



दूरभाष : 2713526

क्षेत्रीय कार्यालय, उ०प्र० प्रदूषण नियन्त्रण बोर्ड

33/18 कपिल बिहार, सहारनपुर-247001

सन्दर्भ सं: 882 /अपील नं०-15/2021(प्रमोद कुमार)/2021

दिनांक : 26.10.2021

To,

The Registrar
National Green Tribunal
Principal Bench
New Delhi.
E-mail : judicial-ngt@gov.in

Sub.-Compliance to the direction issued on 09.06.2021 by Hon'ble National Green Tribunal in Appeal No. 15/2021(I.A. No. 119/2021 or I.A. 120/2021) Pramod Kumar Vs. State of Uttar Pradesh And Ors.

Sir,

With reference to the subject mentioned above kindly find enclosed herewith the Joint Committee Report of CPCB, UPPCB, representative of the MoEFF&CC and the District Magistrate in compliance of the order issued on 09th June 2021 by Hon'ble National Green Tribunal in Appeal No. 15/2021(I.A. No. 119/2021 or I.A. 120/2021) Pramod Kumar Vs. State of Uttar Pradesh And Ors.

Encl. : As above.

Yours faithfully,

(Dr. D.C. Pandey)
Regional Officer.

Copy to :

1. Member Secretary, U.P. Pollution Control Board, Lucknow for information.
2. Shri Pradeep Mishra, Advocate, Hon'ble Supreme Court/NGT, New Delhi for perusal and necessary action.
3. Chief Law Officer, U.P. Pollution Control Board, Lucknow for information.
4. Chief Environmental Officer (Circle-3), U.P. Pollution Control Board, Lucknow for information.

Regional Officer

Joint Committee Report in reference to Hon'ble NGT order in the matter of Appeal No. 15/2021 (I.A. No. 119/2021 & I.A. No. 120/2021) - Pramod Versus State of Uttar Pradesh & Ors.

1. Hon'ble NGT vide its order dated 09.06.2021, in the matter of Appeal No 15/2021, constituted an independent four-member joint Committee comprising the CPCB, the State PCB, representative of the MoEF&CC, and the District Magistrate, Saharanpur.
2. The relevant para of said Hon'ble NGT order, pertaining to the mandate of the committee is reproduced hereunder,

"...5. It is also necessary to ascertain the correctness of the contentions of the appellant from an independent four-member joint Committee comprising the CPCB, the State PCB, representative of the MoEF&CC and the District Magistrate, Saharanpur. The State PCB will be the nodal agency for coordination and compliance. The Joint Committee will be free to take assistance from any other individual/institution and will also be free to interact with the stakeholders...."

3. For the compliance of Hon'ble NGT directives following members have been nominated by the concerned departments
 - Shri Rajneesh Kumar Mishr ADM(F&R), Saharanpur
 - Shri Rajendra D Patil, Scientist-D, CPCB RD-Lucknow
 - Dr. Preeti Tripathi, Scientist-C, Integrated Regional Office (CZ), MoEFF&CC, Lucknow; and
 - Shri D.C. Pandey, Regional Officer, UPPCB, Saharanpur.



4. The committee had conducted a meeting on 07.10.2021 through VC to discuss the instructions of Hon'ble NGT and the methodology that needs to be adopted for its compliance.
5. Thereafter, the committee also made a field visit of the site in question on 13.10.2021. Interactions have also been held with the representative of the Mining Department (Shri Bhupendra Yadav, Mining Officer and Shri Mohd Aizaz, Mining Inspector) and the representative of the project proponent (Manish Kumar Singh, Manager) during the field visit.
6. The findings of the committee are as given below,
 - 6.1. The State Level Environment Impact Assessment Authority (SEIAA) has issued Environmental clearance (EC) on 26.03.2021 to the M/s Star Mines (Shri Deepak Chaudhari) for proposed Sand/Bajari/Boulder Mining at Gata No. 1 in Village Barthakorsi, Tehsil - Behat of Saharanpur District of Uttar Pradesh State.
 - 6.2. As per the records,
 - 6.2.1. Notice for E-tendering along with E-Auction was issued by the mining department on 01.11.2019. The lease area of the mine in question is one of the areas among the six areas for which the said auction notice was issued.
 - 6.2.2. Letter of Intent (LoI) was issued by the district administration to the project proponent on 30.12.2019. The LoI was issued for 36 hectares mine lease area and for the period of 5 years.
 - 6.2.3. The cluster certificate has been issued by the Mining department on 12.03.2020, wherein it has been noted that no mine is operational or a lease has been issued in 500 m from the periphery of the proposed mine lease area.



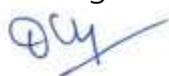
- 6.2.4. The public hearing for the project was conducted at the conference hall of Tehsil Behat on 19.10.2020.
- 6.3. The lessee had started mining after getting EC from SEIAA and permission from the Mining Department. During the visit, the project proponent's representative stated that sand excavation has been started on 04.04.2021, and mining work has been stopped on 30.06.2021.
- 6.3.1. The permission for mining has been granted by the mining department on 01.04.2021.
- 6.3.2. The mine proponent has sold the material till 30.06.2021. And it was informed that the mine was operated for 84 days, during which 3,77,748 m³ Sand/Bajari/Boulder minerals have been excavated.
- 6.3.3. The weighing bridge has been installed for weighing the amount of excavated material. The data generated through the weighing system is been submitted on the online portal.
- 6.3.4. As per the information provided by the project proponent, the excavated material has been sold to the stone crushers for further processing. The material has been sold to 44 different parties.
- 6.4. The mining department inspected the mine twice during June 2021 to verify the content of the complaint received to the district administration. The mine was found to be operational during the first inspection on 07.06.2021 whereas during the second inspection on 19.06.2021 the mining work was found to be closed. As per these inspection reports, excavation is been done through the machines and the depth of the excavation is around 2.8 m.

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- 6.5. The proponent has carried out mining operations without Consent from UPPCB. They have submitted the online application for seeking Consent from UPPCB on 17.06.2021. Based on it, the UPPCB has issued a show-cause Notice to the mine on 09.09.2021. The environmental Compensation of Rs. 7,70,000/- is also been proposed for the period of 77 days (01.04.2021-17.06.2021) at the rate of Rs. 10,000/- per day in accordance with the methodology developed by the CPCB.
- 6.6. During the field visit the committee observed the following
- 6.6.1. The mining operations were closed.
- 6.6.2. The mine is yet to obtain Consent under Air and Water Acts from UPPCB and NOC from CGWA.
- 6.6.3. They have installed a weighing bridge near their camp office and also installed CCTV cameras along with one PTZ camera.
- 6.6.4. A setup for recording the data from the weighing machine and transferring it through the online portal is available near the weighing bridge.
- 6.6.5. The portion of the Yamuna River in which the mine in question is located forms the boundary between the states of Uttar Pradesh and Haryana. Though the exact point of the state boundary was not accessible, the concerned officer of the district administration (i.e. Lekhpal) informed that the interstate boundary is approx 500 meters away from the mine lease area.
- 6.6.6. No operational mine was sighted within a 500-meter distance from the said mine lease boundaries.
- 6.6.7. During the visit only two poles (C&D) were found at the site. The geo-coordinates of these two poles were verified and found to







be in order. It was further informed that the remaining pole had been washed out from the site.

6.6.8. A DG set of 25 KVA was available near the camp office for power backup.

6.6.9. It was told that they have not installed any borewell and water requirement is being met by taking water tankers from nearby stone crushers. However, lending the use of water for industrial purposes is a violation of the rules.

6.6.10. Though the representative of the proponent claimed that they have done the plantation but any such plantation was not visible in the area.

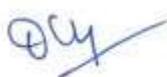
6.6.11. As per the condition of EC, four Ambient Air Quality monitoring stations were supposed to be established in the core zone as well as a buffer zone. However, no such air quality station was found at the site.

6.6.12. The roads leading to the mining site have been badly damaged. Stone crushers and the mine in question are the major industrial activities located in this area and heavy vehicular transport is the major cause of damage to public roads.

7. In the EC issued to the mine proponent, they are permitted for the production of 7,56,000 m³/annum and 3360 m³ per day.

7.1. As per the undertaking given by the mine proponent, around 3,77,748 m³ of material have been excavated during the operational period.

7.2. It was also informed that out of 91 days (i.e. during 01.04.2021 – 30.06.2021), the mine production was kept closed for 7 days (during



April 01-03, 2021, and June 20-23, 2021). Hence, mine production was carried out only for 84 days.

7.3. The project proponent has also provided daily production details. As per this data the quantity of daily production is varies between 11 m³ to 9194 m³.

7.4. The proponent has excavated excess than the prescribed daily production limit (i.e., 3360 m³) during 62 operational days and excavated around 133062 m³ excess quantity during those days.

7.5. Thus, in total they have excavated around 1,33,062 m³ excess material than the permitted quantity based on the daily limit.

8. The grounds for challenging the EC issued by SEIAA are mentioned in the Hon'ble NGT order is as given below

8.1. Grant of EC for area more than the area mentioned in the auction notice

8.1.1. The district mining office has issued notice for auction of 06 mine lease area on 01.11.2019. The mine area in question is listed at Sr No 5 in the tables given in Point No.1.

8.1.2. The mine lease area indicated in the notice is 36 hectares.

8.1.3. The SEIAA has issued TOR & EC to the proponent on 30.06.2020 & 26.03.2021 respectively.

8.1.4. The sanctioned lease area as per EC is also 36 hectares.

8.1.5. The geocoordinates have been defined both in the auction notice issued by the mining department and EC issued by SEIAA.

8.1.6. All longitude mentioned in EC is attached with the abbreviation 'N', in place of desired abbreviation 'E'. This requires immediate correctness.



8.1.7. The geocoordinates mentioned in EC defining mine lease boundary are alike for all points (i.e., Point A-H) with geocoordinates mentioned in the Mining plan by Directorate of Geology and Mining dated 13.03.2020. However, the geocoordinates mentioned in EC defining mine lease boundary are matching for five points (i.e., Point A-E) with geocoordinates mentioned in the auction notice. However, geocoordinates are not matching for three points (i.e., Point F-G). The above discrepancies are yet to be verified and needs to be corrected in sanctioned EC.

8.1.8. The geocoordinates mentioned in EC defining mine lease boundary are matching for five points (i.e., Point A-E) with geocoordinates mentioned in the auction notice. However, geocoordinates are not matching for three points (i.e., Point F-G).

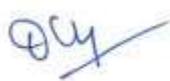
8.1.9. Thus, the geocoordinate data mentioned in EC is not fully matching with the data mentioned in the auction notice. And it requires immediate attention for necessary correctness.

8.2. Mining being allowed in-stream and by mechanized methods

8.2.1. Open cast manual/semi-mechanized mining method is defined in the EC issued by SEIAA.

8.2.2. It was told by the proponent and the Mining Inspector that heavy machinery has not been used in the excavation. Only Pokland machines have been used in mining.

8.2.3. The allotted mine area is plotted on the Google Earth software. As per the Google Earth image of November 2020, the allotted



lease area (Pole A-H) spread across the stream of the River Yamuna.

8.2.4. Thus, the operation of the mining is semi-mechanized but the allotted lease area needs to be reviewed with reference to the river course to avoid instream mining.

8.3. Cluster certificate dated 12.03.2020 being incorrect, ignoring that mining was already taken place within 500 mtrs (Even though across the river falling in Haryana)

8.3.1. On the day of the visit, any operational mine was not sighted within a distance of 500 mts from the mine lease boundary.

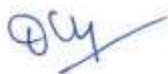
8.3.2. It was also informed by the Mining Department that within a distance of 500 meters from the said mine lease boundary, neither any mine is operational nor any lease has been allotted in the State of Uttar Pradesh.

8.3.3. As per the details provided by Mining Department, 'Bailgarh South Block/YNR B2' is the nearest mine located in the Haryana state. The coordinates as mentioned in the EC of the mine are used to measure the distance of this mine from the boundary of the mine in question. The distance between two mines is measured to be around 1.4 KM.

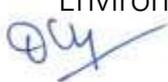
8.3.4. Thus, at present no operational mine is located within a distance of 500 m from the mine in question.

8.4. EC being granted without requisite replenishment study

8.4.1. It is informed by the proponent that the replenishment study is in process and yet not completed.



- 8.4.2. The condition regarding replenishment study has not been mentioned in the EC issued by SEIAA.
- 8.5. There being lack of due diligence ignoring that there are five FIRs for illegal mining against the Project Proponent
- 8.5.1. As per the information provided by the district administration, no such FIR for illegal mining is filed or pending against the project proponent.
- 8.6. Public hearing has taken place 20 kms away from the site
- 8.6.1. The public hearing was conducted on 19.10.2020 in the Conference Hall of Tehsil Behat. The place of the public hearing held is at a distance of approx. 12 KM from the mining site.
- 8.6.2. However, the UP Government has issued an office order on 23.04.2018 which is related to the environmental clearance for the river bed mining project. In the said office order, permission has been given to hold a public hearing in the Tehsil office for river bed mines located in remote areas. The said public hearing was conducted using this clause of the office order.
- 8.7. It is also stated that the mining has been commenced without requisite consent from the State PCB and there is also illegal groundwater extraction in violation of the EC conditions.
- 8.7.1. The mine was operated without obtaining the CTE and CTO, which is a violation/ non-compliance under EPA Act, 1986. With respect to provisions of Water Act, 1974 and Air Act, 1981 the project proponent is required to obtain CTE and CTO for mining operation and should comply with the conditions of Environmental Clearance.



- 8.7.2. UPPCB has issued a show cause Notice for the said violation and has also imposed Environmental Compensation of Rs. 7,77,000/-.
- 8.7.3. The mine was operated without obtaining NOC from CGWA. It was informed that they have not installed any borewell in the area, and they are borrowing the water from the adjacent industries. However, such kind of borrowing water supply for industrial purposes is a violation of the law. However, such kind of borrowing water supply for industrial purposes is a violation under EPA Act, 1986. And both borrower and lender are liable to face legal action.
9. As the mining lease area is less than 50 Hectare, the project falls in the category 'B' as given in the schedule- List of projects or activities prior to EC, in the EIA Notification dated 14.09.2006.
- 9.1. As per the prescribed General Condition, any project or activity specified in Category 'B' will be treated as Category A if located in whole or in part within 10 km from the boundary of inter-State boundaries.
- 9.2. However, the said condition has been revised vide MoEF&CC Notification dated 14.08.2018. In this amendment the limit of mining lease area for consideration under Category- B project was extended to 100 hectares for non-coal mine lease. And it is also mentioned that the General Conditions shall apply except River bed mining projects on account of the inter-state boundary.
- 9.3. Considering this amendment in the Act, the said Project falls in the Category-B.



10. Environmental Compensation

10.1. Compensation for Non-compliance

10.1.1. UPPCB has imposed environmental compensation of Rs 7,70,000/- for operating the mines without consent for 77 days (01.04.2021-17.06.2021) at the rate of Rs. 10,000/- per day.

10.1.2. However, the mine was operated for 84 days, and hence, environmental compensation will be 8,40,000/-

10.2. Penalty for unauthorized water usage

10.2.1. As the project proponent had informed that he is borrowing water from other industry/stone crusher, it is considered that he is accessing to illegal extraction of ground water.

10.2.2. Daily water requirement is mentioned as 18 KL in the EC issued by UPPCB.

10.2.3. In the guideline prepared by CPCB, a minimum penalty of Rs. 1,00,000 kept for mining in case of extraction of groundwater without permission.

10.2.4. Hence, the project proponent is liable to pay Rs. 1,00,000/- for accessing illegal water supply.

10.3. Penalty for extraction of excess quantity materials

10.3.1. As explained at Sr No. 7 above, they have extracted 1,33,062 m³ excess quantity than the permitted, based on the daily limit prescribed in the EC issued by SEIAA.

10.3.2. For the calculation of environmental compensation, the risk factor is considered significant considering the impacts related to bed degradation, bank erosion, variation in flow energy, disturbance to flora & fauna, and inter-state boundary location.

10.3.3. The market value is considered as Rs 400/- per m³

10.3.4. Then the compensation will be

$$= D \times (1 + RF + DF)$$

$$= 1,33,062 \times 400 \times (1 + 0.3 + 0.75)$$

$$= \text{Rs. } 10,91,10,840/-$$

10.4. Total Compensation and penalty will be

$$= 8,40,000 + 1,00,000 + 10,91,10,840$$

$$= \text{Rs. } 11,00,50,840/-$$

11. Recommendations: The nominated joint committee visited the site to verify the present scenario and based on the field observations/records made available the following is recommended

11.1. The mining operations should not allow to restarting till,

11.1.1. Obtaining Valid consents (CTE and CTO) under Air Act, 1981 & Water Acts, 1974 from UPPCB.

11.1.2. Obtaining NOC from CGWA for groundwater extraction.

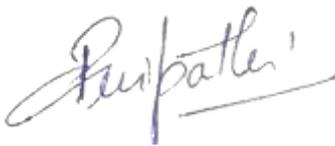
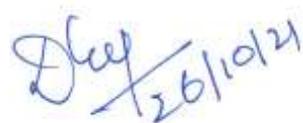
11.1.3. Obtaining Amended EC from SEIAA as per revised geocoordinates.

11.1.4. Conducting replenishment study and submission of the report

11.2. Clarification can be sought from SEIAA regarding the difference in the geocoordinates mentioned in the EC and geocoordinates mentioned in the auction notice. If required, SEIAA can be asked to amend the EC issued by them.

- 11.3. SEIAA can be asked to review the EC issued by them in order to ensure that the instream mining could not be allowed.
- 11.4. The mine proponent and stone crushers located in the area can be asked to construct the village roads in the area under the supervision of the district administration.
- 11.5. UPPCB can be asked to initiate action against the stone crusher who is lending the water supply to the mine in question.

The proponent is liable to pay Rs. 11,00,50,840/- as a compensation and penalty for operating mine without consent from UPPCB, NOC from CGWA and carrying out excess excavation.

Committee member	Signature
Shri Rajneesh Kumar Mishr, ADM(F&R), Sahranpur	
Shri Rajendra D Patil, Scientist – D CPCB Regional Directorate, Lucknow	
Dr. Preeti Tripathi, Scientist-C, Integrated Regional Office (CZ), MoEFF&CC, Lucknow	
Shri D.C. Pandey, Regional Officer, UPPCB, Sahranpur	
Date: 26.10.2021	