

सेवा में,

श्रीमान रजिस्ट्रार महोदय  
मा० राष्ट्रीय हरित प्राधिकरण  
फरीदकोट हाउस, कॉपरनिक्स मार्ग  
नई दिल्ली-110003

विषय: ओ० ए० नम्बर 268 / 2021 जहॉगीर बनाम हरियाणा राज्य सरकार में उत्तर प्रदेश राज्य सरकार द्वारा प्रस्तुत रिपोर्ट दिनांक 09.09.2022 पर आपत्तियाँ।

महोदय,

निवेदन इस प्रकार है कि प्रार्थी ने एक शिकायत यमुना नदी की जल धारा में हो रहे अवैध खनन के सम्बन्ध में की थी जिस पर माननीय एन०जी०टी० द्वारा संज्ञान लिया गया और ओ०ए० नं० 268 / 2021 पंजीकृत किया गया जिसमें आदेश दिनांक 27.10.2021 के द्वारा जॉच के लिए दोनों राज्यों की सयुक्त कमेटी से जॉच आख्या प्रस्तुत करने के आदेश दिये गये। आदेश दिनांक 27.10.2021 की प्रति संलग्न है। जिसकी जॉच के समय भी प्रार्थी मौके पर उपस्थित था लेकिन उत्तर प्रदेश के खनन संचालक मै० स्टार माईन्स व उसके पार्टनर वेदपाल सिंह, दीपक चौधरी, संजय कर्णवाल, रविन्द्र कुमार, भानू कर्णवाल आदि लोग के प्रभाव में मेरी एक भी सच्चाई नहीं सुनी गई जबकि मेरे द्वारा मौके पर साक्ष्य भी प्रस्तुत किये गये फोटो, विडियो जिसमें स्पष्ट दिख रहा है कि जल धारा में भारी मशीनों से हरियाणा सीमा में जल धारा को परिवर्तित किया जा रहा है जिससे भारी पर्यावरण व राजस्व की क्षति हुई है। प्रार्थी द्वारा दिनांक 19.04.2022 व 07.09.2022 को सभी प्रमाणित साक्ष्य सहित शिकायतें सभी सम्बन्धित विभागों एवं अधिकारियों को मय फोटो के दी गईं लेकिन उनके द्वारा उन पर कोई संज्ञान नहीं लिया गया। प्रार्थना पत्र दिनांक 07.09.2022 की प्रति मय संलग्नकों सहित संलग्न है।

मा० एन०जी०टी० के आदेश दिनांक 12.08.2022 को सभी तथ्यों पर संज्ञान लेते हुए दोनो राज्यों के उच्च सरकारी अधिकारियों को उन अधिकारियों के विरुद्ध कार्यवाही करने के निर्देश दिये गये जिनके द्वारा ठेकेदार से मिलिभगत कर जलधारा परिवर्तन किया गया व अवैध खनन किया गया। जिसके जवाब में उत्तर प्रदेश सरकार द्वारा कार्यवाही न कर दिनांक 09.09.2022 को मा० न्यायालय के समक्ष एक रिपोर्ट प्रस्तुत की गई है जिस पर अपत्तियाँ निम्न प्रकार हैं रिपोर्ट दिनांक 09.09.2022 की प्रति संलग्न है।

1. मा० न्यायालय द्वारा जिन लोगों को मिलिभगत में पाया गया था उच्च अधिकारियों द्वारा पुनः उन्ही की रिपोर्ट के आधार पर जवाब प्रस्तुत किया गया है। जिसके पैरा नं० 04 निम्न प्रकार है-

4- Pursuant to directions of Hon'ble Tribunal, District Magistrate Saharanpur conducted enquiry and submitted a fresh report to the Government in this matter and as per this report, the facts of the matter are following: -

- 1- The lease deed of five-year mining was approved for mining of sand, gravel, boulder (in mixed condition) in Gata No- 1 area-36.00 hectare of M/s Star Mines Village Bartha Korsi on 01-04-2021.
- 2- In Compliance with the order dated 28-10-2021 of Hon'ble National Green Authority, the mining on the said plot remained un-operational till 10-01-2022.
- 3- The mining lease was un-operational till 09-01-2022 in compliance with the order dated 28-10-2021 of Hon'ble National Green Tribunal due to non-receipt of water/air consent from the UP Pollution Control Board.
- 4- After the above date, Mining is being done by the leasee M/s Star Mines, Saharanpur within the limits of approved area of lease in UP.
- 5- Executive Engineer, Irrigation Construction Division, Saharanpur has been directed by letter dated 31-08-2022 to make available the inquiry report regarding the change in the flow of Yamuna River within a week.
- 6- As per the report of the Tehsildar Chhachhrauli, Yamuna Nagar, Haryana. It seems that the Illegal mining seems to be taking place in the village Belgarh which is located in the state of Haryana. Village Belgarh and Village Koliwala, which are adjacent to the border of Haryana and Uttar Pradesh, currently have mining leases in operation and many stone crushers have been established in the said area. But no mining work has been done by M/s Star Mines outside its sanctioned area towards Belgarh. Belgarh falls in west direction and village Bartha Korsi falls in east direction.
- 7- As far as the change in the flow of the river is concerned, no change in the flow of the river has been found during the onsite inspection, as per the individual report submitted by the team members consisting of officers of Uttar Pradesh. Its was also informed by the local people that the river has been flowing at this place since many years.

उपरोक्त विवरण न्यायालय को तथ्य छुपाकर प्रस्तुत किया जा रहा है ताकि ठेकेदार व अधिकारियों के विरुद्ध कार्यवाही करने से बचा जा सके। पैरा नं० 04 के सब पैरा 02 व 03 में स्पष्ट किया गया है कि खनन 09.01.2022 से पूर्व नहीं किया गया है जबकि यह कथन गलत है मा० एन०जी०टी० के आदेश पर अन्य मामले में जाँच की गई थी जिसमें कमेटी द्वारा भारी अनियमितताएं पायी गई थी व खनन 01.04.2021 से 30.06.2021 तक लगातार किया गया था जिस पर कमेटी द्वारा 11 करोड़ रुपये जुर्माना भी लगाया गया था रिपोर्ट की प्रति पूर्व प्रार्थना पत्र के साथ संलग्न है। जो मा० न्यायालय के आदेश के बाद भी अभी तक जमा नहीं किया गया है और खनन लगातार कराया गया है इसके बाद ठेकेदार मै० स्टार माईन्स द्वारा उक्त आदेश को मा० सर्वोच्च न्यायालय के समक्ष सिविल अपील नम्बर 5013 / 2022 दायर

की गई थी जिसमें मा० सर्वोच्च न्यायालय द्वारा 2 करोड़ रुपये जमा कराने की शर्त पर नोटिस जारी करने के आदेश दिये गये थे आदेश दिनांक 12.08.2022 की प्रति संलग्न है। लेकिन स्टार माईन्स द्वारा 2 करोड़ रुपये भी जमा नहीं किये गये उसके बावजूद भी अधिकारियों द्वारा कोई कार्यवाही टेकेदारों के विरुद्ध आज तक भी नहीं की गई है बल्कि रिपोर्ट 09.09.2022 में तथ्यों को छुपाते हुए टेकेदार को क्लीन चिट दी गई है जो अपने आप में बड़ी मिलिभगत का संकेत करता है।

इसके अतिरिक्त एक दूसरे मामले में ओ० ए० 249 / 2021 में भी मै० स्टार माईन्स को अवैध खनन का जुर्माना गणना कर वसूली करने के आदेश दिये गये थे जिसके विरुद्ध भी मै० स्टार माईन्स द्वारा मा० सर्वोच्च न्यायालय के समक्ष सिविल डायरी नम्बर 26439 / 2022 दायर की गई थी जिसमें मा० सर्वोच्च न्यायालय द्वारा उ०प्र० प्रदूषण नियन्त्रण बोर्ड को पर्यावरण क्षति की गणना करने के लिए कार्यवाही करने के आदेश दिये गये हैं आदेश दिनांक 26.09.2022 की प्रति संलग्न है। यह सभी मामले राज्य सरकार के अधिकारियों की जानकारी में हैं उसके बाद भी रिपोर्ट में तथ्यों को छुपाया गया है।

यमुना की जलधारा परिवर्तन व अवैध खनन के सम्बन्ध में भी तथ्यों को छुपाते हुए रिपोर्ट प्रस्तुत की गई है जिसके प्रमाणित साक्ष्य निम्न प्रकार हैं-

गूगल अर्थ सैटेलाइट मैप पर मै० स्टार माईन्स के खनन क्षेत्र को लोगीट्यूट व लैटीट्यूट के माध्यम से दर्शाया गया है दिनांक 09.12.2018, 04.12.2019 व 25.11.2021 की इमेज के अनुसार खनन क्षेत्र के अन्दर को जलधारा बह रही है जलधारा के अन्दर गाईडलाइन्स 2020 के अनुसार कोई खनन नहीं किया जा सकता है कमेटी की रिपोर्ट में भी इसको स्पष्ट किया गया था रिपोर्ट दिनांक 09.09.2022 में स्वीकार किया गया है कि खनन 09.01.2022 से किया जा रहा है गूगल अर्थ सैटेलाइट मैप पर दिनांक 15.02.2022 की इमेज सुबह 5 बजे की उपलब्ध है जिसपर लाल रंग की लाईन से खनन क्षेत्र अंकित है व जिसपर पीले रंग से गोला बनाया गया है जिसमें जो खनन क्षेत्र से बाहर है व जलधारा को रोककर रास्ता बनाया गया है व जलधारा को परिवर्तन कर हरियाणा राज्य की सीमा पर मोड़ा गया है जो स्पष्ट दिखायी दे रहा है इसके अतिरिक्त खनन क्षेत्र के बाहर हरियाणा की दिशा में भारी मशीनों से खनन कर ट्रकों में लोडकर उत्तर प्रदेश में लाया जा रहा है जिसको सफेद लाईन के गोले में दिखाया गया है इसके अतिरिक्त यमुना नदी की जलधारा के मध्य खनन क्षेत्र में भारी मशीनों से खनन कर ट्रकों में लोडिंग की जा रही है। यह सब नजारा सुबह 5 बजे का है जबकि पर्यावरण सहमति में सूर्य अस्त से सूर्य उदय तक खनन कार्यवाही प्रतिबन्धित है लेकिन इनके द्वारा सुबह 5 बजे से भारी मशीनों से अवैध खनन किया जा रहा है जो अपने खनन क्षेत्र से बाहर भी है यह प्रमाणित साक्ष्य गूगल अर्थ का सैटेलाइट मैप दिनांक 15.02.2022 का साथ में संलग्न है। जलधारा को रोक कर लगातार यमुना नदी की जलधारा को परिवर्तन कर व यमुना नदी की जलधारा के अन्दर भारी मशीनों से खनन किया जा रहा है लेकिन रिपोर्ट दिनांक 09.09.2022 में स्पष्ट किया जा रहा है कि न तो कोई जलधारा बदली गई है और न ही कोई खनन क्षेत्र के बाहर खनन किया जा रहा है जो बिल्कुल गलत है और जो रिपोर्ट प्रस्तुत की गई है वह भी मिलिभगत का नतीजा है। उक्त प्रमाण के बाद नहीं कहा जा सकता कि जलधारा

को नहीं परिवर्तन किया गया और हरियाणा की तरफ क्षेत्र के बाहर अवैध खनन किया गया। उपरोक्त सभी तथ्य प्रस्तुत रिपोर्ट में जानबूझकर न्यायालय को गुमराह करने की नियत से प्रस्तुत की गई है।

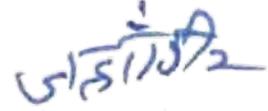
अतः आपसे प्रार्थना है कि दोषी ठेकेदार व अधिकारियों के विरुद्ध सख्त कानूनी कार्यवाही कर जुर्माना आरोपित करने का कष्ट करें आपकी अति कृपा होगी।

धन्यवाद

दिनांक: 11.10.2022

संलग्नक: उपरोक्तानुसार

प्रार्थी



जहॉगीर पुत्र दीन मोहम्मद  
मकान नं० 656, ओल्ड हमीदा  
यमुना नगर, हरियाणा

सेवा में,

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हरियाणा-160019

विषय:- आदेश दिनांक 12.08.2022 ओ०ए० नं० 268 / 2021 माननीय एन०जी०टी० के आदेशों के अनुपालन के सम्बन्ध में।

महोदय,

निवेदन इस प्रकार है कि प्रार्थी ने एक शिकायत यमुना नदी की जल धारा में हो रहे अवैध खनन के सम्बन्ध में की थी जिस पर माननीय एन०जी०टी० द्वारा संज्ञान लिया गया और ओ०ए० नं० 268 / 2021 पंजीकृत किया गया जिसमें आदेश दिनांक 27.10.2021 के द्वारा जॉच के लिए दोनों राज्यों की संयुक्त कमेटी से जॉच आख्या प्रस्तुत करने के आदेश दिये गये। आदेश दिनांक 27.10.2021 की प्रति संलग्न है। जिसकी जॉच के समय भी प्रार्थी मौके पर उपस्थित था लेकिन उत्तर प्रदेश के खनन संचालक मै० स्टार माईन्स व उसके पार्टनर वेदपाल सिंह, दीपक चौधरी, संजय कर्णवाल, रविन्द्र कुमार, भानू कर्णवाल आदि लोग के प्रभाव में मेरी एक भी सच्चाई नहीं सुनी गई जबकि मेरे द्वारा मौके पर साक्ष्य भी प्रस्तुत किये गये फोटो, विडियो जिसमें स्पष्ट दिख रहा है कि जल धारा में भारी मशीनों से हरियाणा सीमा में जल धारा को परिवर्तित किया जा रहा है जिससे भारी पर्यावरण व राजस्व की क्षति हुई है।

रिपोर्ट में सही तथ्यों को छिपाया गया गलत तथ्य प्रस्तुत किये गये जिसका आभास प्रार्थी को निरीक्षण के समय ही हो गया था जिसकी लिखित शिकायत भी प्रार्थी ने मय फोटो के भेजी थी लेकिन कमेटी द्वारा सभी तथ्यों को छिपाकर रिपोर्ट न्यायालय में प्रस्तुत की गई है। प्रार्थी के द्वारा दिये गये प्रमाणित साक्ष्यों को जानबूझकर छुपाया गया। शिकायत पत्र दिनांक 19.04.2022 की प्रति संलग्न है।

संयुक्त रिपोर्ट में श्रीमान एस०डी०एम०, बेहट की दिनांक 13.04.2022 की आख्या लगायी गई है जिसमें खनन पट्टे से हरियाणा सीमा की दूरी 2056 मीटर दिखायी गई है जो मात्र 200 मीटर से भी कम है जिसकी जॉच खनन पट्टे में दिये गये लॉगीट्यूट व हरियाणा के बेलगढ़ नॉर्थ के लॉगीट्यूट से की जा सकती है। तथ्यों का मिलीभगत से गलत तथ्य न्यायालय के समक्ष प्रस्तुत किये गये हैं जो शिकायत प्रार्थी द्वारा मय साक्ष्यों के की गई उनको छुपाया गया है उनका कोई सत्यापन रिपोर्ट प्रस्तुत नहीं की गई है।

जब भी कोई जॉच टीम जाती है तो उसकी सूचना खनन पट्टा धारक को पूर्व से दी जाती है और उस दिन खनन बन्द दिखाया जाता है। न्यायालय के समक्ष प्रस्तुत रिपोर्ट पर

संज्ञान लेते हुए माननीय एन०जी०टी० द्वारा दोनों राज्यों के अधिकारियों को खनन करने वालों के साथ मिलिभगत कर होना पाया गया है और दोनों राज्यों के उच्च अधिकारियों को अवैध खनन करने वाले व उनको सहयोग करने वाले लोगों के विरुध दिनांक 12.08.2022 को कार्यवाही के आदेश दिये गये है आदेश दिनांक 12.08.2022 की प्रति संलग्न है।

खनन पट्टा धारक पर पूर्व में मा० एन०जी०टी० द्वारा गठित टीम द्वारा 11 करोड़ का जुर्माना मा० एन०जी०टी० द्वारा आरोपित किया गया है और रिपोर्ट में पाया गया था की लोंगीट्यूट व लैटीट्यूट खनन पट्टे के व ई०सी० में अलग अलग है जो अभी तक ठीक नहीं कराया गया है। बिना CTO-CTE व ग्राउण्ड वॉटर अनापत्ति के खनन किया गया है यह सभी तथ्य छिपाये गये है रिपोर्ट भी उत्तर प्रदेश प्रदूषण नियन्त्रण बोर्ड के अधिकारी द्वारा प्रस्तुत की गई है जो इस रिपोर्ट में भी शामिल है। यदि जॉच निष्पक्ष की जाती तो इस रिपोर्ट को भी उस रिपोर्ट का भाग बनाया जाता व प्रार्थी द्वारा भेजी गई शिकायते व फोटो भी रिपोर्ट का भाग होता। रिपोर्ट दिनांक 26.10.2021 प्रति संलग्न है। रिपोर्ट की प्रति मा० एन०जी०टी० की वेबसाईट पर उपलब्ध है। जिसको मा० एन०जी०टी० द्वारा स्वीकार की गई आदेश दिनांक 10.05.2022 की प्रति संलग्न है। माननीय एन०जी०टी० के आदेशों के बावजूद भी कोई आरोपित जुर्माना जमा नहीं कराया गया है लेकिन उसके बाद भी खनन पट्टा लगातार संचालित हो रहा है अभी तक भी खनन पट्टा निरस्त नहीं किया गया है। जिसस भी मिलिभगत स्पष्ट है।

सभी तथ्य छुपाये गये है और खनन पट्टे धारकों को क्लीन चिट दी गई है। अभी तो यह भी सही पता नहीं है कि खनन क्षेत्र की सीमा क्या है जो सीमा खनन पट्टे में दी गई है वह हरियाणा की सीमा पर है जबकि उत्तर प्रदेश के राजस्व विभाग उसे 2 किमी० दूर दिखा रहा है जो अपने आप में मिलीभगत साबित करता है तथ्यों को छिपाकर गलत तथ्य प्रस्तुत जानबूझकर मिलिभगत के कारण दोनों राज्यों के अधिकारियों ने रिपोर्ट प्रस्तुत की है जो न्यायालय के साथ धोखाधड़ी है और पर्यावरण को नुकसान पहुँचाने व राजस्व क्षति करने में सहयोगी रहे है।

इसी क्षेत्र की जॉच श्रीमान कमीशनर महोदय द्वारा दिनांक 20.05.2022 को स्वयं अचानक की गई थी जिसमें भारी अनियमितताएं व भारी अवैध खनन पाया गया था मौके पर अधिकारी सीमाएं तक भी नहीं बता पाये थे जिसकी रिपोर्ट उच्च अधिकारियों को भी भेजी गई थी लेकिन कार्यवाही के नाम पर कुछ नहीं किया गया और सभी तथ्य खनन पट्टेधारक से मिलिभगत के कारण चुप है अगर इस मामले की किसी केन्द्रीय एजेन्सी से जॉच करायी जाएगी तो हजारों करोड़ की राजस्व क्षति सामने आएगी प्रार्थी सभी तथ्य न्यायालय के सामने भी प्रस्तुत करेगा। समाचार पत्रों की कटिंग व फोटो संलग्न है।

अतः आपसे प्रार्थना है कि मा० एन०जी०टी० के आदेशों के अनुपालन में खनन पट्टे धारक व उनके साथ अवैध खनन करने वालों व उन्हे सहयोग करने वाले अधिकारियों के विरुध अपराधिक मामले दर्ज करते हुए खनन पट्टा निरस्त किये जाएं व उन पर अवैध खनन व जल

धारा को परिवर्तित करने के लिए पर्यावरण क्षति व जुर्माना आरोपित करने का कष्ट करें।  
आपकी अति कृपा होगी।

धन्यवाद

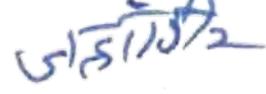
दिनांक: 07.09.2022

संलग्नक: उपरोक्तानुसार

प्रतिलिपि:

1. श्रीमान मुख्य सचिव  
उत्तर प्रदेश सरकार, 101 बी ब्लॉक  
लोक भवन, सचिवालय, लखनऊ -226001
2. श्रीमान चेयरमैन, उ० प्र० प्रदूषण नियन्त्रण  
बोर्ड, बिल्डिंग नं० टी०सी०-12 वी, विभूति  
खण्ड, गोमती नगर, लखनऊ-226001
3. श्रीमान चेयरमैन, हरियाणा राज्य प्रदूषण नियन्त्रण बोर्ड,  
सेक्टर 6, पंचकुला हरियाणा।
4. श्रीमान चेयरमैन, केन्द्रीय प्रदूषण नियन्त्रण बोर्ड  
परिवेश भवन, ईस्ट अर्जुन नगर, दिल्ली-110032
5. श्रीमान चेयरमैन, मा० राष्ट्रीय हरित प्राधिकरण  
फरीदकोट हाउस, कॉपरनिक्स मार्ग  
नई दिल्ली-110001
6. श्रीमान चेयरमैन,  
राज्य पर्यावरण प्रभाव आंकलन प्राधिकरण,  
हरियाणा राज्य, बे नं० 55-58, प्रयत्न भवन,  
सेक्टर 2, पंचकुला, हरियाणा
7. श्रीमान चेयरमैन,  
स्टेट लेवल इन्वार्यमेन्ट इम्पैक्ट एस्सेमेन्ट एथॉरिटी,  
उत्तर प्रदेश सरकार, विनित खण्ड-1, गोमती नगर  
लखनऊ, उत्तर प्रदेश-226001
8. श्रीमान सचिव, पर्यावरण वन एवं जलवायु परिवर्तन  
मन्त्रालय, भारत सरकार, जोर बाग रोड़, नई दिल्ली-110003
9. श्रीमान क्षेत्रीय अधिकारी, उ०प्र० प्रदूषण नियन्त्रण बोर्ड  
कपिल विहार, सहारनपुर, उत्तर प्रदेश
10. श्रीमान जिलाधिकारी महोदय, कलैक्ट्रेट, जिला सहारनपुर  
उत्तर प्रदेश
11. श्रीमान खनन अधिकारी (खनन अनुभाग)  
कलैक्ट्रेट, जिला सहारनपुर, उत्तर प्रदेश

प्रार्थी



जहोंगीर पुत्र दीन मोहम्मद  
मकान नं० 656, ओल्ड हमीदा  
यमुना नगर, हरियाणा

12. श्रीमान तहसीलदार, तहसील बेहट, जिला सहरनपुर  
उ०प्र०
13. श्रीमान क्षेत्रीय अधिकारी, हरियाणा राज्य प्रदूषण नियन्त्रण बोर्ड, जिला यमुनानगर, हरियाणा।
14. श्रीमान खनन अधिकारी, जिला यमुनानगर, हरियाणा।
15. श्रीमान डिप्टी कमीशनर, जिला यमुनानगर, हरियाणा।
16. श्रीमान तहसीलदार, तहसील छिछरौली, जिला यमुनानगर, हरियाणा

Item No. 10

(Court No. 1)

**BEFORE THE NATIONAL GREEN TRIBUNAL**

(By Video Conferencing)

Original Application No. 268/2021

Jahangir

Applicant

Versus

State of Haryana

Respondent

Date of hearing: 27.10.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

**Application is registered based on a complaint received by post**

**ORDER**

1. Grievance in this application is against unscientific and illegal mining obstructing the flow of Yamuna River in Village Belgarh, U.P. Fifteen Pokland machines are working day and night causing huge air pollution. Mining is done by a contractor who has been given the lease for the area falling in Saharanpur district but the lessee is also undertaking illegal mining in Village Belgarh.

2. Let a joint Committee of the Haryana State PCB, UPPCB, SEIAA, UP, SEIAA, Haryana, District Magistrate, Yamuna Nagar and District Magistrate, Saharanpur, U.P ascertain facts by undertaking site visit inspection. The nodal agencies will be the respective State PCBs. The Committee may undertake a joint visit within one month and ascertain fact.

A copy of this order along with a copy of the complaint be forwarded to the Haryana State PCB, UPPCB, SEIAA, UP, SEIAA, Haryana, District Magistrate, Yamuna Nagar and District Magistrate, Saharanpur, U.P by email for compliance.

List for further consideration on 25.02.2022.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Brijesh Sethi, JM

Dr. Nagin Nanda, EM

October 27, 2021  
Original Application No. 268/2021  
AB

सेवा में

दिनांक 19.04.2022

माननीय चेयरमैन महोदय  
राष्ट्रीय हरित प्राधिकरण  
फरीदकोट हाउस, नई दिल्ली |

विषय:- हरियाणा के गाँव बेलगढ़ में यमुना नदी में उत्तर प्रदेश के ठेकेदारों द्वारा अवैध खनन कर यमुना नदी की जलधारा को हरियाणा की तरफ बदलने से रोकने के लिए |

श्रीमान जी,

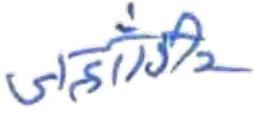
महोदय निवेदन इस प्रकार है कि मेरे पिछले पत्र दिनांक 31.05.2021 के संदर्भ में आपको अवगत करवाया गया था कि जिला सहारनपुर के गाँव बरथा कोरसी में यमुना नदी में बालू बजरी पत्थर खनन का ठेका स्टार माइंस को दिया गया था जिसको संजय कर्णवाल, भानु कर्णवाल, रविन्द्र मालिक, वेदपाल सिंह, दीपक चौधरी, शरद जैसवाल व बसपा के वरिष्ठ नेता आदि लोगो द्वारा संचालित किया जा रहा है यमुना नदी में जिन क्षेत्र का खनन पट्टा मिला है वह यमुना नदी की जलधारा में पड़ता है जलधारा में खनन पर प्रतिबन्ध है और जलधारा में खनन के लिए अनुमति भी नहीं दी है लेकिन इनके द्वारा जलधारा में बड़ी बड़ी लगभग 15 पोपलेन मशीनों से निरंतर दिन रात अवैध खनन कर ओवरलोड माल बेचा जा रहा है इस लाट के बराबर में गाँव बेलगढ़ का रकबा हरियाणा का लगा हुआ है यहाँ पहले यमुना नदी में बाड आई थी, जिसकी वजह से कई गाँवों को नुकसान हुआ था | अभी भी वे लोग लगातार यमुना नदी में अवैध खनन कर यमुना नदी की धारा बदलने में लगे है जिसके फोटो साथ संगलन है | जिसकी वजह से आगामी वर्षा ऋतू में यमुना नदी के साथ लगते गाँवों में बाड का खतरा बना हुआ है |

इसके अतिरिक्त मेरे पत्र को गंभीरता से लेकर माननीय राष्ट्रिय हरित प्राधिकरण (NGT) द्वारा स्वयं वाद ओरिजिनल एप्लीकेशन नंबर 268/2021 दर्ज किया है | जिस पर माननीय NGT द्वारा भी अवैध खनन व जल धारा के बहाव को बदलने बारे रिपोर्ट प्रस्तुत करने को कहा गया है | जिसके लिए हरियाणा राज्य व उत्तर प्रदेश राज्य द्वारा इसकी जाँच के लिए अधिकारियों की सयुक्त कमेटी गठित की गई है | मैं सभी जाँच अधिकारियों के सामने वर्तमान तथ्यों को प्रस्तुत कर रहा हूँ कि स्टार माइंस द्वारा लगातार जल धारा में हैवी हैवी मशीनों से अवैध खनन किया जा रहा है जो की हरियाणा का भाग है जिससे यमुना नदी का बहाव बदल गया है | इनके सीमा पिल्लर भी हरियाणा की तरफ नहीं लगे हुए और जो खनन लाट है वह हरियाणा की सीमा

से लगा हुआ है | इसलिए इनके द्वारा हरियाणा क्षेत्र में अवैध खनन किया जा रहा है व पर्यावरण को क्षति पहुंचाई जा रही है | मेरे संज्ञान में आया है कि कमेटी के कुछ सदस्य तथ्यों को छुपाकर माननीय न्यालय को गुमराह करना चाहते हैं | इसलिए दिनांक 09-04-2022 में लिए गये फोटो साथ संगलन है जिसमे स्पष्ट दिखाई दे रहा है की हैवी मशीनों से जल धारा में अवैध खनन कर धारा के बहाव को हरियाणा की तरफ मोड़ रहे हैं | जिसकी जाँच गोपनीय तरीके से मोके पर की जा सकती है | क्योंकि टीम के जाने पर हैवी मशीने वहां से पहले ही हटा दी जाती है |

अतः मेरा आपसे अनुरोध है कि मेरे द्वारा भेजे गये तथ्यों को संज्ञान में लेते हुए माननीय न्यालय को सही रिपोर्ट प्रस्तुत करने का कष्ट करे व नदी के जल प्रवाह को उसकी वास्तविक जगह कराया जाये व स्टार माइंस के संचालको के विरुद्ध अवैध खनन करने व जल धारा परिवर्तन करने के बारे में मुकदमा दर्ज कर कानूनी कार्यवाही तत्काल करने का कष्ट करे | आपकी अति कृपया होगी |

धन्यवाद |



जहाँगीर पुत्र दीन मोहमद,  
मकान न० 656, ओल्ड हमीदा,  
यमुना नगर, हरियाणा

प्रतिलिपि: -

1. श्रीमान उपायुक्त महोदय, जिला यमुना नगर |
2. श्रीमान जिलाधिकारी महोदय, जिला सहारनपुर |
3. श्रीमान क्षेत्रीय अधिकारी, हरियाणा राज्य प्रदुषण नियंत्रण बोर्ड, जिला यमुना नगर |
4. श्रीमान क्षेत्रीय अधिकारी, उत्तर प्रदेश प्रदुषण नियंत्रण बोर्ड, जिला सहारनपुर |
5. श्रीमान खनन अधिकारी, खान एवं भूतत्व विभाग, जिला यमुना नगर |
6. श्रीमान खनन अधिकारी, भूतत्व व खनिकर्म विभाग, जिला सहारनपुर |

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TIME - 12:37:37 PM

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DATE - 24-03-2022  
TIME - 12:37:47 PM

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TIME - 12:38:42 PM

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DATE 11-05-2022  
TIME 12:37  
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PHOTO DATED 12-05-2022







Item No. 03

(Court No. 1)

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

(By Video Conferencing)

Original Application No. 268/2021

Jahangir

Versus

Applicant

State of Haryana

Respondent

Date of hearing: 12.08.2022

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER  
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

Respondent: Mr. Pradeep Misra & Mr. Daleep Dhyani, Advocates for UPPCB  
Mr. Rahul Khurana, Advocate for HSPCB  
Ms. Priyanka Swami, Advocate for SEIAA, UP

**ORDER**

1. Grievance in this application is against unscientific and illegal mining obstructing the flow of Yamuna River in Village Belgarh, U.P. Fifteen Pokland machines are working day and night causing huge air pollution. Mining is done by a contractor who has been given the lease for the area falling in Saharanpur district but the lessee is also undertaking illegal mining in Village Belgarh.

2. This Tribunal decided to obtain a factual report and for the purpose, constituted a joint Committee comprising Haryana State PCB, UPPCB, SEIAA, UP, SEIAA, Haryana, District Magistrate, Yamuna Nagar and District Magistrate, Saharanpur, U.P.

3. The joint Committee report has been filed before us along with the letter dated 26.05.2022. The report shows that following members inspected the site on 10.01.2022:-

- a. Sh. B B Awasthi, Member SEAC-1, UP.
- b. Sh. R. K Mishr, ADM (FIR), Saharanpur, UP.
- c. Sh. Naveen Kumar Das, Mining Officer, Saharanpur, UP.
- d. Dr. D.C. Pandey, RO, Pollution Control Board, Saharanpur, UP.
- e. Sh. Mahendra Singh, JE, Pollution Control Board, Saharanpur, UP.
- f. Sh. Anil Kumar Mehta, Member SEAC (representative of SEIAA), Haryana.
- g. Sh. R K Sapra, Member SEAC (representative of SEIAA), Haryana.
- h. Sh. Gurjeet Singh, Mining Officer, Yamuna Nagar, Haryana.
- i. Sh. Tarun Sahota, Tehsildar, Chhachhrauli, Haryana.
- j. Sh. Kuldeep Singh, AEE, HSPCB, Haryana.

4. The aforesaid team made observations as under:-

*“At the time of inspection water table of the river was very high. The area of verification was boundary of State of Haryana and State of Uttar Pradesh and part area adjacent to the boundary of States. The boundary of the States was not clearly demarcated and so it was decided that Revenue Authority and Mining Authority of both the States will first inspect the site and will provide the clarity about the mining/illegal mining in the adjacent area of boundary of both the States.”*

5. Thereafter, the report says that on 02.04.2022, Revenue Authorities and Mining Authorities of both the States jointly inspected the site and submitted their individual report filed as Annexure R2 and R3. The report R3 submitted by the Mining Officer, Yamuna Nagar and Tehsildar Chhachhrauli, Yamuna Nagar, besides other, said as under:-

“नदी के बहाव का बदला हरियाणा प्रदेश की सीमा में हुआ अवैध खाना के करन हुआ है, परंतु नदी में बहाव अधिक होने के करन ये और अंदाज नहीं लगा जा सकता है कि कितना खाना हुआ.”

6. The observations of the Revenue and Mining Authorities who jointly inspected on 02.04.2022 are given as under:-

*“As per the report submitted by the team of Uttar Pradesh, no illegal mining carried out by M/s Star Mines in village Bailgarh in the area of State of Haryana.*

*As per the report submitted by the team from Haryana, the area of dispute i.e. Khasra No. 19//20 and 20//13 of village Bailgarh falls on the boundary of both the States and further submitted that the River Yamuna at the disputed area mostly flowing in the area of Uttar Pradesh and at Khasra No. 20//13 River Yamuna enters in the State of Haryana. The team has given observations that the flow of River changed due to illegal mining but due to flow of River, the quantum of mining could not be ascertained.”*

7. Further, another inspection was made on 12.05.2022 by a team comprising of:

1. Sh. Rajnish Kumar Mishr, U.P. PCS, ADM (F/R). Saharanpur, U.P.
2. Sh. Jaspal Singh, HCS, SDM, Bilaspur, Yamuna Nagar, H.R.
3. Dr. B B Awasthi. Member SEAC, U.P.
4. Sh. Prabhakar Kumar Verma, Member, SEAC. Haryana.
5. Sh. Nirmal Kumar, RO. HSPCB, Yamuna Nagar, H.R.
6. Dr. N.K. Das, Joint Director, Mines & Geology Deptt., Saharanpur. U.P.
7. Dr. D.C. Pandey, RO, U.P Pollution Control Board. Saharanpur, U.P.
8. Sh. Gurjeet Singh, Mining Officer, Mines & Geology Deptt. Yamuna Nagar. H.R.
9. Sh. Tarun Sahota, Tehsildar, Chhachhrauli, Yamuna Nagar, H.R.
10. Sh. Naresh Kumar, AEE, HSPCB. Yamuna Nagar, H.R.
11. Sh. Mahendra Singh, J.E, U.P Pollution Control Board, Saharanpur.
12. Sh. Aman, Mining Inspector, Mines & Geology Deptt, Yamuna Nagar. H.R.
13. Sh. Rohit Rana, Mining Inspector, Mines & Geology Deptt, Yamuna Nagar. H.R.

14. Sh. Parkash Singh, Kanungo, Revenue Deptt, Yamuna Nagar, H.R.

8. The observations made by the aforesaid team are as under:-

*“During inspection, no illegal mining observed at the border of U.P and Haryana and in the adjacent area of Haryana i.e. village Bailgarh (Haryana) Revenue in the River Yamuna. As per the site observations the machinery of M/s Star Mines was operating substantially away from the border area and within the jurisdiction of State of U.P. and even no foot prints of mining vehicles observed approaching the border area for mining in the area of Bailgarh. Further, the question raised by the complainant Sh. Jahangir regarding diversion of flow of River Yamuna, no such foot prints observed at site that flow of the River Yamuna diverted in the area of dispute.”*

9. We find that an attempt has been made in the above report to show that no illegal mining has been carried out, though it is admitted that there is diversion of flow of river Yamuna due to illegal mining conducted in the area falling in the territory of State of Haryana but that has sought to be mellowed down/diluted by observing that the quantity of illegal mining could not be ascertained, no footprints were found at the site and therefore, no further action on this aspect was taken.

10. We find it surprising that once the complaint of illegal mining is found correct which resulted in diversion of river flow, still, the Authorities have tried to belittle this aspect on shallow pretexts without taking any effective appropriate action including, criminal proceedings against the guilty persons. Since the mining was allowed in the present case to a particular person, in the absence of anybody else's involvement, apparently such person's involvement in illegal mining ought to have been proceeded unless proved otherwise. But in the present case, an attempt has been made to save the proponent in one or the other way despite the fact that there was illegal mining which resulted in diversion of river flow. *Prima facie* we are satisfied that the officers of Revenue and Mining Department

of States as also Pollution Control Board of both the States are guilty of suppressing information and also for not taking appropriate action against the persons who have attempted illegal mining. In such circumstances, the Chief Secretaries of State of Haryana and Uttar Pradesh ought to have taken stringent action against the erring officers but nothing has been placed on record to show that such action has been taken.

11. Sh. Pradeep Misra, learned counsel appearing for UPPCB and Sh. Rahul Khurana appearing for Haryana PCB stated that the Authorities may be given one more opportunity but the reason for giving this opportunity or for what purpose this opportunity may be given could not be explained.

12. We therefore, direct the Chief Secretaries of both the States to take appropriate criminal, civil as well as other action for illegal mining conducted in this case and submit action taken reports before the next date by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. They may also take appropriate action against the concerned erring officials who have tried to cover up the act of illegal mining resulting in diversion of river flow by not taking appropriate action against the erring and guilty persons.

13. The documents appended to the joint Committee report shows that mining in the questioned area was allocated to M/s Star Mines, Saharanpur. Notice shall be issued to M/s Star Mines, Saharanpur to submit its response as also objections, if any to the joint Committee report, by the next date.

List for further consideration on 14.09.2022.

A copy of this order be forwarded to the Chief Secretaries of States of  
Uttar Pradesh and Haryana.

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

August 12, 2022  
Original Application No. 268/2021  
AB



दूरभाष : 2713526

## क्षेत्रीय कार्यालय, उ०प्र० प्रदूषण नियंत्रण बोर्ड

33/18 कपिल बिहार, सहारनपुर-247001

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

दिनांक : 26.10.2021

To,

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

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

Sir,

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

Encl. : As above.

Yours faithfully,

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

**Copy to :**

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

Regional Officer

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

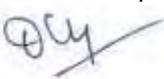
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1. Hon'ble NGT vide its order dated 09.06.2021, in the matter of Appeal No 15/2021, constituted an independent four-member joint Committee comprising the CPCB, the State PCB, representative of the MoEF&CC, and the District Magistrate, Saharanpur.
2.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

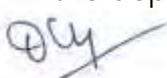
*"...5. It is also necessary to ascertain the correctness of the contentions of the appellant from an independent four-member joint Committee comprising the CPCB, the State PCB, representative of the MoEF&CC and the District Magistrate, Saharanpur. The State PCB will be the nodal agency for coordination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

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

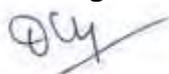
4. The committee had conducted a meeting on 07.10.2021 through VC to discuss the instructions of Hon'ble NGT and the methodology that needs to be adopted for its compliance.
5. Thereafter, the committee also made a field visit of the site in question on 13.10.2021. Interactions have also been held with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



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



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



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

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

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

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

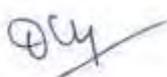
6.6.11. As per the condition of EC, four Ambient Air Quality monitoring stations were supposed to be established in the core zone as well as a buffer zone. However, no such air quality station was found at the site.

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

7. In the EC issued to the mine proponent, they are permitted for the production of 7,56,000 m<sup>3</sup>/annum and 3360 m<sup>3</sup> per day.

7.1. As per the undertaking given by the mine proponent, around 3,77,748 m<sup>3</sup> of material have been excavated during the operational period.

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



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

7.3. The project proponent has also provided daily production details. As per this data the quantity of daily production is varies between 11 m<sup>3</sup> to 9194 m<sup>3</sup>.

7.4. The proponent has excavated excess than the prescribed daily production limit (i.e., 3360 m<sup>3</sup>) during 62 operational days and excavated around 133062 m<sup>3</sup> excess quantity during those days.

7.5. Thus, in total they have excavated around 1,33,062 m<sup>3</sup> excess material than the permitted quantity based on the daily limit.

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

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

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

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

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

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

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

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

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

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

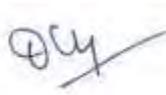
8.1.9. Thus, the geocoordinate data mentioned in EC is not fully matching with the data mentioned in the auction notice. And it requires immediate attention for necessary correctness.

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

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

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

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



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

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

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

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

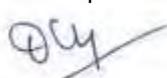
8.3.2. It was also informed by the Mining Department that within a distance of 500 meters from the said mine lease boundary, neither any mine is operational nor any lease has been allotted in the State of Uttar Pradesh.

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

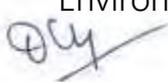
8.3.4. Thus, at present no operational mine is located within a distance of 500 m from the mine in question.

8.4. EC being granted without requisite replenishment study

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



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



8.7.2. UPPCB has issued a show cause Notice for the said violation and has also imposed Environmental Compensation of Rs. 7,77,000/-.

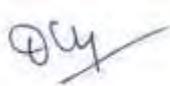
8.7.3. The mine was operated without obtaining NOC from CGWA. It was informed that they have not installed any borewell in the area, and they are borrowing the water from the adjacent industries. However, such kind of borrowing water supply for industrial purposes is a violation of the law. However, such kind of borrowing water supply for industrial purposes is a violation under EPA Act, 1986. And both borrower and lender are liable to face legal action.

9. As the mining lease area is less than 50 Hectare, the project falls in the category 'B' as given in the schedule- List of projects or activities prior to EC, in the EIA Notification dated 14.09.2006.

9.1. As per the prescribed General Condition, any project or activity specified in Category 'B' will be treated as Category A if located in whole or in part within 10 km from the boundary of inter-State boundaries.

9.2. However, the said condition has been revised vide MoEF&CC Notification dated 14.08.2018. In this amendment the limit of mining lease area for consideration under Category- B project was extended to 100 hectares for non-coal mine lease. And it is also mentioned that the General Conditions shall apply except River bed mining projects on account of the inter-state boundary.

9.3. Considering this amendment in the Act, the said Project falls in the Category-B.



## 10. Environmental Compensation

### 10.1. Compensation for Non-compliance

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

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

### 10.2. Penalty for unauthorized water usage

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

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

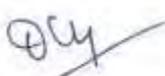
10.2.3. In the guideline prepared by CPCB, a minimum penalty of Rs. 1,00,000 kept for mining in case of extraction of groundwater without permission.

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

### 10.3. Penalty for extraction of excess quantity materials

10.3.1. As explained at Sr No. 7 above, they have extracted 1,33,062 m<sup>3</sup> excess quantity than the permitted, based on the daily limit prescribed in the EC issued by SEIAA.

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



10.3.3. The market value is considered as Rs 400/- per m<sup>3</sup>

10.3.4. Then the compensation will be

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

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

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

10.4. Total Compensation and penalty will be

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

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

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

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

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

11.1.2. Obtaining NOC from CGWA for groundwater extraction.

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

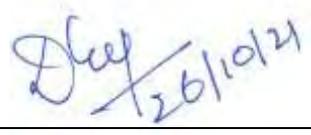
11.1.4. Conducting replenishment study and submission of the report

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



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

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

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

Item No. 05

(Court No. 1)

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

(By Video Conferencing)

Appeal No. 15/2021  
(I.A. No. 22/2022)

Pramod

Appellant

Versus

State of Uttar Pradesh & Ors.

Respondent(s)

Date of hearing: 10.05.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER  
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

Appellant: Mr. Ajit Sharma, Advocate

Respondent(s): Ms. Sunita Bhardwaj, Advocate for MoEF & CC  
Mr. Pradeep Misra & Mr. Daleep Dhyani Advocates for UPPCB  
Mr. Mukesh Verma, Advocate for the State of UP  
Ms. Priyanka Swami, Advocate for SEIAA, UP  
Mr. Neeraj Jain, Advocate for M/s Star Mines (PP)

**ORDER**

1. This Appeal has been preferred against order of grant of Environmental Clearance (EC) by the SEIAA, UP vide order dated 26.03.2021 for proposed Sand/Bajari/Boulder Mining at Gata No.1, (Leased Area - 36.00 Ha) Village Barthakorsi, Tehsil Behat, District Saharanpur, U.P. in favour of M/s Star Mines.

2. Grounds for challenge in the appeal *inter-alia* include:

- grant of EC for area more than the area mentioned in the auctioned notice

- mining being allowed in-stream and by mechanized methods
- Cluster certificate dated 12.03.2020 being incorrect, ignoring that mining was already taken place within 500 mtrs. (even though across the river falling in Haryana)
- EC being granted without requisite replenishment study
- there being lack of due diligence ignoring that there are five FIRs for illegal mining against the Project Proponent
- public hearing has taken place 20 kms away from the site

It is also stated that the mining commenced without requisite consent from the State PCB and there is also illegal groundwater extraction, in violation of the EC conditions.

3. Vide order dated 09.06.2021, the Tribunal constituted a four-member joint Committee comprising of CPCB, State PCB, representative of the MoEF&CC and the District Magistrate, Saharanpur to verify facts and give a report to this Tribunal, with a copy of report to the PP for its response, if any. SEIAA, UP and the PP were also required to give their response to the appeal.

4. Accordingly, report of the joint Committee has been filed on 30.03.2022 to the effect that the PP did not have requisite consents till June, 2021 but its operation was continuing. It illegally extracted groundwater. Mining has been done illegally beyond permission. In December, 2021, consent has been granted. Relevant extract from the report are as follows:-

*“6. The findings of the committee are as given below,*

- 6.1. *The State Level Environment Impact Assessment Authority (SEIAA) has issued Environmental clearance (EC) on 26.03.2021 to the M/s Star Mines (Shri Deepak Chaudhari) for proposed Sand/Bajari/Boulder Mining at Gata No. 1 in Village Barthakorsi, Tehsil - Behat of Saharanpur District of Uttar Pradesh State.*
- 6.2. *As per the records,*
  - 6.2.1. *Notice for E-tendering along with E-Auction was issued by the mining department on 01.11.2019. The lease area of the mine in question is one of the areas among the six areas for which the said auction notice was issued.*
  - 6.2.2. *Letter of Intent (LoI) was issued by the district administration to the project proponent on 30.12.2019. The LoI was issued for 36 hectares mine lease area and for the period of 5 years.*
  - 6.2.3. *The cluster certificate has been issued by the Mining department on 12.03.2020, wherein it has been noted that no mine is operational or a lease has been issued in 500 m from the periphery of the proposed mine lease area.*
  - 6.2.4. *The public hearing for the project was conducted at the conference hall of Tehsil Behat on 19.10.2020.*
- 6.3. *The lessee had started mining after getting EC from SEIAA and permission from the Mining Department. During the visit, the project proponent's representative stated that sand excavation has been started on 04.04.2021, and mining work has been stopped on 30.06.2021.*
  - 6.3.1. *The permission for mining has been granted by the mining department on 01.04.2021.*
  - 6.3.2. *The mine proponent has sold the material till 30.06.2021. And it was informed that the mine was operated for 84 days, during which 3,77,748 m<sup>3</sup> Sand/Bajari/Boulder minerals have been excavated.*
  - 6.3.3. *The weighing bridge has been installed for weighing the amount of excavated material. The data generated through the weighing system is been submitted on the online portal.*
  - 6.3.4. *As per the information provided by the project proponent, the excavated material has been sold to the stone crushers for further processing. The material has been sold to 44 different parties.*

6.4. *The mining department inspected the mine twice during June 2021 to verify the content of the complaint received to the district administration. The mine was found to be operational during the first inspection on 07.06.2021 whereas during the second inspection on 19.06.2021 the mining work was found to be closed. As per these inspection reports, excavation is been done through the machines and the depth of the excavation is around 2.8 m.*

**6.5. *The proponent has carried out mining operations without Consent from UPPCB. They have submitted the online application for seeking Consent from UPPCB on 17.06.2021. Based on it, the UPPCB has issued a show-cause Notice to the mine on 09.09.2021. The environmental Compensation of Rs. 7,70,000/- is also been proposed for the period of 77 days (01.04.2021-17.06.2021) at the rate of Rs. 10,000/- per day in accordance with the methodology developed by the CPCB.***

6.6. *During the field visit the committee observed the following*

6.6.1. *The mining operations were closed.*

6.6.2. *The mine is yet to obtain Consent under Air and Water Acts from UPPCB and NOC from CGWA.*

6.6.3. *They have installed a weighing bridge near their camp office and also installed CCTV cameras along with one PTZ camera.*

6.6.4. *A setup for recording the data from the weighing machine and transferring it through the online portal is available near the weighing bridge.*

6.6.5. *The portion of the Yamuna River in which the mine in question is located forms the boundary between the states of Uttar Pradesh and Haryana. Though the exact point of the state boundary was not accessible, the concerned officer of the district administration (i.e. Lekhpal) informed that the interstate boundary is approx 500 meters away from the mine lease area.*

6.6.6. *No operational mine was sighted within a 500-meter distance from the said mine lease boundaries.*

6.6.7. *During the visit only two poles (C&D) were found at the site. The geo-coordinates of these two poles were verified and found to be in order. It was further informed that the remaining pole had been washed out from the site.*

- 6.6.8. A DG set of 25 KVA was available near the camp office for power backup.
- 6.6.9. It was told that they have not installed any borewell and water requirement is being met by taking water tankers from nearby stone crushers. However, lending the use of water for industrial purposes is a violation of the rules.**
- 6.6.10 Though the representative of the proponent claimed that they have done the plantation but any such plantation was not visible in the area.**
- 6.6.11 As per the condition of EC, four Ambient Air Quality monitoring stations were supposed to be established in the core zone as well as a buffer zone. However, no such air quality station was found at the site.**
- 6.6.12 The roads leading to the mining site have been badly damaged. Stone crushers and the mine in question are the major industrial activities located in this area and heavy vehicular transport is the major cause of damage to public roads.**
7. In the EC issued to the mine proponent, they are permitted for the production of 7,56,000 m<sup>3</sup>/annum and 3360 m<sup>3</sup> per day.
- 7.1. As per the undertaking given by the mine proponent, around 3,77,748 m<sup>3</sup> of material have been excavated during the operational period.
- 7.2. It was also informed that out of 91 days (i.e. during 01.04.2021 – 30.06.2021), the mine production was kept closed for 7 days (during April 01-03, 2021, and June 20-23, 2021). Hence, mine production was carried out only for 84 days.
- 7.3. The project proponent has also provided daily production details. As per this data the quantity of daily production is varies between 11 m<sup>3</sup> to 9194 m<sup>3</sup>.
- 7.4. The proponent has excavated excess than the prescribed daily production limit (i.e., 3360 m<sup>3</sup>) during 62 operational days and excavated around 133062 m<sup>3</sup> excess quantity during those days.**
- 7.5. Thus, in total they have excavated around 1,33,062 m<sup>3</sup> excess material than the permitted quantity based on the daily limit.**
8. The grounds for challenging the EC issued by SEIAA are mentioned in the Hon'ble NGT order is as given below

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

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

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

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

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

8.1.5. *The geo-coordinates have been defined both in the auction notice issued by the mining department and EC issued by SEIAA.*

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

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

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

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

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

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

8.2.2. *It was told by the proponent and the*

*Mining Inspector that heavy machinery has not been used in the excavation. Only Pokland machines have been used in mining.*

8.2.3. *The allotted mine area is plotted on the Google Earth software. As per the Google Earth image of November 2020, the allotted ease area (Pole A-H) spread across the stream of the River Yamuna.*

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

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

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

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

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

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

**8.4. EC being granted without requisite replenishment study**

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

8.4.2. *The condition regarding replenishment study has not been mentioned in the EC issued by SEIAA.*

**8.5. There being lack of due diligence ignoring that there are five FIRs for illegal mining against the Project Proponent**

- 8.5.1. *As per the information provided by the district administration, no such FIR for illegal mining is filed or pending against the project proponent.*
- 8.6. *Public hearing has taken place 20 kms away from the site*
- 8.6.1. *The public hearing was conducted on 19.10.2020 in the Conference Hall of Tehsil Behat. The place of the public hearing held is at a distance of approx. 12 KM from the mining site.*
- 8.6.2. *However, the UP Government has issued an office order on 23.04.2018 which is related to the environmental clearance for the river bed mining project. In the said office order, permission has been given to hold a public hearing in the Tehsil office for river bed mines located in remote areas. The said public hearing was conducted using this clause of the office order.*
- 8.7. It is also stated that the mining has been commenced without requisite consent from the State PCB and there is also illegal groundwater extraction in violation of the EC conditions.**
- 8.7.1. The mine was operated without obtaining the CTE and CTO, which is a violation/ non-compliance under EPA Act, 1986. With respect to provisions of Water Act, 1974 and Air Act, 1981 the project proponent is required to obtain CTE and CTO for mining operation and should comply with the conditions of Environmental Clearance.**
- 8.7.2. UPPCB has issued a show cause Notice for the said violation and has also imposed Environmental Compensation of Rs. 7,77,000/-.**
- 8.7.3. The mine was operated without obtaining NOC from CGWA. It was informed that they have not installed any borewell in the area, and they are borrowing the water from the adjacent industries. However, such kind of borrowing water supply for industrial purposes is a violation of the law. However, such kind of borrowing water supply for industrial purposes is a violation under EPA Act, 1986. And both borrower and lender are liable to face legal action.**
9. *As the mining lease area is less than 50 Hectare, the project falls in the category 'B' as given in the schedule- List of projects*

or activities prior to EC, in the EIA Notification dated 14.09.2006.

9.1. As per the prescribed General Condition, any project or activity specified in Category 'B' will be treated as Category A if located in whole or in part within 10 km from the boundary of inter-State boundaries.

9.2. However, the said condition has been revised vide MoEF&CC Notification dated 14.08.2018. In this amendment the limit of mining lease area for consideration under Category- B project was extended to 100 hectares for non-coal mine lease. And it is also mentioned that the General Conditions shall apply except River bed mining projects on account of the inter-state boundary. 9.3. Considering this amendment in the Act, the said Project falls in the Category-B.

## **10. Environmental Compensation**

### **10.1. Compensation for Non-compliance**

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

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

### **10.2. Penalty for unauthorized water usage**

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

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

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

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

### **10.3. Penalty for extraction of excess quantity materials**

**10.3.1** As explained at Sr No. 7 above, they have extracted 1,33,062 m<sup>3</sup> excess quantity than the permitted, based on the daily limit prescribed in the EC issued by SEIAA.

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

**10.3.3** The market value is considered as Rs 400/- per m<sup>3</sup>

**10.3.4** Then the compensation will be  
=  $D \times (1+RF+DF)$   
= 1,33,062 X 400 X (1+0.3+0.75)  
= Rs. 10,91,10,840/-

**10.4.** Total Compensation and penalty will be  
= 8,40,000 + 1,00,000 + 10,91,10,840  
= Rs. 11,00,50,840/-

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

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

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

**11.1.2** Obtaining NOC from CGWA for groundwater extraction.

**11.1.3** Obtaining Amended EC from SEIAA as per revised geo-coordinates.

**11.1.4** Conducting replenishment study and submission of the report

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

11.3. SEIAA can be asked to review the EC issued by them in order to ensure that the instream mining could not be allowed.

11.4. The mine proponent and stone crushers located in the area can be asked to construct the village roads in the area under the supervision of the district administration.

11.5. UPPCB can be asked to initiate action against the stone crusher who is lending the water supply to the mine in question. The proponent is liable to pay Rs. 11,00,50,840/- as a compensation and penalty for operating mine without consent from UPPCB, NOC from CGWA and carrying out excess excavation.”

5. Stand of the SEIAA, UP does not respond to the observations of the joint Committee report.

6. The stand of the PP is that there is no violation as the PP has been granted EC. In its reply, the PP has made following averments in response to the joint Committee report:-

**“D. OBJECTIONS TO JOINT COMMITTEE'S REPORT DATED 26. 10.2021;**

- I. As regards the report submitted in terms of the Hon'ble Tribunal's order dated 09.06.2021, the answering respondent, with immense reverence submits that one of the recommendations (amongst six other) made by committee was imposition of EC of about Rs. 11 Crore, which per-se is without any factual or legal basis, liable to be set-aside forthwith being based upon intrinsically frivolous ground,
- II. The very basis of recommendation of EC is inherently absurd and the same is impregnable to passing judicial scrutiny,
- III. The 'Project Proponent', was never afforded an opportunity to explain before this illogical recommendation was made behind its back in stark violation of principles of Natural Justice,
- IV. A bare reading of the recommendations make it abundantly clear that these have been made with a predisposed mindset just to nonsuit proponent and negate its rights emanating from his having been declared successful in e-auction,
- V. It is apparent that the recommendation has been made unfairly, - unjustly the same is undefendable and is causing tremendous loss in terms of time and money both, depletion of

*opportunity since the lease has been granted by the State Government for a limited period and much time has been lost due to 'Covid' restrictions,*

- VI. *The Committee was in complete oblivion that the 'Environment Clearance' granted by SEIAA, in no manner puts any fetters over the 'Contractual Rights' or curtails it simply because it is bound by the terms of the Contract between the State Government on one hand and Lease-holder on other (contracting parties) which confers rights in favour of the respondent, after having received valuable consideration, for 7,56,000 cubic meter production per annum within 225 working days further 373 Trucks per day 'Depending on market demand'. The above clarifies that per day production is only by way of rough estimation and does not put cap on daily production. Secondly, it is matter of common knowledge that precious working days have been lost in current year due to 'Covid19' restrictions apart from non-operation of mining activity during Monsoon period. The natural corollary of the above is that the production per day has to be increased to meet the targeted production in one year. This explanation is in line with the scientific requirement of mining activity the prime most reason wherefor is prevention of '**Diluvium**' (superficial deposits formed by constant flow of water) of river-banks and may lead to disturbance of environmental and ecological balance; whereby large areas of human habitation would become dangerously prone to inundation from river waters,*
- VII. *That the per day production is directly correlated to 'market demand'; also stipulated in the EC itself, which inheres that the production may go up or down in accord with the market condition and not adhere to any particular set limit, as erroneously inferred by the committee,*
- VIII. *Further, the answering respondent craves leave of the Hon'ble Tribunal to present factual aspects relevant for this purpose, which are;*
- a) *As a matter of regulatory aspects, the R.Q.P ., QCI/NABET consultant, Project Proponent (Lease Holder), SEIAA/SEAC of UP, DGM-UP prepares/ considers conceptual proposals of 250 to 275 days production except monsoon period for RBM leases.*
  - b) *The conceptual proposal envisages environmental impacts happening due to annual production. As a matter of generic practice, they also report "Average Production per day" in their plans which basically is a "notional per day average value" of production.*
  - c) *The lease holder prepares EIA and conducts public hearing based on the maximum impact on environment for achieving annual production quantity sanctioned as per Letter of Intent (LoI). This EIA document is prepared so that*

*lease holder commits that he has analyzed and regulated maximum environmental impacts on yearly production basis, which he shall never violate.*

- d) Further, State Mining Department (UPMMCR policy) provides for Stock Licenses as per which, permission to excavate and stock of mineral is expected / permitted prior to monsoon season to ensure availability of minerals uninterruptedly.*
- e) The stocking of minerals requires substantial volume of excavations which is irrespective of average per day production clause.*
- f) The 'Behavioral Dispatches' & 'Prevalent Market Condition' compels that per day production is governed by several factors i.e. dependence on 'COVID-19' restrictions, availability of labour, demand of market (local sand/morrum mandi) and huge quantity of stock licenses before monsoon, issued by District Magistrate in exercise to UP Minerals (Prevention of illegal mining, transportation and storage) Rules , 2018.*
- g) Further, the River Bed Mining (RBM) mines does not operate on day to day basis and their per day production are totally dependent on the demanded quantities by local crushers.*
- h) Moreover, as state of UP has a policy of mineral stocking / storage before monsoon, it is but natural that leases cannot be stopped for 3 months in order to comply the norms of notional per day production clause. As doing do shall be non-behavioral and create a legal challenge for UP storage policy.*

*IX. Because it is trite law "Actus Curiae Neminem Gravabit" and the principle has been applied by the Hon'ble Supreme Court with full vigour in letter and spirit impartially to all those who comes before it. The Hon'ble Supreme Court has elucidated the maxim in the case of **U.P. SRTC v. Imtiaz Hussain**, reported as **(2006) 1 sec 380** at page 383, in the following words;*

*"8. The basis of the provision under Section 152 of the Code is founded on the maxim "actus curiae neminem gravabit" i.e. an act of court shall prejudice no man. The maxim "is founded upon justice and good sense; and affords a safe and certain guide for the administration of the law", said Cresswell, J. in Freeman v. Tranah [12 CB 406 : 138 ER 964] (ER p. 967). An unintentional mistake of the court which may prejudice the cause of any party must*

and alone could be rectified. In *Master Construction Co. (P) Ltd. v. State of Orissa* [(1966) 3 SCR 99 : AIR 1966 SC 1047] it was observed that the arithmetical mistake is a mistake of calculation, a clerical mistake is a mistake in writing or typing whereas an error arising out of or occurring from accidental slip or omission is an error due to careless mistake on the part of the court liable to be corrected. To illustrate this point it was said that in a case where the order contains something which is not mentioned in the decree, it would be a case of unintentional omission or mistake as the mistake or omission is attributable to the court which may say something or omit to say something which it did not intend to say or omit. No new arguments or re-arguments on merits can be entertained to facilitate such rectification of mistakes. The provision cannot be invoked to modify, alter or add to the terms of the original order or decree so as to, in effect, pass an effective judicial order after the judgment in the case.

9. The maxim of equity, namely, *actus curiae neminem gravabit* - an act of court shall prejudice no man, shall be applicable. This maxim is founded upon justice and good sense which serves a safe and certain guide for the administration of law. The other maxim is, *lex non cogit ad impossibilia* - the law does not compel a man to do what he cannot possibly perform. The law itself and its administration is understood to disclaim as it does in its general aphorisms, all intention of compelling impossibilities, and the administration of law must adopt that general exception in the consideration of particular cases. The applicability of the aforesaid maxims has been approved by this Court in *Raj Kumar Dey v. Tarapada Dey* [(1987) 4 SCC 398], *Gursharan Singh V. New Delhi Municipal Committee* [(1996) 2 sec 459] and *Mohd. Gazi v. State of M.P.* [(2000) 4 sec 342]. The principles as applicable to Section 152 CPC are clearly applicable to Section 6(6) of the U.P. Act. In the aforesaid background the Labour Court was not justified in modifying the award as was originally made. The High Court also had not considered this aspect and decided the writ petition filed by the present appellant on issues other than this vital issue."

7. That the Petitioner most earnestly believes that this Hon'ble Tribunal would not be loath in correcting an unintentional wrong that has occasioned to the answering respondent, which, if not set right, will ruin them without there being any fault on their part and that the State would not be able to perform and

*honour its obligation and commitments made to its citizen besides honouring a contract for which it has already received a gigantic consideration.*

8. *It is most respectfully submitted that no fault can be found with the environment clearance dated 26.03.2021 and that the State is contractually bound to honor its contract granted in accordance and after following established procedure and in so far as the frivolous allegations are concerned, the same are factually wrong as stated above.”*

7. We have heard learned counsel for the parties. It is clear from the report of the joint Committee (Para 6.5) that the mining operations were conducted without requisite consent. Show cause notice was given to the PP and compensation proposed. It is also seen from para 6.6.9 that claim of the PP is that water requirement was being met from tankers from nearby stone crushers but lending of use of water was violation of Rules. No plantations were visible. The PP has excavated excess mined material beyond the permitted quantity. Mining was taking place within 500 meters and cluster certificate dated 12.03.2020 was incorrect. The ground water extraction has taken place without requisite NOC from CGWA. These findings are not in any manner shown to be erroneous. We accept the report to the extent of the violations found.

8. However, we find the assessment of compensation for illegal extraction of ground water and for operation without requisite consents to be inadequate. The same need to be calculated with reference to the cost of remediation and financial capacity of the PP which has not been done. In this connection, reference is made to the order of the Tribunal dated 26.02.2021 in O.A. No. 360/2015, *National Green Tribunal Bar Association v. Virender Singh (State of Gujarat) & Ors.* Relevant part of the order is as follows:-

“1to9....xxx.....xxx.....xxx

10. Vide order dated 17.08.2020, the Tribunal considered the CPCB report dated 30.01.2020, in pursuance of earlier orders on scale of compensation to be recovered for violation of norms for mining on polluter pays principle and the matter was deferred for further consideration of such scale and further orders in the light of the EMGSM 2020. **On the issue of scale of compensation for violations, the Tribunal held that the same has to be calculated having regard to the polluter pays principle and not mere loss of royalty. This requires taking into account value of the illegally mined material and cost of restoration of the environment.** CPCB did the exercise by constituting an expert Committee. The Tribunal considered the report as follows:-

“8. The Committee considered two approaches:

- (I) **Approach 1: Direct Compensation based on the market value of extraction, adjusted for ecological damages.**
- (II) **Approach 2: Computing a Simplified NPV for ecological damages.**

9. In the first approach, the criteria adopted is:

- Exceedance Factor (EF).
- Risk Factor (RF).
- Deterrence Factor (DF).

10. Approach 1 is demonstrated by Table 1 as follows:

“

<b>Table No. 01: Approach 1</b>				
<b>Permitted Quantity (in MT or m<sup>3</sup>)</b>	<b>Total Extraction (in MT or m<sup>3</sup>)</b>	<b>Excess Extraction (in MT or m<sup>3</sup>)</b>	<b>Exceedance in Extraction:</b>	<b>Compensation Charge (in Rs.)</b>
X	Y	Z = Y-X	Z/ X	$D * (1+RF + DF)$ Where D = Z x Market Value-of-the-material-per-MT-or-m <sup>3</sup>
				$DF = 0.3$ if Z/X = 0.11 to 0.40 $DF = 0.6$ if Z/X = 0.41 to 0.70 $DF = 1$ if Z/X >= 0.71
				$RF = 0.25, 0.50, 0.75, 1.00$ (as per table 2)

”

11. Approach 2 is demonstrated by following formula:

“Till such time as data and information for a comprehensive NPV is worked out in a site specific manner to account for all (or atleast the major) ecological damages, a simplified NPV, proxied on the market value of the illegally extracted amount may be computed. In this case the NPV approach would imply that **the total benefits from the activity of sand mining (as represented by the market value of the extracted amount) be deducted from the total ecological costs imposed by the activity.** In the absence of data on benefits

and costs separately, we recommend a modification of the formula as shown below:

Total Benefits(B) = Market Value of illegal extraction : D  
(refer Table 1)

Total Ecological Costs = Market Value Adjusted for risk factor: D \* RF (refer Table1).

For present purposes, it is assumed that the Benefits would accrue only in the first year (in which the extraction of the illegally mined material takes place), while the ecological costs would continue to be felt over a period of time. NPV is to be calculated for a period of 5 years on the net value,  $\Sigma (C-B)$ , at a discount rate ranging from 8%-5%, varying in inverse with the risk factor. Thus, where the highest risk factor (say 1) is applicable, the discount rate applicable would be the lowest (say 5% in this case).”

12. Final recommendation is as follows:

“Thus, it is recommended that the annual net present value (NPV) of the amount arrived at after taking the difference between the costs and the benefits through the use of the above approach, maybe calculated for a period of 5 years at a discount rate of 5% for mining which is in a severe ecological damage risk zone. The rationale for levying this NPV is based on expert opinion that reversal and/or restoration of the ecological damages is usually not possible within a short period of time and rarely is it feasible to achieve 100% restoration, even if the sand deposition in the river basin is restored through flooding in subsequent years. The negative externalities of the mining activity are therefore to be accounted for in this manner. Ideally, the worth of all such damages, including costs of those which can be restored should be charged. **However, till data on site-specific assessments becomes available, this approach may be adopted in the interim.** In situations where the risk categorization charged. However, till data on site-specific assessments becomes available, this approach may be adopted in the interim. In situations where the risk categorisation is unavailable or pending calculation, the following Discount Rates may be considered:

<b>Severity</b>	Mild	Moderate	Significant	Severe
<b>Risk Level</b>	<b>1</b>	2	3	4
<b>Risk Factor</b>	0.25	0.50	0.75	1.0
<b>Discount</b>	8%	7%	6%	5%

11. Annexure-A appended to the report gives the calculation as follows:

**“Compensation Charge (Scenario II - explicit accounting of NPV)**

Market Value of Illegally Mined Material (D)

5000\*400 = 2000000/-

Annual Value of Foregone Ecological Values

$$D*RF = 2000000/-$$

- **Present Value of Foregone Ecological Values (@ 5% discount rate and over 5 years)**

$$PV = \sum_{t=1}^5 \frac{(D+RT)}{(1+r)^t}$$

$$= \frac{(2000000)}{(1+0.05)^1} + \frac{(2000000)}{(1+0.05)^2} + \frac{(2000000)}{(1+0.05)^3} + \frac{(2000000)}{(1+0.05)^4} + \frac{(2000000)}{(1+0.05)^5}$$

$$= \text{Rs.}$$

86 58 953/-

- **Net Present Value (after netting out market value of illegally mined material) - i.e., Total Compensation to be levied**

$$= NPV = PV - D$$

$$= \text{Rs. } 66,58,953/-$$

Compensation Charge in above case:

<b>Approach 1 (no explicit accounting of NPV)</b>	<b>Approach 2 (explicit accounting of NPV)</b>
<b><math>D*(1+RF+DF)</math></b>	<b>@ 5% discount rate and over 5 years</b>
Rs. 46,00,000/-	Rs. 66,58,953/-

12. The Tribunal directed undertaking of scenario analysis, as suggested on behalf of the applicant and to furnish a further report accordingly. Further report dated 12.10.2020 has been filed by the CPCB reiterating its earlier report. **We propose to approve approach-2 in the report.** Apart from the above, a report dated 15.01.2021 has been filed by the Oversight Committee for the State of UP<sup>1</sup> to which reference will be made later.

XXX.....XXX.....XXX

17. Again, in Goa Foundation, supra (prs 74-76) it was observed that **mining was required to be regulated not only by the Mining department but also by the PCBs under the Water and Air Act and by the MoEF under the EP Act. It is made clear that the environment laws override other laws and any provision to the contrary in the Mines Act will not stay in the way of enforcing the environment norms. In this regard reference may also be made to report of the Ministry of Mines entitled "Sand Mining Framework" which will not stand in the way of modified mechanism in accordance with this order.**

9. Accordingly, the State PCB may appropriately enhance the compensation for illegal extraction of ground water and conducting

<sup>1</sup> constituted by this Tribunal to oversee compliance of environmental issues, on suggestions of the State Government.

mining without requisite consents within two months, following due process of law.

10. The assessed compensation may be deposited by the PP within two months with the State PCB to be kept in a separate account and utilized for restoration of environment by preparing a restoration plan by joint Committee of CPCB, State PCB and District Magistrate, Saharanpur. Restoration plan may include plantation, air quality monitoring system, restoration of roads. The Committee may also oversee the execution of the restoration plan, involving appropriate agencies.

The application is disposed of.

A copy of this order be forwarded to the CPCB, State PCB and District Magistrate, Saharanpur by e-mail for compliance.

In view of order in the main matter, I.A. No. 20/2022 also stands disposed of.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

May 10, 2022  
Appeal No. 15/2021  
(I.A. No. 22/2022)  
A

# अवैध खनन पर कमिश्नर के छापे

सुरेंद्र सिंहल

सहारनपुर। एनजीटी की सख्ती के बाद यमुना नदी पर हो रहे अवैध खनन पर कमिश्नर ने ताबड़ोड़ छापेमारी की। जिससे खनन माफियाओं में हड़कंप मच गया। कमिश्नर ने बेहट, सीओ तहसील के खनन क्षेत्र परथा कोरसी में बेहट के एसडीएम एवं ज्वाइंट मजिस्ट्रेट प्रणनता एश्वर्या, सीओ चित्रांशु गौतम और नायब तहसीलदार अनिल कुमार को मौके पर बुलाया और कार्रवाई के

## ● एनजीटी की सख्ती के बाद की गई छापेमारी

आदेश दिये।

कमिश्नर डॉ. लोकेश एम ने गुरुवार को बताया कि यह खनन पट्टा मैसर्स स्टार माईस के नाम है। कमिश्नर ने मौके पर बड़ी संख्या में ट्रक और डंपर खड़े देखे। कमिश्नर को देख वाहन समेत चालक भागने लगे। यहां पानी के भीतर भारी मशीनों से अवैध खनन किया जा रहा है। कमिश्नर ने आवंटित पट्टा क्षेत्र की

पैमाइश कराई और आरटीओ प्रवर्तन राधेश्याम, सीओ बेहट चित्रांशु गौतम को निर्देश दिए कि वे मौके पर पाए गए वाहनों की जांच-पड़ताल कराएं। कमिश्नर ने निरीक्षण की रिपोर्ट प्रदेश की खनन विभाग के सचिव एवं निदेशक रोशन जैकब को भेजी है।

कमिश्नर ने कहा कि प्रदेश के मुख्यमंत्री योगी आदित्यनाथ के स्पष्ट निर्देश हैं कि सड़कों पर ओवर लोडेड वाहनों को चलने से रोका जाए। उनके खिलाफ कड़ी कानूनी कार्रवाई की जाए।

# यमुना में मिला अवैध खनन, कई अधिकारियों पर गाज तय

मंडलायुक्त ने बेहट में बरथा कोरसी पहुंचकर किया खनन पट्टे का निरीक्षण



खनन पट्टे का निरीक्षण करते कमिश्नर डा. लोकेश एम.

(इफबल)

सहारनपुर, 25 मई (चन्द्र प्रकाश): सड़क सुरक्षा माह में आर.टी.ओ. के साथ निरीक्षण पर निकले मंडलायुक्त डॉ. लोकेश एम. को रास्ते में काफी संख्या में ओवरलोड ट्रक/डम्पर पाए गए। अधिकतर बिना नम्बर की गाड़ियां थी तथा कई गाड़ियों की नम्बर प्लेट ग्रीस से पोती गई थी। वाहन चालक के पास ड्राइविंग लाइसेंस नहीं मिला। यह स्थिति देख मंडलायुक्त भडक गए। ट्रक ड्राइवरों से पूछा गया कि वे अपनी गाड़ी कहां से लोड करके आए हैं? उनके द्वारा बताया गया कि सामग्री तहसील बेहट अन्तर्गत बरथा कोरसी में चल रहे खनन पट्टे से ला रहे हैं।

इसके पश्चात डॉ. लोकेश एम. बिना किसी को सूचना दिए ही बरथा कोरसी में खनन पट्टा मैसर्स स्टार माइंस पर पहुंच गए। मंडलायुक्त को देखते ही यहां खड़े ट्रक एवं डम्पर चालक अपने-अपने वाहनों को लेकर भागने लगे। स्पॉट पर पूरे क्षेत्र में 300-400 लोगों का जमावड़ा मिला जिनके असामाजिक तत्व होने से भी इंकार नहीं किया जा सकता है। यह स्थिति देख मंडलायुक्त दंग रह गए। मौके पर ही उप जिलाधिकारी बेहट, क्षेत्राधिकारी बेहट एवं खनन अधिकारी को बुलाया गया। मंडलायुक्त के बुलाने पर उप जिलाधिकार, क्षेत्राधिकारी व नायब तहसीलदार पहुंच गए किन्तु मंडलायुक्त के रहने तक खनन अधिकारी नहीं आए।

उपजिलाधिकारी द्वारा खनन निरीक्षक को बुलाया गया। खनन निरीक्षक से पट्टे के बारे में जानकारी की गई किन्तु उनके द्वारा कोई उत्तर नहीं दिया गया और बगले झांकते नजर आए। मंडलायुक्त द्वारा हैरानी व्यक्त की गई कि खनन अधिकारी एवं खनन निरीक्षक द्वारा स्पॉट पर पहुंचकर जांच नहीं की जा रही है, और न ही यह देखा जा रहा है कि खनन निर्धारित मानकों के अनुसार हो रहा है अथवा पट्टा धारक द्वारा कोई अनियमितता तो नहीं की जा रही है।

मंडलायुक्त द्वारा मौके पर ही आर.टी.ओ. (प्रवर्तन) तथा पुलिस क्षेत्राधिकारी बेहट की टीम गठित कर वाहनों को अपनी सुपुर्दगी में लेकर इनकी जांच करने तथा उपजिलाधिकारी बेहट तथा नायब तहसीलदार बेहट की टीम गठित कर पट्टे की पूरी नापतौल करने व खनन की मात्रा आंकलित कर उसकी रिपोर्ट आज सायं तक देने हेतु निर्देशित किया गया।

खनन अधिकारी से दूरभाष पर पूछने पर उनके द्वारा बताया गया कि पट्टा 5 वर्ष के लिए आवंटित है जिसका कुल क्षेत्रफल 36 हैक्टेयर है। इस पट्टे से प्रतिवर्ष 7 लाख 56 हजार घन मीटर खनन सामग्री का उठान किए जाने की अनुज्ञापत्र पट्टा धारक को दिया गया है। मंडलायुक्त की इस कार्रवाई से अवैध खनन में लिप्त अधिकारियों पर गाज गिरना तय माना जा रहा है।





To,  
The Registrar,  
National Green Tribunal,  
Principal Bench, New Delhi.

Date- 09 September 2022

Subject:- Action taken report in relation to the order dated 12.08.2022 passed in O.A.  
No. 268/2021 Jahangir Vs. Haryana State Government.

Respected Sir,

In the above noted case, Hon'ble Tribunal has given direction as below:-

“We find it surprising that once the complaint of illegal mining is found correct which resulted in diversion of river flow, still, the Authorities have tried to belittle this aspect on shallow pretexts without taking any effective appropriate action including, criminal proceedings against the guilty persons. Since the mining was allowed in the present case to a particular person, in the absence of anybody else's involvement, apparently such person's involvement in illegal mining ought to have been proceeded unless proved otherwise. But in the present case, an attempt has been made to save the proponent in one or the other way despite the fact that there was illegal mining which resulted in diversion of river flow. Prima facie we are satisfied that the officers of Revenue and Mining Department of States as also Pollution Control Board of both the States are guilty of suppressing information and also for not taking appropriate action against the persons who have attempted illegal mining. In such circumstances, the Chief Secretaries of State of Haryana and Uttar Pradesh ought to have taken stringent action against the erring officers but nothing has been placed on record to show that such action has been taken.

Sh. Pradeep Misra, learned counsel appearing for UPPCB and Sh. Rahul Khurana appearing for Haryana PCB stated that the Authorities may be given one more opportunity but the reason for giving this opportunity or for what purpose this opportunity may be given could not be explained.

We therefore, direct the Chief Secretaries of both the States to take appropriate criminal, civil as well as other action for illegal mining conducted in this case and submit action taken reports before the next date by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF. They may also take appropriate action against the concerned erring officials who have tried to cover up the act of illegal mining resulting in diversion of river flow by not taking appropriate action against the erring and guilty persons.”

2- Earlier, an inspection of the site mentioned in the order of Hon'ble Tribunal, was carried out by a joint inspection team comprising of the officials from State of Uttar Pradesh and Haryana on dated 10-01-2022, 02-04-2022 and 12-05-2022. The

joint inspection team prepared its report and submitted before Hon'ble NGT. The observations made by the aforesaid Joint Team are as under:-

"During inspection, no illegal mining observed at the border of UP and Haryana and in the adjacent area of Haryana i.e. Village Bailgarh (Haryana) revenue in the river Yamuna. As per the site observations the machinery of M/s Star Mines was operating substantially away from the border area and within the jurisdiction of State of UP and even no foot prints of mining vehicles observed approaching the border area for mining in the area of Bailgarh. Further, the question raised by the complainant Sh. Jahangir regarding diversion of flow of river Yamuna, no such footprints observed at site that flow of the river Yamuna diverted in the area of dispute."

3- The following observation in the order, are of the Team of Haryana exclusively:-

"As per the report submitted by the team from Haryana, the area of dispute i.e. Khasra No. 19//20 and 20//13 of village Bailgarh falls on the boundary of both the States and further submitted that the River Yamuna at the disputed area mostly flowing in the area of Uttar Pradesh and at Khasra No. 20//13 River Yamuna enters in the State of Haryana. The team has given observations that the flow of River changed due to illegal mining but due to flow of River, the quantum of mining could not be ascertained."

4- Pursuant to directions of Hon'ble Tribunal, District Magistrate Saharanpur conducted enquiry and submitted a fresh report to the Government in this matter and as per this report, the facts of the matter are following:-

1- The lease deed of five year mining was approved for mining of sand, gravel, boulder (in mixed condition) in Gata No.-1 area-36.00 hectare of M/s Star Mines Village-Bartha Korsi on 01.04.2021.

2- In compliance with the order dated 28.10.2021 of Hon'ble National Green Authority, the mining on the said plot remained unoperational till 10.01.2022.

3- The mining lease was unoperational till 09.01.2022 in compliance with the order dated 28.10.2021 of Hon'ble National Green Tribunal due to non-receipt of water/air consent from the UP Pollution Control Board.

4- After the above date, Mining is being done by the lessee M/s Star Mines, Saharanpur within the limits of approved area of lease in U.P.

5- Executive Engineer, Irrigation Construction Division, Saharanpur has been directed by letter dated 31.08.2022 to make available the inquiry report regarding the change in the flow of Yamuna river within a week.

6- As per the report of the Tehsildar Chhachhrauli, Yamuna Nagar, Haryana. It seems that the Illegal mining seems to be taking place in the village Belgarh which is located in the state of Haryana. Village Belgarh and Village Koliwala, which are adjacent to the border of Haryana and Uttar Pradesh,

currently have mining leases in operation and many stone crushers have been established in the said area. But no mining work has been done by M/s Star Mines outside its sanctioned area towards Belgarh. Belgarh falls in west direction and village Bartha Korsi falls in east direction.

7- As far as the change in the flow of the river is concerned, no change in the flow of the river has been found during the on-site inspection, as per the individual report submitted by the team members consisting of officers of Uttar Pradesh. It was also informed by the local people that the river has been flowing at this place since many years.

Therefore, in view of the above, illegal mining in the area adjoining the border in the Uttar Pradesh has not been found nor has any fact been found that the district officials of the district Saharanpur are guilty for the same. This Action taken report is submitting after approval of Chief Secretary, Government of Uttar Pradesh.

Your Faithfully,

(Dr Roshan Jacob)

Secretary,

Geology and Mining Department,  
Government of Uttar Pradesh.

C.C:-

1. Director, Geology and Mining, U.P, Lucknow.
2. District Magistrate, Saharanpur.

ITEM NO.14

COURT NO.6

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 5013/2022

M/S. STAR MINES

Appellant(s)

VERSUS

THE STATE OF UTTAR PRADESH & ORS.

Respondent(s)

(IA No.106684/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.106682/2022-STAY APPLICATION and IA No.106685/2022-EXEMPTION FROM FILING O.T. and IA No.106681/2022-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES )

Date : 12-08-2022 This appeal was called on for hearing today.

CORAM : HON'BLE MS. JUSTICE INDIRA BANERJEE  
HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Appellant(s) Ms. Preetika Dwivedi, AOR  
Mr. Anupam Mishra, Adv.  
Mr. Neeraj Jain, Adv.  
Mr. Abhishek Mohantya, Adv.

For Respondent(s) Mr. Ajit Sharma, AOR

UPON hearing the counsel the Court made the following  
O R D E R

Issue notice subject to deposit of the penalty of Rs.2,00,00,000/- (Rupees two crores only) in the National Green Tribunal, Principal Bench, New Delhi, without prejudice to the rights and contentions of the respective parties.

Subject to deposit of Rs.2,00,00,000/- as aforesaid, there shall be stay of operation of the impugned order till the next date of hearing.

(GULSHAN KUMAR ARORA)  
AR-CUM-PS

(MATHEW ABRAHAM)  
COURT MASTER (NSH)

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL Diary No(s). 26439/2022

(Arising out of impugned final judgment and order dated 11-05-2022  
in OA No. 249/2021 passed by the National Green Tribunal)

M/S STAR MINES

Petitioner(s)

VERSUS

UTTAR PRADESH POLLUTION CONTROL BOARD &amp; ORS.

Respondent(s)

(IA No.133449/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED  
JUDGMENT and IA No.133448/2022-STAY APPLICATION and IA  
No.133450/2022-EXEMPTION FROM FILING O.T. and IA No.133447/2022-  
CONDONATION OF DELAY IN FILING APPEAL and IA No.133699/2022-  
PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 26-09-2022 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. ABDUL NAZEER  
HON'BLE MR. JUSTICE V. RAMASUBRAMANIANFor Petitioner(s) Mr. Dama Sheshadri Naidu, Sr. Adv.  
Mr. Vanshdeep Dalmia, AOR  
Mr. Suchakshu Jain, Adv.  
Ms. Shreya Chugh, Adv.  
Ms. Shevali Chaudhary, Adv.

For Respondent(s) Mr. Ajit Sharma, AOR

UPON hearing the counsel the Court made the following  
O R D E RApplications for exemption from filing certified  
copy of the impugned judgment and exemption from filing  
official translation are allowed.

Delay condoned.

Issue notice.

Liberty is granted to serve the standing counsel, in addition.

However, we permit the U.P.Pollution Control Board to proceed with the assessment of compensation.

(ANITA MALHOTRA)  
AR-CUM-PS

(KAMLESH RAWAT)  
COURT MASTER

Yamuna River

Yamuna River

Yamuna River

यमुना नदी

HARYANA

BARTHA KORSI

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HARYANA

BARTHA KORSI

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Yamuna River

Yamuna River

Yamuna River

यमुना नदी

HARYANA

BARTHA KORSI

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यमुना नदी

Yamuna River

Yamuna River

BARTHA KORSI