

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**PRINCIPAL BENCH AT DELHI****ORIGINAL APPLICATION NO. 724 OF 2023****IN THE MATTER OF:**

Bittu

...Applicant

Versus

State of Uttar Pradesh & Ors.

...Respondent(s)

NDOH- 25.04.2024**INDEX**

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DATE: 23.04.2024**PLACE: NEW DELHI****DRAWN BY:****Saumitra Jaiswal & Sonali Sengupta**

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**OBJECTIONS BY THE APPLICANT TO THE JOINT COMMITTEE
STATUS REPORT DATED 12.02.2024 FOR SITE INSPECTION
CONDUCTED ON 27.01.2024 ALONG WITH AFFIDAVIT.****MOST RESPECTFULLY SHEWETH:**

1. That this Hon'ble Tribunal is presently seized of the above-mentioned case titled Bittu v. State of Uttar Pradesh & Ors. bearing Original Application No. 724 of 2023 raising issue of illegal sand mining being carried out by Respondent No. 8 in violation of the conditions of the Environment Clearance dated 27.05.2021 by using heavy machines and obstructing the flow of river. This Hon'ble Tribunal vide Order dated 11.12.2023 had issued notice to the Respondents and had also formed a Joint Committee headed by the District Magistrate, Ghaziabad with direction to visit the site and submit a factual report within one month.

2. That in compliance of the said direction, the Joint Committee has filed its Status Report dated 12.02.2024 wherein, it has submitted that except for some of the conditions most of the conditions been complied with.
3. That the Applicant has filed the present Objections against the said Status Report submitted by the Joint Committee while denying the observation made therein to be factually correct.
4. That the Applicant is submitting the instant Objections to put forth its contention on the findings and observations of the Joint Committee with respect to Respondent No. 8's (Project Proponent) compliance to the General and Specific Conditions of the Environmental Clearance (EC) granted to Respondent No. 8 on 27.05.2021.

PRELIMINARY OBJECTIONS

5. That the Status Report dated 12.02.2024 submitted by the Joint Committee regarding the Project proponent's (Respondent no. 8) compliance with the General and Specific Guidelines mentioned in the Environmental Clearance dated 27.05.2021 lacks substantial evidence. The absence of accompanying evidence or any supporting document within the Status Report raises significant concerns regarding the thoroughness and accuracy of the site inspection conducted.
6. That it is evident that the Status Report primarily relies on a tabular format, offering only a binary response of "yes" or "no" to indicate compliance, which fails to provide detailed evidence or analysis. Merely checking boxes without supporting documentation does not adequately demonstrate the Project proponent's adherence to the conditions of the Environmental Clearance dated 27.05.2021 as granted to Respondent No. 8. That the table provided in the Status Report raises serious concerns on the authenticity and efficacy of the

evaluation process and fails to capture the nuanced aspects of compliance with the conditions of the Environmental Clearance dated 27.05.2021.

7. That the lack of detailed evidence undermines the credibility and reliability of the Joint Committee's assessment, casting doubt on the accuracy of their conclusions. Any assertion of compliance must be supported by comprehensive documentation and data, which is conspicuously absent from the provided Status Report.
8. That it is imperative that the Joint Committee revisits their evaluation methodology and provides a more comprehensive and evidence-based assessment of the Project Proponent's compliance with the Environmental Clearance conditions. A thorough assessment should include detailed observations, photographs, data and other relevant information to substantiate claims of compliance, none of which are present in the provided report.

Para-wise Objections:

9. That the specific objections of the Applicant towards the observation of the Joint Committee made on each general and specific conditions of the EC dated 27.01.2024 granted to Respondent No. 8 are presented in the following table:

(i) General Conditions:

Sl. No. (as per the Status Report of Joint Committee)	EC Conditions	Applicant's Objections to the observation of the Joint Committee
5.	Mining & loading shall be done only within day hours' time	The Joint Committee observed that mining activities were being carried

		<p>out by the Project Proponent during the day. However, the fact that the Project Proponent is carrying out mining activities even during the night has not been disclosed by the Joint Committee. It is pertinent to note that the Applicant in its Original Application dated 30.11.2023 has annexed pictures of mining and loading being carried out at night as 'ANNEXURE A/4' at Pg. 44. More evidence in this regard has been provided by the Applicant under the accompanying Application filed with this objections.</p> <p>Moreover, no evidence has been provided by the Joint Committee in its Report which shows that no mining activity is being carried out by the Project Proponent during night.</p>
7.	<p>It shall be ensured that standards related to ambient air quality/effluent as prescribed by the Ministry of Environment & Forests are strictly complied with. Water sprinklers and other dust control majors should be applied to take-care of dust generated</p>	<p>The Joint Committee Report has no documented evidence or records supporting the claim that water sprinklers were deployed on-site and on roads leading to the site for dust control measures, as stated in the report. Therefore, the Joint Committee's</p>

	<p>during mining operation. Sprinkling of water on haul roads to control dust will be ensured by the project proponent.</p>	<p>finding regarding the deployment of water sprinklers lacks substantiated basis.</p> <p>The Applicant in its Original Application dated 30.11.2023 has annexed photos depicting storage and transport of sand without covering it as 'ANNEXURE A/5' at Pg. 48. More photos of the site have been provided by the Applicant under the accompanying Application filed with this objections wherein no water sprinklers can be seen in a single photo.</p>
13.	<p>It shall be ensured that mining operation of Sand / Morrum will not in any way disturb the velocity and flow pattern of the river water significantly.</p>	<p>The Joint Committee has stated in its Report that mining activities have not affected river flow without any substantive documentation to corroborate this fact. This shows that the findings of the Joint Committee are doubtful, especially considering the complexity of hydrological systems and the potential for cumulative impacts over time.</p> <p>The Applicant in its Original Application dated 30.11.2023 has annexed photos depicting the deposition</p>

		<p>of mined materials to obstruct the natural flow of Yamuna River as 'ANNEXURE A/6' at Pg. 53.</p> <p>Further, more evidence in this regard has been provided by the Applicant under the accompanying Application filed with this objections.</p>
16.	<p>Hydro-Geological study shall be carried out by a reputed organization / institute within six months and establish that mining in the said area will not adversely affect the groundwater regime. The report shall be submitted to the RO, PCB and SEIAA within six months. In case adverse impact is observed / anticipated, mining shall not be carried out.</p>	<p>The Joint Committee states that PP has till 31.03.2024 to submit the report. However, it ought to have been submitted within six month from the grant of EC dated 27.01.2021 (viz. by 27.07.2021). No explanation has been provided as to how the last date to submit the same is 31.03.2024. Further, even if the Project Proponent has time till 31.03.2024 to submit the report as per the Joint Committee, no previous or latest reports have been furnished by the Joint Committee.</p> <p>Response by Applicant to Condition No. 16 in its Original Application dated 30.11.2023 at Pg. 13 is reiterated here.</p>
17.	<p>Adequate protection against dust and other environmental pollution due to</p>	<p>The Joint Committee has stated that water sprinklers were found to be</p>

	<p>mining shall be made so that the habitations (if any) close by the lease area are not adversely affected. The status of implementation of measures taken shall be reported to the RO, UPPCB and SEIAA before the start of sand mining.</p>	<p>operational at the site and that the vehicles carrying sand are found to be covered. However, this statement has not been substantiated by any supporting document.</p> <p>The Applicant in its Original Application dated 30.11.2023 has annexed photos depicting storage and transport of sand without covering it and use of kaccha road for transport as ANNEXURE A/5 at Pg. 48-52 as well as ANNEXURE A/6 at Pg. 53-55 depicting the deposition of mined materials to obstruct the natural flow of Yamuna River.</p> <p>Further, more evidence in this regard has been provided by the Applicant under the accompanying Application filed with this objection.</p>
19.	<p>Green cover development shall be carried out following CPCB guidelines including selection of plant species and in consultation with the local DFO / Horticulture</p>	<p>The Joint Committee Report merely states that plantation was observed as undertaken by the Project Proponent with a suggestion to increase plantation. However, yet again, no supporting document has been provided which</p>

		shows the extent to which plantation activity has been done.
22.	An environmental audit should be annually carried out during the operational phase and submitted to the SEIAA.	Even if the Project Proponent has time till 31.03.2024 to submit the report as per the Joint Committee, no previous or latest reports have been furnished by the Joint Committee. Response by Applicant to Condition No. 22 in its Original Application dated 30.11.2023 at Pg. 14-15 is reiterated here.
24.	The Project Proponent shall submit six-monthly compliance of the stipulated environmental clearance conditions including results of monitored data (both in hard & soft copies) to the SEIAA, the District Officer and the respective Regional Office of State Pollution Control Board by 1 st June and 1 st December every year.	The Joint Committee report simply states that the six-monthly compliance report has been submitted by the Project Proponent without providing any detail or proof of submission of the same.
26.	Transportation of materials shall be done by covering the trucks/tractors with tarpaulin or other suitable mechanism to avoid fugitive	Response to condition No. 7 hereinabove reiterated.

	emissions and spillage of mineral/dust.	
30.	Measure for prevention & control of soil erosion and management of silt shall be undertaken. Protection of dumps against erosion, if any, shall be carried-out with geo textile matting or other suitable material.	The Joint Committee report states that the proposed mining area is devoid of top soil cover without providing any supporting document depicting the same.
31.	Under corporate social responsibility a sum of 5% of total project cost or total income whichever is higher is to be separately maintained. CER component shall be prepared based on need-generating measures which can help in upliftment of poor section of society, consistent with the traditional skills of people shall be identified. The programme can include activities such as development of fodder farm, fruit bearing orchards, free distribution of smokeless chulha, etc.	The Joint Committee report states that the Project Proponent has submitted receipts of measures taken for the upliftment of local inhabitant. However, no such receipts have been provided in the Status Report submitted by the Joint Committee.
32.	Possibility for adopting nearest three villages shall be explored and details of civic amenities such as roads, drinking water etc. proposed to be	The Joint Committee Report states that the project proponent has submitted receipts 'claiming' to have constructed and maintained road from Bandha to site

	provided at the project proponents expenses shall be submitted within 02 months from the date of issuance of the Environmental Clearance.	and has provided RO facilities to nearby villages. This statement by the Joint Committee itself shows that it has only relied upon mere unsubstantiated claims made by the Project Proponent, without verifying the same.
33.	The funds earmarked for environmental protection measures should be kept in separate account and should not be diverted for other purpose. Year wise expenditure should be reported to the Integrated Regional Office, MoEF&CC, GoI, Lucknow, SEIAA, U.P. and UPPCB.	Even if the Project Proponent has time till 31.03.2024 to submit the report as per the Joint Committee, no previous or latest reports have been furnished by the Joint Committee.
37.	The project proponent shall undertake adequate safeguard measures during extraction of river bed material. And ensure that due to this activity, the hydrogeological regime of the surrounding area shall not be affected.	The Joint Committee Report states that the mining activity is at a proper distance from the river flow and is not directly affecting hydro geological regime of the surrounding area. The response to the Condition No. 13 hereinabove is reiterated here.
40.	Vehicular emissions shall be kept under control and regularly monitored. The vehicles carrying the mineral shall not be overloaded.	The Joint Committee Report states that vehicles involved in loading and transportation were found to be following required norms. However, no

		<p>supporting document has been provided for the same.</p> <p>Further, photos annexed as Annexure A/7 in the Original Application at Pg 56-60 are reiterated which shows that vehicles are being overloaded.</p> <p>Further,. more evidence in this regard has been provided under the accompanying application filed alongwith this objection.</p>
41.	<p>Personnel working in dusty areas should wear protective respiratory devices and they should also be provided with adequate training and information on safety and health aspects. Occupational health surveillance programme of the workers should be undertaken periodically to observe any contractions due to exposure to dust, and take corrective measures if needed.</p>	<p>The Joint Committee has found the Project Proponent to be non-compliant with regard to this condition. The response to the Condition No. 13 hereinabove is reiterated here.</p>
44.	<p>The environmental statement for each financial year ending 31st March in Form-V as is mandated to be submitted by the project proponent to</p>	<p>Even if the Project Proponent has time till 31.03.2024 to submit the report as per the Joint Committee, no previous or</p>

	the concerned State Pollution Control Board as prescribed under the Environment (Protection) Rules, 1986, as amended subsequently, shall also be put on the website of the company along with the status of compliance of environmental clearance conditions and shall also be sent to the Integrated Regional Office, MoEF&CC, GoI, Lucknow by e-mail.	latest reports have been furnished by the Joint Committee.
45.	The green cover development/tree plantation is to be done in an area equivalent to 20% of the total leased area either on river bank or along road side (Avenue Plantation).	Response to condition No. 19 herein above is reiterated here.

(ii) Specific Conditions:

Sl. No.	Conditions	Applicant's Objections
8.	No Mining activity should be carried out in stream channels as per Sustainable Sand Mining Management Guidelines, 2016.	The Joint Committee Report states that the mining activity is not disturbing the river flow without providing any supporting document for the same. However, Photographs showing mining being carried out with the use of poclain

		<p>machines have been annexed by the Applicant as 'ANNEXURE -A/8' at Pg. 61 of the O.A dated 30.11.2023.</p> <p>More photos of the site have been provided by the Applicant under the accompanying Application filed with this objections wherein can is clearly visible that illegal instream mining is being continued by Respondent No. 8 on site.</p>
9.	Pucca motorable haul road to be maintained by the project proponent.	<p>The Joint Committee Report states that kachcha haulage road was in use at the time of inspection without any supporting document. However, Photographs showing use of kutchha roads for transport of mined material have been annexed by the Applicant as 'ANNEXURE A/5' at Pg. 49 of the O.A dated 30.11.2023.</p> <p>More evidence in this regard has been provided by the Applicant in the accompanying application filed along with this objection showing the use of Kaccha road.</p>
10.	A Separate Environment Management Cell with suitable qualified personnel shall be set up under the control of a	The Joint Committee has found the Project Proponent to be in non-compliance of this condition.

	Senior executive, who will report directly to the head of the Organization.	
14.	One month monitoring report of the area for air quality, water quality, noise level, besides flora & fauna should be examined twice a week and be submitted within 45 days for a record.	The Joint Committee Report mere states that one month monitoring report of the area for air quality, water quality, noise level has been submitted by the Project Proponent without providing any supporting document against the same.
18.	Approach road kaccha is to be made motorable and tree saplings to be planted on both sides of the road. Width of the haul road shall be more than 6 meters.	The Joint Committee Report states that the Approach was found to be motorable without providing any supporting documents. Response to Sl. No. 9 under Specific conditions herein above is reiterated. Further, more evidence in this regard has been provided by the Applicant in the accompanying application filed along with this objection showing the continuation of use of Kaccha road and no saplings being planted on site.
19.	Indigenous plants should be planted according to CPCB guidelines and in consultation with local Divisional Forest Officer.	Response to general condition No. 19 herein above is reiterated here.
23.	Mining should be done by bar scalping methods of extractions as per	Response to specific condition No. 8 is reiterated here.

	Sustainable Sand Mining Management Guidelines 2016.	Further, more evidence in this regard has been provided by the Applicant in the accompanying application filed along with this objection showing the use of heavy machinery on site and in-stream Yamuna River.
28.	The excavated mining material should be carried and transported in such a way that no obstruction to the free flow of water takes place.	Response to general condition No. 13 hereinabove is reiterated here.
30.	Submit an Annual Replenishment Report certified by an authorized agency. In case the replenishment is lower than the approved rate of production, then the mining activity / production levels shall be decreased / stopped accordingly, till the replenishment is completed.	The Joint Committee report simply states that the Annual Replenishment report has been submitted by the Project Proponent to the Mining Department without annexing the same. Infact, the Project Proponent is carrying out mining day and night with the help of poclain excavators among others in total violation of environmental norms.
35.	To avoid the ponding effect and adverse environmental conditions for sand mining in area, progressive mining should be done as per Sustainable Sand Mining Management Guidelines, 2016	The Joint Committee report states that the mining activity was found to be done in permissible limits as sanctioned to the Project Proponent. Infact, use of Poclain Excavators for sand mining by the Project Proponent has resulted in a ponding effect and the

		deposition of mined materials has also resulted in the change of the course of river water towards the habitations and agricultural lands which is in violation of environmental norms.
39.	The Mining work will be open cast and manual/ semi mechanized. Heavy Machines such as excavators, scooper etc. should not be employed for the mining purpose. No drilling/blasting should be involved at any stage.	The Joint Committee report states that the mining activity was being done in open-cast and manual/semi mechanized manner. However, the Applicant has annexed Photographs showing the use of excavators/ scooper for the sand mining are as 'ANNEXURE- A/8' at Pg. 61 of the O.A dated 30.11.2023, clearly showing the violation of the said condition of EC. Further, more evidence in this regard has been provided by the Applicant in the accompanying application filed along with this objection showing the use of heavy machinery on site and in-stream Yamuna River.
40.	It shall be ensured that there shall be no mining of any type within 3m or 10 % of the width whichever is less, shall be left on both the banks of the precise area of control and avoid erosion of river	The Joint Committee report states that the mining activity is being carried out away from river course, without any supporting documents. Response to General Condition No. 13 is reiterated here.

	banks. The mining is confined to the extraction of sand/morrum from the river bank only.	Further, more evidence in this regard has been provided by the Applicant in the accompanying application filed along with this objection showing mining in-stream Yamuna River and on the immediate bank of the river.
41.	The project proponent shall undertake adequate safeguards measures during the extraction of riverbank material and ensure that due to this activity, the hydrogeological regime of the surrounding area shall not be affected.	The Joint Committee report states that mining activity is at proper distance from the river flow and is not directly affecting hydro geological regime of the surrounding area. This observation has been produced without any supporting document. Response to General Condition No. 13 hereinabove is reiterated here.
46.	Effective safeguard measures, such as regular water sprinkling shall be carried out in critical areas prone to air pollution and having high levels of particulate matter such as loading and unloading point and all transfer points. Extensive water sprinkling shall be carried out on haul roads.	The Joint Committee states that water sprinkler and tankers were found to be operational, without any supporting document. The response to General Condition No. 17 hereinabove is reiterated here.
52.	Solid waste material viz., gutkha pouches, plastic bags, glasses etc. to be generated during project activity will be	The Joint Committee merely states that dust bin were found at the site office nearby. However, no clear description has been made with regard to separate bins in

	separately stored in bins and managed as per Solid Waste Management Rules.	accordance with Solid Waste Management Rules.
53.	Green area/belt to be developed along haulage road in consultation with Gram Sabha / Panchayat.	The Joint Committee states that the Project Proponent was instructed to develop green belt along haulage road with the specified plant. This shows non-compliance of the Project Proponent to the EC conditions. Response to general condition No. 19 hereinabove is reiterated here.
62.	Wastewater from potable use is to be collected and reused for sprinkling.	The Joint Committee that the Project Proponent was found to be in non-compliance of this condition. This again shows the Project Proponent's failure to comply with this EC conditions along with other conditions.
64.	A width of not less than 50 meters or 10% width of the river can be restricted for mining activities from the river bank. A condition can be imposed that mining will be done from river activities from river bank.	The Joint Committee has merely stated that mining is being done away from river course without any supporting documents. Response to General Condition No. 13 is reiterated here.

10. That the Applicant reiterates the averments made in the present Original Application alongwith its prayers which are not being repeated herein for the sake of brevity, and this Hon'ble Tribunal may allow the bonafide Application in the interest of environment and ecology.

DRAWN BY:



Saumitra Jaiswal & Sonali Sengupta

Advocates for Applicant

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IN THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 724 of 2023

IN THE MATTER OF:

Bittu

...Applicant

Versus

State of U.P. & Ors.

...Respondent (s)

AFFIDAVIT

I, Bittu, S/o Shri Leelu, aged about 32 years, resident of House No. 151, Panchayara, Ghaziabad, Uttar Pradesh – 201102, presently at New Delhi, do hereby solemnly affirms and declares as under:

1. That I am fully conversant of the facts and circumstances of the matter and am competent to swear this affidavit.
2. The contents of the accompanying Objections are true and correct to the best of my knowledge and have been drafted by the counsel on my instructions and nothing material has been concealed therefrom.
3. That the Annexures in the accompanying Objection are true and correct to the best of my knowledge.

Bittu
DEPONENT

VERIFICATION:

122 APR 2024

Verified at New Delhi on this 22th day of April, 2024 that the contents of the above affidavit are true and correct to my knowledge and belief and nothing material has been concealed there from.



122 APR 2024

CERTIFIED THAT THE DEPONENT
Shri/Smt./K...
S/o ...
Identified by ...
has solemnly affirmed before me at Delhi
on ...
that the contents of the affidavit which
have been read & explained to me are
true and correct to this & knowledge

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Notary Public

Bittu
DEPONENT



ENVIRO LEGAL DEFENCE FIRM <eldflegal@gmail.com>

Bittu Vs State of UP & Ors - OA 724/2023 - Service of IA for Add. Docs. and Objections to Joint Committee Report

1 message

ELDF <eldflegal@gmail.com>

Tue, Apr 23, 2024 at 8:48 PM

To: Mukesh Verma <mvermadv@gmail.com>, csup@nic.in, cp-pol.gz@up.gov.in, dmgha@nic.in, director@dgmup.org, minesofficergzb@gmail.com, ms@uppcb.in, doeuplko@yahoo.com, baniparchayara@gmail.com, dalipdhyani@yahoo.co.in

Dear Ma'am/Sir,

This is regarding the matter titled Bittu Vs State of UP & Ors - OA 724/2023.

I am writing from ELDF representing the Applicant in the said case.

I am hereby serving you IA seeking permission to bring on record Additional Document and the Objection to Joint Committee Report dated 12.02.2024 filed on behalf of the Applicant.

Thanks & Regards

--

Fahimul Hassan

Clerk

Enviro Legal Defence Firm

29, Presidential Estate LGF,

Nizamuddin East New Delhi – 110013

Ph. No. 011-40573181

2 attachments**IA Bittu Vs State of UP.pdf**

7234K

**Objections to Joint Commiittee Report_Bittu Vs State of U.P..pdf**

1576K