Hon'ble Tribunal Order dated 01/04/2024 whereby functioning of stone crusher and hot mix plant was stoooped , Honble Supreme court dismissed appeal vide judgment dated 26.04.2024 and order that “ we do not find any good ground and reason to interfere with the impugned judgment and hence, the present appeal is dismissed”(para 25 of Honble Tribunal judgment ,
- VI. Respondent no 6 to 8 always violate norms hence, A fine of rs 16500/ was imposed on the unit on 22-12-

2021 for 60 MT of illegally accumulated RBM dump at site, A Fine of Rs 19250/- as imposed on the unit on 29-01-2022 as imposed on the unit on 29-12-2021 for 70 MTs of RBM illegally accumulated RBM dump at site , A fine of Rs. 19250 was imposed on the unit on 23-02-2022 for 70 MTs Of illegally accumulated RBM dump at site , A fine of Rs 16400/- was imposed upon Mr Shahzad shabnam the unit owner on 24-07-2023 for illegal transportation (without e challan) of 10 MTs of Crushed Bajri (aggregate)in vehicle No JK 12 B-0054

3. That the said findings and Order have been challenged by the Respondent no.6 and 7 and their proprietor Respondent no.8, before the Hon'ble Supreme Court in the Civil Appeal no. 10655/2024 wherein Hon'ble Supreme Court dismissed the appeal and issued below order

“The appellants will deposit the fine as imposed and also participate in the proceedings initiated for computation of the compensation.

It is stated on behalf of the appellants that there is a power of relaxation with regard to the siting criteria.

It is obvious that, till the relaxation, if any, is granted, no relief can be given to the appellants. The relaxation, if applied, will be considered in accordance with the applicable rules and law. If the appellants get any such relaxation, it will be open to them to approach the National Green Tribunal by

way of an appropriate application, as the relaxation would not be effective till approval is granted by the National Green Tribunal.

Recording the aforesaid, the appeal is dismissed

Pending application(s), if any, shall stand disposed of.”

4. That in the light of above judgment respondent no 6,7,8 move an application before JKPCCC seeking relaxation in the reference of point 3.3 of Revised guidelines , Order no 37-JKPCC Of 2023 thereafter JKPCCC constitute expert committee however this committee is not constituted as per point 3.3 of revised guideline , Committee visited on 13/12/2024 for inspection.
5. That unauthorized Expert **Committee visited on 13.12.2024**, The contents of said status report show that it is based on the suppression of material facts, documents in order to mislead this Hon'ble Tribunal; it does not reflect the true factual status of the stone crusher and pollution causing by it.
6. That the Expert committee member who visited site on dated 13/12/2024 , they are not competent officer as per point no 3.3 of Revised guidelines , Order no 37-JKPCC Of 2023 , following officer should be member of expert committee but JKPCC have no chosen members as per law

As per Clause 3.3, Expert Committee should be comprising of following officer	On dated 13.12.2024, Expert Committee Comprising following officer
Regional Director JKPCC	AEE , J&K PCC Jammu
Divisional/District Officer	Divisional Officer, PCC Rajouri
Adjoining Divisional /District Officer	Field Inspector PCC Reasi
Scientist in Charge Air Laboratory	Scientists A/C Air Lab PCC Jammu

So report of Expert Committee is incomplete and unreliable as on expert Committee Comprising by JKPCC , in that committee **Regional director JKPCC Was not Present, Adjoining Divisional /District Officer was also not present** , so report filed by Expert Committee can not read as evidence, as officer who were present they are not authorize as per Clause 3.3 of the Revised Siting Criteria/Guidelines for Establishment and operation of stone crusher dated 27-02-2023, deliberately they were not included so that favourable report can be prepared in favour of respondent no 6 to 8.

7. As Per Clause 3.3 of if Expert Committee Made Recommendation then it should be followed by detailed Report and presentation by the committee justifying the recommendation **but in present case only 3 page report is submitted by unauthorized expert committee however report /recommendation is also not supported by Affidavit of any officer** , so this report can not read as evidence in present case
8. That On dated 13.12.2024 when expert committee visited that day , empty stone crusher operate and hot mix plant was closed no stone put in crusher , so that result of Ambient Air Quality of stone crusher would be under Permissible limit . attached old photographs clearly shows that when Stone Crusher operating then black and white smoke can be seen clearly , but on day 13.12.2024 when expert committee visited no smoke visible because empty stone crusher was operated.(**Photo Graphs attached as ANNEXURE J1**) and committee accepted this fact

that hot mix plant not operated , so without detailed report, presentation by committee no recommendation made.

9. As Per Notification dated 27.02.2023 on basis of which respondent no 6 to 8 asking for relaxation , it self specified **there should not be a single residential house within 150 meters from proposed sites** , then question on expert committee how they can recommended against the law, Honble Supreme Court directed that if any relaxation available as per law then granted but here no relaxation if residential house located within 150 meter as per law.
10. However expert committee silent about total number of families residing within ambit of 500 meter , as per joint committee report filed in original Application 151/2023 , and also part of judgment in OA/151/2023 page no 17 , 70 house and 114 families and government middle school in located 428 meter from stone crusher
11. That Recommendation made by authority can not considered as lack of authority, Committee not authorize as per clause 3.3 of notification dated 27.02.2023, so this report can not be considered as piece of evidence, no detail report produced by authority as per requirement of Clause 3.3 of notification dated 27.02.2023 , empty crusher run during mongering of Air Quality and noise quality , is these circumstance report may be rejected
12. At beginning when stone crusher was established , it was also without having requisite permission so that Hon'ble NGT In OA 151/23 disposed of with direction of operation of unit shall not be allowed at the site because respondent no 6 & 7 not meeting the siting criteria, violating the environmental norms and below are the admitted fact in present case
13. That the requirement of protecting the environment cannot be static and the environment can be protected by a dynamic

approach and keeping in view the directive principles of State policy as envisaged in the Constitution, the State is bound to make efforts for maintaining delicate balance between the requirement of healthy environment and industrialization.

14. Environmental laws prioritize public interest as a result the government must act in alignment to the requirements of time. It is significant to note that public interest must over-ride any consideration of private loss and gain
15. That Hon'ble Punjab and Haryana High Court which also pertain to stone Crusher relocation , **Civil Writ Petition No. 12107 of 2018 (O&M) 19 And Other Connected Cases , Hon'ble Court Held That**

“ Right to life is higher than the rights flowing from Article 19 i.e. to carry business. The business of stone crushers is considered *res extra commercium* and is, therefore, subject to stringent regulation. The pollution caused by the stone crushers is inherently injurious to the health of all living beings including humans, wildlife, rivers and plants. The efforts made to maintain delicate ecological balance which is the need of the hour particularly in view of rising pollution is not required to be interfered with.

3.17 Although stone crushers are a vital sector from a socioeconomic perspective, but they generate significant amounts of fine fugitive dust. The dust poses serious health risk to workers and nearby communities, contributing to respiratory illnesses. Additionally, it diminishes visibility, inhibits vegetation growth, and negatively impacts the area's aesthetics. To mitigate or control these emissions, measures

must be implemented. Stone crushers are critical to infrastructure and construction industries but they also pose significant environmental and health challenges. The Court must balance socio-economic development with environmental protection, ensuring that activities like stone crushing are conducted sustainably and within the legal framework.”

16. That nearest house located distance of about 70-80 meters from stone crusher belongs to Abdul Salam bhat, Sajad Ahmed and Zulfi Khan and awithin 500 meter 70 houses & 114 famalies As endorse by revenue department vide order no---- dated are within the radius of 500 meters which is infringement to revised guidelines on the basis of which Respondent no 6 to 8 claim relaxation.(Ifindig of Hon'be Court in page 17 of Judgment OA 151/23
17. That Revised Guidelines including Siting Criteria for Establishment and Operation of Stone Crushers and Hot Mix Plants in J&K. Order No. 37 -.JKPCC of 2023 Date: 27 -02-2023 , on which respondent 6 to 8 relied on and seeking relaxation this notification itself specified that “There should not be a single residential house within 150 meters from proposed sites”
18. That **Supreme Court of India Kennedy Valley Welfare Association vs Ceylon Repartriates Labourers Welfare ... on 25 April, 1996 Equivalent citations: 2000(2)SCALE143, AIRONLINE 1996 SC 603, (2000) 2 SCALE 143**

“We have examined the recommendations of the Committee, we are of the view that the learned Single Judge rightly accepted the report of the Committee and issued the

directions banning operation of Stone-Crushers and quarries within the radius of 500 meters of the residential area. The Division Bench was not justified in reducing the area restriction from 500 meters to 50 meters in respect of the quarries. The Division Bench also issued further directions in modification of the directions issued by the learned Single Judge which were not warranted in the facts of the case”

PRAYER

in the light of above fact and circumstance Hon’ble Tribunal May be Pleased to dismiss MA Filed By Respondent no 6,7,8 and allow Execution Application filed by Petitioner.



DATE 2/5/2025

PRAKASH PANDEY

PLACE POONCH

COUNSEL FOR THE PETITIONER HASSINA WAJID