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**Before The Hon`ble National Green Tribunal (Western Zone
Bench), Pune at Pune**

Original Application No. 53 of 2019 (WZ)

Between

Dr.Vinaykumar Vitthalrao Jathar Applicant

Versus

District Mining Officer-Ahmednagar

and others Respondents

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Pune,

Date : 01/09/2021


Advocate for Applicant

1201

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE BENCH), PUNE AT PUNE

ORIGINAL APPLICATION NO. 53 OF 2019 (WZ)

IN THE MATTER OF

Dr. Vinaykumar Vitthalrao Jathar ... Applicant

Versus

District Mining Officer-Ahmednagar
and others ... Respondents

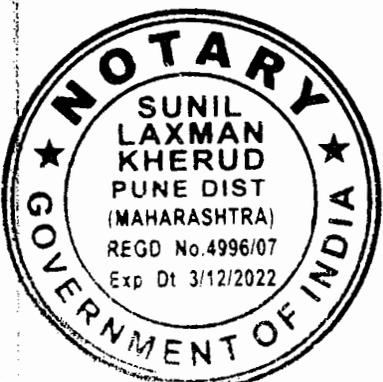
**Objections filed by Original Applicant on The Action Taken
Report Dated 18/03/2021 filed by the Joint Committee Appointed
as per Order dated 02/11/2020 of this Hon'ble Tribunal.**

Most Respectfully Showeth:

1. I, Vinaykumar Vitthalrao Jathar, Age: 44, Occu: Doctor, Agriculturist & Social Activist, R/O: Bankar Nagar, Shrigonda, Taluka: Shrigonada, District: Ahmednagar, Maharashtra, do hereby state on solemn affirmation as under,

Background of the Case

2. Applicant states that, Applicant has filed the present Original Application with grievances of illegal operation of stone crushing and mining units without obtaining mandatory permissions from appropriate government authorities, located within Eco Sensitive Zone of the Great Indian Bustard Bird Sanctuary and more particularly at Gat Nos. 148, 317, 270, 160, 81, 74/2, 123, 108, 109, 22, 54 and 110 of village- Vadali,



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Taluka-Shrigonda, District-Ahmednagar, Maharashtra. That the above-mentioned Original Application was listed for admission before Hon'ble Tribunal on 26/09/2019 and the Hon'ble Tribunal after hearing the applicant, was pleased to constitute a Committee comprising of i) District Collector, Ahmednagar, ii) the Deputy Conservator of Forests, Ahmednagar and iii) Maharashtra State Pollution Control Board. The MPCB is the nodal agency. The Committee was directed to jointly visit the offending stone mine and stone crushing units, verify on the factual aspects set out in the Original Application and submit report. That the Committee was also directed to take appropriate action in accordance with the law against respondents, in the event the allegations are found to be correct and action taken report was directed to be submitted.



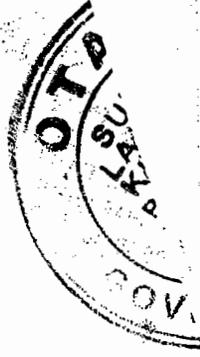
3. Applicant states that, then, the Original Application was listed on 28/11/2019 for filing the report in compliance with the order dated 26/09/2019. That the Committee filed the report dated 20/11/2019 through Respondent No.2, The Collector, Ahmednagar and admitted therein that the stone crushing unit and mines are located within the Eco Sensitive Zone of the Great Indian Bustard Bird Sanctuary. That said stone crushing unit and mines were directed to be closed.
4. Applicant states that, thereafter this Hon'ble Tribunal vide its Order dated 28/11/2019 considered the report dated 20/11/2019 and directions were issued to file final action taken report. The



Hon`ble Tribunal further directed that the final action taken report shall contain, i) Assessment of Environmental Compensation for illegal running of the units in the area ii) fixing responsibility on those responsible for having allowed the activities to continue after publication of notification of the Eco Sensitive Zone. That the Hon`ble Tribunal further directed that, action against forest personnel involved in permitting illegal operation of the unit shall be taken by the PCCF (HoFF), Maharashtra, against the revenue officers by the Secretary, Department of Revenue, Government of Maharashtra and against the personnel of the State PCB by the Chairman, MPCB.

5. That, the joint committee filed their second report vide dated 28.08.2020, in which Revenue Department imposed the penalty only on Respondent No. 16, 17, 18, 20, 21, 25, 29 & 30 of mining holders out of 16 mining holders on account of duping of royalty and illegal mining. However, Joint Committee intentionally neglected to compute and impose the environmental compensation on all mining holder as well as crusher owner. Further, Joint Committee made farce of action taken on the revenue bureaucrats on papers only.
6. That, thereafter this Hon`ble Tribunal after perusal of the said report dated 28.08.2020 further directed to constitution of joint committee comprising of i) State Wildlife Warden (PCCF), Wildlife, ii) The District Collector, Ahmednagar, iii) Maharashtra State Pollution Control Board and iv) CPCB.

That the joint committee is directed to deal with the matter in respect of calculation and recovery of appropriate amount of compensation and initiating prosecution. *Hereto annexed and marked as Exhibit "P-1" is the copy of said order dated 02/11/2020.*



7. That, with respect to the above Order dated 02.11.2020 of this Hon'ble Tribunal, Joint Committee filed their report dated 18/03/2021 through Respondent No.2, The Collector, Ahmednagar and Original Applicant is shocked & surprised after perusal of the report dated 18.03.2021 as said report is complete bias, apart from harsh reality, casual, unscientific. Therefore, this applicant would like to raise his objections to the report dated 18.03.2021 as below.

8. **OBJECTIONS TO ON BEHALF OF THE ORIGINAL APPLICANT:**

- a) That, as per the factual report dated 20/11/2019 filed by the Respondent No.2, the Collector, Ahmednagar, it was revealed that one stone crusher is situated at Gat No. 148 and various stone quarries are situated at Gat Nos. 22, 54, 74/2, 81, 108, 109, 110, 123, 160, 270, 294 and 317 of the village Vadali, T-Shrigonda, Dist-Ahmednagar, Maharashtra and in view of the same, action of closing down the said stone crusher and quarries was effected.
- b) That, it is pertinent to note that, the further action taken report dated 28/08/2020 shows that the action of imposing penalty on

account for revenue loss is taken against stone quarry owners of Gat Nos. 108, 109, 110, 74/2, 54, 160, 22 and 270. Therefore, this Hon`ble Tribunal after perusal of the said report and finding serious violations directed joint committee to deal with the matter in respect of calculation and recovery of appropriate amount of compensation and initiating prosecution and was further directed to prepare a restoration plan which may be executed in the manner suggested by the Committee.

- c) That, on 18/03/2021, action taken report in compliance with the said order is filed by the Committee and perusal of the same reveals that committee has formed their opinion as regards to **no significant environmental damage has been caused due to excavation and excavated land is useful for environment, agriculture.** That the said report is therefore is contradictory to earlier reports which categorically stated that the said stone crushing and stone quarrying is found within the Eco- Sensitive Zone of The Great Indian Bustard Sanctuary.
- d) That very fact that the said stone crushing and stone quarrying is found within the Eco- Sensitive Zone of The Great Indian Bustard Sanctuary is itself detrimental to the Environment at large and hence the conclusion of the Joint Committee is incorrect.
- e) That the applicant submits that, at first, the authorities allowed the said illegal activities go on for years under their eyes and now have audacity to submit that no significant environmental damage has been caused due to excavation and excavated land

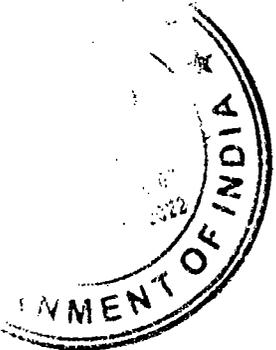
is useful for environment, agriculture and therefore the report needs to be rejected.

- f) That in fact, due to said illegal excavation within the ESZ, the ground water table is cut off and level of water is depleted. That Committee has not adopted any scientific procedure to evaluate the damage done to environment and has approached very causally to make findings.
- g) That the report dated 18.03.2021 of the joint committee is totally biased, baseless, false, misleading, cursory, casual, unscientific.
- h) That, the Report dated 18.03.2021 shows clear cut collusion and deep unholy nexus.
- i) That, the Joint Committee is promoting the illegal activities of polluters, instead of providing restitution of environment and ecology damaged by them.
- j) That, the Report dated 18.03.2021 is in total contradiction with their own reports 20.11.2019 & 28.08.2020 previously filed. Therefore, this report dated 18.08.2021 cannot be relied up on and independent committee from third party expert government organisation like IIT, IIM, NERI etc. may kindly be appointed.
- k) That, the illegal activity of stone quarry is undertaken every year from these mines after the rain water gets over and once it get dried. Therefore, the stand taken by the committee that the illegal mines are utilised for farm pond, which provide the water percolation is totally wrong. On the contrary, these illegal mines have damaged the ground water table in the area



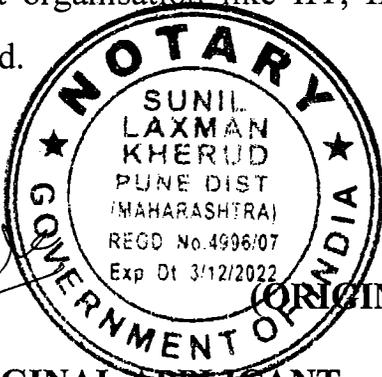
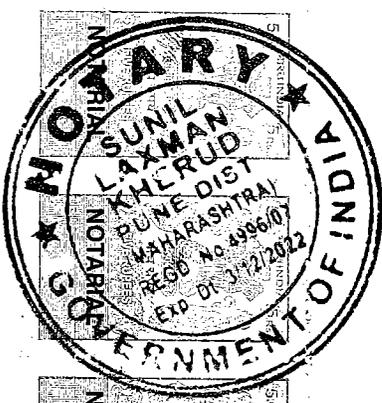
and created discontinuity in the water table. None of the member from committee is expert in the field of ground water science.

- l) That, the area under the illegal mining is huge and it is nothing but the cluster damaging to the area.
- m) Therefore, considering seriousness of the case, blatant violations, long term impacts of such illegal activities it is important to restore the area to its original position.



Prayer

This Hon'ble Tribunal may kindly take serious note of the report dated 18.08.2021 and independent committee from third party expert government organisation like IIT, IIM, NERI etc. may kindly be appointed.



V. Jathar

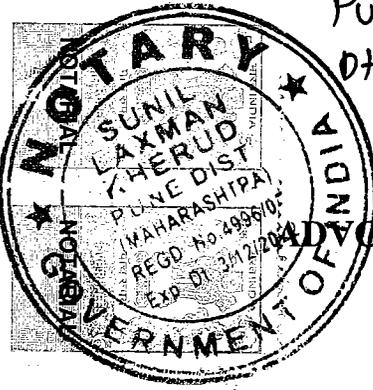
DEPONENT

(ORIGINAL APPLICANT)

Pune
Dt - 01/09/2021

Adv. Jathar

ADVOCATE FOR ORIGINAL APPLICANT



VERIFICATION:

Verified at Pune on this 1st day of Sept., 2021 that the contents of the aforesaid reply affidavit are true and correct to the best of my knowledge and belief. No part of it is false and nothing material has been concealed there from.

V. Jathar

DEPONENT

(ORIGINAL APPLICANT)

SUNIL LAXMAN KHERUD
NOTARY, GOVT OF INDIA
B-3, Maniratan Society
Aareneswar, Pune
M-9371830361

BEFORE ME

SUNIL LAXMAN KHERUD
NOTARY GOVT OF INDIA
Regd. No 4996/07

1 SEP 2021

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Item No. 01 (Pune Bench)

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

(By Video Conferencing)

Original Application No. 53/2019 (WZ)

(With report dated 28.08.2020)

Dr. Vinaykumar Jathar

Applicant

Versus

District Mining Officer-Ahmednagar & Ors.

Respondent(s)

Date of hearing: 02.11.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant:

Mr. Asim Sarode, Advocate
Mr. Tejash Dande, Advocate (in IA No. 122/2020)

Respondent:

Ms. Swati Vaidya Pandit, Advocate for R-1 & R-2
Mr. Mukesh Verma, Advocate for MPCB

ORDER

1. Issue for consideration is the remedial action against illegal mining and stone crushing activities to the detriment of the environment in forest area and in Eco-Sensitive Zone (ESZ) of the Great Indian Bustard Wildlife Sanctuary in District Ahmednagar.
2. Vide order dated 26.09.2019, the Tribunal sought a report from the Collector, Ahmednagar, the Deputy Conservator of Forest, Ahmednagar and the State PCB, after taking action in exercise of powers conferred on them as per law.

3. On 28.11.2019, the Tribunal considered the report acknowledging the violation of law. It was found that illegal stone crushing activities were found in the forest and the notified Eco-Sensitive Zone. The Tribunal directed action taken report to be filed in terms of recovery of Environmental Compensation on 'Polluter Pays' principle and fixing of responsibilities of the concerned officers for collusion in defeating the law.

4. Accordingly, report dated 28.08.2020 has been filed by the Collector, Ahmednagar. It is stated that the Collector has been authorized by the Under Secretary, Revenue Department of the State on 02.03.2020 to take action against officers of the said Department. Three officers were found involved in permitting illegal mining. Show cause notices were given to them under the relevant rules and after considering their replies, action has been taken against them. Minor minerals were found to have been illegally excavated. Notices were also issued to the quarry owners who did not submit any reply. The facts were verified and penalty was imposed on the land owners as follows:-

S. No.	Gat No.	Quantity excavated in brass	Name of land owner	Penalty imposed in Rs	Order No. and DT.
1	108	1832	Satish Dattatray Vagaskar	1,37,40,000/-	656 19/08/2020
2	109,110	10091	Mathurabai Suryabhan Dange and Suraj Suryabhan Dange	7,56,82,500/-	657 19/08/2020
3	74/2	2199	Shivaji Sambhaji Jathar	1,64,92,500/-	658 19/08/2020
4	54	3180	Bhanusaheb Sahebrao Baykar	2,38,50,000/-	663 19/08/2020

5	160	10710	Dhiraj Suryabhan Dange	8,03,25,000/-	662 19/08/2020
6	22	3760	Radha Santosh Chavan	2,82,00,000/-	664 19/08/2020
7	270	1102	Pravin Bapu Vagaskar	82,65,000/-	666 19/08/2020

5. While the compensation was to be assessed and recovered as per norms been laid down by the CPCB, the order does not show compliance of the said norms. Penalty imposed is not a substitute for damage to the environment with reference to the cost of restitution, with deterrence element. The State PCB is expected to take action *inter-alia* under the Environment (Protection) Act, 1986, the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981 by initiating prosecution of the persons found engaged in illegal mining and recovery of compensation.

6. In view of the above, further action needs to be taken for calculation and recovery of appropriate amount of compensation and initiating prosecution by the State PCB. Having regard to the circumstances of serious violations, we direct constitution of a joint Committee comprising the Chief Wildlife Warden (PCCF), Wildlife, the Collector, Ahmednagar, the State PCB and the CPCB to deal with the matter. The penalty, if recovered, be taken into account by the joint Committee while fixing the quantum of compensation. The State PCB will be the nodal agency for coordination and compliance. The said Committee will follow due process of law including giving hearing to the concerned parties before finalizing the amount of compensation. The joint Committee may complete its task as far as possible within three

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months. The Committee may also prepare a restoration plan which may be executed in the manner suggested by the Committee. The Committee will be at liberty to consult any other Expert in the matter.

I.A. No. 122/ 2020 has been filed by Respondent no. 15 which may be looked into by the Joint Committee. The same stands disposed of accordingly.

An action taken report be filed before the next date by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

List for further consideration on 26.03.2021.

A copy of this order be forwarded to the Chief Wildlife Warden (PCCF Wildlife), the Collector, Ahmednagar, the State PCB and the CPCB by e-mail for compliance.

Adarsh Kumar Goel, CP

S.K. Singh, JM

Dr. S.S. Garbyal, EM

Dr. Nagin Nanda, EM

November 02, 2020
Original Application No. 53/2019 (WZ)
SN

vj
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