

Regd.
Time Bound
Court Matter

**HP STATE POLLUTION CONTROL BOARD,
BELOW BCS, PHASE-III, NEW SHIMLA**

No. HPPCB/ OA No. 265/2020 /-

23909,

Dated: 29.1.2021

From: The Member Secretary

To

The Registrar General,
Hon'ble National Green Tribunal, Copernicus Marg,
New Delhi

Subject:- Compliance of order dated 23-11-2020 passed in OA No. 265/2020 titled Ram Dutt V/s State of HP & Ors. pending before the Hon'ble National Green Tribunal.

Sir,

Please refer to order dated 23-11-2020 passed by Hon'ble National Green Tribunal, Delhi in the afore-cited matter related to alleged operation of mining lease and stone crusher in violation of environmental norms i.e. M/s Jagdamba Stone Crusher Unit-II at Khasra Nos. 7,65/6, 8, 28, Village & Mausla Kathali, Tehsil Khandaghat, District Solan, H.P by respondent No.14, Tarsem Bharati wherein following directions has been passed:-

".....3. To consider the matter objectively, we find it necessary to require a factual and action taken report from the State PCB and the Deputy Commissioner, Solan, with the State PCB being the nodal agency for coordination and compliance. The Committee may take inputs from the Irrigation and Public Health, Mining and other concerned departments and furnish a report within two months by email at judicialngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF....."

In compliance to afore-cited order dated 23-11-2020, M/s Jagdamba Stone Crusher Unit-II Village Kathali, Tehsil Khandaghat, District Solan, H.P was inspected by the Joint Committee comprising of Additional Deputy Commissioner Solan, Senior Environmental Engineer, HPSPCB Parwanoo and District Mining Officer, Solan on 13-01-2021. The copy of detailed report submitted by the joint committee is annexed as **Annexure-A**.

As per report of the Joint Committee, M/s Jagdamba Stone Crusher Unit-II have mining lease from the Department of Industries which is valid upto 16-6-2024 at Khasra No. 134/106/2 measuring 27-00 bighas at mauza chaund. Environmental Clearance was granted by State Level

Environment Impact Assessment Authority on 18-12-2013. The Stone Crusher unit has Renewal of Consent to Operate from the HP State Pollution Control Board which is valid upto 31-3-2023.

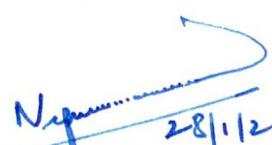
The joint committee has made following observations in its report :-

- The stone crusher under the name and style of M/s Jagdamba Stone Crusher Unit-II Village Kathali, Tehsil Khandaghat, District Solan, H.P is situated on the left bank of Harlu-ka-Nallah and as per Jal Shakti Vibhag (I&PH Department), It is seasonal rainy nallah which flows during rainy season only. However, there was flow of water in the nallah in winter and on the date of joint inspection also.
- The stone crusher was not in operation at the time of inspection. However the unit has installed all necessary pollution control devices i.e. cover of GI sheets over crushing machinery and screens to contain and suppress dust, provided water sprinklers at various material points and wind breaking walls etc.
- During the inspection it was observed that on the one side there was spillage of rejected crushed material towards the nallah. Unit was directed to provide wall to avoid spillage of rejected crushed material.
- In another matter, on similar ground i.e. Civil Revision No. 252/2018 titled as Gian Chand vs State of HP filed against the unit stands disposed of by the Hon`ble High Court of HP.

The copy of detailed Report (alongwith its annexures) submitted by the Joint Committee (annexed as **Annexure-A**) may kindly be placed on record please.

(Encl. as above)

o/c


28/1/21
Dr. Nipun Jindal
Member Secretary
HPSPCB Shimla
A



H.P. STATE POLLUTION CONTROL BOARD

SCF-6, 7 & 8, Sector IV, Parwanoo, Distt. Solan, H.P

www.hpspcb.nic.in Ph/fax 01792-234081

No. PCB/ R.O. PWN/ Jagdamba Stone Crusher Unit- II 1403

Dated: 22-1-2021

From Sr. Environmental Engineer,

To

✓
The Member Secretary,
H.P. State Pollution Control Board,
Shimla.

Subject: Compliance of order dated 23.11.2020 passed by Hon'ble NGT in OA No. 265 of 2020 titled Ram Dutt versus State of Himachal Pradesh & Ors.

Sir,

Kindly refer to your office letter no. PCB/ (DL 298) OA No 265/2020/- 19187-90 dated 26.11.2020 regarding the subject cited above. In this context, the Jagdamba Stone Crusher Unit-II Village Kathai, Tehsil Kandghat, Distt. Solan, H.P. was jointly inspected by Addl. Deputy Commissioner, District Solan and Sr. Environmental Engineer (SEE) Himachal Pradesh State Pollution Control Board along with District Mining Officer, District Solan on 13.01.2021 and action taken report is attached herewith.

Encl: As above



Yours faithfully,

(Dr. Sharawan Kumar)
Sr. Environmental Engineer

Su. W
AW

27/01/21

**Inspection Report of Jagdamba Stone Crusher Unit-II Village Kathai,
Tehsil Kandghat, Distt. Solan, H.P.**

1.0 BACKGROUND NOTE: - Hon'ble NGT passed the orders on dated 23.11.2020 in OA No. 265 of 2020 in the matter Ram Dutt versus State of Himachal Pradesh & Ors. Related to the alleged operation of mining lease and Stone crusher in violation of environmental norms, wherein following direction has been passed:-

"...Consider the matter objectively, we find it necessary to require a factual and action taken report from the State PCB and the District Magistrate, Solan, with the State PCB being the nodal agency for coordination and compliance. The committee may take inputs from the Irrigation and Public Health, Mining and other concerned departments and furnish a report within two months by e-mail at judicial-ngt@gov.in preferable in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF....."

In compliance to the order of Hon'ble NGT, the Jagdamba Stone Crusher Unit-II Village Kathai, Tehsil Kandghat, Distt. Solan, H.P. was jointly inspected by Addl. Deputy Commissioner, District Solan and Sr. Environmental Engineer (SEE) Himachal Pradesh State Pollution Control Board along with District Mining Officer, District Solan on 13.01.2021.

2.0 Overview of Jagdamba Stone Crusher Unit-II:

- The stone crusher under the name & style of Jagdamba Stone Crusher Unit-II Village Kathai, Tehsil Kandghat, Distt. Solan, H.P. has applied for the mining lease over land comprising in khasra no. 134/106/2 measuring 27-00 bighas at mauza chund and for site appraisal of site for installation of stone crusher comprising in Khasra No.7, 65/6, 8 and 28 measuring 10-19 bighas at mauza kathlee. The joint inspection of the area applied for the mining lease was conducted on 16.07.2012 and Joint inspection committee recommended the applied area for grant of mining lease. The mining lease was granted by the State Geologist, Department of Industries on 17.06.2014 vide letter no- No. Udyog- Bhu(Khani-4) Laghu-79/2012 -2591 and valid for ten years from the date of issue. i.e. 16.06.2024. Copy of the mining lease is attached herewith as **Annexure R-1.**

- The site inspection was conducted on 05.02.2014 by the Joint Site Appraisal Committee under the Chairmanship of Sub- Divisional Officer Kandaghat and other members comprising of Forest department, I&PH Department, HP State Pollution

Control Board and District Mining Officer, Solan. The Joint Site Appraisal Committee found the proposed site suitable for installation of stone crusher unit.

- Environmental Clearance was granted by State Level Environment Impact Assessment Authority, H.P vide letter No. 3060-3068 on 18.12.2013.
- The Department of Industries provisionally registered the stone crusher vide letter No. Udyog- Bhu/Regn/PMT/Solan/Jagdamba St.Cr.-II 3896 on 19.07.2014. Copy of the letter is attached herewith as **Annexure R-2.**
- Consent to Establish was granted by the HP State Pollution Control Board on 06.09.2014 vide letter no. PCB/ (433) M/s Jagdamba Stone Crusher Unit-II/2014-12042-46 as per the approval of site appraisal committee. Copy of the consent to establish is attached herewith as **Annexure R-3.**
- Consent to Operate was granted by the HP State Pollution Control Board on 24.09.2015 vide letter no. PCB/ (433) M/s Jagdamba Stone Crusher Unit-II/2014-12174-79 and was valid up to 31.03.2016. Copy of the consent to operate is attached herewith as **Annexure R-4.**
- The renewal of consent was granted by granted by the HP State Pollution Control Board on 31.07.2018 vide letter no. HPPCB/PCB – ID 24440-11350-52 and is valid up to 31.03.2023. Copy of the consent to operate renew is attached herewith as **Annexure R-5.**
- In compliance of the order dated 23.11.2020 passed by the Hon'ble NGT in O.A No. 265/2020 titled Ram Dutt v/s State of H.P. & ors, the Jal Shakti Div. Solan has carried out inspection of the unit M/s Jagdamba Stone Crusher Unit-II, Village & Mauza Kathli, Tehsil Kandaghat, District Solan, H.P. on **22.12.2020** and submitted that it is not Harlu Khad but "Harlu seasonal rainy nallah". It flows during the monsoon only and there is no scheme constructed by the Jal Shakti Vibhag on this nallah. Copy of the letter is attached herewith as **Annexure R-6.**
- The matter related to the illegal extraction of stone as per Public Works Department letter on 16.03.2016. The illegal extraction of Stone Crusher was not proved and matter was set aside by Appellate Authority on 13.12.2018. Copy of the letter is attached herewith as **Annexure R-7.**
- The Joint inspection of mining lease site at 'Mauza Chund' and 'Mauza Kathlee' was conducted on 22.12.2020 by joint inspection committee comprised of Tehsildar Kandaghat, Assistant Engineer Jal Shakti Vibhag (I&PH Department), Himachal Pradesh State Electricity Board and District Mining Officer, Solan. During inspection some discrepancies with respect to mining operation within lease area at vill. Chund



and dumping of debris (10mm aggregate) on the bank of Harlu-ka-Nallah were observed and accordingly notice was issued. After that the unit has submitted the compliance. Copy of the same is attached herewith as **Annexure R-8**

- During the joint inspection by Addl. Deputy Commissioner, District Solan and Sr. Environmental Engineer (SEE) Himachal Pradesh State Pollution Control Board along with District Mining Officer, District Solan on 13.01.2021, it was found that:
 - The stone crusher under the name & style of M/s Jagdamba Stone Crusher Unit-II Village Kathli, Tehsil Kandaghat, Distt. Solan, H.P. is situated on the left bank of Harlu-ka-Nallah and as per Jal Shakti Vibhag (I&PH Department) it is a seasonal rainy nallah which flows during rainy season only. However there was flow of water in the nallah in winter and on the date of joint inspection also.
 - The stone crusher was not in operation at the time of inspection. However the unit has installed all the necessary Pollution Control Devices i.e. cover of G.I. Sheets over crushing machinery and screens to contain and suppress dust, provided water sprinklers at various material transfer points, wind breaking walls, regular cleaning and wetting of ground is being done.
 - During the inspection it was observed that on the one side there was spillage of rejected crushed material towards the nallah. Unit was directed to provide wall to avoid spillage of rejected crushed material.
 - A civil suit on similar ground titled as Gian Chand V/s State of H.P. has been filed and has been disposed off by the Hon'ble High court of Himachal Pradesh. Copy of the same is attached herewith as **Annexure R-9**


Dr. Sharawan Kumar
*Sr. Environmental Engineer,
HP State Pollution Control Board,
cum Nodal Officer.*


Anurag Chander Sharma, IAS
*Addl. Deputy Commissioner,
District Solan, H.P.*

(1)

No. Udyog-Bhu(Khani-4)Laghu-79/2012
Government of Himachal Pradesh
Department of Industries
"Geological Wing"

Dated, Shimla-171001, the 2014.

To

Sh. Tarsem Bharti S/o Sh. Ajaib Singh,
Prop. M/s Jagdamba Stone Crusher,
Village Deonda, P.O. Dumeharbani,
Tehsil Kandaghat, Distt. Solan, H.P.

Subject: Grant of mining lease in favour of Sh. Tarsem Bharti, Prop. M/s Jagdamba Stone Crusher.

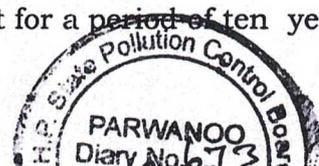
Dear Sir,

Please refer to your application dated 1.6.2012 for the grant of mining lease and in continuation to this office letter of even No. dated 31.5.2013 vide which the Letter of Intent was issued.

It has been decided to grant mining lease under the provisions of Himachal Pradesh Minor Minerals (Concession) Revised Rules, 1971 in your favour, for extraction of stone from Khasra No. 134/106/2 measuring 27-00-00 bighas (**Private land/ hill slope**) falling in Mauza & Mohal Churd, of Tehsil Kandaghat, Distt. Solan, H.P. for setting up of a new stone crusher unit (i.e. name & style M/s Jagdamba Stone Crusher Unit-II in Khasra No. 7, 65/6, 8 & 28 measuring 10-19 bighas) for a period of 10 years or as per the potential available in the lease area as calculated in the Working-cum-Environment Management Plan which ever is earlier subject to the following terms and conditions:-

1. That you shall have to execute a mining lease deed on the Form "F" on Non-Judicial Stamp Papers worth Rs. 49,800/- (Rs. Forty nine thousand eight hundred only) and submit four copies of the same alongwith fresh/original revenue record i.e Tatima & Jamabandi of the area duly complete in all respects to this office, within six months from the date of issue of this order.
2. That you shall have to deposit a sum of Rs.25000/- (Rupees twenty five thousand) only in the shape of F.D.R. duly pledged in favour of the Director of Industries as security deposit for a period of ten years.

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3. The lessee shall deposit demarcation expenditure if demarcation needs to be carried out by the Department and the lessee shall enter the land only when the demarcation is got conducted from the Revenue Department in the presence of Departmental officials and boundary pillars are raised.
4. The lessee shall at his own expenses erect and at all times maintain and keep in good condition boundary marks and pillars necessary to indicate the demarcation shown in the revenue record annexed to the lease deed. Mining operation shall only be allowed after getting a certificate from concerned Mining Officer that demarcation of the area has been done as per plan and that concrete boundary pillars of atleast 3 feet height have been raised.
5. The lessee shall have to submit a site plan with Mining Officer for approach road in order to give a reasonable & shortest approach to the mine and to the mines of adjoining lessees from the nearest road and also indicating the Khasra Nos. and the kism of the land.
6. The mining lease so granted may be renewed for one of more periods not exceeding the original period of lease provide that the working in the leased area after the expiry of every five years after the grant of mining lease may further be allowed by the Director of Industries on the basis of review and recommendations of the Committee constituted by him for the purpose and after having being satisfied that the leased area has been developed by the lessee in a systematic and scientific manner and lessee is paying all Government dues on regular basis. On review, if it is found that lessee has not developed the leased area in a systematic and scientific manner as per the provisions of Mining Plan and he is in arrears of Government dues, the lease can even be terminated prematurely.
7. The lessee shall do mining in a scientific and systematic manner, and to ensure the same.
 - (a) Dumping sites for mine waste and top soil shall be provided in such a way so that there is no damage to the adjoining land and the same does not roll down the slope. Top soil shall also be used for afforestation purposes in the barren/ exhausted pits.
 - (b) Diversion dams and other engineering structures as advised by the Department from time to time, at different suitable sites shall be got

erected to arrest and channelise the flow of water and also to avoid erosion of the land, causing siltation of nearby natural water bodies.

- (c) The loading/unloading points in the mine areas shall be developed in such a way that no hindrance is caused to the traffic and no material is stacked within the acquired width of P.W.D. road.
 - (d) All precautions shall be taken to check air pollution, water pollution and noise pollution, as per the standards of H.P. State Environment Protection and Pollution Control Board. Further, the lessee shall obtain the consent of H.P. State Environment Protection and Pollution Control Board under the provisions of Water Act, 1974 and Air Act, 1981.
 - (e) Visual impact caused due to dug-out areas and waste disposal areas shall be controlled by undertaking afforestation on worked out areas, waste disposal areas and in the areas where no working is proposed.
 - (f) Labourers shall be provided with safety equipments like boots, helmets, ropes, ear plugs and even nose filters. Site services like rest shelter, drinking water and first aid facilities shall also be provided at the mining site.
 - (g) The mining shall be done by leaving a buffer zone of twenty meters from the Forest land by making benches of suitable dimensions from top to bottom.
 - (h) The top soil has to be staked at suitable site and later on shall be used for making agricultural land after the mining operation in the phased manner.
 - (i) Proper drainage of rain water is to be made from the mining area in order to avoid any accumulation of water or inundation in the area.
8. The lessee shall work according to Mines and Minerals (Development & Regulation) Act, 1957, the Metalliferous Mines Regulation, 1961 and the Mines Act, 1952 including other rule of law applicable from time to time. The contravention of any provisions of the Act or its subordinate legislation shall amount to cancellation of the lease.
9. The lease shall be cancelled/determined by the granting authority in case of violation of any provision of H.P. Minor Minerals (Concession) Revised Rules, 1971.

10. The lessee shall not carry on any collection/mining operation at any point within a distance of 75 mtrs. from any Railway lines, 60 mtrs. from National Highway or 50 mtrs. from any reservoir, tank, canal, road except under and in accordance with previous permission of Govt. in writing or as per conditions of Joint Inspection Report.
11. The lessee shall not carry out surface operations in any area prohibited by any authority, without obtaining prior permission in writing from the concerned authority.
12. The State Govt. shall have right of pre-mature termination of mining lease, if the State Govt. is of the opinion that it is expedient in the interest of regulation of Mines & Minerals Development, preservation of natural environment, control of floods, prevention of pollution or to avoid danger to public health or communication or to ensure safety of buildings, monuments or other structures or for such purposes as the State Government may deem fit, as provided under Section-4A(2) of Mines & Minerals (Development & Regulation) Act, 1957.
13. The lessee shall establish to the satisfaction of the Department mineral based Industry i.e. Stone Crusher within one year from the date of execution of lease deed.
14. The lessee shall get the unit registered from the Geological Wing, Department of Industries, Himachal Pradesh.
15. The lessee shall pay minimum royalty from the date of grant order to the date of setting up of Stone Crusher on the basis of last auction bid amount of the same quarry/ adjoining quarry, plus 50% increase thereon or actual production of the material, whichever is higher or as fixed by the Mining Officer.
16. The lessee shall pay royalty on the scheduled rates as per rule. The royalty shall be charged on the basis of production which will be computed based on consumption of electricity and other measures. In case, lessee does not pay royalty in time i.e. by 10th of next month for preceding month alongwith monthly return on Form "G", simple interest at the rate of twenty four percent (24%) per annum shall be charged for the default period.
17. In case the lessee does not pay dead rent/ surface rent in two half yearly installments before 15th April and 15th October each year during subsistence of

the lease, simple interest at the rate of twenty four percent (24%) per annum shall be charged for the default period.

18. The lessee shall develop the area by making 6 m. x 6 m. benches, so that the angle of repose does not exceed 45°.
19. No blasting shall be allowed without permission from the competent authority.
20. The lessee shall be bound to pay Rs. 5/- per trolley and Rs. 10/- per truck or an amended from time to time on the extraction and export of sand, stone & bajari to the concerned Gram Panchayat through Mining Officer.
21. The following conditions imposed by H.P. State Environment Protection and Pollution Control Board shall be binding on lessee:-
 - i) Mining work is to be carried out as per the laid down procedure for mining.
 - ii) All mining operations shall strictly be carried out according to the mining plan approved by the competent authority.
 - iii) No blasting will be done over there.
 - iv) The debris will be stacked properly. The waste/debris/top soil being generated during the mining activity should be stored/dumped in the desired area and should be used for the construction of Environment Protection measures.
 - v) The check dams /retaining wall should be provided.
 - vi) The rehabilitation of the mine area should be done by providing proper check dam/retaining and plantations.
 - vii) Plantation should be done to keep green covers.
 - viii) Guard wall to be provided around the mining area.
 - ix) The party should obtain the consent of the State Board before its operation/starting of mining work.
 - x) The unit should obtain the consent of the State Board before its operation starting of mining work.
22. The following conditions imposed by the Forest Department Himachal Pradesh shall be binding on the lessee.

- i) There are many trees over this land as per the detail given below:-

Sapling	V	IV	III	Total
101	190	22	11	324 Nos. (B/L Spps.)

- ii) This vegetation should be preserved. If any tree or trees required to be felled, then prior permission from competent authority is required.
23. The following conditions imposed by the Himachal Pradesh Public Works Department shall be binding on the lessee.
- i) During Mining there should not be any hindrance to the vehicular traffic & damage to the road surface & side drain.
 - ii) During mining 50 meter of distance should be maintained from the edge of the road as per mining norms.
 - iii) No debris should be stacked on road side during mining.
 - iv) Only an approach of 4.00 mtrs. wide will be allowed from the road.
24. Any other guidelines issued by H.P. State Environment Protection and Pollution Control Board shall be binding on lessee.
25. A green belt of 5 meter wide has to be raised around the crusher unit site. The Mining area should be properly demarcated and adequate steps be taken to protect adjoining Govt. land.
26. Green area be maintained by doing regular plantation.
27. No approach road from PWD road shall be allowed to lease area, unless lessee/contractor obtains written permission from Executive Engineer H.P.PWD for making road leading to all intake places from PWD roads.
28. The mining lease deed will be executed at the capital of the State of Himachal Pradesh subject to the provisions of Article-226 of the Constitution of India, it is agreed upon by the lessee and the State Govt. that in the event of any dispute in relation to the area under mining lease, conditions of the lease deed and in respect to all matter touching the relationship of the lessee and the State Govt. suit or petition shall be filed in the Civil Court at Shimla and it is hereby expressly agreed that neither Party shall file a suit or appeal bring any action at any place other than the Court named above i.e. Shimla.
29. The lessee shall apply for renewal before one year of the expiry of mining lease as per rule 18(2) of H.P. Minor Mineral (C) revised rules 1971 as amended on 8.10.2007.
30. If any dispute arises between the lease holder and land owners, the same shall be resolved by the lease holder at his own level.

31. The lessee shall submit fresh no mining dues certificate issued by the Mining Officer, Solan, Distt. Solan, H.P. before the execution of mining lease deed agreement.

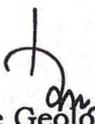
These orders are subject to revision, in case of any change in the policy by the Govt. from time to time. The conditions No. 4 to 30 shall be incorporated in the lease deed in part V after clause No. 7.

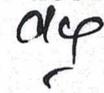
Yours faithfully,


Director Industries,
Himachal Pradesh.
Tel. No. 0177-2813414.

Endst. No. Udyog-Bhu(Khani-4)Laghu-79/2012 2591 dated 17/6/2014.
Copy to the following for information and necessary action:

1. The Sub Divisional Magistrate, Solan, District Solan, H.P.
2. The Assistant Conservator of Forest, Solan Forest Division, Tehsil & District Solan, H.P.
3. The Assistant Engineer, Irrigation & Public Health Sub-Division Kandaghat, District Solan, H.P.
4. The Assistant Engineer, H.P. Public Works Department Sub Division Kandaghat, District Solan, H.P.
5. The Environment Engineer, H.P. State Environment Protection & Pollution Control Board, sector-4 Parwanoo, District Solan, H.P.
6. The Mining Officer, Solan, District Solan, Himachal Pradesh.
7. The Pradhan, Gram Panchayat Kot, Block Development Office & Tehsil Kandaghat, District Solan, H.P.
8. Guard file.


State Geologist,
Himachal Pradesh,
Tel. No. 0177-2657339.



"Provisional Registration"
Government of Himachal Pradesh,
Office of State Geologist,
Department of Industries,
Shimla-171001.

Whereas Sh. Tarsem Bharti, S/o Sh. Ajaib Singh, Village & P.O. Shoghi, Distt. Shimla, H.P. has applied for the Provisional Registration for installation of proposed stone crusher i.e. name & style M/s Jagdamba Stone Crusher Unit-II, in Khasra No. 7, 65/6, 8 & 28 measuring 10-19 Bighas falling in Mauza Kathali, Tehsil Kandaghat, Distt. Solan, H.P. as per the provision of the POLICY GUIDELINES FOR REGISTRATION, LOCATION, INSTALLATION AND WORKING OF STONE CRUSHERS IN THE STATE OF HIMACHAL PRADESH.

Provisional Registration is hereby granted to Sh. Tarsem Bharti, S/o Sh. Ajaib Singh, Prop. M/s Jagdamba Stone Crusher Unit-II, Village & P.O. Shoghi, Distt. Shimla, subject to the following conditions:-

- 1- The Consent to establish the stone crusher from the Himachal Pradesh State Pollution Control Board (HPSPCB) shall be obtained before the installation of stone crusher unit.
- 2- The applicant shall operate his stone crusher unit only after obtaining the consent to operate (COP) form Himachal Pradesh State Pollution Control Board and Permanent Registration from Geological Wing, Department of Industries.
- 3- Based on mineral potential determined in the approved Working-cum-Environment Management Plan, the crusher owner shall install the crusher machinery of appropriate capacity and shall furnish the undertaking to this effect.

State Geologist,
Himachal Pradesh.
Tel. No. 0177 2657339.

**Sh. Tarsem Bharti, S/o Sh. Ajaib Singh,
Prop. M/s Jagdamba Stone Crusher Unit-II,
Village & P.O. Shoghi, Distt. Shimla, H.P.**

Endst. No. Udyog-Bhu/Regn/PMT/ Solan/Jagdamba St. Cr.-II

Copy forwarded to the following for information and necessary action.

- 1- The Member Secretary, Himachal Pradesh State Pollution Control Board. Paryavarn Bhawan, Phase-III, New-Shimla-171009.
- 2- The Mining Officer, Solan, Distt. Solan, H.P.
- 3- Concerned lease file No. Udyog Bhu(Khani-4) Laghu-79/2012.

State Geologist,
Himachal Pradesh.
Tel. No. 0177 2657339.

Annexure K-3 (175)

**H.P. State Pollution Control Board, "Him Parivesh"
Phase-III, New Shimla-171009.**

W/A Acts

No. PCB(433) Jagdamba Stone Crusher Unit-II /2014-
From: Senior Env. Engineer-II

Dated:

To: The Director of Industries;
Department of Industries, Udyog Bhutan,
Shimla.

Subject: Project for the establishment of the Unit for manufacturing of Stone Grit at Village Kaithli,
at Khasra No. 7,65/ 6, 8 & 28 Mauza Kathli, Tehsil Kandaghat, Distt. Solan H.P.

Sir,

M/s Jagdamba Stone Crusher (Prop. Sh. Tarsem Bharti S/o Sh. Ajaib Singh) at Khasra No. 7,65/ 6, 8 & 28 Mauza Kathli, Tehsil Kandaghat, Distt. Solan H.P., has approached to this Board for issuing of NOC/consent to establish under Water Act, 1974 and Air Act, 1981 in their favour for manufacturing of Stone Grit at at Khasra No. 7,65/ 6, 8 & 28 Mauza Kathli, Tehsil Kandaghat, Distt. Solan H.P. In view of the Grant order of mining lease / lease deed granted by the Industries Department in favour of M/S Jagdamba Stone Crusher Unit-II, (Prop. Sh. Tarsem Bharti S/o Sh. Ajaib Singh), Village Kathali, Tehsil Kandaghat Distt. Solan H.P. and Provisional Registration granted by the State Geologist vide Endst. No. Uddyog -Bhu (Regn.) Solan—Jagdamba ST. cr.-II 3896 dated 19-07-2014 for installation of Stone Crusher at Khasra No. 7,65/ 6, 8 & 28 Mauza Kathli, Tehsil Kandaghat, Distt. Solan H.P. The Environmental Clearance has also accorded in favour of said stone stone crusher by the State Level Environment Impact Assessment Authority H.P. vide letter No. HPSEIAA/ 2012/180-Jagdamba Stone Crusher- 3060- 3068 dated 18-12-2013. The Regional Officer, H.P. State Pollution Control Board Parwanoo, Distt. Solan H.P. has recommended the case for issuing of consent to establish in favour unit on line on 02-09-2014. In view of the above, the case has been examined and the State Board has no objection certificate for setting up of the above Stone Crusher as applied subject to the following conditions:

1. This Consent to Establish is subject to the compliance of conditions of Environmental Clearance as incorporated by the State Level Environment Impact Assessment Authority H.P. has accorded the Environmental Clearance in favour of this project vide letter No. HPSEIAA/ 2012/180-Jagdamba Stone Crusher- 3060- 3068 dated 18-12-2013.
2. The Consent to Establish issued is valid for a one year from the date of its issue and shall subsequently have to be renewed for next financial year or part thereof within the validity of this NOC/Consent to Establish failing which the consentee shall be liable for penalty as per provisions in force from time to time and the State Board reserves the right to revoke, review and/or alter the conditions of consent as the case may be.
3. This consent to establish is only for the purpose and under the provisions of the Water(Prevention and Control of Pollution) Act,1974 and Air(Prevention and Control of Pollution)Act, 1981 as the case may be, and will not be construed as substitute for mandatory clearances required for the project under any other law/regulation/direction/order and the applicant shall obtain any such mandatory clearances before taking any steps to establish industry/industrial plant, operation or process or any treatment and disposal system or an extension or addition thereto.
4. This consent to establish is only laying infrastructure to establish the crusher and unit shall not initiate operations with explicit consent to operate and subject to:-
 - (i) The compliance to the norms for emissions as prescribed in Schedule-I of Environment (Protection) Rules, 1986 at Sr. No. 11 & 37 shall be ensured.
 - (ii) Noise to be maintained with in ambient air quality standards for noise as specified in Schedule-III of aforesaid Rules and Noise Rules Pollution (Regulation and Control) Rules, 2000.
5. The unit shall absolve the State Board and shall be solely responsible in case of any on toward litigation arising thereto.
6. The industry shall provide adequate arrangement for fighting the accidental leakage's/ discharge of any air pollutant/ gas/ liquids from the vessel, mechanical equipment's etc. which are likely to cause environmental pollution.
7. The industry shall comply with any other conditions laid down or direction issued by the Board under the provision of the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 from time to time.
8. Nothing in this No Objection Certificate shall be deemed to preclude the institution of any legal action nor relieve the applicant from any responsibilities or penalties to which the applicant is or may be subject under the provisions of the Water/ Air Acts.

9. The unit shall grow suitable varieties of plants in the premises to maintain greenery.
10. The industry shall construct and commission the septic tank/emission control simultaneously with the main project and the treated effluent/emissions shall conform to the standards as may be prescribed and /or adopted by the board.
11. The industry shall for the purpose of measuring and recording of quantity of water consumed affix meters of appropriate standards. All under ground water retaining structures shall be lined with an impervious layer so as to avoid seepage and contamination of sub soil/ water.
12. The industry shall install Air Pollution Control devices so as to contain all the suspended particulate matter and gaseous emissions.
13. The industry shall provide adequate size primary secondary and tertiary tanks for proper management of water effluent which may arise due to washing the bajri at take operation stage after Boards Consent to Operate and submit compliance report to this office.
14. The compliance shall be ensured to the norms for effluent, emissions and noise levels besides other provisions including water sprinklers over all dust arising points, regular cleaning & wetting of ground, metalled road, enclosure over all dust arising points, stone dust arising from crushing shall be used in low lying area, green belt, wind-breaking walls etc. as prescribed in the Environment (Protection) Rules, 1986 and relevant Rules notified there under and as amended from time to time.
15. No debris shall be thrown in the roads and entire debris shall be utilized for back filling within the leased area.
16. The unit shall not do any blasting for mining purpose and shall not generate air pollution.
17. The unit shall raise extensive plantation and windbreakers on the prevailing windward direction. During July to October to prevent the drag of dust along wind current towards the nearby areas.
18. The unit shall not use JCB for crusher / mining.
19. The unit shall not pollute any water sources in the area like drinking water, pond or well etc.
20. The unit shall provide pollution control devices as per Environment (Protection) Rules, 1986.
21. The compliance shall be ensured to the norms for effluent, emissions and noise levels as prescribed in the Environment (Protection) Act, 1986 and relevant Rules notified there under and as amended from time to time.
22. The crushing operation shall be carried out in such a manner that the ambient air quality and noise levels of the surrounding areas shall conform to the ambient air quality standards.
23. The restoration and rehabilitation of mining are after mining is abandoned shall be the responsibility of the unit.
24. The Unit shall obtain consent to operate from this Board and install anti-pollution devices for prevention control and abatement of Water/ Air Pollution before coming into production/ before a final NOC is issued.
25. The unit shall ensure compliance to the "Policy Guidelines for Registration, Location, Installation and Working of Stone Crusher in H.P., and as well as for "River/stream bed mining policy guidelines for the State of H.P." or any direction in this regard.
26. Unit shall comply with the conditions of the notification as notified by the Govt. of H.P. vide notification no. STE-E (3)-17/2012 dated 29-05-2014.
27. This consent to establish is subject to the rectification by the State Board.

Yours faithfully,

(Er. Chetan Joshi)

Senior Env. Engineer-II,

HP State Pollution Control Board.

Endst. No. PCB(433) Jagdamba Stone Crusher Unit-II/2014-12042-46

Dated: 6-9-20

Copy forwarded to the following for information and necessary action:

1. M/s Jagdamba Stone Crusher (Prop. Sh. Tarsem Bharti S/o Sh. Ajaib Singh) at Khasra No. 7,65/6, 8 & 28 Mauza Kathli, Tehsil Kandaghat, Distt. Solan H.P.
2. The State Geologist, Department of Industries, Udyog Bhawan, Shimla, H.P.
3. The General Manager, District Industries Center, Chambaghat, Distt. Solan (H.P)
4. The Environmental Engineer, HP PCB, Baddi, Distt. Solan H.P.
5. case file.

(Er. Chetan Joshi)

Senior Env. Engineer-II,

HP State Pollution Control Board.

H.P STATE POLLUTION CONTROL BOARD
"HIM PARIVEASH" BELOW BCS NEW SHIMLA-171009

Amesure - K-4

183

W/A

PCB/ (433) M/s Jagdamba (Stone crusher Unit-II)//2014- 12174-79

Dated: 24.9.2015

From: The Member Secretary

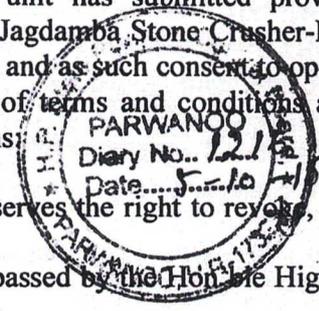
To

The Director of Industries,
Himachal Pradesh, Udyog Bhawan, SHIMLA-171001

Subject: Consent to Operate for the manufacturing of Stone Grit at Village Kaithli, at Khasra No. 7,65/6,8 & 28 Mauza Kathli, Tehsil Kandaghat, Distt. Solan H.P.

Sir,

In continuation to this office letter no.PCB(433)/ M/s Jagdamba Stone Crusher Unit-II/2014-1042-46 dated 6-09-2014 vide which Consent to establish in favour of M/s Jagdamba Stone Crusher -II for the production of Stone Grit at village Kaithli, Tehsil Kandaghat, Distt. Solan H.P. under Water Act, 1974 and Air Act, 1981 was issued. The State Geologist has clarified vide letter no. Udyog Bhu (Khani-4) Laghu-79/2012 dated 17/06/2014 that the unit had valid mining lease for 10 years. The unit has submitted approved working cum environmental management plan. The unit has submitted Environment Clearance from SLEIA, HP vide letter No. 3060-3068 dated 18/12/2013. The unit has provided metalled road, Wind braking wall and water sprinklers as pollution control devices. The unit has submitted provisional registration from the State Geologist vide Endst No. Uddyog-Bhu (Regn) Jagdamba Stone Crusher-II 3896 dated 19-07-2014. The unit has provided necessary anti pollution measures and as such consent to operate is issued under Water Act, 1974/Air Act, 1981 subject to the compliance of terms and conditions already imposed in the original consent letter, in addition to the following conditions:



1. This consent to operate is valid upto 31/03/2016 and the Board reserves the right to revoke, review and/or alter the conditions of consent as the case may be.
2. This consent to operate is subject to the any orders which may be passed by the Hon'ble High court of HP in CWP No.3571/2015.
3. This consent to operate is also subject to the permission of the Industries Department and the unit shall be responsible to obtain the permission from the competent Authority. The unit shall carry out operation only after obtaining the permission and on continuation of such permission issued by the Competent Authority in the Mining Department.
4. The unit shall also not carryout operation until it obtains Permanent Registration from the State Geologist as Policy Guidelines for Registration, Location, Installation and Working of Stone Crushers notified by the State Govt.
5. This consent to operate is only for the purpose and under the provisions of the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 as the case may be, and shall not construed as substitute for mandatory clearances required for the project under any other law/regulation/direction/ order and the applicant shall obtain any such mandatory clearances before taking any steps to establish industry/industrial plant, operation or process or any treatment and disposal system or an extension or addition thereto .

This consent to operate is issued for:-

- a. The compliance to the norms for emissions as prescribed in Schedule-I of Environment (Protection) Rules, 1986 at Sr. No. 11 & 37 shall be ensured.
- b. Noise & ambient air quality to be maintained within Ambient air Quality Standards for noise as specified in Schedule-III of aforesaid Rules and Noise Pollution (Regulation and Control) Rules, 2000 as well as those of CPCB.
- c. The unit shall treat the water after washing the bajri and treated water shall conform to Col.3 of Schedule-VI of Environment Protection Rules, 1986 for suspended solids.
- d. The unit shall provide sprinkler on conveyer & jaw and wind breaking wall of more than 120 feet length and 12 feet high of CGI sheets as proposed.
- e. Pollution Control Devices provided by the unit shall be operated and maintained to achieve the norms as prescribed in Environment (Protection) Act, 1986 as amended from time to time.

Contd/-

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8. The crushing operation shall be carried out in such a manner that the ambient air quality and noise levels of the surrounding areas shall conform to the ambient air quality standards.
9. The consent is subject to compliance to the provisions of HP Govt. Notification No. STE-E(4)-1/2003 dated 29/04/2003 as amended from time to time.
10. Unit shall comply with the conditions of the State Geologist Govt. of HP letter no. 3896 dated 19-07-2014, and carry out production only with the permission of Mining Department.
11. The unit shall also get self monitoring for air & noise conducted regularly and submit the reports to the State Board.
12. The restoration & rehabilitation of mining after mining is abandoned shall be the responsibility of the unit.
13. The compliance shall be ensured to the norms for effluents, emissions and noise levels besides other provisions including green belt, wind breaking wall, etc. as prescribed in Environment (Protection) Rules, 1986 as amended from time to time.
14. The unit shall ensure compliance to the Policy Guidelines for registration, location, installation and working of stone crusher in HP. and as well as guidelines for "river, stream bed mining Policy guidelines for the State of HP.", or any direction in this regards.
15. The emissions/effluent (whichever may be applicable) shall be got sampled and tested by the unit and further renewal shall be dependent upon the results of the samples so conducted.
16. The unit shall not use JCB for mining.
17. No addition/expansion/alteration without prior permission of the State Board.
18. The unit shall not pollute any water sources in the area like drinking water, pond or well etc.
19. The unit shall be liable to clear any past/current liability on account of difference consent fees including penalties if detected at any subsequent stage.
20. The validity of this consent is also subject to mining permission/lease and the unit shall be responsible to obtain renewal of permission/lease from the competent Authority.
21. This consent to operate is subject to the ratification by the State Board.
22. You are required to apply for renewal of consent for the next years on the prescribed Form-XIII & Form-I along with annual license fees in the Regional Office HPSPCB Parwanoo before 31.03.2016.

Yours faithfully,

Senior Environment Engineer
HPSPCB Him Parivesh, Shimla, HP-171009

Copy forwarded to:

1. M/s Jagdamba Stone Crusher (Prop. Sh. Tarsem Bharti S/o Sh. Ajaib Singh) at Khasra No. 7,65/6,8 & 28 Mauza Kathli, Tehsil Kandaghat, Distt. Solan, HP.
2. The State Geologist Deptt. of Industries, Udyog Bhawan, Shimla.
3. The General Manager, DIC, Chambaghat, Distt. Solan, HP.
4. The Environmental Engineer, HP State Pollution Control Board, Parwanoo Distt. Solan H.P.
5. Scientific Branch.
6. Case file.

Senior Environment Engineer
HPSPCB Him Parivesh, Shimla, HP-171009

Amrune-RS

(57)

HIMACHAL PRADESH STATE POLLUTION CONTROL BOARD

HIM PARIVESH, PHASE-III, NEW SHIMLA-171009

Ph.91177 2673766,2673019 &32,Fax 91 177 2673018

SPCB/PS No. 4440

11350-52



DATE: 31-07-18

Jagdamba Stone Crusher (Unit II)
Mauza Kathall, Tehsil Kandaghat, District Solan (HP) -
District - Solan (Parwanoo)

RCTO for the installation of Stone crusher at Khasra no. 7,65/6,8 & 28 measuring 10-19 Bighas falling in Mauza Kathall, Tehsil Kandaghat, Distt. Solan, along with permission for the mining of Stone/Sand Bajri @ 2,28,000 MTPA over an area of 2-02-08 Ha comprising of Khasra nos. 134/106/2 at Mauza and Mohal Chund, Tehsil, Kandaghat, Distt. solan, H.P.

- | | |
|--|------------|
| 1) Validity of Previous Consent | 31/03/2016 |
| 2) Recommendation made By Regional officer on date | 11/07/2018 |
| 3) Validity of this Renewal of Consent | 31/03/2023 |

This Renewal is granted on the recommendation of SEE(HQ) and RO and subject to following conditions:

- > This Consent/Renewal of Consent is for:
 - a) The Compliance to the norms for emission as prescribed in schedule-1 of environment(Protection) Rules,1986 as may be prescribed by the Board.
 - b) Noise and ambient air quality to be maintained within Ambient Air Quality Standards for noise as specified in schedule III of aforesaid Rules.
 - c) The effluent (domestic /industrial) conforming to the limits as prescribed in Schedule-I or Schedule-VI of Environment Protection Rules 1986 as amended or as may be prescribed by the Board.
- > Pollution Control Devices provided by the unit shall be operated and maintained to achieve the norms as prescribed in Environment (Protection) Act, 1986 as amended from time to time.
- > The State Board reserves the right to revoke/review and alter the conditions of consent as the case may be.
- > Unit shall not undertake the expansion activity/ or additional product in the existing unit without obtaining consent from State Board.
- > Unit shall comply with the provisions of the e-waste (Management & Handling rules), 2011.
- > Unit shall not pollute any water sources in the area like drinking, pond or well etc.
- > No debris shall be thrown along the roads or water course and the debris shall be either utilized or disposed in designated dumping sites.
- > The project proponent shall be liable to clear any past/current liability on account of difference consent fees if detected at any subsequent stage.
- > The emission/effluent shall be got sampled and tested by the unit as well as concerned Regional Officer as prescribed and further renewal shall be dependent up on the results of samples so collected and tested.
- > The samples of effluent/emissions shall be collected by the Regional Officer concerned and the unit shall also get the self monitoring of effluent/emission done within the month and convey the results to the State Board.
- > This consent is subject to Environmental Clearance granted to the mining activities by SLBIAA vide letter dated 18-12-13. Mining activities shall be strictly performed as per approved mining plan. This consent is subject to Permanent Registration issued by Department of Industries vide letter dated 2-03-2018.
- > Adequate APCDs viz. water sprinkling, metalled road, covered machinery shall be provided and maintained by the unit to meet the prescribed norms under EP (Act), 1986 and rules there under.
- > Unit shall strictly adhere to the capacity as approved by the industries department & consented by the State Board and RO to ensure the same. This consent is subject to ratification of the State Board.
- > This consent is subject to final outcome of the orders passed by Hon'ble High Court of H.P. in CWP No. 4570/2015.
- > Regional Officer is directed to conduct the air emission, if unit fails to comply the consent granted shall be deemed withdrawn.



Er. P.C. Gupta
Sr. Environmental Engineer

Copy to:-

The Regional Officer, H.P State Pollution Control Board Parwanoo for information and further necessary action please.

The PSO, HPSPCB Shimla for Information please.



Er. P.C. Gupta
Sr. Environmental Engineer

Himachal Pradesh
Jal Shakti Vibhag

NO: Jal Shakti /KSD/ NOC/2020- 21 1291
To.

Dated the 29-12-2020

The Executive Engineer,
Jal Shakti Division, Solan.

Subject:- Compliance of order dated 23.11.2020 passed by the Hon'able
NGT in OA No. 265/2020 titled Ram Dutt V/S state of HP &
Ors.

Reference: Your office letter No: JSDS CB - WA II - NOC/2020 19079 dated
22.12.2020

During the inspection of Sh. Tarsem Bharti prop. Jagdamba Stone
Crusher unit at village kathli and mining lease situated at Village Chund by the undersigned alongwith
Junior Engineer Sh. O.P Verma on dated 22.12.2020. It is not a Harlu khad but Harlu seasonal rainy
nallah. It flows during rainy season only. There is no scheme constructed by the Jal Shakti Vibhag on
this nallah. LWSS Domehar is constructed on Gambhar khad. The distance of Gambhar khad from
Jagdamba stone crusher is 2 to 3.75 Km below hurlu Nallah. LWSS Domehar and LIS Domehar runs
throughout the year approximately 17 - 18 hrs per day.

During inspection we found that there is no obstruction imposed by
the Jagdamba Stone Crusher.

C. J. C. J.
Assistant Engineer
Jal Shakti Sub-Division
Kandaghat

**BEFORE THE APPELLATE AUTHORITY I.E. ADDL. CHIEF SECY.
(PUBLIC WORKS DEPARTMENT) TO THE
GOVERNMENT OF HIMACHAL PRADESH, SHIMLA.**

...

Shri Tarsem Bharti,
S/o Shri Ajaib Singh,
Proprietor M/s Jagdamba Stone Crusher,
VPO Shoghi, Tehsil Kandaghat,
Distt. Solan, HP.

Petitioner

Versus

1. Executive Engineer,
HPPWD Division, Solan, H.P.
2. Addl. Assistant Engineer,
HPPWD Sub Division,
Kandaghat, Distt. Solan.

Respondent

Revision Petition under Section 10(1) of the Himachal Pradesh Road Infrastructure Protection Act, 2002, against the order pass by the Appellate Authority-cum-Chief Engineer(South),HPPWD dated 1.6.2018.

ORDER

A Revision Petition was filed by Shri Tarsem Bharti under Section 10(1) of the Himachal Pradesh Road Infrastructure Protection Act, 2002, against the order passed by Executive Engineer, HPPWD Division, Solan, H.P. and Addl. Assistant Engineer, HPPWD Sub Division, Kandaghat, Distt. Solan before the Court of the undersigned.

From the petitioner's side Shri Tarsem Bharti himself was present and from the Respondent's side Shri Kulbir Singh, Executive Engineer, PWD Division Solan and Shri Prem Raj Sharma, Junior Engineer.

The cause of action arises due to the orders passed by the Appellate Authority-cum-Chief Engineer (South), HPPWD with respect to **Section 6 (4) of H.P. Road Infrastructure Projection Act, 2002**. During the course of arguments and producing of records following things are very crystal clear.

The history in the case is that a notice was issued to the Petitioner by Assistant Engineer, HPPWD Sub Division, Kandaghat, Distt. Solan on **15.10.2014** that Petitioner had damaged the road comprising **RD 14/500** and he was accordingly directed to deposit **Rs.2,66,450/-** as the restoration cost of the road. The detailed reply was filed by the Petitioner to the said notice whereby he rebutted the allegations and specifically mentioned that he was running a stone crusher and having a valid mining lease adjacent to his stone crusher. According to him he has a valid mining lease then why should he carry illegal mining activities on the road as alleged by PWD authorities. Petitioner's reply was not taken on record while passing order dated **5.11.2014** against which he filed a petition before the Appellate Authority-cum-Chief Engineer (South), HPPWD, which was dismissed on **1.6.2018**.

The present Revision Petition was allowed on the basis of the evidence produced by the Petitioner. Executive Engineer, HPPWD Division, Solan and his JEs did not give any substantial reply on the basis of the record. It is clear from the record that the road was already damaged due to the heavy rains and report qua had been submitted to the Executive Engineer by SDO (PWD), Kandaghat vide letter dated **11.9.2014** which was concealed by the appropriate authority. The portion of this road i.e. **RD 14/500** was not damaged because of heavy rains, the point which is also clear from the Pictures and नजरी नक्शा as shown to the undersigned by the concerned Executive Engineer.

Strangely the copy of an FIR dated **15.10.2014** as produced by the Petitioner which is at **Page No.50** of the case file indicates that on way to cremation ground big boulders fell from the Nullah where the incident had happened. Further, the letter dated **21.10.2014** issued by the Mining Officer, Solan seems to be an afterthought, which clearly indicates that work for removal of debris generated due to rain slides on Mamleeg-Wakna link road was assigned to the Government Contractor vide award letter **No.PW/KSD/Tender/Award/2014-791-97** dated **4.10.2014** and the Petitioner had only stationed his Pocklaine machine near the site of incidence for making approach to this sanctioned lease area. He had already approached PWD to give their consent for the said work. Moreover, the Appellate Authority-cum-Chief Engineer (South), HPPWD has mentioned in his order that the Appellant Shri Tarsem Bharti had a valid mining lease in the name of M/s Jagdamba Stone crusher. The notices were issued against the Petitioner for carrying out work at **RD14/500** whereas the Appellate Authority-cum-Chief Engineer (South), HPPWD decided the case of **RD 14/225 to 14/270** which is evident from the record.

On the basis of the statement submitted orally, record and further evidences, I am of the view that the damages were due to heavy rains and not because of Petitioner's activities and also on the basis of the reply given by PIO-cum-Executive Engineer, PWD, Solan to one Shri Krishan Lal dated **3.7.2015** wherein PWD has itself admitted that three times roads were blocked, further, on **20.8.2014** and was cleared by PWD JCB on **16.8.2014** and in this reply Executive Engineer has mentioned that slip was removed by Shri Chander Swaroop Sharma, Government Contractor on Mamleeg-Dumehar road on **RD14/130 to 40/151**. So how it is possible that Executive Engineer, PWD, Solan on the one hand admitting that the damage was caused by heavy rains and on the other hand levying penalty of **Rs.2,66,450/-** on

account of irreparable loss due to action done by Shri Tarsem Bharti. The departmental stand seems to be contradictory and not based on record.

On the basis of the above averments and evidences, I therefore, set aside the order of the Appellate Authority-cum-Chief Engineer (South), HPPWD dated 1.6.2018 passed against the Petitioner whereby he has been directed to pay Rs.2,66,450/-. The penalty stands quashed.

Copy of this order be sent to all the concerned and the case file be consigned to the record.

Mananda 3.12.18
(Manisha Nanda),

Appellate Authority-cum-ACS (PWD) to
Government of Himachal Pradesh.

03.12.2018

Dated: 03.12.2018.

Place: Shimla.

Annexure - R-8

No. Udyog/ SLN/ MM/ J.I./ Tarsem Bharti/2013- 1272- 1276
O/o the Mining officer, Solan
Distt. Solan, H.P.

Dated Solan, the 23 December, 2020

To

Shri Tarsem Bharti,
Prop. M/s Jagdamba stone crusher Unit-II,
Village & P.O. Shoghi, Tehsil & District Shimla (H.P.)

Subject: -

Notice for removal of discrepancies

During the inspection of your stone crusher unit situated at village Kathlee and mining lease situated at village Chund by undersigned on dated 22.12.2020 following discrepancies were observed:-

1. There is possibility of rolling down of loose boulders/ muck being generated during construction of approach road from Domehar-Mamligh road to your mining lease area which may caused injuries/ damage to pedestrian walking on the road and to moving traffic on above mentioned road.
2. It has been noticed that you are involved only in construction of approach road and material generated during construction of road is being used in your stone crusher unit at village Kathlee without prior permission of this office.
3. Boundary pillars depicting sanctioned mining lease area have not properly been found erected.
4. The 10 mm bajri produced during the operation of stone crusher unit at village Kathlee has been found dumped on both banks of Halru-Ka-Nallah. Thereby blocking the natural course of the nallah.

You are directed to erect suitable structures of iron sheets of appropriate thickness and height in consultation with local HPPWD authorities to rule out the possibility of rolling of loose material down the slope.

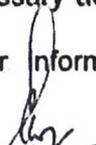
You are thus directed to rectify the discrepancies within 5 days and submit compliance to this office failing which matter will be referred to the higher authorities for further necessary action in the matter.


(Kulbhushan Sharma)
Mining Officer, Solan
District Solan, H.P.

Endst. No. As above
Copy forwarded to:-

Dated

1. State Geologist, Himachal Pradesh Shimla for information please.
2. Sub-Divisional Officer (c) Kandaghat, District Solan (H.P.) for information please.
3. Executive Engineer, HPPWD Solan for information and necessary action in the matter please.
4. Assistant Engineer, HPPWD Kandaghat, District Solan for information and necessary action in the matter.


(Kulbhushan Sharma)
Mining Officer, Solan
District Solan, H.P.

To,

Sh. Ashwath Verma
Te



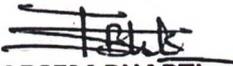
The Mining Officer, Solan,
District Solan, (HP).

Subject:- Notice for removal of discrepancies.

In reference to your letter no. Udog/SLN/MM/J-1/ Tarsem Bharti / 2013-1272 dated 23-December – 2020 wherein you have issued for removal of discrepancies and the reply to your following discrepancies are as follows:-

1. That reply to the Para 1 of your notice is wrong, incorrect hence denied. There is no threat which may cause injuries/ damage to pedestrian walking to the road and to moving traffic on the approach road from Domehar Mamligh road to my mining lease area as alleged in your notice still the undersigned has erected ironsheets and iron barricates at sight in order to minimize on risk of rolling down boulders on road. Further the undersigned has embeded the iron angles in earth using Cement Concrete mix with spacing of one meter. A copy of letter dated 26/12/2020 issued by Assistant Engineer HPPWD (B& R) Kandaghat District Solan along with photo copies is hereby annexed as Annexure R-1.
2. That the contents of Para 2 of the reply are wrong, incorrect and hence emphatically denied. It is specifically denied that the undersigned only involved in construction road and material generated during construction of road is used in the undersigned Stone Crusher Unit at village Kathli. The generated material was used in a ramp to construct the approached road to mining area and further some of the generated material was taken by Himachal Pradesh Public Works Department (Sub Division) Kandaghat District Solan.
3. That the contents of Para 3 of your notice are wrong, incorrect, hence totally denied the boundary pillars depicting sanctioned mining lease area have already been erected. The photo copies of the boundary pillars are hereby attached with the reply i.e. Annexure R-2.

4. That the contents of Para 4 of your notice, once again are wrong, incorrect, hence denied. As for as the 10mm bajri referred in Para 4 under reply which have been dumped on both banks of Halru-Ka-Nalah as alledged by you in your notice does not belong to the undersigned. The said bajri if any belong to the some other persons on different khasra no. and the same is not in the premises of the sight of the undersigned. Further in your notice you have alledgd that the natural cause of the Nallah has been blocked due to dumping of bajri which is totally incorrect. The Executive Engineer of Jal Shakti Division, Solan has already stated in letter no. Jal Shakti/KSD/NOC/2020-1241 dated 29-12-2020 in reference to the compliance order dated 23-11-2020 passed by the Hon'ble NGT in O.A No. 265/2020 lifted as Ram Dutt versus State of H.P & Others wherein it has been stated that it flows only rainy season and during inspection it was found that there is no obstruction imposed by the Jagdamba Stone Crusher. A Copy of the aforesaid letter dated 29/12/2020 is hereby annexed as annexure R-3. Thus in view of the said reply you are hereby requested to withdraw the notice for removal of discrepancies date 23-12-2020 issued to the undersigned forthwith in the interest of justice.


TARSEM BHARTI

Prop. M/s Jagdamba Stone Crusher-Unit-II,
VPO-Shoghi, Tehsil & Distt. Shimla (H.P).

Copy to:

State Geologist, Himachal Pradesh Shimla for information please.

PUBLIC WORKS DEPARTMENT

O/o Assistant Engineer, B&R Sub-Division Kandaghat

PW/KSD/Works/2020-21-

1536-38

Dated: - 26-12-2020

To

Sh. Tarsem Bharti

Prop. M/s Jagdamba Stone Crusher unit-II

Village & PO Shoghi , Tehsil & District Shimla (HP)

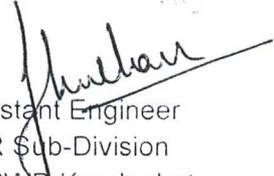
Subject :-

Permission for Approach Road from Mumligh Domehar Road at RD km 14/285 in favour of Sh. Tarsem Bharti .

Reference :-

Executive Engineer , HPPWD Solan office Letter No. PW/SD/CB/NOC/- 37 Dated 07/06/2018.

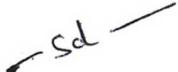
With reference to the permission granted vide letter cited as reference for construction of approach road from Mumligh Domehar Road at RD 14/285, you are requested to kindly refer to condition No. 2. During the site inspection by the concerned Junior Engineer, it was noticed that iron sheets were being erected at site along the approach road to minimise the risk of rolling down of boulders on road. In this regard you are suggested to embed the iron angles in earth using cement concrete mix with spacing not more than 1 meters. Thick iron sheets be got fixed in between the angles throughout the length of the road in accordance with the condition No. 9 of the permission. In order to maintain smooth flow of traffic and avoid any mishap on the road, you are requested to kindly speed up the work of erection of iron sheets. The precautionary measure to erect iron sheets is totally temporary and HPPWD holds every right to dismantle the same whenever required in public interest. You are also requested to adhere strictly with the other conditions of the permission granted vide letter in reference.



Assistant Engineer
B&R Sub-Division
HPPWD Kandaghat

Copy To :-

1. The Executive Engineer B&R Division HPPWD Solan for favour of information please.
2. The Mining Officer, w.r.to his letter No.1272 dated 23.12.2020.



Assistant Engineer
B&R Sub-Division
HPPWD Kandaghat

**HIMACHAL PRADESH
PUBLIC WORKS DEPARTMENT**

NO: - PW/ KSD/ roads /2020-21 1580

Dated: - 14-1-2020

To

~~The Executive Engineer,~~
B&R Division HP PWD.
Solun.

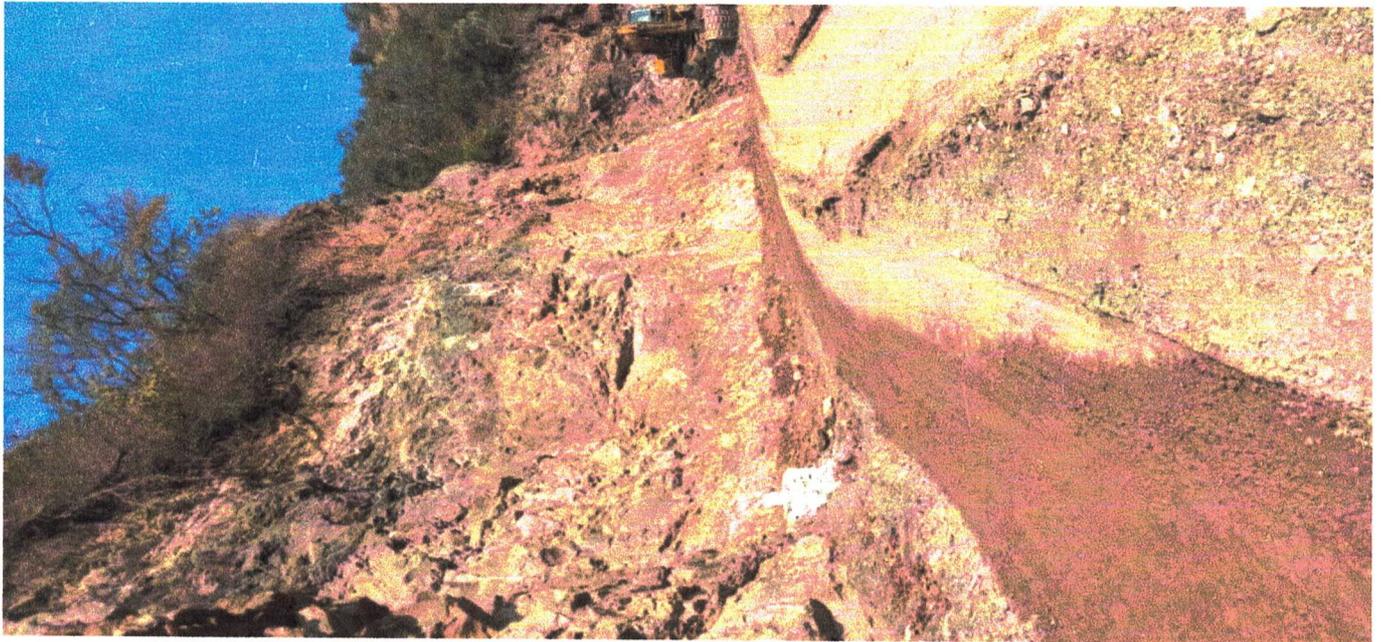
Subject: - Notice for removal of discrepancies.

**Reference :- Your office letter No. PW/SD/CB/WA-1/Tarsem
Bharti/2020-21-11475 dated 31.12.2020**

Sir,

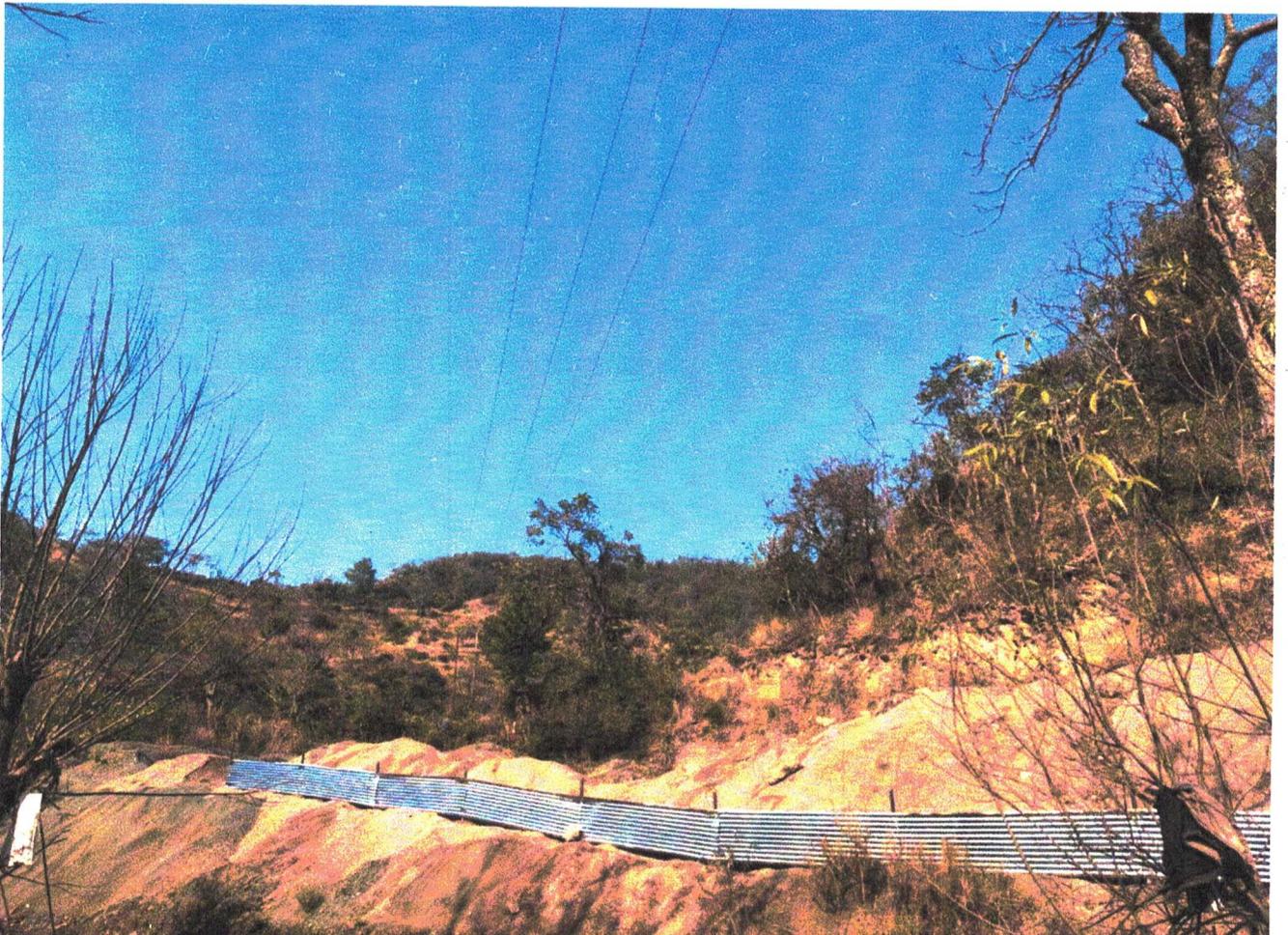
In this context, it is submitted that as per report of Engineer-in-charge, the protection work has already been executed on site by the Shri Tarsem Bharti. Now possibility of rolling dawn of bolder on the road has been minimized. The Angle has been grouted in cement concrete and safe, there is no obstruction to movement traffic on road. This is for your kind information please.

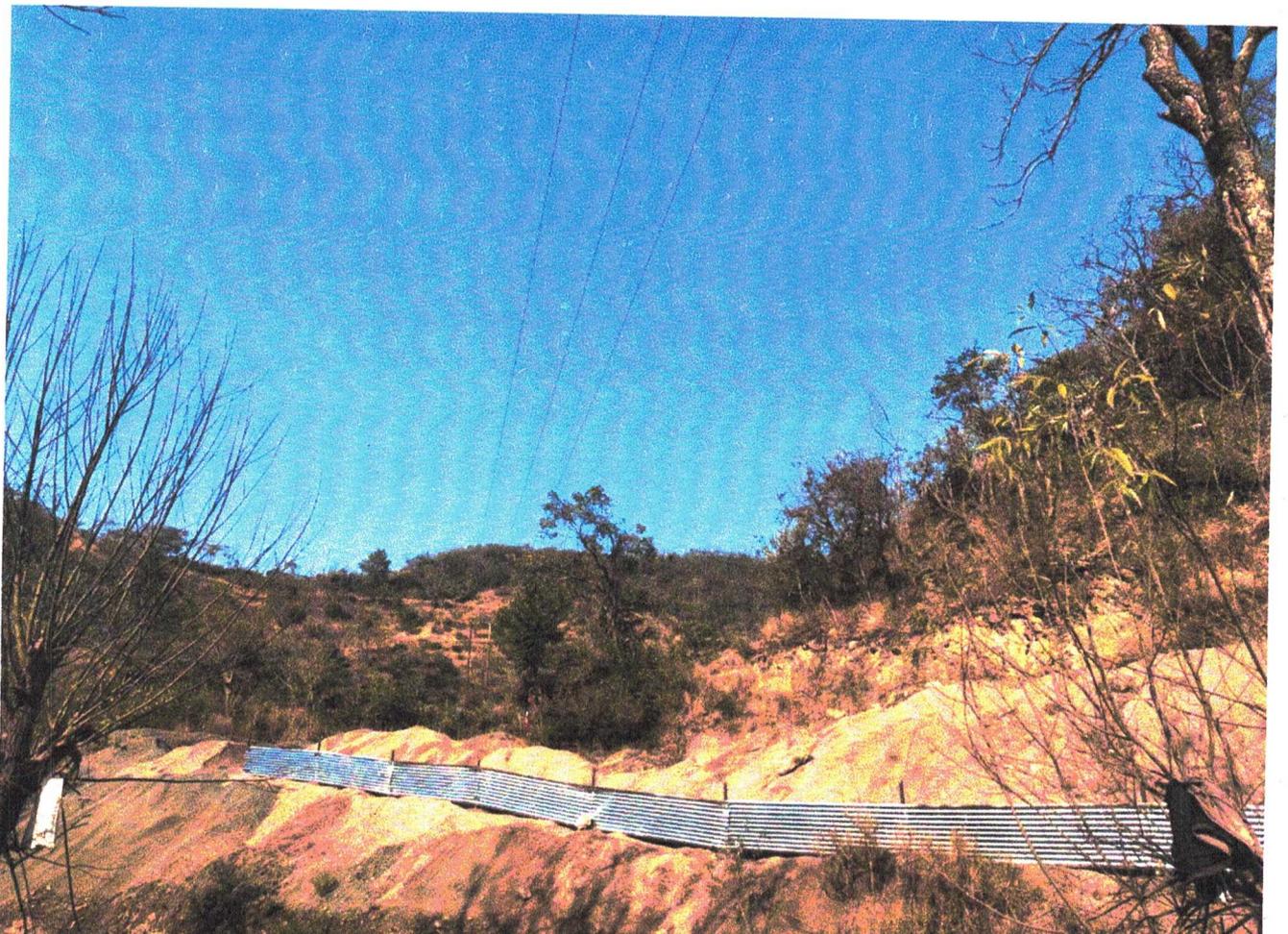

**Assistant Engineer,
B&R Sub Division,
HP PWD Kandaghat.**



Boundary Pillers







IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Civil Revision No. 252 of 2018.

Judgment reserved on: 01.08.2019.

Date of decision: 07.08.2019.

Gian Chand and othersPetitioners.

Versus

Secretary and othersRespondents.

Coram

The Hon'ble Mr. Justice Tarlok Singh Chauhan, Judge.

Whether approved for reporting?¹ No

For the Petitioners : Mr. Rajiv Rai, Advocate.

For the Respondent : Mr. Vinod Thakur, Additional Advocate General with Mr. Bhupinder Thakur, Ms. Svaneel Jaswal, Deputy Advocate Generals and Mr. Ram Lal Thakur, Assistant Advocate General, for respondents No. 1 to 5 and 7 to 19.

Mr. Maan Singh, Advocate, for respondent No. 6.

Mr. Deepak Kaushal, Advocate, for respondents No. 20 and 21.

¹Whether the reporters of the local papers may be allowed to see the Judgment? Yes

Tarlok Singh Chauhan, Judge.

Aggrieved by the vacation of order of injunction, as was granted by the learned trial Court, the petitioners/ plaintiffs have filed the present revision petition.

2. The parties shall be referred to as the 'plaintiffs' and 'defendants'.

3. The plaintiffs filed a representative suit in public interest under Section 91 of the Code of Civil Procedure for declaration, permanent prohibitory injunction and mandatory injunction that defendants No. 20 and 21 were carrying out illegal mining near 'Harlu Ka Khad' and, therefore, should be restrained from doing so. It was averred that defendants No.20 and 21 have taken land on lease comprised in Khasra No. 134/106/2, measuring 27-00 bighas, situated in Mauza and Mohal Chund, Tehsil Kandaghat, District Solan, H.P. where they were carrying out mining operations. They had also installed a stone crusher in the land comprised in Khasra Nos.7, 65/6, 8 and 28, total measuring 10-19 bighas, situated in Mauza Kathli, Tehsil Kandaghat, District Solan, H.P. Even though, the defendants had caused no special damage to the plaintiffs, but

intolerable actual and public nuisance or other wrongful acts affecting and likely to affect the rights, claim and interests of public at large, had been done by these defendants.

4. It was further averred that there exists vulnerable zone i.e. one all weather spring known as 'Harlu Ka Khad' which is charged and recharged from aquifers of areas/hillocks of Kaithalighat, Vaknaghat and Shalaghat and open/originate at 'Harlu Ka Khad'. The perennial water of the 'Khad' caters to the drinking, irrigation and cattle feeding needs of the persons living in two panchayats since time immemorial. Even, the public welfare (Lift Irrigation Scheme) executed by the department of Irrigation and Public Health known as 'Bakhela Dumehar Irrigation Scheme' is totally based on this water spring which is the main feeder source through which the residents of villages Dumehar, Anji, Sunara, Kashmari, Chayama, Chund and other rural areas are getting benefits. The plaintiffs, who are the residents of Vakana, Dumehar, Anji Sunara, Kashmari, Chayama, Garu, Chund and other adjoining villages claim themselves to be the affected persons as the entire

livelihood from irrigation fed cash crops depend upon 'Harlu Ka Khad'.

5. It was also averred that defendant No.20, who is the owner of defendant No.21-Crusher i.e. 'M/s Jagdamba Stone Crusher, is politically bigwig and thus influential person and has started operating illegal stone crusher adjoining to the said 'Harlu Ka Khad'. He was carrying out unscientific excessive excavation, illegal mining/quarrying and extracting natural resources on the adjoining State owned land having scant regard for the environmental norms, laws, rules, notifications and regulations. Defendants No. 20 and 21 were throwing debris in the 'Khad', as a result whereof, it had become polluted. The stone crusher was operational round the clock, therefore, causing air and noise pollution despite all these facts brought to the notice of the officials of the State Government, yet they in connivance with defendant No.16 still granted 'no objection certificate' to operate the stone crusher. A resolution No. 4 dated 26.11.2014 was passed by the Gram Panchayat, Chousha whereby defendant No.18 was requested to consider the likelihood of pollution of water source of 'Harlu-Ka-Khad' and vide resolution No.5

dated 06.12.2014, Gram Panchayat, Vakna, requested defendants No. 8 and 9 for cancellation of lease deed granted in favour of defendants No. 20 and 21. Such resolution was endorsed to defendants No.14,16 and 18. Besides this, resolution No. 5 dated 24.08.2015 was also passed by the Gram Panchayat, Podna, wherein it was resolved that stone crusher is creating threat to the water source, irrigation of rural area, agriculture based livelihood of people and also adversely affecting the Lift Irrigation Scheme catering the drinking water need of general mass.

6. However, no action was taken by defendants No. 3 and 7 even when illegal mining claimed two lives due to non-adherence of safety measures as mentioned in letter of grant of lease. The information supplied vide letter dated 21.01.2015 revealed that defendant No.20 had been granted mining lease vide letter No. Udyog/BHU (Khani-4) Laghu 79/2012-2592 dated 17.06.2014 subject to certain mandatory conditions. Provisional registration of the stone crusher was also issued subject to fulfillment of certain conditions, but the mining operation is not being carried out by defendant Nos. 20 and 21 in accordance with working cum Environment Management Plan and moreover the State

Geologist and Mining Officer are not taking any action despite violations of environmental laws.

7. It was further averred that vide letter No. PW-SD-WA-I/NOC/2015-16-15508-14 dated 10.03.2016 issued by XEN, Solan Division, PWD, Solan, defendants No. 20 and 21 were directed to deposit damages to public property to the tune of Rs.2,60,000/- which reveals that they are habitual law violators. Vide letter No. PW/KSD/NOC/2014-15 dated 04.02.2016, defendant No.15 requested defendants No.20 and 21 to ensure corrective preventive measures to avoid mishap at the site of stone crusher so that the incidence occurred on 15.10.2014 may not be repeated. Also, vide letter dated 10.03.2016, defendant No.14 requested defendant No.20 not to violate the terms of NOC and to pay Rs.2,60,000/- as damages, but after lapse of one week, another letter dated 16.03.2016 was issued by defendant No.14 to defendants Nos. 20 and 21 for stopping illegal extraction of stone as it claimed lives of two innocent person including injury to several persons.

8. Despite such direction, defendant Nos. 20 and 21 again violated the terms and conditions of NOC issued vide letter No.PW-SD/CBNOC/WA-12014-15-5447-53 dated

06.08.2015 which was withdrawn vide letter No. PW-SD-WA-II/2015-16-1416-24 dated 04.05.2016 just for the sake of formality to satisfy the public annoyance.

9. It was also averred that till date defendants No. 20 and 21 have not restored the damaged portion of the road on the spot and their workmen are using that approach path for ingress and egress from the stone crusher. Shri Khyali Ram had also made complaint on 15.06.2016 regarding aforesaid violations by defendants No. 20 and 21 to the Hon'ble Chief Minister, Government of H.P., Shimla, Hon'ble, Industries Minister, Department of Industries and all other departments, but no action has been taken against defendant No.20. It was further averred that two different complaints were also filed by the affected complainants and one 'Kalandra' under Section 133 Cr.P.C. was registered against defendants No.20 and 21 and forwarded to defendants No. 12 and 13 which is still pending.

10. The plaintiffs averred that there exists no standard to ascertain actual damages caused or likely to be caused by the actual perpetual public nuisance, invasion and disturbance of their valuable rights and other adjoining villagers. Moreover, in view of the peculiar circumstances of

the case, compensation in terms of money would not afford adequate relief. Defendants No.20 and 21 have installed the stone crusher hardly at a distance of 3-4 metres, whereas, 500 metres distance is required. Due to such mining activities, several impacts can be seen on the environment in the form of water pollution, land degradation, loss of biodiversity, air pollution, ecological imbalance, increase in health related problems, noise pollution and landslides etc. Lastly, it was averred that defendant No.14 had revoked his no objection certificate issued to defendants No. 20 due to breach of terms and conditions of such NOC. Hence, the application.

11. Notices were issued to the respondents and they have filed their replies separately. Respondents No.1, 2, 3, 5, 7, 8, 9, 12, 13 and 18 have filed combined reply denying the allegations levelled on the departments by the plaintiffs in their application. It was averred that the land comprised in Khasra No. 134/106 area measuring 30-18 bighas situated in mauza Chund, Sub Tehsil Mamlig, is recorded under the ownership and possession of Chander Mohan and others and the mining lease has been granted by the Director of Industries in favour of defendants No. 20 and 21 for a period

of 10 years w.e.f. 08.08.2014 to 07.08.2024 to feed the stone crusher unit established in the name and style of M/s Jagdamba Stone Crusher Unit-II, while other Khasra No.65/6 is recorded in the ownership of Tarsem Bharti. Khasra No.17 is in the ownership of wife of Tarsem Bharti, namely Madhu Bharti and Khasra No. 28 is in possession of Madhu Bharti for a period of 30 years from Sant Ram and others on lease. The stone crusher is physically operational on such land. The plaintiffs are nowhere the owners of the suit land and have no locus standi to file the present suit/application in the representative capacity.

12. It was further averred that mining lease and stone crusher have been sanctioned by the replying defendant-department on the basis of recommendations of the Joint Inspection Committee under the Chairmanship of the Sub Divisional Magistrate, Kandaghat and having Assistant Conservator of Forests, Forest Division, Solan, Additional Assistant Engineer, HPPWD, Sub Division, Kandaghat, Assistant Engineer, I & PH, Sub Division, Kandaghat and Mining Officer, Solan, as its members and as per the recommendations of the Regional Officer, H.P. Pollution Control Board and in furtherance to the NOC given

by the concerned Gram Panchayat, Kot and after completing all other codal formalities as required under law.

13. It was also averred that defendant No.8-Deputy Commissioner, Solan on the basis of the inquiry report submitted by defendant No.12, vide order No. DRA/13-1/2017-111781 dated 01.07.2017 suspended the mining and crushing activities of defendants No. 20 and 21 with the direction to defendant No.20 not to take up any work of any kind on the site for which permission was granted till fresh NOCs are issued by all the authorities and referred the matter to the Director Industries for appropriate necessary action.

14. The Deputy Commissioner, Solan, vide letter No. DRA 13-1/2017-112293 dated 15/17th July, 2017 written to the Director of Industries, clarified that the issues arisen due to the approach road being constructed by Tarsem Bharti, Prop. M/s Jagdamba Stone Crusher, Unit-II, have now been resolved as the HPPWD has withdrawn the NOC for the said approach road and also requested the Industries Department to review and take action for the restoration of mining and crushing activities. Accordingly, a Committee of the concerned departments under the Chairmanship of

State Geologist was constituted which inspected the site in question on 16.12.2017 and submitted its findings. Consequently, a show cause notice was served upon defendants No.20 and 21 to explain the position with regard to the contents of the complaints made by different individuals and findings of the Committee. In its response, defendant No.20 submitted his reply and vide letter dated 30.12.2017 given an undertaking to the Industries Department. Taking into consideration the undertaking given by defendant No.20 to undertake special protective measures and all other regulatory aspects, the Industries Department vide order dated 07.03.2018 had directed defendants No.20 and 21 to continue the mining and crushing activities in the allotted area, strictly in accordance with the existing mining and environmental laws and the said restoration order dated 07.03.2018 was further subject to the final outcome of different CWPs pending in this Court as also the suit pending between the parties.

15. It was further averred that the replying Industries Department granted permission to defendant Nos. 20 and 21 for the installation of stone crusher on the recommendations of the Joint Inspection Committee

constituted under the Chairmanship of SDM, Kandaghat having I & PH Department as one of its member which after physically inspecting the site and considering all the distance parameters as framed by the department of Science and Technology to the Government of H.P., recommended the site in question for installation of stone crusher and the consent of Gram Panchayat, Kot, was also taken.

16. The replying defendants admitted that the resolutions were passed by Gram Panchayats Chausha and Vakna raising apprehension of water pollution of Haldu-Nullah. However, the mining lease granted in favour of defendants No.20 and 21 falls under the area of Gram Panchayat, Kot and such Gram Panchayat has given its consent favouring grant of mining lease over the area comprised in Khasra No. 134/106/2, measuring 27-00 bighas, situated in Mauza/Mohal Chund, Tehsil Kandaghat and for installation of stone crusher Unit on Khasra Nos. 7, 65/6, 8 and 28, measuring 10-19 bighas, situated in Mauza Kathli. No illegal mining was reported in the sanctioned mining lease of defendants No.20 and 21, however, in a separate incidence occurred on 15.10.2014, which claimed

two lives, an FIR No. 105/14 dated 15.10.2014 was registered at Police Station, Kandaghat and the machinery was impounded by the police which was released on 18.11.2014 as per orders of the Court and based upon the inquiry report of the aforesaid FIR received by the Industries Department, a penalty notice amounting to Rs.20,41,000/- was immediately issued to Tarsem Bharti on 18.11.2015 for illegal extraction of 4082 M.T. of stone. The said penalty notice was further challenged by defendant No.20 before this Court by filing CWP No. 4570 of 2015 and this Court vide order dated 08.12.2015 stayed the penalty notice. CWP No. 4570 of 2015 was clubbed with CWP No. 7850 of 2010 and this Court in its order dated 14.09.2017 in CWP No. 7850 of 2010 directed the State to issue fresh consolidated notices and accordingly fresh penalty notice was issued to defendant No.20.

17. It was also averred that mining activities are being regulated by the replying defendant departments according to the existing mining rules. It was denied that the plaintiffs approached the replying defendant departments being aggrieved by the mining activities and operation of stone crusher by defendants No.20 and 21.

However, it was admitted that many complaints against defendants No.20 and 21 had been made to the different departments of the State by the villagers excluding the plaintiffs and such complaints have been considered and enquired by the Senior Officers and Officials and action has been taken against them on the basis of the inquiries. It was denied that an irreparable injury will be caused to the plaintiffs and general public of the area and it was also denied that environmental flora and fauna will be affected badly.

18. Separate reply was filed by defendants No. 16 and 17 admitting the existence of natural spring known as 'Harlu Ka Khad', but submitted that the claim of the plaintiffs regarding its use for drinking, irrigation and cattle feeding needs no reply for want of knowledge. It was denied that there is any irrigation scheme of the IPH Department named as such dependent on this 'Harlu Ka Khad'. It was further submitted that this 'Khad' further discharges into one 'Khad' namely 'Gamber Khad' and submitted that there exists an irrigation scheme of the IPH Department named as Lift Irrigation Scheme, Dumehar which is totally based on 'Gamber Khad' and not on 'Harlu

Ka Khad'. The NOC issued by the department is based on the fact that there exists no schemes of IPH Department on 'Harlu Ka Khad' and the schemes which are in operation, are about 3.77 KM away from the above stone crusher and are based on another 'Khad' namely 'Gamber Khad' and not on 'Harlu Ka Khad', as has been alleged by the plaintiffs. So, the claim of the plaintiffs regarding connivance with defendant No.20 is false, hence, denied.

19. Defendants No.20 and 21 filed separate reply wherein preliminary objections qua no legal, valid enforceable and subsisting cause of action against the replying defendants to file and maintain the suit and application, non-joinder, mis-joinder and jurisdiction, have been taken. On merits, it was admitted that the replying defendants had taken land comprised in Khasra No.134/106/2 on lease where mining and quarrying are being carried out as per law of the land. The installation of crusher on Khasra Nos. 7, 65/6, 8 and 28 is also admitted. The mining lease of 27-00 bighas of land had been granted in favour of replying defendants by the Director of Industries for a period of 10 years w.e.f. 08.08.2014 to

07.08.2024 to feed the stone crusher unit established in the name and style of 'M/s Jagdamba Stone Crusher Unit-II'.

20. It was averred that the land comprised in Khasra Nos. 7, 65/5, measuring 5-3 bighas, situated in Mauza Kathli, Tehsil Kandaghat, is recorded in the ownership and possession of the replying defendant No.20 over which the plaintiffs or any other person have no right, title and interest. The land comprised in Khasra No. 17, measuring 3-7 bighas is recorded in the revenue record in the ownership and possession of wife of defendant No.20 and he had taken the land comprised in Khasra No.8, measuring 5 biswas and Khasra No. 28, measuring 5-11 bighas on lease basis through lease deed for a period of 30 years from its owners Sant Ram. The stone crusher is physically operational on these lands at the spot and the plaintiffs have no right, title or interests over these lands.

21. It was denied that an intolerable actual and public nuisance or other wrongful act affecting and likely to affect that rights, claim and interest of public at large has been done especially by defendants No.20 and 21. The mining lease and stone crusher have been sanctioned by the government of Himachal Pradesh through Mining

Department on the basis of the recommendations of the Joint Inspection Committee constituted under the Chairmanship of defendant No.12 and other officials of the various departments as its members and as per the recommendations of the Regional Officer, H.P. State Pollution Control Board and in furtherance to the no objection certificate given by the Gram Panchayat, Kot and after completing all other codal formalities as required under law and the replying defendants have been running the stone crusher and quarry at the spot over the leased land. It was further averred that Civil Writ Petitions No. 2749/2015 and 3571/2015 wherein the replying defendants have been arrayed as parties are pending adjudication before this Court with more or less similar nature of contentions. The lift water supply scheme of I &PH Department for villages Dumehar, Kawarag and adjoining villages is situated at a distance of more than 4 kilometres downstream from the mining lease area and there is no effect on the I&PH Schemes due to mining at the site and further there is no hindrance whatsoever to the traffic due to mining at the site. The FIRs so registered are totally false, frivolous, vexatious and baseless and have been got

registered with ulterior motives and malafide intentions to harass the replying defendants and cause undue harassment as well as financial losses to the replying defendants. The passing of the resolutions by other panchayats other than Kot are nothing but the same have been got passed without any basis and lawful cause.

22. Defendants No. 4, 14 and 15 filed separate reply admitting the fact that vide letter No. PW-SD-WA-I/NOC/2015-16-15508-14 dated 10.03.2016 issued by XEN., Solan, PWD Solan, defendants No. 20 and 21 were directed to deposit damages to the public property to the tune of Rs.2,60,000/-. It was denied that the replying defendants ever connived with the concerned defendants and have assessed the damages on lower side. Infact, after the incident of 15.10.2014, the Additional Assistant Engineer, Kandaghat Section, had visited the spot and he accordingly prepared the damage report as per the actual loss/damage caused on the spot to the tune of Rs.2,66,450/-. The said assessment report was confirmed by the Confirmatory Authority-cum-Executive Engineer, Solan, vide order dated 25.11.2014. Defendant No. 20 feeling aggrieved against the said order had filed an appeal

before the Chief Engineer, HPPWD, Shimla Zone and the same is pending adjudication before the said authority. Thereafter, the replying defendants had withdrawn the NOC issued to defendant No.20 dated 06.08.2015 vide office letter No.PW-SD-WA-1/2015-16-1416-24 dated 04.05.2016 and an intimation of said withdrawal and the factum of illegal extraction of stone/unauthorized mining was duly intimated to the SDM, Kandaghat vide letter dated 07.05.2016 with a request that strict action against defendant Tarsem Bharti may be taken to stop the illegal extraction of stone at the earliest in order to avoid any further mishap on the road. After withdrawal of the said NOC, the said Tarsem Bharti made a representation and had also filed one suit which was pending before the Court for issuance of NOC. On the said representation, proceedings took place under the Chairmanship of Additional Chief Secretary (PW) to the Government of Himachal Pradesh and accordingly it was decided and agreed that permission for construction of approach road to the mining area may be given on the basis of fresh application for NOC and as per the terms and conditions for grant of NOC and in the said proceedings defendant No. 20 had undertaken to withdraw

the case filed before the Court. Thereafter, defendant No.20 again applied for grant of fresh NOC and submitted documents which were under process. As such, the replying defendants have exercised their due diligence in the matter in hand and the damage report prepared by the competent person is well reasoned and on actual loss basis which was duly confirmed by the competent authorities. This report does not require any probe as claimed by the plaintiffs.

23. It was admitted that vide letter No. PW/KSD/NOC/2014-15 dated 04.02.2016, defendant No.15 requested defendants No. 20 and 21 to ensure corrective preventive measures to avoid mishap at the site of stone crusher so that incidence of death occurred on 15.10.2014 may not be repeated. Vide letter No. PW-SD-WA-I/NOC/2015-16-15508-14 dated 10.03.2016, defendant No. 14 requested defendant No.20 not to violate the terms of NOC and to pay Rs.2,60,000/- as damages caused by them and another letter No.PW-SD-WA-I/NOC/2015-16-15711-17 dated 16.03.2016 was issued by defendant No.14 to defendants No.20 and 21 for stopping illegal extraction of stone at RD 14/270 as it claimed lives of two innocent person including injury to several persons. The replying

defendants admitted it to be correct that despite such directions, defendants No. 20 and 21 again violated the terms and conditions of NOC issued vide letter No. PW-SD/CBNOC/WA-I/2014-15-5447-53 dated 06.08.2015 which was withdrawn vide letter No. PW-SD-WA-II/2015-16-1416-24 dated 04.05.2016, however, it was denied that it was just for the sake of formality to satisfy public annoyance as alleged.

24. It was specifically denied that defendants No.20 and 21 and his workmen are still using that approach path for ingress and egress from their stone crusher without restoring the damaged portion of the road infrastructure, as alleged and it was also denied that no action was taken to stop the illegal mining activities.

25. Defendant No. 22 did not file any separate reply and adopted the reply filed by defendants No.1, 2, 3, 5, 7, 8, 9, 12 and 13.

26. Separate rejoinders to the separate replies were filed by the plaintiffs denying the objections made by the defendants and reasserting the averments made in the application. It was averred that the SDM, Kandaghat had conducted inquiry in the present matter and found that

illegal mining activities are being carried out by defendants No. 20 and 21 and further Deputy Commissioner, Solan, was pleased to order that the illegal mining activities be stopped forthwith till the fresh NOC is issued, but no fresh NOC is issued by the Inspection Committee.

27. It was also submitted that the concerned Panchayat Pradhan had no authority to issue NOC for stone crusher or mining. It was also averred that the Panchayat can only issue NOC in Gram Sabha and the concerned President has exceeded his jurisdiction while issuing alleged illegal NOC.

28. It was denied that any physical inspection was done by the Committee and that the representatives or officials and also defendants No. 4, 14 and 15 had no basic knowledge of the spot. However, SDM, Kandaghat conducted detailed inquiry regarding illegal mining, but later on the then SDM was transferred and the same required visit by the superior authorities to observe the actual position on the spot, but no official has dared to visit the spot. It was further submitted that defendants No. 16 and 17 are representing the Irrigation and Public Health Department, but it seems that they are not acquainted with

the actual and factual position on the spot and the plaintiffs are the public spirited senior citizens and have also formed a society/NGO "*Kishan Pani Aur Paryavaran Bacho Sangharsh Samiti, Anji Sunanra*" vide registration No. 22/2016, Tehsil Kandaghat and are working for the welfare of the public. Intolerable, acute, actual and public nuisance have been caused and likely to be caused due to the wrongful acts of the defendants, especially, defendants No.20 and 21. As per the plaintiffs, the department has no knowledge regarding the use of drinking irrigation scheme of 'Harlu Ka Khad'. But, if 'Harlu Ka Khad' further discharges into one main 'Khad' namely 'Gamber Khad' and the Bakhela Dumehar irrigations schemes, even then also the unscientific excavation or illegal mining and extracting resources adjoining to the 'Harlu Ka Khad' and over 'Harlu Ka Khad', are polluting the natural source of water. According to the plaintiffs, it is evident from the record of IPH Department that the natural water gets charged and recharged from the aquifers in areas/hillocks of Kaithlighat, Wagnaghat and Shalaghat. The perennial source of water of the aforesaid 'Khad' also catering the need of rural beneficiaries of more than three panchayats of drinking,

bathing, irrigation and cattle feeding since time immemorial. It is clear from the site plan that there exists 'Harlu Ka Khad' and the same is a tributary of 'Gamber Khad' and the water of 'Harlu Ka Khad' is linked with the drain leading to pump house. So, it is clear that the department/replying defendants have already been cowed down under the political clouts of defendants No.20 and 21, who are doing illegal mining on the spot. It was also submitted that defendants No. 20 and 21 are relying upon illegal resolutions of the Panchayat, but the same have been passed in violations of the notification issued by the government. It was further submitted that the people of the adjoining villages are using the water of 'Harlu Ka Khad' in addition to IPH scheme, so, the installation of stone crusher unit in 'Harlu Ka Khad' is in violation to the provisions of Environmental Laws.

29. The learned trial Court on the basis of the pleadings of the parties granted injunction in favour of the plaintiffs by restraining defendants No. 20 and 21 from carrying out mining/quarrying operation including operation of 'M/s Jagdamba Stone Crusher' near 'Harlu Ka Khad' and further carrying on mining/quarrying activities in the land

comprised in Khasra No. 134/106/2, measuring 27-00 bighas, situated in Mauza and Mohal Chund, Tehsil Kandaghat, District Solan, H.P. and comprised in Khasra Nos. 7, 65/6, 8 and 28, total measuring 10-19 bighas, situated in Mauza Kathli, Tehsil Kandaghat, District Solan, H.P. and in the vicinity of villages Garu, Kashmiri, Chayama, Vakna near 'Harlu Ka Khad' through agent, contractor, labours and workers, till the final disposal of the suit.

30. Aggrieved by the said order, defendants No. 20 and 21 filed an appeal before the learned Additional District Judge-I, Solan, District Solan, H.P., who vide his order dated 06.10.2018 allowed the appeal and set aside the order of injunction granted by the learned trial Court, constraining the plaintiffs to file the instant revision petition.

31. It is vehemently argued by Shri Rajiv Rai, learned counsel for the petitioners that the findings recorded by the learned appellate Court are perverse and, therefore, deserve to be set aside. He would vehemently argue that the findings recorded by the learned trial Court are legal, sound and, therefore, these findings should be upheld.

32. On the other hand, Shri Vinod Thakur, learned Additional Advocate General, for respondents No. 1 to 5, 7

to 19 and Shri Deepak Kaushal, learned counsel for respondents No. 20 and 21 would contend that since the findings recorded by the learned appellate Court are based upon correct appreciation of the pleadings and documents and are further based upon the report of the Local Commissioner, who was appointed with the consent of the parties, therefore, the said findings warrant no interference and need to be upheld.

I have heard the learned counsel for the parties and gone through the records of the case.

33. In order to appreciate the controversy, it would be necessary to bear in mind the scope and ambit of Section 115 of CPC while exercising the jurisdiction by this Court under this Section.

34. The scope of Section 115 of CPC is well settled and reference in this regard can conveniently be made to the judgment of the Hon'ble Supreme Court in **Chaube Jagdish Prasad and another vs. Ganga Prasad Chaturvedi AIR 1959 SC 492**, wherein it was observed as under:

"19. Section 115 Code of Civil Procedure, empowers the High Court, in cases where no appeal lies, to

satisfy itself on three matters:- (a) that the order made by the subordinate court is within its jurisdiction; (b) that the case is one in which the court ought to exercise its jurisdiction; (c) that in exercising the jurisdiction the court has not acted illegally, that is, in breach of some provision of law or with material irregularity that is by committing some error of procedure in the course of the trial which is material in that it may have affected the ultimate decision. Per Sir John Beaumont in Venkatagiri Ayyangar v. Hindu Religious Endowment Board, Madras AIR 1949 PC 156 at p.158, therefore if an erroneous decision of a subordinate court resulted in its exercising jurisdiction not vested in it by law or failing to exercise the jurisdiction so vested or acting with material irregularity or illegality in the exercise of its jurisdiction the case for the exercise of powers of revision by the High Court is made out. In Joy Chand Lal Babu v. Kamalaksha Chaudhury, AIR 1949 PC 239, the subordinate court gave an erroneous decision that the loan was a commercial loan and therefore refused to exercise jurisdiction vested in it by law and the Privy Council held that it was open to the High Court to interfere in revision under Section 115. Sir John Beaumont said at p. 242 of AIR:

" There have been a very large number of decisions of Indian High Courts on s. 115, to many of which their Lordships have been referred. Some of such decisions prompt the observation that High Courts have not always

appreciated that although error in a decision of a subordinate court does not by itself involve that the subordinate court has acted illegally or with material irregularity so as to justify interference in revision under sub-s. (c), nevertheless, if the erroneous decision results in the subordinate court exercising a jurisdiction not vested in it by law, or failing to exercise a jurisdiction so vested, a case for revision arises under sub-s. (a) or sub-s. (b), and sub-s. (c) can be ignored. The cases of *Babu Ram v. Munnalal* AIR 1927 All 358 and *Hari Bhikaji v. Naro Vishvanath* ILR 9 Bom 432, may be mentioned as cases in which a subordinate court by its own erroneous decision (erroneous, that is, in the view of the High Court), in the one case on a point of limitation and in the other on a question of res judicata, invested itself with a jurisdiction which in law it did not possess; and the High Court held, wrongly their Lordships think, that it had no power to interfere in revision to prevent such a result. In the present case their Lordships are of opinion that the High Court, on the view which it took that the loan was not a commercial loan, had power to interfere in revision under sub-s. (b) of s. 115".

In Keshardeo Chamria v. Radha Kissen Chamria 1953 SCR 136: (AIR 1953 SC 23), both these judgments of the Privy Council as also the previous

judgments in Rajah Amir Hassan Khan v. Sheo Baksh Singh, 11 Ind App 237 (PC), and Balakrishna Udayar v. Vasudeva Aiyar, 44 Ind App. 261 : (AIR 1917 PC 71), were reviewed and it was held that S. 115 of the Code of Civil Procedure applies to matters of jurisdiction alone, the irregular exercise or non exercise of it or the illegal assumption of it. Thus if a subordinate court had jurisdiction to make the order it made and has not acted in breach of any provision of law or committed any error of procedure which is material and may have affected the ultimate decision, then the High Court has no power to interfere. But if on the other hand it decides a jurisdictional fact erroneously and thereby assumes jurisdiction not vested in it or deprives itself of jurisdiction so vested then the power of interference under S.115 CPC, becomes operative."

35. Having set out the scope of Section 115 CPC, it would now be necessary to set out factors that are required to be borne in mind while granting or refusing injunction and these factors have been succinctly dealt with by the Hon'ble Supreme Court in **M.Gurudas and others vs. Rasaranjan and others (2006) 8 SCC 367** in the following manner:

"18.While considering an application for injunction, it is well- settled, the courts would pass an order thereupon having regard to:

- (i) *Prima facie case*
- (ii) *Balance of convenience*
- (iii) *Irreparable injury.*

19. A finding on 'prima facie case' would be a finding of fact. However, while arriving at such finding of fact, the court not only must arrive at a conclusion that a case for trial has been made out but also other factors requisite for grant of injunction exist. There may be a debate as has been sought to be raised by Dr. Rajeev Dhawan that the decision of House of Lords in *American Cyanamid v. Ethicon Ltd.* (1975) 1 All ER 504 would have no application in a case of this nature as was opined by this Court in *Colgate Palmolive (India) Ltd. v. Hindustan Lever Ltd.* (1999) 7 SCC 1 and *S.M. Dyechem Ltd. v. Cadbury (India) Ltd.* (2000) 5 SCC 573, but we are not persuaded to delve thereinto.

20. We may only notice that the decisions of this Court in *Colgate Palmolive (supra)* and *S.M. Dyechem Ltd (supra)* relate to intellectual property rights. The question, however, has been taken into consideration by a Bench of this Court in *Transmission Corpn. of A.P. Ltd. v. Lanco Kondapalli Power (P) Ltd.* (2006) 1 SCC 540 stating: (SCC pp. 552-53, paras 36-40)

"36. The Respondent, therefore, has raised triable issues. What would constitute triable issues has succinctly been dealt with by the

House of Lords in its well-known decision in *American Cyanamid Co. v. Ethicon Ltd.* (1975) 1 All ER 504 holding: (All ER p.510 c-d)

'Your Lordships should in my view take this opportunity of declaring that there is no such rule. The use of such expression as 'a probability', 'a prima facie case', or 'a strong prima facie case' in the context of the exercise of a discretionary power to grant an interlocutory injunction leads to confusion as to the object sought to be achieved by this form of temporary relief. The court no doubt must be satisfied that the claim is not frivolous or vexatious; in other words, that there is a serious question to be tried.'

It was further observed (All ER pp.511 b-c & 511j)

'Where other factors appear to be evenly balanced it is a counsel of prudence to take such measures as are calculated to preserve the status quo. If the defendant is enjoined temporarily from doing something that he has not done before, the only effect of the interlocutory injunction in the event of his succeeding at the trial is to postpone the date at which he is able to embark on a course of action which he has not previously

found it necessary to undertake; whereas to interrupt him in the conduct of an established enterprise would cause much greater inconvenience to him since he would have to start again to establish it in the event of his succeeding at the trial.

* * *

The factors which he took into consideration, and in my view properly, were that Ethicon's sutures XLG were not yet on the market; so that had no business which would be brought to a stop by the injunction; no factories would be closed and no workpeople would be thrown out of work. They held a dominant position in the United Kingdom market for absorbable surgical sutures and adopted an aggressive sales policy.'

37. We are, however, not oblivious of the subsequent development of law both in England as well as in this jurisdiction. The Chancery Division in *Series 5 Software v. Clarke* (1996) 1 All ER 853] opined: (All ER p.864 c-e)

'In many cases before American Cyanamid the prospect of success was one of the important factors taken into

account in assessing the balance of convenience. The courts would be less willing to subject the plaintiff to the risk of irrecoverable loss which would befall him if an interlocutory injunction was refused in those cases where it thought he was likely to win at the trial than in those cases where it thought he was likely to lose. The assessment of the prospects of success therefore was an important factor in deciding whether the court should exercise its discretion to grant interlocutory relief. It is this consideration which American Cyanamid is said to have prohibited in all but the most exceptional case. So it is necessary to consider with some care what was said in the House of Lords on this issue.'

38. In *Colgate Palmolive (India) Ltd. v. Hindustan Lever Ltd.* (1999) 7 SCC 1, this Court observed that Laddie, J. in *Series 5 Software (supra)* had been able to resolve the issue without any departure from the true perspective of the judgment in *American Cyanamid*. In that case, however, this Court was considering a matter under *Monopolies and Restrictive Trade Practices Act, 1969*.

39. In *S.M. Dyechem Ltd. v. Cadbury (India) Ltd.* (2000) 5 SCC 573, Jagannadha Rao, J. in a case arising under *Trade and Merchandise Marks*

Act, 1958 reiterated the same principle stating that even the comparative strength and weaknesses of the parties may be a subject matter of consideration for the purpose of grant of injunction in trade mark matters stating : (SCC p.591, para 21)

'21.....Therefore, in trademark matters, it is now necessary to go into the question of "comparable strength" of the cases of either party, apart from balance of convenience. Point 4 is decided accordingly.'

40.The said decisions were noticed yet again in a case involving infringement of trade mark in *Cadila Health Care Ltd. v. Cadila Pharmaceuticals Ltd.*(2001) 5 SCC 73."

21. While considering the question of granting an order of injunction one way or the other, evidently, the court, apart from finding out a prima facie case, would consider the question in regard to the balance of convenience of the parties as also irreparable injury which might be suffered by the plaintiffs if the prayer for injunction is to be refused. The contention of the plaintiffs must be bona fide. The question sought to be tried must be a serious question and not only on a mere triable issue.(See *Dorab Cawasji Warden v. Coomi Sorab Warden and Others* , (1990) 2 SCC 117, *Dalpat Kumar v. Prahlad Singh*(1992) 1 SCC 719, *United Commercial Bank v. Bank of India*

(1981) 2 SCC 766, Gujarat Bottling Co. Ltd. v. Coca Cola Co. (1995) 5 SCC 545, Bina Murlidhar Hemdev v. Kanhaiyalal Lokram Hemdev (1999) 5 SCC 222 and Transmission Corpn. of A.P. Ltd (supra)."

36. Having set out the legal position, I now proceed to determine the merits of the *lis*.

37. Bearing in mind the aforesaid exposition of law, it would be noticed that the learned trial Court has mainly relied upon the show cause notices that were issued to defendants No. 20 and 21 under the Himachal Pradesh Road Infrastructure Protection Rules, 2004 and also under the provisions of the Noise Pollution (Regulation and Control) Rules, 2000, and granted injunction in favour of the plaintiffs by holding that the mining activities were being undertaken by defendants No.20 and 21 in an unscientific manner at the site.

38. As regards the order passed by the learned Additional District Judge, the Court has taken into consideration the entire facts and documents on record and in addition thereto, he has relied upon the report of the Local Commissioner and only thereafter has the injunction order been vacated.

39. However, without being influenced by the orders passed by the learned Courts below, this Court would proceed to have an independent assessment of the entire issue. It is not in dispute that defendants No. 20 and 21 have been legally granted a mining lease by the Industries Department and only thereafter they are carrying out mining/quarrying operations. The Himachal Pradesh State Pollution Control Board has considered the case of defendants No.20 and 21 for renewal of the mining lease pursuant to which a joint inspection was carried out and site has been cleared by such Committee.

40. The complaints filed against these defendants were sent to the Director of Industries by the Deputy Commissioner, Solan, for consideration and it is only thereafter that a Committee headed by the State Pollution Control Board, Parwanoo, visited the spot and submitted its report wherein defendants No. 20 and 21 had undertaken to carry out mining operations by resorting to scientific manner and adopting all requisite safeguards. It is then that the Director of Industries granted permission to defendant No.20 to continue with the mining and quarrying activities strictly in the manner under the Environmental Laws and

subject to the outcome of the litigation that is stated to be pending before this Court in CWP No. 3571 of 2015, titled 'Lalit Mohan versus State of H.P.'. Even if the petitioner therein had sought interim direction against defendant No.20 for restraining him from operating crusher in question, however, the same was not granted by this Court. The petitioner therein is none other than the real brother of plaintiff No.3, Shri Ram Dass Verma.

41. As observed above, the learned trial Court simply relied upon the show-cause notice and granted injunction in favour of the plaintiffs little realizing that the show-cause notice is only a self-serving document of the department unless and until the complaints set out in the show-cause notice are proved in accordance with law. Reliance on show-cause notice could at best have been placed at the time of grant of interim injunction. However, while confirming the injunction order, no reliance on such show-cause notice could have been placed, more particularly, when it has come on record that the complaints on the basis of which show-cause notices were issued, were not proved.

42. It would be noticed that during the pendency of the suit, in order to check an ambient air, levels of noise

pollution, the samples were analyzed from the Chandigarh Pollution Testing Laboratory and the same were found to be within the permissible limits.

43. Apart from above, a Local Commissioner was appointed by the learned lower appellate Court that too by the consent of the parties with a direction to visit the spot and report about the correctness of the site plans submitted by the parties and also ascertain if the debris extracted by defendants No. 20 and 21 had affected the water channel and 'Khad' in any manner. The Junior Engineer, HPPWD, Kandaghat and Kanungo were directed to assist the Local Commissioner.

44. In the report so submitted, the Local Commissioner has stated that at the time of his visit, the stone crusher was found to be in a non-working condition, but no debris were found obstructing the free flow of nullah. Notably, the plaintiffs have not even chosen to file objections to the report of the Local Commissioner.

45. Above all, it would be noticed that various departments of the State and certain independent Corporations have been arrayed as party-defendants in the suit. None of these functionaries, except the Pollution

Control Board, has supported the claim set up by the plaintiffs. These departments being the functionaries of the State are there to assist the Court in the conduct of a trial, the object of which is basically to find out the truth. In case, defendants No. 20 and 21 had been blatantly violating the law as is canvassed before this Court, this Court sees no reason why the functionaries of the State would not have acted against the said defendants.

46. This assumes importance when there are no proven allegations of any malafides, bias, hostility etc. against these departments. The departments have no axe to grind and rather presumed to be adopting a non-partisan stand before the Court unless the contrary is proved.

47. Mere use of words like connivance, fraud etc. without there being any supporting material to substantiate the pleadings to this effect are meaningless, otherwise also, such allegations of connivance, bias etc. can only be levelled against an Officer of the department and the department in itself being the juristic person cannot be attributed with bias, hostility and connivance etc.

48. Unfortunately, no official has been so named in the plaint. Now, in case, the written statement on behalf of

the Pollution Control Board is adverted to, even there also the department has only complained of about the quality of air and water which, as noticed above, have already been found within the prescribed limit.

49. In view of the aforesaid discussion, I find no merit in this revision petition and the same is accordingly dismissed, leaving the parties to bear their own costs. Pending application(s), if any, also stand disposed of.

50. However, it is made clear that the observations made in this order are solely for the purpose of deciding the instant *lis* and, therefore, the Courts below shall not un-necessarily influence by any of the observations made in this order at the time of deciding any other application, suit, appeal etc. Records of the learned Courts below be sent forthwith.

51. It is further made clear that defendants No.20 and 21 shall carry out the mining operations only on the land leased out to them and that too strictly in conformity with the provisions of the Act, Rules, Regulations, Notifications etc. In case, these defendants are found to have carried out mining in contravention of law or over the land that has not been leased out to the aforesaid

defendants, then it shall not be open to the official defendant(s) to compound such violation by imposing penalty etc., rather the same shall result in cancellation of the lease deed.

7th August, 2019.
(krt)

(Tarlok Singh Chauhan)
Judge

High Court Online