



उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड
UTTAR PRADESH POLLUTION CONTROL BOARD

संदर्भ सं०

Ref. No : H84207 /C-2/NGT-07 /2022

दिनांक

Date 16-11-22

To,

The Registrar,
Hon'ble National Green Tribunal,
Copernicus Marg, New Delhi.
E-mail - judicial-ngt@gov.in

Sub: Submission of Joint Committee Report in compliance of order dated 26.05.2022 and 10.10.2022 passed by Hon'ble National Green Tribunal in O.A. No. 393/2022 Ashish Kumar Dwivedi Vs State of Uttar Pradesh and Ors.

Sir,

In compliance of order dated 26.05.2022 and 10.10.2022 passed by Hon'ble National Green Tribunal in O.A. No. 393/2022 Ashish Kumar Dwivedi Vs State of Uttar Pradesh and Ors., the report of Joint Committee is enclosed herewith.

It is requested that the Joint Committee report may be presented before the Hon'ble Tribunal for kind consideration.

Encl: As above.

Yours faithfully,

(Rajendra Singh)

Chief Environmental Officer
(Circle-2)

टी.सी. - 12 वी, विभूति खण्ड, गोमती नगर,

लखनऊ - 226 010

दूरभाष : 0522-2720828, 2720831

फैक्स : 0522-2720764, 2720676

ई-मेल : info@uppcb.com

वेबसाइट : www.uppcb.com

T.C.-12 V, Vibhuti Khand, Gomti Nagar,

Lucknow - 226 010

Phone : 0522-2720828, 2720831

Fax : 0522-2720764, 2720676

E-mail : info@uppcb.com

Website : www.uppcb.com

REPORT OF THE JOINT COMMITTEE

In ref.

Order dated 26.05.2021, passed by the Hon'ble National Green Tribunal, Principal Bench, New Delhi in Original Application No. 393 of 2022, Ashish Kumar Dwivedi versus State of Uttar Pradesh &ors.

The Hon'ble National Green Tribunal, Principal Bench, New Delhi was pleased to constitute the following committee vide order dated 26.05.2021 passed in the above mentioned Original Application which run as under :-

*".....7. The allegations made require due verification and immediate remedial action. Accordingly, we constitute a Joint Committee of representatives of Director, Mining and Geology, Government of Uttar Pradesh, CPCB, State PCB and District Magistrate, Hamirpur and direct the Joint Committee to meet within four weeks and **undertake site visits, look into the grievances of the applicant, allegations regarding illegal mining, violation of Consent Conditions, SSMG, 2016 and EMGSM, 2020** and take requisite action by following due process of law. The State PCB will be the Nodal agency for coordination and compliance. Factual and action taken report may be furnished within two months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF....."*

2. That in compliance of directions issued by the Hon'ble National Green Tribunal following members have been nominated in the Joint committee by the concerned Authorities :-

Sr	Name	Post
1	Shri Ramesh Chandra,	Additional District Magistrate (F/R) Hamirpur
2	Shri Jay Prakash	Joint Director Directorate of Geology and Mining U.P Lucknow
3	Shri Rajendra D Patil	Scientist-D, CPCB RD-Lucknow
4	Shri Rajendra Prasad	Regional Officer, UPPCB Banda
5	Shri Subhash Singh	Mines Officer Hamirpur (Additional member nominated by the District Officer Hamirpur.

3. The Committee conducted virtual meeting on 29.07.2022 and carried out field visits on 04/05.08.2022 and also meet with video conferencing on 28.10.2022. The committee visited four mining sites whereas, the site of other two lease areas could not be visited due to inapproachable conditions of the path



due to heavy rain. A total no. of Six project studied by the Committee, which detail mentioned here in under :-

Sl.	Village	Block no	Name of the lessee
1	Beri	Khand no 10/22	M/s Annapurna Udhyog
2	Bhendi Kharka	Khand no 23/7	M/s Pahlwan Traders
3	Bhendi Kharka	Khand no 23/13	M/s Kanha Construction Company
4	Chikasi	Khand no 24/13	Shri. Shrikant Gupta
5	Chikasi	Khand no 24/17	Shri. Anand Kumar Gupta
6	Pateyora	Khand no 31/4	Shri. Shailendra Yadav

All aforesaid lease hold areas were not in operation at the time of visit by the committee due to rainy period.

4. It has been informed by the Mines Officer Hamirpur to the committee that total 18 number of mining lease areas have been allotted in the district Hamirpur and all such included in the District Survey Report (herein after referred as DSR). The six mining lease areas in question are part of the DSR. Based on the information provided by the mining department Hamirpur the detail of said areas are already mentioned in paragraphs no 3.
5. That the Hon'ble National Green Tribunal was pleased to direct to look in to following aspects:-
 - (1) The grievances of the applicant.
 - (2) Allegation regarding illegal mining.
 - (3) Volition of consent condition.
 - (4) Volition of Sustainable sand mining guidelines 2016
 - (5) Implementation of Enforcement and Monitoring Guidelines for Sand Mining 2020
6. The Hon'ble National Green Tribunal vide its order dated 26.05.2022 was also pleased to direct for taking required action by following due process of law :-
7. That the grievance of the applicant are being mentioned as under :-
 - (i) That illegal sand mining activates are being conducted by various mining lease holders.
 - (ii) That the mining activities are being done in violation of the orders passed by this Hon'ble Tribunal and the applicable laws wherein mechanized processes and means are being used for extracting sand.

- (iii) Further, sand is being extracted from the middle of the flowing river.
 - (iv) Mining is being conducted beyond the area of sanctioned lease.
 - (v) Forest areas are being exploited for mining without any Forest Clearance.
 - (vi) Digging is being done till a point that water erupts out of the ground in violations of the conditions prescribed in this regard.
 - (vii) Bridges and ways have been made across the river bed obstructing the same.
 - (viii) Co-ordinates are being changed by the mining department without issuance of modified lease area and in absence of Environment Clearance.
 - (ix) Mining activities are being conducted way beyond the shore of the river bed extending up to the neighbouring agricultural lands which are all prohibited and are in violation of law.
 - (x) That due to such illegal activities, grave harm is being caused to the river beds and its surroundings, effecting the overall ecology and the environment having serious implications for maintaining the integrity of the areas and of the entire Hamirpur District.
- 8.** That under the provisions of law namely Mines and Mineral (Development & Regulation) Act, 1957 and The Uttar Pradesh Minor Minerals (Concession) Rules, 2021, EIA Notification dated 14.09.2016 (as amended time to time), Sustainable Sand Mining Guidelines, 2016 and Enforcement and Monitoring Guidelines for Sand Mining, 2020, the procedure for graining an area situate in river bed on mining lease and process of conducting the mining operation upon it are being mentioned as under :-
- (a) The mining department of the District, have responsibility to identify any suitable area fit for mining of any minerals.
 - (b) Whenever any suitable area is identified then they seek the consent and no objection certificate (NOC) from the forest department.
 - (c) To evaluate the quantity of the available sand and morrum on the proposed site of the area.
 - (d) To mention the detail of the area in the District survey report (DSR) and to load it on the District portal for inviting objection of the public.

- (e) If any objection is received then such objection must be resolved and thereafter copy of the such DSR is presented before the committee constituted by the Director Geology and Mining UP Lucknow.
- (f) After getting approval on the DSR the such area can be published vide advertisement for grant of mining lease for a period of 05 year for inviting e-tender cum e-bid for per cubic meter from qualified and eligible person.
- (g) If highest and satisfactory bid has been received then it may be accepted provisionally by the district officer and and letter of intent (LoI) may be also issued in favor of such highest and satisfactory bidder.
- (h) The provisionally selected bidder must engage recognized person for preparation of mining plan and obtain the approval on the mining plan by the Director Geology and Mining UP Lucknow.
- (i) After obtaining approval on mining plan for the competent authority applied for environmental clearance in SEIAA UP Lucknow and after obtaining environmental clearance (hereinafter referred as EC) the demarcation of the area is done and then the mining lease deed is executed in favor of such selected bidder.
- (j) That after execution and registration of the deed, the procedure and norms for wining the sand & morrum are mention as under :-
- (a) Installment of CCTV/PTZ camera on the site.
 - (b) Installment of way-bridge with integrated cyber station of DGM Lucknow.
 - (c) To win the sand & Morrum on the river bed site allotted in his favor as demarcated with the help of two permanent signs as well as supported by 'Geo Co-ordinates'.
 - (d) The depth of pits are not more than three miters or water level, whichever is earlier.
 - (e) Mining work will be started after sun rise& will be closed before the sunset by way of in accordance with the procedure as described in the approved mining plan.
 - (f) No hurdle shall be created in the river stream by making bridge or temporary road.
 - (g) Loading of the sand & morrum will be done by manually or with the help of machine which height and bucket is permitted by the law.
 - (h) In the lease hold area, no garbage or liquid oil will be drop which polluting the site and stream water.

- (i) Proper shed and toilet will be buildup for use of labour and other persons.
9. That under the provisions of Enforcement and Monitoring Guidelines for Sand Mining, 2020 the regular monitoring is necessary by a committee constituted by the concerned district officer.
10. The point wise, opinion of the joint committee on the allegation alleged by the applicant are being mentioned as under :-

Sl. No.	Allegation of the applicant	Opinion of the joint committee
1	That illegal sand mining activities being conducted by various mining lease holders	It is not a true allegation however some lessee has violated the term and condition of the EC and mining lease, but the district administration regularly monitoring the lease hold area and issue the notice to such violator and imposed the penalty in according with law. It is Submitted that E.C. provides that all necessary statutory clearance shall be obtained before the start of mining operations however the project proponent have not obtain the consent under the water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981. It submitted that out of six lessees four lessees have obtained consent in present and two lessees namely M/s Shailendra Yadev and M/s Shrikant Gupta have not obtained consent in present from UPPCB. Hence, it is recommended that all lessees shall obtain consent under said Act, 1974 and Act, 1981.
2	That the mining activities are being done in violation of the orders passed by this Hon'ble Tribunal and the applicable laws wherein mechanized processes and means are being used for	At the time of visit the mining areas were submerged hence it is not possible to the committee to take the notice regarding using of prohibited machines on the river bed, there for this allegations is also not proved.

	extracting sand.	
3	Further, sand is being extracted from the middle of the flowing river	At the time of visit areas were submerged hence no sign has been appeared regarding extracting from the middle of flowing river.
4	Mining is being conducted beyond the area of sanctioned lease	The lessees are doing mining operation within the area sanctioned and demarcated in their favour with the help of two permanent points mentioned in map.
5	Forest areas are being exploited for mining without any Forest Clearance	As per record no forest area of land is included in the mining lease hold area and mining leases have been granted after obtaining of the NOC of the forest department. No complaint of such type has been received from forest department.
6	Digging is being done till a point that water erupts out of the ground in violations of the conditions prescribed in this regard	At the time of visit areas were submerged hence no proof has been paired to support the allegation of the applicant.
7	Bridges and ways have been made across the river bed obstructing the same	At the time of visit areas were submerged hence no proof has been paired to support the allegation of the applicant.
8	Coordinates are being changed by the mining department without issuance of modified lease area and in absence of Environment Clearance	Reply as mentioned in point no 4 of this table and further repeated that areas demarcated with the two permanent point available on the nearby.
9	Mining activities are being conducted way beyond the shore of the river bed extending up to the neighbouring agricultural lands which are all prohibited and are in violation of law	The mining activities from outside the sanctioned area was reported in the project of M/s Kanha Construction Company(23/13) & M/s Annapurna Udhog (10/22) which also deal in accordance with law by compounding the offence by the lessee.
10	That due to such illegal activities, grave harm is being caused to the river beds and its surroundings, effecting the overall ecology and the environment having serious implications for	At the time of visit areas were submerged hence no proof has been appeared to support the allegation of the applicant.

	maintaining the integrity of the areas and of the entire Hamirpur District.	
11	Plantation and corporate Social Responsibility.	The Mines Officer, Hamirpur further informed that the lease holder also contribute for the plantation known as 'Sunder Van' and also distribute cloths, blankets and food to the nearby persons as per corporate Social responsibility.

11. That in view of aforesaid status report of the mining areas in question the committee it think just and proper to make following recommendations to monitor the mining areas after rainy season whenever the areas become vacant from the river water :-

- The lessees will be not allowed to win the sand & morrum unless the sanctioned area become dry from the river water.
- Before permitting the lessees for doing mining, the area again demarcated by two permanent signs with supporting geo co-ordinate and lessee should also compel to make the demarcation pillars and also maintain it till the mining operation are done.
- Time of the wining of minerals must be after sun rise and before sunset.
- No lessees do the mining operation with help of heavy prohibited machineries.
- According to term & condition of the EC proper arrangement of the employees or the labors made by the lessee and also invest part of the profit of the project in social reform in the nearby leased hold area.
- Air & water consent must be obtain from the UP Pollution Control Board as per law and regularly status report will be submitted in the regional office of the UPPCB.


Subhash Singh,
Mines Officer-
Hamirpur
(Additional member
nominated by DM)


Rajendra Prasad,
Regional Officer,
UPPCB Banda

*

Rajendra D Patil,
Sci - D
CPCB Regional
Directorate,
Lucknow


11/11/22
Jay Prakash,
Joint Director
Directorate of
Geology and
Mining
U.P.Lucknow


11.11.2022
Ramesh Chandra,
Additional District
Magistrate (F/R)
Hamirpur

Date- 11.11.2022

* Partially agree with Point No 10 & 11.

Additional observations are attached below
separately.


11.11.2022