

Joint Committee Report on the Environmental Compensation

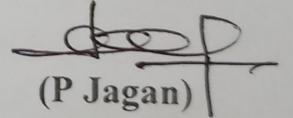
In the matter of

Vijay Singh Rajput Vs State of M.P. & Ors.

(O.A. 75 OF 2019 (CZ))

Index

S. No.	Particulars	Page No.
1.	Joint Committee Report On Environmental Compensation In The Matter Of O.A. No. 75 Of 2019 (Vijay Singh Rajput Vs State Of M.P. & Ors) Order Dated 5.10.2020.	2-5
2.	Annexure-I Copy of the committee constitution letters	6-7
3.	Annexure-II The Google map of the illegal mining	8-8
4.	Annexure-III Site photographs	9-10
5.	Annexure-IV Copy of the report submitted by Collector Office (Mining Department), Sagar dated 04.02.2020.	11-12
6.	Annexure-V Copy of the NGT Order dated 5.10.2020 in the matter of O.A. NO. 75 OF 2019 (VIJAY SINGH RAJPUT Vs STATE OF M.P. & ORS)	13-16


(P Jagan)

Regional Director
Central Pollution Control Board
Regional Directorate, Bhopal

पी. जगन / P. JAGAN
क्षेत्रीय निदेशक / Regional Director
केन्द्रीय प्रदूषण नियंत्रण बोर्ड
Central Pollution Control Board
क्षेत्रीय निदेशालय, भोपाल (म.प्र.)
Regional Directorate, Bhopal (M.P.)

**JOINT COMMITTEE REPORT ON ENVIRONMENTAL
COMPENSATION IN THE MATTER OF O.A. NO. 75 OF 2019 (VIJAY
SINGH RAJPUT Vs STATE OF M.P. & ORS) ORDER DATED 5.10.2020**

Hon'ble NGT order dated 5.10.2020 in O.A. No. 75 of 2019 (Vijay Singh Rajput Vs State of M.P. & Ors.) directed as:

“Central Pollution control Board is directed to send or constitute a committee of two Regional Officers who may visit at the site or on the basis of report submitted by the collector and on the basis of area of the illegal mining, calculate the environmental compensation and submit a report within fortnight.”

In compliance of above mentioned, Central Pollution Control Board (CPCB), Regional Directorate, Bhopal has constituted a committee comprising of the following officials to inspect the site and submit its report to the Hon'ble NGT.

- i. Mr. Sunil Kumar Meena, Sc. D, CPCB, Regional Directorate, Bhopal
- ii. Dr. Ranu Chouksey Verma, Sc. B, CPCB, Regional Directorate, Bhopal
- iii. Dr. R. K. Jain, Chief Chemist, MPPCB, Regional Office, Sagar

Copy of the committee constitution letters are enclosed as **Annexure-I**.

The committee visited the site of illegal mining on 14.10.2020 along with the Sh Gangale, Mining inspector & patwari of the area. The committee observed the illegal mining in the Khasra no. 182 & 183 was carried out near the natural/rainy drain at the following GPS co-ordinates

- i. 24.104004°, 78.901094°
- ii. 24.103877°, 78.900995°
- iii. 24.104365°, 78.900584°
- iv. 24.104490°, 78.900685°

The Google map of the illegal mining is enclosed as **Annexure-II**.

The illegal mined overburden was found dumped inside the natural/rainy drain that restricted the natural flow. Site photographs are enclosed as **Annexure-III**.

1. Methodology adopted for calculating the Environmental Compensation on illegal mining of the black flag stone

The committee was in the opinion to calculate the environmental compensation based on the earlier report of Collector Office (Mining Department), Sagar dated 04.02.2020. Copy of the report is enclosed as **Annexure-IV**. The report has reported the quantity of the illegal mine area, its volume and market value.

- i. The volume of illegal mining of black flag stone is **6750 M³** in the length of 90m, width of 15m and 5m depth.
- ii. The market value of per M³ black flag stone: **Rs. 2500/-**
- iii. The total market value of 6750 M³ illegal mined black flag stone: **Rs. 16875000** (Rupees One Crores Sixty Eight Lakh Seventy Five Thousand Only) in plot no. 182 and 183 for which no permission was granted by the authority concerned.
- iv. The proposed penalty under M.P. Land Revenue Code 1956 (as amended) rule 247 (7) was calculated as 4 times of the Market value of the mineral : **Rs. 67500000/-**

The committee referred following orders for calculating the EC w.r.t. Net Present Value (Market value), ecological service cost and restoration:

- i. Hon'ble Apex Court in Writ Petition (Civil) No. 114 of 2014 in the matter of Common cause Vs. Union of India and Others dated 02.08.2017, Paragraph 184 of the said judgement as under:-

“We make it clear that the material extracted either without Environmental Clearance or without an FC or Both would attract

the provisions of Section 21 (5) of the Mines and Minerals Development Rules Act and 100 % of the price of illegally or unlawfully mined mineral must be compressed by the mining lease holder”.

Accordingly, the Net Present Value (market value) of total illegal black flagstone of **Rs. 1, 68, 75000/-** was considered.

- ii. Para 31 of the Hon’ble National Green Tribunal Principal Bench order dated 04.01.2019 in OA No. 110 (T_{HC})/2012 titled as “Threat to life arising out of coal mining in South Garo Hills District Vs. State of Meghalaya & Ors.” Read as follows-

“Paying capacity and the amount which may act as deterrent to prevent further damage is also well recognised. Net Present Value of the ecological services foregone and cost of damage to environment and pristine ecology, the cost of illegal mined material, and the cost of mitigation and restoration are also relevant factors. The committee may go into aspects to determine the final figure.”

- iii. The Hon’ble Tribunal in its order dated 25.3.2015 in O.A. 73 of 2014 has ordered as follows:

“No one has been thought of restoration of the area in question to break to some extent if not completely Restoration of ecology and environment in question serious steps are required to be taken for cleaning polluted water bodies and ensure that no further pollution is caused by this activity and activity which would be permitted to be carried on finally including transportation of coal. On the basis of ‘polluter pays principle’. We direct that the state government shall in addition to the royalty payable to it shall also collect 10% on the market value of coal for every consignment.”

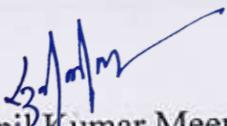
Thus, the compensation recoverable is quantified as under:

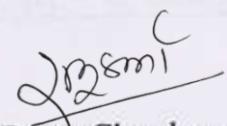
- a. Net Present Value of the illegal mining material: **Rs. 1,68,75000/-**

- b. Cost of the ecological services foregone and the cost of mitigation and restoration was taken as **10%** of the Market value of the illegal mine material (Based on the Hon'ble NGT order dated 25.3.2015 in O.A. 73 of 2014) = **Rs. 1,68,7500/-**
- c. The proposed penalty under M.P. Land Revenue Code 1956 (as amended) rule 247 (7) was calculated as 4 times of the Market value of the mineral : **Rs. 6,75,000,00/-**

Recommendation

Interim compensation on illegal mining of black flag stone may be imposed based on the Net Present Value (Market Value) i.e. **Rs. 1,68,75,000/-**; Cost of the ecological services foregone and the cost of mitigation and restoration i.e. **Rs. 1,68,7500/-** and the proposed penalty under M.P. Land Revenue Code 1956 (as amended) rule 247 (7) i.e. **Rs. 6,75,000,00/-**.


(Sunil Kumar Meena)
Scientist 'D'
CPCB, RD, Bhopal


(Dr Ranu Chouksey Verma)
Scientist 'B'
CPCB, RD, Bhopal


(Dr R K Jain)
Chief Chemist
MPPCB, RO, Sagar



क्षे.नि.भो./एन.जी.टी. ओ.ए.-75/2019/733-734

दिनांक : 08 अक्टूबर, 2020

प्रति,

Most urgent
NGT Case

सदस्य सचिव
मध्यप्रदेश प्रदूषण नियंत्रण बोर्ड
पर्यावरण परिसर, ई-5 अरेरा कालोनी
भोपाल - 462 016

विषय: एन.जी.टी. प्रकरण क्र. 75/2019 "विजय सिंह राजपूत विरुद्ध मध्यप्रदेश शासन व अन्य" में अधिकारी के नामांकन बाबत।

संदर्भ: माननीय एन.जी.टी. द्वारा पारित आदेश दिनांक 05.10.2020

महोदय,

कृपया माननीय एन.जी.टी. द्वारा दिनांक 05.10.2020 को विषयांकित प्रकरण में पारित आदेश का अवलोकन करने का कष्ट करें (छायाप्रति संलग्न है)। विषयांकित प्रकरण में माननीय एन.जी.टी. द्वारा illegal mining in the survey plot no. 182 and 183 District-Sagar, Madhya Pradesh के पर्यावरणीय क्षति की गणना करने बाबत संयुक्त टीम के सदस्य के रूप में केन्द्रीय प्रदूषण नियंत्रण बोर्ड के अधिकारी श्री सुनील कुमार मीणा, वैज्ञानिक 'घ' (मोबाइल नं. 09617007250) को नामित किया जाता है। प्रकरण में आगामी सुनवाई दिनांक 29.10.2020 को नियत है।

स्व. डॉ. राजू चौकसे, वै. ख.

अनुरोध है कि उपरोक्त कार्य हेतु तिथि निर्धारित कर इस कार्यालय को सूचित करने का कष्ट करें जिससे संबंधित अधिकारी को उपरोक्त बाबत सूचित किया जा सके एवं माननीय न्यायालय द्वारा नियत तिथि 19.10.2020 के पूर्व की गई कार्यवाही संबंधी प्रतिवेदन माननीय एन.जी.टी. के समक्ष प्रस्तुत किया जा सके।

भवदीय,

संलग्नक: उपरोक्तानुसार।


(पी. जगन)
क्षेत्रीय निदेशक

प्रतिलिपि:-

- (1) डिविजनल हेड, विधि अनुभाग, के.प्र.नि.बोर्ड, दिल्ली - की ओर कृपया सूचनार्थ।
- (2) श्री सुनील कुमार मीणा, वैज्ञानिक 'घ', क्षे.नि.भोपाल - की ओर सूचनार्थ एवं पालनार्थ। कृपया संबंधित समिति मेम्बर से समन्वय कर निरीक्षण उपरांत प्रतिवेदन तैयार कर प्रस्तुत करना सुनिश्चित करें।


क्षेत्रीय निदेशक

का. प्र.

"राजभाषा हिन्दी में पत्र व्यवहार का स्वागत है"

क्षेत्रीय कार्यालय, म.प्र. प्रदूषण नियंत्रण बोर्ड

दीन दयाल नगर, हाऊसिंग बोर्ड कॉलोनी, सागर

Telefax-07582-263774, E-mail-romppcb_sagar@rediffmail.com

क्रमांक 709 / क्षे.का. / प्रनिबो / 2020
प्रति,

सागर, दिनांक 12/10 / 2020

श्री पी. जगन,
क्षेत्रीय निदेशक,
क्षेत्रीय निदेशालय (मध्य)
केन्द्रीय प्रदूषण नियंत्रण बोर्ड,
भोपाल।

विषय :- एन.जी.टी प्रकरण क. 75/2019 (विजय सिंह राजपूत विरुद्ध मध्यप्रदेश शासन व अन्य) में अधिकारी के नामांकन बावत्।
सन्दर्भ:- आपका पत्र क. क्षे.नि.मो./एनजीटी/ओ.ए.-75/733-735 दिनांक 08.10.2020

उपरोक्त विषयान्तर्गत एवं सन्दर्भ में लेख है कि एन.जी.टी प्रकरण क. 75/2019 (विजय सिंह राजपूत विरुद्ध मध्यप्रदेश शासन व अन्य) में पर्यावरणीय क्षति की गणना करने बावत् संयुक्त निरीक्षण हेतु दिनांक 14 एवं 15.10.2020 को इस कार्यालय की ओर से डॉ. आर.के.जैन, मुख्य रसायनज्ञ (मोबाइल नं. 9425452150) उपस्थित रहेंगे।

कृपया सूचनार्थ प्रेषित।


(एस.पी.झा)
क्षेत्रीय अधिकारी, सागर

4

Illegal Mining Area Khasra no. 182 & 183, Ratanpur, Sagar

O.A. NO. 75 OF 2019 (VIJAY SINGH RAJPUT Vs STATE OF M.P. & ORS) ORDER DATED 5.10.2020.



Natural Drain

Illegal Mined Area (Khasra 182 & 183)

Legend

-  Illegal Mined Area (Khasra 182 & 183)
-  Natural Drain



Site photographs taken on 13.10.2020

(IN THE MATTER OF O.A. NO. 75 OF 2019 (VIJAY SINGH RAJPUT Vs STATE OF M.P. & ORS) ORDER DATED 5.10.2020)



Illegal mine area of Khasra no. 182 & 183 near the natural/rainy drain





The overburden & broken mined stone dumped in the flow of drain



कार्यालय कलेक्टर (खनिज शाखा) सागर म0प्र0

ANNEXURE IV

क्रमांक/75/खनिज /2020

सागर, दिनांक -04.02.2020

77

प्रति,

न्यायालय अनुविभागीय अधिकारी (राजस्व)

अनुभाग बण्डा

जिला सागर म0प्र0

विषय- म0प्र0 भूराजस्व संहिता 1959 की धारा 247(7) के अन्तर्गत अवैध उत्खनन का प्रकरण बावद।

उपरोक्त विषयान्तर्गत निवेदन है दिनांक 04.02.2020 को ग्राम रतनपुर में दुर्गेश लोधी पिता बृजमोहन लोधी को स्वीकृत खदान जिसका खसरा न0 182,183,184,191,194,201 रकवा 1.18 हैक्टेयर का सीमांकन एवं जॉच की गयी। जॉच के दौरान स्वीकृत क्षेत्र के बाहर खसरा न0 182,183 में खनिज काला फर्शी पत्थर का अवैध उत्खनन पाया गया है। जिसका विस्तृत विवरण निम्नानुसार है।

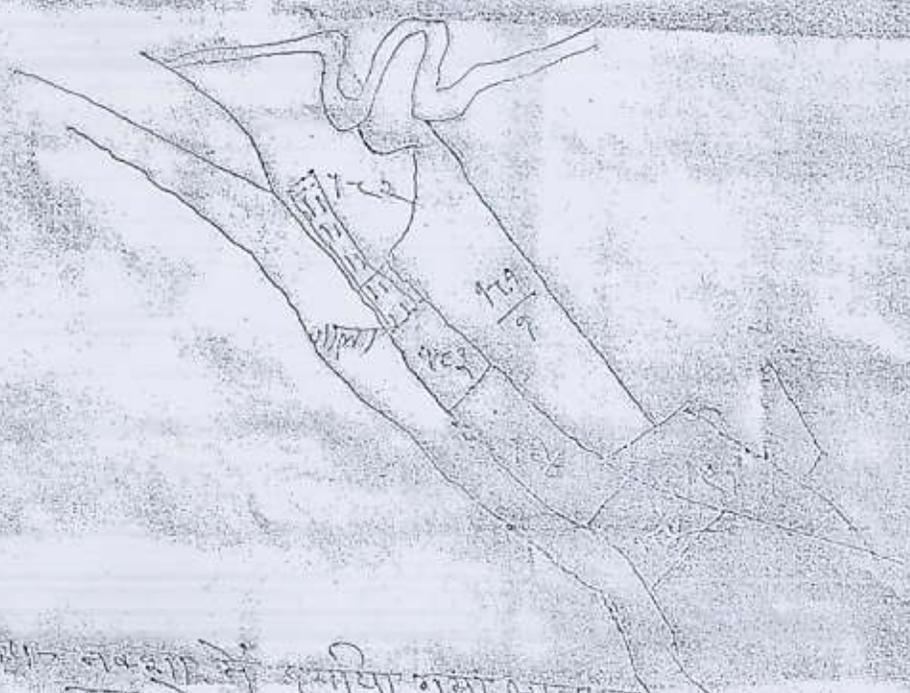
स0क्र0		
1	प्रकरण प्रस्तुत करने वाले अधिकारी का नाम एवं पदनाम एवं जॉच दिनांक	श्री राजेश कुमार गंगोले खनि निरीक्षक जिला सागर (म0प्र0)
2	स्थल जॉच दिनांक	04.02.2020
3	अवैध उत्खननकर्ता का नाम एवं पता	श्री दुर्गेश लोधी पिता बृजमोहन लोधी निवासी बण्डा जिला सागर म0प्र0
4	क्षेत्र का विवरण जहाँ अवैध उत्खनन हुआ है	ग्राम रतनपुर में सर्वे क्रमांक 182,183 निजी भूमि
5	अवैध उत्खनित खनिज का नाम	काला फर्शी पत्थर
6	अवैध उत्खनित खनिज की मात्रा	लंबाई-90 मीटर चौड़ाई-15 मीटर एवं औसत गहराई 05 मीटर। (मात्रा-6750 घन मीटर काली फर्शी पत्थर)
7	अवैध उत्खनित मुरम का बाजार मूल्य रूप्यें	1,68,75000/- (2500 रूप्या प्रति घन मीटर की दर से) (एक करोड़ अरसठ लाख पचत्तर हजार रूप्यें मात्र)
8	म0प्र0 भूराजस्व संहिता 1956 के नियम 247(7) के अन्तर्गत बाजार मूल्य की चार गुना राशि प्रस्तावित अर्धदण्ड राशि	6,75,00,000/- रूप्यें (छह: करोड़ पचत्तर लाख रूप्यें मात्र)
9	अवैध उत्खनन का प्रयोजन	विक्रय
10	अवैध भंडारणकर्ता के विरुद्ध प्रस्तुत दस्तावेज	(1) पंचनामा (2) अवैध उत्खनन स्थल के नक्शा, खसरा आदि



अतः उपरोक्तानुसार अवैध उत्खननकर्ता विरुद्ध म0प्र0 भूराजस्व संहिता 1959 की धारा 247(7) अन्तर्गत कार्यवाही हेतु प्रतिवेदन सादर प्रस्तुत है।

4/2/2020
राजेश कुमार गंगोले
खनि निरीक्षक
जिला-सागर (म0प्र0)
जिला सागर (म.प्र.)

७०
 ग्राम - रतनपुर
 - १०० - ५६
 - नि. नं. बा. १००
 - नं. नं. बा. १००
 - नि. नं. बा. १००
 - नं. नं. बा. १००



यहाँ नदी के किनारे रामा लाल का
 का दोनूनी फसल का क्षेत्र है
 का पशुपति क्षेत्र है

नं. नं. बा. १००
 १००
 १००

Item No. 03(Bhopal Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(Through Video Conferencing)**

Original Application No.75/2019 (CZ)
(I.A. No. 114/2019)

Vijay Singh Rajput Applicant(s)
Versus

State of M.P. & Ors. Respondent(s)

Date of hearing: 05.10. 2020

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

For Applicant(s) : Mr. Brajesh Pandey, Advocate for Applicant

For Respondent(s): Mr. Enosh George, Advocate
Ms. Parul Badhoria, Advocate for-MPPCB

ORDER

1. The matter was taken up on 23.09.2020 and this Tribunal directed as follows:-

“

1. *The issue of illegal mining in the area survey plot no. 182 and 183 has been raised by way of filing this application and a report was called from District Collector District Sagar. The District Collector District Sagar vide his report stated following points:-*

- i. There is illegal mining in plot no. 182 and 183 and no permission has been granted by the authority concerned.*

- ii. *The officers of the mining department, inspected and found that there is illegal mining in khasra nos. 182 and 183 and calculated an amount of Rs. 6,75,00,000/- (six crores and seventy five lakhs only) as revenue to be deposited to the relevant account.*
 - iii. *The Collector vide his letter dated 24.02.2020 communicated the polluter Sh. Durgesh Lodhi S/o Sh. Brijmohan Lodhi to deposit an amount of Rs. 4 lakhs which is revenue (bhatak) which was calculated in accordance with the Rule 30(1) of the M.P. Minor and Mineral Rules, 1996.*
 - iv. *The relevant income tax, revenue of mining and above calculated two amounts have not been deposited and in reply thereof the polluter has submitted that his ID is not available, thus, he is not able to submit the records.*
2. *Without commenting on anything, on the basis of the report submitted by the Collector, we direct the Collector, District sagar to submit an affidavit with regard to compliance of the above facts and reports and recovery of the revenue which was required to be deposited as to whether that has been deposited or not. The collector shall also appear and attend the proceedings of the Tribunal on the next date through video conferencing.*
 3. *It is to be noted that statutory laws must be complied with and no authority whatsoever may be is exempted from criminal and disciplinary liability. Loss of revenue is a very serious misconduct.*
 4. *List it on 05.10.2020.”*

2. In compliance thereof, the District Collector, Sagar has filed the affidavit in compliance of the order dated 23.09.2020 as follows:-

“

2. *That upon the report dated 04.02.2020 of the Mining Inspector, Sagar a case of illegal mining of 6,750 cubic meters of black flat stone was registered against Durgesh Lodhi and a penalty of Rs. 6,75,00,000/- (Rupees Six Crores Seventy Five Lakh Only) was proposed.*
3. *That the Sub Divisional Magistrate Banda, District Sagar disposed the above Case No. 39/A-67/19-20 vide order dated 10.08.2020 and dismissed the case in the absence of documentary or oral evidence. The copy of order dated 10.08.2020 is filed herewith.*
4. *That the SDM, Banda failed to appreciate the sufficient 4. documentary and oral evidence of Mining Inspector, Revenue Inspector etc. presented before it hence aggrieved against this order decision to file an appeal before the competent court of the Additional Commissioner, Sagar Division, Sagar was taken and accordingly an appeal has been filed on 25.09.2020.*
5. *That thus the matter of revenue recovery of the proposed penalty of Rs. 6,75,00,000/- (Rupees Six Crores Seventy Five Lakh Only) U/s 247(7) of the Madhya Pradesh Land Revenue Code 1959, is under adjudication.*
6. *That in the matter of recovery of deterrent revenue Rs. 4,00,000/- (Rupees Four Lakh Only) with interest @24% on the mining lease amounting to Rs. 4,72,000/- (Rupees Four Lakh Seventy Two Thousand Only) Revenue Recovery Certificate, dated 01.10.2020 has already been issued under my signatures copy of which is also enclosed.”*

3. After perusal of factual and action taken report submitted by the district authorities and further compliance report submitted by the Collector Mining, we are of the view that there is a report of illegal mining in the area mentioned in the factual and action taken report and there is illegal mining of 6,750 cubic meters of black flat stone. Thus, it is necessary to proceed to recover the environmental compensation. Accordingly, we direct as follows:-

- i. Central Pollution Control Board is directed to send or constitute a committee of two Regional Officers who may visit at the site or on the basis of the report submitted by the Collector and on the basis of area of the illegal mining, calculate the environmental compensation and submit a report within fortnight.
- ii. Collector Sagar is directed to submit a progress and further action taken on the matter mentioned at para 6 of the affidavit filed as mentioned today and the action taken for recovery of the revenue amounting to Rs. 4,72,000/- and submit a report within fortnight.

4. List it on 29.10.2020.

Justice Sheo Kumar Singh, JM

Dr. S.S. Garbyal, EM

JG
Original Application No.75/2019 (CZ)
(I.A. No. 114/2019)