

**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-5th January 2021


(Asim Sarode)

Advocate for Applicant

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

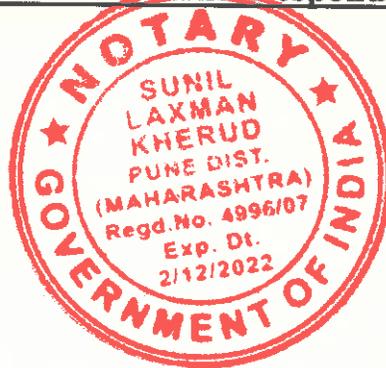
and others Respondents

Objections filed by the Applicant on The Action Taken Report

Dated 28/08/2020 filed by the Respondent No.1 And Respondent

No.2

Most Respectfully Showeth:



1. I, Vinaykumar Vitthalrao Jathar, Age: 43, Occu: Profession, Agri & Social Activist, R/O: Bankar Nagar, Shrigonda, Tq: Shrigonada, Dist: 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 for grievance of stone crushing and mining and Its

Located within Eco Sensitive zone of the Great Indian Bustard Bird Sanctuary

3. More particularly the Gat Nos. 148, 317, 270, 160, 81, 74/2, 123, 108, 109, 22, 54 and 110 of village Vadali, T-Shrigonda, Dist-Ahmednagar, Maharashtra. Falls in the eco sensitive zone. 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 respondent, in the event the allegations are found to be correct and action taken report was directed to be submitted on the next date. ***Hereto annexed and marked as Exhibit "P-1" is the copy of said order dated 26/09/2019.***

4. 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 13/11/2019 through Respondent No.2, The Collector, Ahmednagar and admitted therein that the stone crushing unit

and mines are located within Eco Sensitive Zone of the Great Indian Bustard Bird Sanctuary. That said stone crushing unit and mines were directed to be closed. *Hereto annexed and marked as Exhibit "P-2" is the copy of said report dated 13/11/2019 submitted by the Committee through Respondent No.2, The Collector, Ahmednagar.*

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5. Applicant states that, thereafter on the said date i.e. 28/11/2019, this Hon`ble Tribunal considered the said report dated 13/11/2019 and directions were issued to file final action taken report. The Hon`ble Tribunal 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.
 6. 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. *Hereto annexed and marked as Exhibit "P-3" is the copy of said order dated 28/11/2019.*
 7. Applicant states that, the Original Application was then listed on 30/01/2020 but on that day action taken report as directed as

per the order dated 28/11/2019 was not submitted hence, Original Application was adjourned to 04/03/2020. *Hereto annexed and marked as Exhibit "P-4" is the copy of said order dated 30/01/2020.*

- 
8. Applicant states that, the Original Application was then listed on 04/03/2020 and on that day, it is reflected in the order that the time was again sought by Respondent No. 5, MPCB and the PCCF (HoFF) was directed to file report in terms of order dated 28/11/2019 without fail before next date. *Hereto annexed and marked as Exhibit "P-5" is the copy of said order dated 04/03/2020.*
9. Applicant states that, the Original Application was then listed on 16/07/2020 and on that day, it is reflected in the order that the report was not filed and hence Hon`ble tribunal directed to issue reminder to committee to submit report within 6 weeks and therefore, Original Application was adjourned to 02/11/2020 *Hereto annexed and marked as Exhibit "P-6" is the copy of said order dated 16/07/2020.*
10. Applicant states that, the Original Application was then listed on 02/11/2020 and on that day it is reflected in the order that, the action taken report dated 28/08/2020, in compliance with the order dated 28/11/2020 was filed. That the Applicant submits that the copy of the said action taken report dated 28/08/2020 was not served on applicant and hence on 02/11/2020, Applicant could not file his response/objections to

the said report. That the copy of the said report is served on Applicant on 04/11/2020 through mail. *Hereto annexed and marked as Exhibit "P-7" is the copy of said report dated 28/08/2020.*

11. That this Hon`ble Tribunal after perusal of the said report directed constitution of joint committee comprising of i) State Wildlife Warden (PCCF), Wildlife, ii) The District Collector, Ahmednagar, iii) Maharashtra State Pollution Control Board and 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-8" is the copy of said order dated 02/11/2020.*

Objections

I. Contradictory Reports and No action against certain Respondents

- a) That as per the factual report dated 13/11/2019 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 compensation is taken only against owners of Gat Nos. 108, 109, 110, 74/2, 54, 160, 22 and 270 but for the reasons best known to the Respondent Nos 1 and 2, the action of imposing compensation is not taken against the owners of Gat Nos 81, 123, 294 and 317 and the said report is therefore is contradictory to factual report dated 13/11/2019 and no any explanation is also assigned for not taking action against the said owners and therefore, applicant puts his objection on record in respect of purposely not taking action against certain respondents even though violation of law was noted in factual report.
- c) That the Applicant states that therefore, this Hon`ble Tribunal needs to direct the Respondent No.2, the Collector, Ahmednagar to take action of imposing the compensation as per law against these respondents.
- d) Following is the chart of Respondents against which action needs to be taken

Respondent No	Gat No
Respondent No.19	Quarry at Gat No.81
Respondent Nos.26, 27 and 28	Quarry at Gat No.123
Respondent No.31	Quarry at Gat No.294

Respondent No.12	Quarry at Gat No.317
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- Report needs to be submitted of the above Respondents and all the Gat Numbers.
- Quarry at Gat No.81,123,294 &317 needs to be visited by the Committee and submit report at NGT.

I. No action against officers of MPCB and Forest Department

e) That by order dated 28/11/2019, this Hon`ble Tribunal at para 6 has passed following directions:-

“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 State PCB by the Chairman, MPCB”.

f) That the report dated 28/08/2020 submitted by the Respondent No.1 and 2 shows that, action as per the order is taken against the officers of Revenue Department. However the Chairman, MPCB and PCCF (HoFF) have not filed any report in compliance with the said order and therefore, Chairman, MPCB and PCCF (HoFF) be directed to take action as per the order dated 28/11/2019.

12. Therefore, Applicant states that, the report dated 28/08/2020 filed by the Additional Collector, Ahmednagar is partly incorrect and incomplete. Hence report in respect of action against the Respondent Nos.19, 26,27, 28, 31 and 12 be called for.

13. Applicant further states that, report in compliance with the order dated 28/11/2019 be called from Chairman, MPCB and PCCF (HoFF).

14. It is accordingly prayed.

Asim Sarode

Advocate for Applicant

V Jathar

Deponent/Applicant

:: VERIFICATION ::

I, Vinaykumar Vitthalrao Jathar, Age: 43 years, Occu: Doctor, Agriculturist & Social activist, R/0: Bankar Nagar, Shrigonda, T- Shrigonda, Dist- Ahmednagar, Maharashtra, do hereby solemnly affirm and state on oath that the contents of this objections are read over and explained to me in Marathi by my Advocate, which I believe to be true and correct to the best of my own knowledge and record available with me

Hence verified at 05th on this Jan day of January, 2021.

V Jathar

DEPONENT.

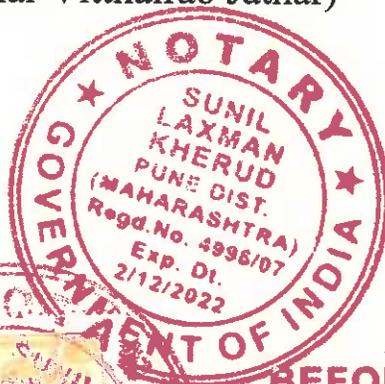
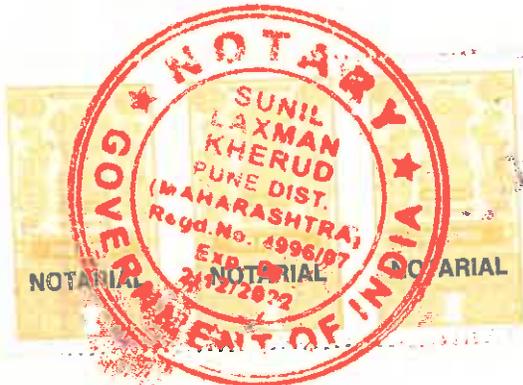
(Vinaykumar Vitthalrao Jathar)

Explained & identified by:

Asim Sarode

(Asim Sarode)

Advocate



BEFORE ME

SUNIL LAXMAN KHERUD
NOTARY GOVT. OF INDIA
PUNE DIST. (MAHARASHTRA)
REGD. No. 4996/07

ANIRATAN SOCIETY,
KARENESHWAR, PUNE.
M-9371830361

15 JAN 2021

Evk - "P-1"

9

Item No. 02

Corrected copy

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

Original Application No. 53/2019 (WZ)

Dr. Vinaykumar Jathar

Applicant(s)

Versus

District Mining Officer-Ahmednagar & Ors.

Respondent(s)

Date of hearing: 26.09.2019

**CORAM : HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s): Mr. Asim Sarode alongwith Ms. Parikrama Khot, Advocate

For Respondent (s): None

ORDER

1. Heard.
2. Allegation in this application is operation of illegal sand mining and stone crushing activities at Gat Nos. 148, 317, 270, 160, 81, 74/2, 123, 108, 109, 22, 54 and 110 of village Vadali, Taluka-Shrigonda, District-Ahmednagar, Maharashtra in a forest area and, in the Eco-Sensitive Zone (ESZ) of the Great Indian Bastard Wildlife Sanctuary. The consent to establish is alleged to have been obtained fraudulently by the Respondent No. 15.
3. Before proceeding further in this matter, we deem it appropriate to call for a report from the District Collector, Ahmednagar District,

the Deputy Conservator of Forest, Ahmednagar and the Maharashtra Pollution Control Board (MPCB) and direct them to jointly inspect the offending stone mine and stone crushing units, verify on the facts stated in the application and to submit a report.

The MPCB shall be the nodal agency for coordination and for providing logistic support.

4. In the event the allegations are found to be correct, appropriate action be instituted against the Respondents in accordance with law in exercise of their powers conferred upon them by law.
5. Let the report shall be transmitted to this Tribunal through email at judicial-ngt@gov.in, within a period of one month from hence.
6. The Applicant shall furnish complete set of papers filed before us to the Members of the Committee for their convenient transaction of the task entrusted upon them by this order within one week from hence.
7. List on 28.11.2019.

S. P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

26th September, 2019
O.A. 53/2019 (WZ)
avt

TC VJ

11

COLLECTOR OFFICE, AHMEDNAGAR
(MINING BRANCH)

Phone No. 0241-2344002

email id- ah.mngdmo@gmail.com

Kr. Mining/kavi 4C/123/2019

Date- 13/11/2019

To,

The Registrar,
Hon'ble National Green Tribunal,
Principal Bench, New Delhi.

Subject- Order dated 26/09/2019 passed by this Hon'ble
Tribunal in O.A. No. 53/2019 (W.Z)

Respected Sir,

This Hon'ble Tribunal while dealing with the O.A.No. 53/2019 (W.Z.) has passed the order dated 26/09/2019 and pleased to constitute a committee comprising of the Regional Officer of the Maharashtra Pollution Control Board (MPCB), the District Collector and the Deputy Conservator of Forest, Ahmednagar and further directed to jointly inspect the areas of Gat No. 148,22, 54, 74/2, 81, 108, 109, 110, 123, 160, 270, 294 & 317 of village Wadali Tal. Shrigonda Dist. Ahmednagar and verify on the factual aspects alleged in the Original Application and submit the report.

1. Accordingly, the Additional Collector, Ahmednagar came to be authorised by the Collector, Ahmednagar to inspect the areas in question and to verify on the factual aspects alleged in the original application, vide letter dated 05/10/2019 along with other committee members.
2. Accordingly, Assistant Conservator of Forest (EGS & Encroachment Removal) Shrigonda, Ahmednagar came to be authorised by the Deputy Conservator of Forest, Ahmednagar to inspect the areas in question and to verify on the factual aspects alleged in the original application, vide letter dated 11/10/2019 along with other committee members.
3. In view of the directions given by this Hon'ble Tribunal vide order dated 26/09/2019, the concerned officers of the committee have jointly visited the areas in question and verified on the factual aspects alleged in the original application and carried out detailed report.

A) The report of said Joint inspection is submitted herein under

- 1) After inspection, Shrigonda Stone Crusher owned by Balasaheb Sonyabappu Wagh situated in Gat No.148 of Wadali Tal. Shrigonda in the area 0.80 R and the same is in closed condition. The total area of said Gat No.148 is 9 H. 62 R and out of said area 0.80 R are has been handed over to Balasabeb Wagh by Subhash Bhausahab Dange, Suraj Suryabhan Dange and Mathurabai Suryabhan Dange by an agreement. Approximately 30 to 35 brass crushed stone (Khadi) and 50 brass stone has been found in the said Gat number. To the northern side of stone crusher there is factory of manufacturing the paver block of Dhiraj Suryabhan Dange. Throughout in said Gat number around 800 to 900 trees are planted. At the time of inspection Owner of Stone Crusher Balasaheb Wagh and Dhiraj Dange were present.
- 2) After inspection a stone quarry having length around 100 mtr. and width 80 mtr, is situated in Gat No.109 & 110 of Wadali Tal. Shrigonda. The land owners of Gat No.109 are 1. Mathurabai Suryabhan Dange 2. Jaysingh Madhav Dhumal 3. Bhagwan Madhav Dhumal 4. Vijay Bhagwan Dhumal. The land owners of Gat No. 110 are 1. Suraj Suryabhan Dange 2. Ramdas Sonba Sasane 3. Baly Sonba Sasane 4. Mangal Dada Shendge. The stone quarry situated in said Gat Nos. is filled with water having depth 15 to 20 feet. This water is used for crop irrigation. In this water 3 agriculture pumps are seen. As per 7x12 extract total area of this gat no is 3H.55R.
- 3) After inspection, a stone quarry having length around 60 mtr. and width 30 mtr. is situated in Gat No.108 of Wadali Tal. Shrigonda. This stone quarry is filled with water having depth around 10 to 12 feet. The land owner of this gat no is Shri. Satish Dattatraya Wagaskar having area 1 H. 20 R. The water in this quarry is used for crop irrigation. In this water 1 agriculture pump is seen. As per 7x12 extract total area of this gat no is 3 H. 71 R.
- 4) After inspection, a stone quarry having length around 70 mtr. and width 70 mtr. is situated in Gat No.81 of Wadali Tal. Shrigonda. This stone quarry is filled with water having depth around 25 to 30 feet. The stone quarry owner of this gat no. is Vilas Hanumant Dange. The Stone Crusher owner of Shrigonda Stone Crusher

- Balasaheb V/agh told that he has excavated minor mineral from this quarry after paying royalty to State Government during the period 1994 to 2018. The water in the said quarry is used for crop irrigation. In this water 1 agriculture pump is seen. As per 7x12 extract total area of this gat no is 8 H. 25 R.
- 5) After inspection, a stone quarry having length around 60 mtr. and width 3 mtr. is situated in Gat No.74/2 of Wadali Tal. Shrigonda. This stone quarry is filled with water having depth around 20 to 22 feet. The owner of this quarry is Shivaji Sambhaji Jathar having area 0.75 R. The water in the said quarry is used for crop irrigation. In this water 1 agriculture pump is seen. As per 7x12 extract total area of this gat no is 0.75 R.
- 6) After inspection, a stone quarry having length around 70 mtr. and width 40 mtr. is situated in Gat No.160 of Wadali Tal. Shrigonda. This stone quarry is filled with water having depth around 10 to 15 feet. The owner of this quarry is Dhiraj Suryabhan Dange having area 0.05 R. The water in the said quarry is used for crop irrigation. As per 7x12 extract total area of this gat no. is 2 H. 84 R.
- 7) After inspection, a stone quarry having length around 70 mtr. and width 35 mtr. is situated in Gat No.270 of Wadali Tal. Shrigonda. This stone quarry is filled with water having depth around 20 to 22 feet. The owner of this quarry is Pravin Babu Wagaskar having area 1 H. 80 R. The water in the said quarry is used for crop irrigation. In this water 2 agriculture pumps are seen. As per 7x12 extract total area of this gat no. is 9 H. 23 R.
- 8) After inspection, a stone quarry having length around 75 mtr. and width 25 mtr. is situated in Gat No.294 of Wadali Tal. Shrigonda. This stone quarry is filled with water having depth around 10 to 15 feet. The owner of this quarry is Sulochana Vitthal Jadhav having area 0.53 R. The water in the said quarry is used for crop irrigation. In this water 1 agriculture pump is seen. Onion crop is seen adjacent to the said quarry. As per 7x12 extract total area of this gat no. is 8 H. 75 R.
- 9) After inspection, a stone quarry having length around 70 mtr. and width 30 mtr. is situated in Gat No.22 of Wadali Tal. Shrigonda. This stone quarry is filled with water having depth around 15 to 20 feet. The owner of this quarry is Radha Santosh Chavan having area 0.44 R. The water in the said quarry is used for crop

So also , at the time of inspection no sand excavation was observed in the above mentioned gat numbers. At the time of inspection the statements of the owners of the said stone quarries could not be recorded since they were not present at the time of inspection. The Statement of the concerned quarry owner are recorded on dated 31/10/2019.

Due to heavy rainfall in the last month in the district ,the said stone quarries are completely filled with water. We ensure that the mining activities will not be permitted in the said areas henceforth. After the removal of water ,the action will be proposed on the quarry owners by taking volumetric measurements of each stone quarry. Accordingly the action will be proposed on concerned as per the provisions under Maharashtra Land Revenue Code 1966 for illegal mining in the said areas .

The Collector, Ahmednagar vide letter dated 13/11/2019 directed to Regional Officer, Maharashtra Pollution Control Board, Nashik, Ahmednagar and Tahsildar Shrigonda to close down the crusher and also directed to Executive Engineer, Maharashtra State Electricity Co.Ltd. Ahmednagar to disconnect electricity of the crusher. The final action taken report will be submitted to this Hon'ble Tribunal as early as possible.

It is therefore respectfully submitted that in the State of Maharashtra the Assembly Elections were held during the period 21/09/2019 to 24/10/2019. Therefore, since last one month the staff of Government offices is entrusted with the work of election duty. In this view of the matter, present report of the committee is submitted herewith.

Yours Faithfully,


(Rahul Dwivedi)
Collector, Ahmednagar.

TC 

Exh. "P-3"

15

Item No. 01

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

Original Application No. 53/2019 (WZ)

Dr. Vinaykumar Jathar

Applicant(s)

Versus

District Mining Officer-Ahmednagar & Ors.

Respondent(s)

Date of hearing: 28.11.2019

**CORAM : HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s): Mr. Asim Sarode along Advocate

For Respondent (s): Mrs. S. B. Vaidya Pandit, Law Officer,
Pune along with Mr. Kore, District Mining
Officer, Ahmednagar, for Respondent No.
Mrs. Manasi Joshi, Advocate for
Respondent No. 5
Mr. Tejesh Dande, Mr. Vinod Ambad and
Mr. Manish Shroff Advocates for
Respondent No. 15

ORDER

1. Heard.
2. The applicant in this application has complained about operation of illegal sand mining and stone crushing units in Gat Nos. 148, 317, 270, 160, 81, 74/2, 123, 108, 109, 22, 54 and 110 of village Vadali, Taluka-Shrigonda, District-Ahmednagar, Maharashtra in a forest area and in the Eco-Sensitive Zone (ESZ) of the Great Indian Bustard Wildlife Sanctuary. Even the consent to establish is stated to have

been obtained fraudulently by the Respondent No. 15 according to the applicant.

3. Considering the facts and circumstances, a report was called from the committee constituted by the District Collector, Ahmednagar District, the Deputy Conservator of Forest, Ahmednagar and the Maharashtra Pollution Control Board directing them to jointly inspect the offending stone mines and stone crushing units and to submit a report.
4. In terms of the aforesaid orders report has been filed by the committee through the Collector, Ahmednagar. The relevant portion of the report is reproduced below:

"The Stone Crusher situated in Gat No.148 of Wadali Tal. Shrigonda Dist. Ahmednagar is in the Eco-Sensitive Zone of the Great Indian Bustard Sanctuary. The stone excavation has been observed in the areas viz. in Gat No 22, 54, 74/2, 81,108,109, 110, 123, 160, 270, 294 & 317 of Wadali Tal. Shrigonda Dist. Ahmednagar. All these areas of the said Gat nos. falls in the Eco-Sensitive Zone of the Great Indian Bustard Sanctuary.

As per the guidelines issued by Central Govt. vide its letter dated 09/02/2011 (Guidelines for declaration of Eco-Sensitive Zones around National Parks & Wildlife Sanctuaries), issue No.1 In the list of identification of Annexure-1, the act of Commercial Mining falls in Prohibited activities. The Hon. Supreme court vide its order dated 04/08/2006 has given direction in Writ Petition (Civil) No.202/1995 that no mining activities has been allowed within 1 k.m. in the areas of National Parks /Sanctuary/Nature Reserve (Protected Area). As per the letter No.LFD -2018/P.K.268/F-10 Dated 05/10/2018 issued by Revenue & Forest Dept., Government of Maharashtra, a prior permission from National Wildlife Board is required for mining within 10 k.m. from the protected areas of Eco-Sensitive Zone.

In this view of the matter the following facts are revealed that, one stone crusher situated in Gat No.148 and the stone quarries situated in Gat Nos. 22, 54,74/2,81,108,109, 110, 123, 160, 270, 294 & 317 in Wadali Tal. Shrigonda Dist. Ahmednagar. As per the guidelines of Central Government dated 09/02/2011, all the said Gat.Nos. falls within the notified area in the Eco-Sensitive Zone of the Great Indian Bustard Sanctuary.

So also, at the time of inspection no sand excavation was observed in the above mentioned gat numbers. At the

time of inspection the statements of the owners of the said stone quarries could not be recorded since they were not present at the time of inspection. The Statement of the concerned quarry owner are recorded on dated 31/10/2019.

Due to heavy rainfall in the last month in the district, the said stone quarries are completely filled with water. We ensure that the mining activities will not be permitted in the said areas henceforth. After the removal of water, the action will be proposed on the quarry owners by taking volumetric measurements of each stone quarry. Accordingly the action will be proposed on concerned as per the provisions under Maharashtra Land Revenue Code 1966 for illegal mining in the said areas .

The Collector, Ahmednagar vide letter dated 13/11/2019 directed to Regional Officer, Maharashtra Pollution Control Board, Nashik, Ahmednagar and Tahsildar Shrigonda to close down the crusher and also directed to Exect. Engineer, Maharashtra State Electricity Co.Ltd. Ahmednagar to disconnect electricity of the crusher. The final action taken report will be submitted to this Hon'ble Tribunal as early as possible."

5. As would appear from the above, there is no doubt of the fact that the Stone Crushing Units and the Stone Mines are located in the notified Eco Sensitive Zone of the Great Indian Bustard Sanctuary against which actions are being taken. We, therefore, direct that the final action taken report be filed before the next date. The Final Action Taken Report shall contain the following:

- I. Assessment of Environmental Compensation for illegal running of the units in the area even after declaration of the notification of the Eco Sensitive Zone.
- II. Fixing responsibility on those responsible for having allowed the activities to continue after publication of the notification of the Eco Sensitive Zone.

6. 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.

7. Environment Compensation shall be assessed by the State Pollution Control Board. If necessary, the State Pollution Control Board may seek assistance of the CPCB.
8. Let the report be filed before the next date.
9. List on 30.01.2020.

S. P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

28th November, 2019
O.A. 53/2019 (WZ)

Item No. 03

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

Original Application No. 53/2019 (WZ)

Dr. Vinaykumar Jathar

Applicant(s)

Versus

District Mining Officer-Ahmednagar & Ors.

Respondent(s)

Date of hearing: 30.01.2020

**CORAM : HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. SIDDHANTA DAS, EXPERT MEMBER**

For Appellant (s): Ms. Parikrama Khot holding for Mr. Asim Sarode, Advocate

For Respondent (s): Mrs. S. B. Vaidya Pandit, Law Officer, Pune along with Mr. Kore, District Mining Officer, Ahmednagar, for Respondent Nos. 1 & 2.
Mrs. Manasi Joshi, Advocate for Respondent No. 5.
Mr. Tejesh Dande along with Mr. Rajendra Anbhule, Advocates for Respondent Nos. 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 & 31.

ORDER

1. Time sought for on behalf of the PCCF (HoFF) and the Maharashtra State Pollution Control Board to file report in terms of the order dated 28.11.2019, is allowed.
2. Let those be filed before the next date with advance copies on the other side.
3. List on 04.03.2020.

S.P. Wangdi, JM

Siddhanta Das, EM

30th January, 2020
avt

TC ✓

epk - "P-5"

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Item No. 03

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

Original Application No. 53/2019 (WZ)

Dr. Vinaykumar Jathar

Applicant(s)

Versus

District Mining Officer-Ahmednagar & Ors.

Respondent(s)

Date of hearing: 04.03.2020

**CORAM: HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

For Applicant(s):

Ms. Parikrama Khot holding for Mr. Asim Sarode, Advocate

For Respondent(s):

Mr. Prashant Kore, District Mining Officer, Ahmednagar, for Respondent Nos. 1 & 2
Ms. Manasi Joshi, Advocate for Respondent No. 5
Mr. Vinod Ambad, Advocate for Respondent No.15

ORDER

1. Vide order dated 28.11.2019, action taken report was called for in respect of (i) assessment of environmental compensation for illegal running of units in the area even after declaration of the Notification of Eco-Sensitive Zone (ESZ), and (ii) fixing responsibility against those allowing the activities to continue after publication of the Notification.
2. So far as the assessment of environmental compensation is concerned, Ms. Mansi Joshi, learned Counsel for the State PCB

prays for time to file report. However, no report has been filed by the PCCF (HoFF) in respect of action taken in terms of the second direction.

3. This perhaps is due to the reason that the PCCF (HoFF) had not been informed of the order. Thus, before proceed further to take an exception, a copy of this order and order dated 28.11.2019 be transmitted to the PCCF (HoFF), Maharashtra for compliance.
4. Although vide order dated 30.01.2020, it has been recorded that time had been sought for on behalf of the PCCF (HoFF), it appears that none had in fact appeared for the officer as per the learned Counsel for the State PCB. The order accordingly stands rectified and the time sought for shall be confined only to the Maharashtra State PCB.
5. The PCCF (HoFF) shall ensure that report is filed in terms of the order dated 28.11.2019 without fail before the next date.
6. List on 03.04.2020.

S.P. Wangdi, JM

Dr. Satyawan Singh Garbyal, EM

04th March, 2020
Original Application No. 53/2019 (WZ)
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Exh. - P-6

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Item No. 4 (Pune Bench)

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

Original Application No. 53/2019 (WZ)

Dr. Vinaykumar Jathar

Applicant(s)

Versus

District Mining Officer-Ahmednagar & Ors.

Respondent(s)

Date of hearing: 16.07.2020

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

For Applicant(s) : Mr. Asim Sarode, Advocate
For Respondent(s) : Mrs. S. B. Vaidya Pandit, Advocate for Respondent
No. 1
Mrs. Mansi Joshi, Advocate for Respondent No. 5
Mr. Tejash Dande Advocate for Respondent No. 15

ORDER

1. The reply/report as directed on the previous date of hearing has not been filed by the respondents/Committee.
2. Issue reminder directing the respondents and the Committee to submit the report within six weeks. Service of notices, summons and pleadings etc. have not been possible during the period of lockdown because this involves visits to post offices, courier companies or physical delivery of notices, summons and pleadings. We, therefore, consider it appropriate to direct that such services of all the above may be effected by e-mail, FAX, commonly used instant messaging services, such as WhatsApp, Telegram, Signal etc. However, if a party intends to effect service by means of said instant messaging services, we direct that in addition thereto, the party must also effect service of the same document/documents by e-mail, simultaneously on the same date.

3. The applicant is directed to provide the mobile WhatsApp no. and e-mail address of all the respondents, if possible and applicants and respondents are directed that at the time of filing the application or reply, the party concerned has to provide WhatsApp no. and e-mail I.D. so that the summons and notices may be served immediately for compliance and for further disposal and proceeding of the case.
4. Registry is directed to develop a software adding the WhatsApp mobile no. and email I.D. against their names and also develop a software with regard to summons and notices in the prescribed performa as provided in the rules and find out a way that by clicking on the mobile WhatsApp and email, generated summons and notices be automatically send to the addressee, it may assist the further proceeding of the Tribunal in Covid-19 period and make easy the process of service.
5. The Registry at Pune is directed to prepare a list of all those cases in which the State Pollution Control Board has been directed to submit a report and the report has not been submitted till date. Reminder be issued and it is ensured that before the date of listing, the required information and the reply or the report be submitted and attached with the file.
6. List it on 02.11.2020.

Sheo Kumar Singh, JM

Dr. Satyawan Singh Garbyal, EM

Siddhanta Das, EM

July 16, 2020
Original Application No. 53/2019 (WZ)
R

T C V J

COLLECTOR OFFICE, AHMEDNAGAR
(MINING BRANCH)

Phone No. 0241-2344002

email id- ah.mngdmo@gmail.com

Kr. Mining/kavi 4C/ 678/2020

Date - 28/08/2020

To,

The Registrar,
Hon'ble National Green Tribunal,
Principal Bench, New Delhi.

Subject- Order dated 28/11/2019 passed by this Hon'ble Green
Tribunal in O.A. No. 53/2019 (W.Z).

Respected Sir,

This Hon'ble Tribunal while dealing with the O.A.No. 53/2019 (W.Z.)
has passed the order dated 28/11/2019 and directed that the final action taken
report be filed before the next date. The final action taken report shall contain
the following:

- I: Assessment of Environmental Compensation for illegal running of the units in
the area even after declaration of the notification of the Eco Ser.sitive Zone.
- II. Fixing responsibility on those responsible for having allowed the activities to
continue after publication of notification of the Eco Sensitive Zone,.
- III. 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.
- IV. Environment Compensation shall be assessed by the State Pollution control
Board. If necessary, the State Pollution Control Board may seek assistance of the
CPCB.

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F-4

The Hon'ble Green Tribunal (PB) New Delhi (Through Video Conferencing) vide order dated 16/07/2020 in O.A.No. 53/2019 (WZ) (Dr. Vinaykumar Jathar vs District Mining Officer, Ahmednagar and other) has passed the following order,

"1. The reply/report as directed on the previous date of hearing has not been filed by the respondents/committee.

2. Issue reminder directing the respondents and the committee to submit the report within six weeks.

The Under Secretary, Revenue and Forest Department, Mantralaya, Mumbai issued his letter dated 02/03/2020 authorized District Collector, Ahmednagar for taking action on officers of revenue department and for submission and to submit the affidavit in reply to the Hon'ble Green Tribunal.

There are following 3 officers involved in permitting mining operation in the said area,

- 1- Smt. Vandana Kharmale who is posted as Sub Divisional Officer, Kudal Dist Sindhudurg.
2. Shri. Vinod Bhamare, Tahsildar Kada Project, Dist Jalgaon.
3. Shri. Mahendra Mali, Tahsildar Tenancy, Dist- Jalgaon.

Accordingly, show cause notice dated 15/01/2020 has been issued by this respondent to above officers and called explanation as to why action should not to taken action against them under the provisions of Maharashtra Civil Services (Discipline and Appeal) Rule, 1979 regarding the grant of permission for excavation in the Eco Sensitive Zone.

In response to the said show cause notice Vandana Kharmale who is now posted as Sub Divisional Officer, Kudal Dist Sindhudurg has submitted her written explanation dated 24/01/2020 to the notice issued by this respondent.

So also, Mahendra Mali, now Tahsildar Tenancy, Dist- Jalgaon has also submitted his written explanation dated 07/02/2020 to the issued by this respondent.

After submission of the reply by Vandana Kharmale and Mahendra Mali the then Tahsildars the present respondent has decided to stop one increment temporarily for one year. In so far as another tahasildar, Vinod Bhamare has is concerned, he has not submitted his written explanation in response to the notice issued by this respondent, hence present respondent has decided to stop one increment temporarily for two years. Accordingly, this respondent has again issued show cause notice issued dated 19/08/2020 to concerned Tahsildars and called upon to submit the written explanation within 3 days from receipt of said notice as to why the increment as proposed should not be stopped. The written explanation has not been received from the concerned Tahsildars and after receipt of the said explanation further necessary orders will be passed immediately.

The applicant has shown gut number of village vadali tal shrigonda dist Ahmednagar are 148,317,270,160, 81, 74/2,123,108,109,22,54 and 110. As per the order issued by this Hon'ble Green Tribunal, District Mining Officer Ahmednagar has visited the area mentioned above on 06/02/2020 and 12/02/2020. During the inspection minor minerals are found to be excavated in the areas of gut no. 22,54,160,81,74/2,109,110,108,294,123 and 270. The panchanama has also been carried out by District Mining Officer, Ahmednagar. The notices have also been issued to the quarry owners/land owners of the concerned land situated at Vadali Taj Shrigonda.

However, concerned land owners have not submitted there say before the District Mining Officer. Therefore, District Mining Officer after

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verifying the all relevant facts and documents on record has proceeded further and imposed penalty of rupees to the concerned land owners at Vadali Tal Shrigonda Dist Ahmednagar who have found to be indulged in illegal excavation of minor minerals.

The details of the penalty imposed, names of the concerned land owners and others details are given herein under for the kind perusal of this Hon'ble Tribunal.

S.N.	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	Bhausahab 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

Hence this report submitted for perusal


Additional Collector
Ahmednagar

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Exh. - "P-8"

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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

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

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