

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
CENTRAL ZONAL BENCH AT BHOPAL (M.P.)

Original Application No. 63/2024(CZ)

ABDUL KALAM

..... APPLICANT

V/S

STATE OF MADHYA PRADESH & ORS

.....RESPONDENT

INDEX

S. NO.	PARTICULARS	ANNEXURE	PAGE NO.
1.	Joint Committee Report in Compliance of Order Passed by Hon'ble Tribunal Dated 20.03.2024		1-12
2.	Panchnama of the Inspection dated 18.04.2024	A-1	13-14
3.	Photographs of the inspection	A-2	15-17
4.	List of mines operating in village Prataprura, Bhojpura, Sitapura, Jijora and Baberi Distrcit Niwari, Madhya Pradesh	A-3	18-20
5.	Order dated 09.07.2020 by Hon'ble NGT (PB) passed in OA No. 304/2019(M. Haridasan & Others Vs State of Kerala	A-4	21-23
6.	Panchnama And Map of Saninik School	A-5	24-28
7.	The relevant photographs of the closed crusher unit of Shri Vinod Kumar Agarwal	A-6	29-32
8.	The copy of the MOEF&CC notification S.O. 35(E) dated 02.01.2018 of Orchha Wildlife Sanctuary	A-7	33-61
9.	Photograph showing Natural flow of Nallah	A-8	62
10.	Relevant photographs and the map of the Bund over the National Highway	A-9	63-69
11.	Permissions from the Directorate General of Mineral Safety, Gwalior.	A-10	70-233

12.	Consent To Operate granted by the MP PCB to the mines operating in District Niwari	A-11	234-251
13.	Renewal Order of mine lease of Shri Sunil Kumar Gupta dated 06.05.2022	A-12	252-254
14.	Case filed against Ramesh Kangwar for Illegal Mining	A-13	255-257
15.	The consent letter from the land owner and the order of storage by Collector Office (Mining Division), District Niwari	A-14	258-262
16.	MOEF&CC Office Memorandum J11011/15/2012-1A.II(M) dated 20.03.2015	A-15	263
17.	The compliance report of Mining Division, Collector office District Niwari in compliance of order dated 13.09.2023 passed in OA 36/2023 Brijendra Kumar Mala v State of MP & Ors. By Hon'ble NGT(CZ)	A-16	264-266
18.	Letter no. 2359 of State Environment Impact Assessment Authority (SEIAA) dated 21.12.2023	A-17	267
19.	MOEF&CC notification. F. No. IA 3-22/11/2023-IA. III (E-208230) dated 03.11.2023	A-18	268-269
20.	MOEF&CC notification F. No IA 3-22/11/2023-IA. III (E 208230) dated 15.03.2024.	A-19	270-271
21.	Copy of the Action taken by Respondent No. 6, Shri Pankaj Dhvaj Mishra, former Mining Officer, District Collector Office Niwari	A-20	272-282

Date: 08.07.2024

Submitted by MPPCB:-



Place: Bhopal

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JOINT COMMITTEE REPORT

REPORT IN THE MATTER OF OA NO. 63/2024 (CZ) (ABDUL KALAM V/S STATE OF MP& ORS) IN COMPLIANCE OF THE ORDER ISSUED BY HON'BLE NGT, CENTRAL BENCH, BHOPAL ON DATED 20/03/2024



DATE OF VISIT : 18/04/2024

JOINT COMMITTEE CONSISTING OF

- 1. K.P. Soni, Regional Officer, MP PCB Regional Office, Sagar.**
- 2. Ajay Kumar Mishra, OIC, Mining Division, District Collector, Office, District Niwari, Madhya Pradesh.**

BACKGROUND:

1. The Hon'ble NGT has issued following Order in the matter of OA 63/2024 (CZ) (ABDUL KALAM V/S STATE OF MP & ORS) on 20.03.2024:-

“The issue raised in this application is illegal operation of stone crushers and mining quarries unit in Niwari District. The area being eco sensitive zone and declared as Orchha Wildlife Sanctuary on dated 2nd January, 2018, the operation of the units threatens the existence of rich flora and fauna, as well as is adversely affecting the health of people and fauna of the region. The continuous operation of the mining units till date is in blatant violation of the Forest Conservation Act, 1980, Madhya Pradesh Minor Mineral Rules, 1996, Water (Prevention & Control of Pollution) Act, 1974 as well as Air (Prevention & Control of Pollution) Act, 1981. Moreover, the minings continued even after the order dated 13.09.2023 passed in O.A. No. 36/2023 Brijendra mala vs. State of MP. It is further alleged that the Project Proponent Respondent no. 7 has constructed temporary bridge upon the nalla by dumping dusting cement pipes and has obstructed the flow of nalla in violation of Water (Prevention and Control of Pollution) Act, 1974.”

2. In pursuance of the same the Hon'ble NGT has constituted a Joint Committee via aforesaid order consisting of following Officers of different departments:

“5. We deem it just and proper to call a report on the matter in issue, in present application, from a Joint Committee consisting of:

- (i) One Representative from the Collector, District Niwari (M.P.)*
- (ii) One Representative of Madhya Pradesh State Pollution Control Board, (M.P.)*

6. The Committee is directed to submit the factual and action taken report within six weeks. The State PCB will be the nodal agency for coordination and logistic support.”

3. That the Madhya Pradesh Pollution Control Board had nominated the Mr. K.P. Soni, Regional Officer, MP PCB Regional Office Sagar as the

member of the Committee. Similarly, Shri Ajay Kumar Mishra, OIC, Mining Division was appointed as the representative from the office of the District Collector, Niwari.

4. That the Joint Committee had inspected the place on and inspected the operating conditions of the stone crushers and mining quarries unit in Niwari District. The Panchnama of the inspection conducted on 18/04/2024 was prepared and copy is enclosed herewith as **Annexure-1**. The photographs of the inspection are enclosed herewith as **Annexure-2**.

A. Main issues raised in the Original Application:

1. Illegal operation of stone crushers and mining quarries unit in Niwari District. The area being eco sensitive zone and declared as Orchha Wildlife Sanctuary on dated 2nd January, 2018, the operation of the units threatens the existence of rich flora and fauna, as well as is adversely affecting the health of people and fauna of the region.
2. The continuous operation of the mining units till date is in blatant violation of the Forest Conservation Act, 1980, Madhya Pradesh Minor Mineral Rules, 1996, Water (Prevention & Control of Pollution) Act, 1974 as well as Air (Prevention & Control of Pollution) Act, 1981. Moreover, the mining continued even after the order dated 13.09.2023 passed in O.A. No. 36/2023 (**Brijendra mala vs. State of MP & Ors.**).
3. The Construction of temporary bridge upon the nalla by dumping dust using cements pipes and has obstructed the flow of nalla in violation of Water (Prevention and Control of Pollution) Act, 1974.

B. OBSERVATIONS: -

1. The mining leases operating in the village Prataprura, Bhojpura, Sitapura, Jijora and Baberi forest situated near the MP-UP Border have valid environmental clearance. The necessary permissions for mining from various departments like Directorate General of Mine Safety, MP PCB, SEIAA, etc. The list of mining leases operating as per the records of Mining Division, District Niwari in this area is filed herewith as **Annexure A-3**.

2. That the distance of the village Prataprura and Bhojpura, Sitapura, Jijora and Baberi forest from the Rama raja Temple in Orrcha is almost ten kilometers. That the Mining Department, State of Madhya Pradesh has allotted and permitted the stone mines only after evaluating the necessary permissions as required under the law. These allotments were granted only after the permissions from the Forest Department, Revenue and the Gram Panchayat and the consent under Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974 from the State PCB was granted.

3. That the contentions raised in para 4.4 of the OA that the “*Respondent no. 12 (PP) Shri Kailash Narayan Gupta is operating stone mines adjacent to Sainik School Jhansi, interstate boundary at Khasra No. 1/1 Village Pratap Pura District Niwari*” is factually incorrect since the mine of Shri Kailash Narayan Gupta is situated 300 metres away from the School. This distance is in compliance of the order dated 09.07.2020 by Hon’ble NGT (PB) passed in OA No. 304/2019(M. Haridasan & Others Vs State of Kerala). A copy of this order is filed herewith as **Annexure A-4**. A copy of the supporting panchnama and map are filed herewith as **Annexure A-5**.

4. The stone mining has a 30 feet overburden bund has been made in the direction of the Sainik School, Jhansi. A stone crusher of Shri Sanjeev Bajpayi operating in the vicinity of the Sainik School has already been closed. The mine of Shri Vinod Kumar Agarwal has also been closed. The relevant photographs of the closed crusher unit are filed herewith as **Annexure A-6.**

5. During the inspection the Deputy District Forest Ranger of the Forest Department was present. It was observed that mines situated in the Prataprura and Bhojpura, Sitapura, Jijora villages and Baberi forest are not within 2 kms which is the notified range of the Eco-Sensitive Zone of the Orchha Wildlife Sanctuary. The copy of the MOEF&CC notification S.O. 35(E) dated 02.01.2018 is filed herewith as **Annexure A-7.** The distance of the mines situated in these villages is about 3.5 km away from the Eco-Sensitive Zone of the Orchha Wildlife Sanctuary.

6. The contention of the applicant in para 4.6 of the OA that the natural flow of the Babedi Nala has been obstructed is factually incorrect. The natural flow of the nallah has been not changed. However, a bridge has been contracted over the nallah which is for the movement of the local villages and vehicles. The relevant photographs depicting the natural flow of the nallah are filed herewith as **Annexure A-8.**

7. That there is no permission for mining granted within the Eco-Sensitive Zone of the Orchha Wildlife Sanctuary and there was no mining being carried out in this range.

8. The applicant in para 4.9 of the OA had stated *“That at Khasra no. 4,6,7,8 of village Bhojpura district Niwari, in the state of Madhya Pradesh and Khasra no. 267/1/1, 268/2, 269/2 in village Pratap Pura, Niwari mines are also in full swing and operating beside National Highway Jhansi-Khajuraho in state of Madhya Pradesh. In fact, these crusher units are operating close to National Highway and also creating air pollution. Needless, to state here that such mining activities beside being in violation of the above-said environmental laws, are also affecting visibility in winter season due to air dust coming out of mines while driving vehicles cannot be ignored.”*

The mines situated in Khasra no. 267/2, 268/2 and 269/2 in Village Pratap Pura and Khasra no. 04, 06, 07 and 08 in Village Bhojpura had permissons prior to the construction of the National Highway which is year 2021-22. At present also the mines suited in Khasra no. 268/2 and 269/2 in Village Pratap Pura and Khasra no. 04 and 06 in Village Bhojpura are more than 100 metre away from the National Highway. The mines situated in Khasra no. 267/2 Village Pratap Pura and Khasra no. 07 and 08 in Village Bhojpura were renewed only after allowing the mining at the distance of 100 metre away from the National Highway. It is pertinent to mention that as per rule 30 (21) of the Madhya Pradesh Minor Mineral Rules 1996 in order to ensure safety there has been a construction of overburdened bed between the mines and the National Highway thereby ensuring that there is no problems on the Highway due to the operation of mines. The copy of the relevant photographs and the map is filed herewith as **Annexure A-9.**

9. In the Prataprura and Bhojpura, Sitapura, Jijora villages and Baberi forest villages there is no mine operating in the forest area and the applicant has not produced any document in order to establish the same.

The mining activities are conducted in the private and revenue areas after the necessary permission from the respective departments have been provided in the Khajuraho Jhansi Four-Lane Highway the renewal of mining leases of the four mines were done as per rules and the mine situated before the construction of the highway have made overburden bund as well as the pollution control measures. That the Madhya Pradesh Mineral Policy 2010 came into force on 28.03.2013 and the mines under challenge were operating before the policy came into force, however the air pollution measures have been undertaken by the mines.

10. That the Blasting activities undertaken in these mines are conducted only after the necessary permissions from the Directorate General of Mineral Safety. This permission is granted only after the permissions from the Forest Department, Revenue and the Gram Panchayat. The copy of this permission is hereby filed as **Annexure A-10**.

11. That the mines mentioned in the original application have valid CTO under Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974 from the State PCB was granted. The mine leases of Shri Rahul Agarwal and Shri Pradeep Kumar Sahu had already expired. The other private respondents in the OA from Respondent No. 7 To Respondent No. 23 (Except Respondents No. 10 and No. 22) have valid consent and operating as per the terms and conditions of the CTO granted. The copy of the CTOs is filed herewith as **Annexure A-11**.

12. That the Rule 5(2)d of the Madhya Pradesh Minor Mineral Rules 1996 state that

“5. Restrictions on the grant of [trade quarry] or quarry lease. -

(1) No quarry lease, or '[tradequarry]' shall be granted to any person unless such person is an Indian National or a company as defined in sub-section (1) of Section 3 of the Companies Act, 1956(No. 1 of 1956) and satisfies such conditions prescribed in these rules.

Explanation. - In case of a firm or any other association of individuals, for the purpose of this sub rule, a person shall be deemed to be an Indian National only, if all the members of the firm or association are citizens of India.

(2) No quarry lease, or '[trade quarry]' shall be granted in respect of an area :—

(d) except for the mineral sand or bajri, within a distance of 100 metres from river banks, reservoir, canal dam any natural water course or any water impounding structure and 50 metres from the nalla.”

The Committee found that the mines mentioned in the OA are not situated within 100 meters of any river or lake. The Betwa River is almost 700 meters away from these mines. With regards to the nallah the distance of these mines is more than 50 metres from the nallah.

13. That the mine of Shri Sunil Gupta had expired and the Collector vide letter dated 20.09.2023 had order for an inspection of this mine. After the inspection a case of illegal mining has been registered against Shri Sunil Gupta. The mine has received renewal within the stipulated period and the order of the renewal dated 06.05.2022 is hereby filed as **Annexure A-13.**

14. That one Ramesh Khangar was conducting illegal mining activities and a case was registered against him. The relevant document is hereby marked as **Annexure A-13.**

15. That the land situated on Khasra no. 267/1/1, 268/2, 269/2 Village Pratap Pura, Niwari is private land where after the consent of the land owner the land is being used to store minerals. This land is separate from the mining activities. The consent letter from the land owner and the order of storage by Collector Office (Mining Division), District Niwari is hereby filed as **Annexure A-14**.

16. That only controlled blasting activities is undertaken in limited capacity conducted by a Registered Blaster. As per rule 30(24) of the Minor Mineral Rules 1996 the blasting activity is allowed only after seeking proper from office of DGMS, Gwalior, Madhya Pradesh.

17. That as per the **Ministry of Environment, Forest and Climate Change Office Memorandum J11011/15/2012-1A.II(M) dated 20.03.2015** there is no need to take a fresh EC after due consideration and examination of relevant judicial pronouncements and the OMs issued in this regards, it is clarified that the Project Proponent which has a valid and subsisting EC for their mining project either under EIA Notification 1994 or EIA Notification 2006, will not be required to obtain fresh EC at the time of renewal of the lease. This is subject to the maximum period of validity of the EC being for mining lease for 30 years. A copy of this office memorandum is hereby filed as **Annexure A-15**.

18. That in the present case the mines were operating after taking valid CTO from MP PCB. In compliance of the order dated 13.09.2023 passed by the Hon'ble NGT (CZ) in OA 36/2023 Brijendra Kumar Mala v State of MP & Ors. The compliance report of Mining Division, Collector office

District Niwari in compliance of order dated 13.09.2023 passed in OA 36/2023 Brijendra Kumar Mala v State of MP & Ors. By Hon'ble NGT(CZ) is filed herewith as **Annexure A-16**.

19. These mines restarted their operation only after the issuance of MOEF&CC notification. F. No. IA 3-22/11/2023-IA. III (E-208230) dated 03.11.2023 which was subsequently modified by notification F. No IA 3-22/11/2023-IA. III (E 208230) dated 15.03.2024. The copy of both these notifications are filed herewith and marked as **Annexure A-18** and **A-19** respectively. The mining activities for minor minerals was allowed in light of the letter no. 2359 of State Environment Impact Assessment Authority (SEIAA) dated 21.12.2023. The copy of this letter is filed herewith as **Annexure A-17**.

20. That with regards to the contentions raised in para 4.22 the former OIC Mining Officer, District Collector Office Niwari (Respondent No. 6) had submitted the action taken on the complaint filed by the applicant. The copy of the the action taken by the concerned officer is filed herewith as **Annexure A-20**.

21. That the Hon'ble Tribunal may take this joint committee on record.