

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**PRINCIPAL BENCH AT NEW DELHI**

M A NO 42 /2025 in OA 151/23

IN THE MATTER OF:-

HASSINA WAJID(SARPANCH)**PETITIONER****VERSUS****STATE OF JAMMU & KASHMIR (UT) & ORS.****RESPONDENTS**

AND IN THE MATTER OF

M/S DEWAN STONE CRUSHER & ANR**APPLICANT/RESPONDENT NO
6,7 AND 8**

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DATE 19/04/2025

PLACE Poonch

PRAKASH PANDEY

COUNSEL FOR THE PETITIONER

Handwritten signature of Prakash Pandey in black ink, consisting of stylized initials 'PS' followed by a horizontal line and a diagonal stroke.

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HASSINA WAJID(SARPANCH)

PETITIONER

VERSUS

STATE OF JAMMU & KASHMIR (UT) & ORS.

RESPONDENTS

AND IN THE MATTER OF

M/S DEWAN STONE CRUSHER & ANR

APPLICANT/RESPONDENT NO 6,7 AND 8

Reply on behalf of Petitioner to the Miscellaneous Application 42/2025 in Original Application 151/2023 filed by Respondent no 6,7 & 8

THE PETITIONER ABOVE NAMED HUMBLY SUBMIT

i. PRELIMINARY OBJECTIONS

1. At the outset, it is submitted that the present Application is filed with a malafide intention without any basis by knowingly making false and incorrect statement and in utter disregard of facts and therefore the application is liable to be dismissed on this ground alone The Contents

and submission made therein may be read as part and parcel of the present application and are not repeated herein for the sake of brevity .

2. It is submitted that all the averments made in the purported Application by the applicants are without any merit and baseless and therefore respondent denies and disputes each and every statement, contention and/or submission contained in the present Application which is to and/or inconsistent with what is stated herein below and/or the records of the case, and unless specifically admitted herein the same shall be deemed to have been denied . no part of the Application filed by the Applicants can be constructed as being admitted merely on the ground of non traverse.

In this regard the preliminary submission made herein below may be read as part and parcel of these objections

At outset , it is submitted that Hon'ble NGT In OA 151/23 disposed of with direction of operation of unit shall not be allowed at the site because respondent no 6 & 7 not meeting the siting criteria, violating the environmental norms and below are the admitted fact in present case

- I. **Within 500 meter from stone crusher/hot mix plant there were 70 houses and 114 families residing** (Joint Committee Report Annexure ,P1 Page 16-42 also in para 35 of judgment passed in OA/151/23
- II. **There is a government middle school Chaktroo having distance of 428 meters from stone crusher/hot mix plant**
- III. There as been a consistent violation on the part of respondent no 6 and 8 , operation of stone crusher in violation of environmental norms caused huge damage to

clean air by causing air pollution and water pollution by discharging polluted effluent therein.(finding of hon'ble court in para 65 of judgment (OA/151/2023)

- IV. Respondent no 6 and 8 have been violated environmental laws in operating stone crusher unit also by indulging In illegal river bed mining or by procuring river bed mineral in an illegal and unauthorised manner (finding of Hon'ble Court in para 63/OA/151/2023)
- V. Respondent 8 also preferred Appeal no 5022/2024 before Hon'ble Supreme Court challenging Hon'ble Tribunal Order dated 01/04/2024 whereby functioning of stone crusher and hot mix plant was stooped , Honble Supreme court dismissed appeal vide judgment dated 26.04.2024 and order that “ we do not find any good ground and reason to interfere with the impugned judgment and hence, the present appeal is dismissed”(para 25 of Honble Tribunal judgment , judgment Also attached as **ANNEXURE P2 page 43-44**
- VI. Respondent no 6 to 8 always violate norms hence, A fine of rs 16500/ was imposed on the unit on 22-12-2021 for 60 MT of illegally accumulated RBM dump at site, A Fine of Rs 19250/- as imposed on the unit on 29-01-2022 as imposed on the unit on 29-12-2021 for 70 MTs of RBM illegally accumulated RBM dump at site , A fine of Rs. 19250 was imposed on the unit on 23-02-2022 for 70 MTs Of illegally accumulated RBM dump at site , A fine of Rs 16400/- was imposed upon Mr Shahzad shabnam the unit owner on 24-

07-2023 for illegal transportation (without e challan) of 10 MTs of Crushed Bajri(aggregate)in vehicle No JK 12 B-0054

3. that the requirement of protecting the environment cannot be static and the environment can be protected by a dynamic approach and keeping in view the directive principles of State policy as envisaged in the Constitution, the State is bound to make efforts for maintaining delicate balance between the requirement of healthy environment and industrialization.
4. Environmental laws prioritize public interest as a result the government must act in alignment to the requirements of time. It is significant to note that public interest must over-ride any consideration of private loss and gain
5. That Hon'ble Punjab and Haryana High Court which also pertain to stone Crusher relocation , **Civil Writ Petition No. 12107 of 2018 (O&M) 19 And Other Connected Cases , Hon'ble Court Held That**

“ Right to life is higher than the rights flowing from Article 19 i.e. to carry business. The business of stone crushers is considered *res extra commercium* and is, therefore, subject to stringent regulation. The pollution caused by the stone crushers is inherently injurious to the health of all living beings including humans, wildlife, rivers and plants. The efforts made to maintain delicate ecological balance which is the need of the hour particularly in view of rising pollution is not required to be interfered with.

3.17 Although stone crushers are a vital sector from a socioeconomic perspective, but they generate significant amounts of fine fugitive dust. The dust poses serious health risk to workers

and nearby communities, contributing to respiratory illnesses. Additionally, it diminishes visibility, inhibits vegetation growth, and negatively impacts the area's aesthetics. To mitigate or control these emissions, measures must be implemented. Stone crushers are critical to infrastructure and construction industries but they also pose significant environmental and health challenges. The Court must balance socio-economic development with environmental protection, ensuring that activities like stone crushing are conducted sustainably and within the legal framework.” **ANNEXURE P/6 Page 55-78**

6. That nearest house located distance of about 70-80 meters from stone crusher belongs to Abdul Salam bhat, Sajad Ahmed and Zulfi Khan and within 500 meter 70 houses & 114 families As endorsed by revenue department vide order no---- dated are within the radius of 500 meters which is infringement to revised guidelines on the basis of which Respondent no 6 to 8 claim relaxation.**ANNEXURE P3 And ANNEXURE P4 Annexure)** 500 mts (20 or more house within a radius of 500 mtr shall constitute the residential area as per order of Hon'ble Supreme Court in Civil appeal 10732/1995/
7. That Revised Guidelines including Siting Criteria for Establishment and Operation of Stone Crushers and Hot Mix Plants in J&K. Order No. 37 - JKPC of 2023 Date: 27 -02-2023 , on which respondent 6 to 8 relied on and seeking relaxation this notification itself specified that “There should not be a single residential house within 150 meters from proposed sites”

8. That **Supreme Court of India Kennedy Valley Welfare Association vs Ceylon Repatriates Labourers Welfare ... on 25 April, 1996 Equivalent citations: 2000(2)SCALE143, AIRONLINE 1996 SC 603, (2000) 2 SCALE 143**

“We have examined the recommendations of the Committee, we are of the view that the learned Single Judge rightly accepted the report of the Committee and issued the directions banning operation of Stone-Crushers and quarries within the radius of 500 meters of the residential area. The Division Bench was not justified in reducing the area restriction from 500 meters to 50 meters in respect of the quarries. The Division Bench also issued further directions in modification of the directions issued by the learned Single Judge which were not warranted in the facts of the case”

ANNEXURE P7 page 79-80

Parawise reply to the MA

Reply to Synopsis

9. That contents of Point A matter of fact , reply not require

10. That the Contents of Point are false hence denied, at the time of establishment respondent 6, 7 not obtained all information, for establishment of stone crusher NOC require from deputy commissioner concerned regarding title verification of land and its usage, respondent no 6,7 not having this certificate, information received under RTI confirm this, **(RTI Information is annexed as ANNEXURE P4 page 48**
11. That the Contents of Point C,D,E,F,G,H,I,J,K,L,M are matter of fact, no reply
12. That the Contents of Point N is false hence denied, Hon'ble Supreme Court not granted any relaxation, only specified that as per rule and law, Expert committee have sharing misleading eyewitness report, all issue has been decided by Hon'ble Tribunal in OA 151/23, expert committee prepared report one sided only to favour respondent no 6, so relaxation can not be granted
13. That the contents of Point O is wrong hence denied, expert Committee report is arbitrary, misleading, without supporting of any evidence, hence it can be accepted

REPLY OF MISCELLANEOUS APPLICATIONS

14. That the Contents of Point no 1 are matter of fact, no reply
15. That The Contents of point 2 false Hence denied, No necessary information was obtained at the time of establishment, NOC Not taken from Deputy Commissioner, hence from beginning it was operated illegally, also in beginning it encroached government land bearing

khasra number 218, when it was sealed in 26-03-2022 by authority then respondent 6 to 8 vacated land.(**this fact is part of judgment in page 10,11**) many time penalty also imposed to respondent no 6 to 8 A fine of rs 16500/ was imposed on the unit on 22-12-2021 for 60 MT of illegally accumulated RBM dump at site, A Fine of Rs 19250/- as imposed on the unit on 29-01-2022 as imposed on the unit on 29-12-2021 for 70 MTs of RBM illegally accumulated RBM dump at site , A fine of Rs. 19250 was imposed on the unit on 23-02-2022 for 70 MTs Of illegally accumulated RBM dump at site , A fine of Rs 16400/- was imposed upon Mr Shahzad shabnam the unit owner on 24-07-2023 for illegal transportation (without e challan) of 10 MTs of Crushed Bajri(aggregate)in vehicle No JK 12 B-0054 (**this fact is mention in page 27 of judgment**)

CPCB member is of the view that “M/S Dewan stone crusher was neither complying with the sitting criteria applicable at the time of establishment in 2016 nor it is complying with the revised siting criteria applicable in 2023(this fact is mention in page 18 of judgment)

And joint committee has found various violation

“Sprinkling system at primary and secondary jaw crusher were temporary, being of PVC pipes instead of permanent fitted sprinklers of GI pipes. (ii) Jaw crushers and screeners, main dust emitting structures were not found properly covered/enclosed. (iii) Wind breaking wall all along the periphery of the unit was not found installed/constructed and instead the unit had provided only 15 feet wind breaking wall with CGI sheets on one side only. (iv) No green belt of broad leave trees in three rows along the periphery was provided. (v) Road with the premises of stone crusher was not metalled. (vi) The unit was supposed to measure

Suspended Particulate Matter (hereinafter referred to as 'SPM') twice a month throughout the year. No such details/copies of analysis reports conducted by Statutory Regulators or approved labs 42 or JKPCC labs were provided by the representatives of the units during inspection. (vii) It was found involved in unscientific disposal of solid waste (silt/fines) into nearby river. (viii) Settling tanks and water re-cycling systems for treatment and re-cycling of washing effluents containing silt/fines were not provided. (ix) Washing effluents were being discharged in an earthen pit leading to nearby river with no arrangement of removal of silt and re-cycling of treated waste water. (x) River water as well as ground water both were being used by the unit but no metering system was installed to assess the exact quantity of water use from these two sources. (xi) Unit did not produce any NOC for abstraction of ground water or use of surface water."

16. That The Contents of the point 3,4,5,6,7,8 matter of fact, reply not require
17. That the Contents of the point 9 and 10 are misleading, hence denied when expert committee was monitoring the Ambient Air quality and Ambient Noise level that time less stone was putting so that it report can get in there favour ,geo tag photo and videos are enclosed with date and time of committee member of joint committee not operated the hot mix plant on that days, As the Committee shows that school and residential area are located in hills that is true but due to the reason and voice and dust of crusher and hot mix plant directly hit the residential population and school children's .

18. That the contents of the point 11 are matter of fact , no reply
19. That the contents of 12 not accepted as compliance report dated 25.03.2025 is misleading, arbitrary as **Within 500 meter from stone crusher/hot mix plant there were 70 houses and 114 families residing (CPCB Report Annexure A1 and para 35 of judgment There is a government middle school Chaktroo having distance of 428 meters from stone crusher/hot mix plant** nearest house located distance of about 70-80 meters from stone crusher belongs to Abdul Salam bhat, Sajad Ahmed and Zulfi Khan and awithin 500 meter 70 houses & 114 famalies As endorse by revenue department, reply of this point also read with point 6,7 8 .
20. That the contents of point no 13 matter of fact , no reply
21. That the contents of point no 14 are false , misleading, hence denied respondent no 6 to 8 never complied the environmental norms , habitual violator, as mention in point 2,10,15 of this reply, for sake of brevity not repeating here .
22. That the contents of point no 13,14 are misleading, hence denied, Hon'ble Supreme Court Not grant any categorical relaxation, Expert committee report is false misleading ,arbitrary hence relaxation should not be granted , if relaxation is granted it would be on the cost of life of 113 family's and health of school going children's.

Reply To the "Ground " of MA

- 23.. that the Contents of Para A,B,C,D are false hence denied , provision of 3.3 is accepted but is not applied in present case , as per this notification distance from residential area should be 500 meter , proviso is that not a single should be in 150 meter, in present case families are residing in merely 70 to 80 meters, school is located 428

meter , health of children can not be ignored, and when committee visited for monitoring that time empty crusher was operating, comparative Geo Tag Photographs annexed As **ANNEXURE P5 page 49-54** which clearly show that usually when stone crusher operating it release smoke which can be seen in photos but on day expert committee visited 13.12.2024 empty crusher operated , and hot mix not operated that day so no smoke was released , it shows how expert committee In collusion with respondent no 6 to 8 prepare report in favour of respondent no 6 to 8 , point no 4,5,6,7,8 also read with this point , for sake of brevity not repeating here.

24.That the Contents of The point E are false hence denied Environmental laws prioritize public interest as a result the government must act in alignment to the requirements of time. It is significant to note that public interest must over-ride any consideration of private loss and gain, point no 5 also may be read as part of this point

25.That the Contents of the Point no F are false hence denied, Expert Committee report is arbitrary, misleading so it should not be consider

Prayer

Hence This Hon'ble Court may be pleased to dismiss this MA

DATE 19/04/2025

PLACE Poonch


PRAKASH PANDEY

COUNSEL FOR THE PETITIONER



सत्यमेव जयते

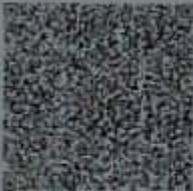
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Government of Jammu and Kashmir

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RESPONDENTS

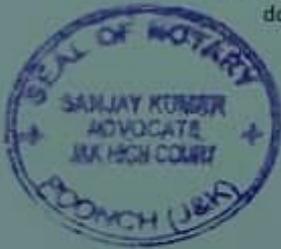
AND
M/S Dewan Stone Crusher & Anr

APPLICANTS OF MA/
RESPONDENT NO 6,7,8

AFFIDAVIT

I HASSINA WAJID W/O MOHD RASHID Aged 25 Years R/O Chaktroo Tehsil haveli District Poonch (J&K) do hereby solemnly affirm on oath as under

1. That ,I am the applicant in the OA 151/23 and fully conversant with the facts of the case and hence, competent to swear on this affidavit.
2. That ,i am filing the present Reply along with annexure against the MA filed by Respondent no 6,7 &8 in MA-42/2025 in OA 151/2023 before the Hon'ble Tribunal the Contents from Para 1 to last have been drafted on my instruction and the same have been explained to me by my counsel.
3. That ,I have been read and understood the contents and based on the documents filed along with the application



VERIFICATION

DEPONENT
Hussina

I, The above named deponent do hereby verify that the contents of the paras above are true and correct and no material fact has been concealed.

Signed and verified on this 19 Day of April 2025 at *Rooneh*

DEPONENT
Hussina

Solemnly Affirmed, Sworn before me
Sanjay
SANJAY KUMAR
Advocate & Public Notary
POONCH (J&K)



Winter office: November-April
Parivesh Bhawan, Gladini,
Transport Nagar, Narwal,
Jammu-180006
Ph./Fax.0191-2476925

Government of Jammu and Kashmir
J&K Pollution Control Committee



Summer office: May-October
Sheikh-ul-Alam campus,
Behind Govt. Silk factory,
Rajbagh, Srinagar (J&K)- 190008
Ph./Fax.0194-2311165

Email: membersecretaryjkpcb@gmail.com

**Consultant (Judicial),
Hon'ble National Green Tribunal, (P.B)
New Delhi.**

No. PCB/NGT/134/23/175-177

Dt. 17-07-2023.

Sub: - Hon'ble NGT Order dt. 20-03-2023 in O.A NO. 151/2023 titled Hassina Wajid (Sarpanch) v/s State of Jammu and Kashmir (UT) & Ors.

Ref.:- Hon'ble NGT email dated 27-03-2023

Sir,

In compliance to the Hon'ble NGT Order dt. 20-03-2023 in O.A NO. 151/2023 titled Hassina Wajid (Sarpanch) v/s State of Jammu and Kashmir (UT) & Ors. Kindly find enclosed herewith the Action Taken Report of Joint Committee and Jammu & Kashmir Pollution Control Committee, in this regard.

The Action Taken Report may kindly be taken on record and placed before the Hon'ble NGT for consideration please.

Yours faithfully,

Encl: (As above)

(K. Ramesh Kumar) HFS 17/07/23
Member Secretary
JKPCC, Jammu.

Copy to the: -

1. Sh. G.M. Kawoosa, Additional Standing Counsel for J&K Govt. in Hon'ble NGT matters in New Delhi, for information and necessary action. This is in reference to Govt. of J&K Order No. 8495-JK(LD) of 2022 Dated 12-10-2022.
2. PA to Chairperson, J&K PCC for kind information of Chairperson.

Response and Action Taken Report of J&K Pollution Control Committee in compliance to Hon'ble National Green Tribunal (NGT) order dt. 20-03-2023 in OA 151/2023 titled Hassina Wajid (Sarpanch) V/s State of Jammu and Kashmir (UT) & Ors.

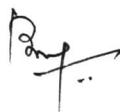
Background

The Hon'ble National Green Tribunal Principal Bench, New Delhi in OA No. 151/2023 titled Hassina Wajid (Sarpanch) V/s State of Jammu and Kashmir (UT) & Ors. Vide its order dt. 20-03-2023 has directed that

- i) *In view of the averments made in the application, we also consider it appropriate that a Joint Committee be constituted to verify the factual position and suggest appropriate remedial action. Accordingly, we constitute a Joint Committee comprising of representatives of Central Pollution Control Board (CPCB), Jammu and Kashmir Pollution Control Board and District Magistrate, Poonch and direct the same to meet within two weeks, undertake visits to the site, look into the grievances of the applicant, associate the applicant and representative of the concerned project proponent, verify the factual position and suggest appropriate remedial action. The State PCB will be the nodal agency for coordination and compliance.*
- ii) *Factual and Action taken Report may be submitted within two months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF."*

Action taken by the Joint Committee:-

In compliance to the Hon'ble National Green Tribunals aforesaid order, the Joint Committee comprising of Sh. Sampat Singh Manhas, Divisional



Officer, PCC, Poonch, Dr. Narender Sharma, CPCB, Chandigarh and Sh. Tahir Mustafa Malik, JKAS, Additional District Magistrate, Poonch conducted site visit, verified the factual position and has submitted its report to the Regional Director, J&K Pollution Control Committee, Jammu and the Regional Director, J&K Pollution Control Committee, Jammu vide communication no. PCC/RDJ/SA/NGT/OA/151/1087 dt. 14-07-2023 has endorsed the report of the Joint Committee constituted by the Hon'ble National Green Tribunal for the purpose. The copy of the report of Joint Committee is enclosed as **Annexure 'A'**.

Action taken by J&K Pollution Control Committee:-

The Regional Director, J&K Pollution Control Committee, Jammu vide no. PCC/RDJ/Consent-O/23/1127-28 dt. 15-07-2023 copy enclosed as **Annexure 'B'** has recommended for initiation of closure proceedings against Dewan Stone Crusher, Chaktroo, Haveli, District Poonch, since notices have been issued by the Regional Director, J&K Pollution Control Committee, Jammu vide no. PCC/RD-J/N-1/Consent-O/23/110-112 dt. 28-04-2023 and no. PCC/RD-J/O/N-II/23/320-22 dt. 18-05-2023 (copy of notices issued enclosed as) **Annexure C & D**.

In this regard, it is submitted that the stone crusher shall be closed after following all legal procedures and Environmental Compensation also shall be levied against Dewan Stone Crusher and the compliance report of closure of the Stone crusher and Environmental Compensation orders shall be submitted to the Hon'ble National Green Tribunal at the earliest.

Hence, the Action Taken Report may kindly be taken on record and placed before the Hon'ble NGT for consideration please.





Government of Jammu and Kashmir
J&K POLLUTION CONTROL COMMITTEE
OFFICE OF THE REGIONAL DIRECTOR - JAMMU

Parivesh Bhawan, Forest Complex, Gladni, Transport Nagar, Narwal, Jammu.
Email: regionaldirectorjkspcbjmu@gmail.com.Tel/Fax 0191-2476926

The Member Secretary,
J&K PCC,
Jammu.

No: PCC/RDJ/SA/NGT/OA/151/ 1087

Dt: 14 /07/2023

Subject: Report of the Joint Committee in the matter of O.A. No. 151/2023 titled Hasina Wajid (Sarpanch) vs State of Jammu & Kashmir (UT) & Ors.

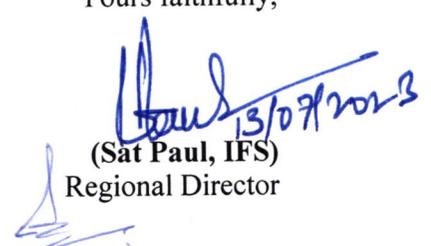
Ref.: (i) O.A No. 151/2023.
(ii) Central Office PCC letter No. JKPCC / NGT / 23 / 1345 / 917-924 dated 31.03.2023.

Sir,

Kindly find enclosed Joint Committee report dated 17.06.2023 submitted by Divisional Officer PCC Poonch vide No. JKPCC/Div/P/2023/378 dated 22.06.2023, in the matter titled Hasina Wajid (Sarpanch) vs State of Jammu & Kashmir (UT) & Ors, for information and further necessary action.

Yours faithfully,

Encl: AA.


(Sat Paul, IFS)
Regional Director



Government of Jammu and Kashmir
Office of the Divisional Officer
Pollution Control Committee
Poonch

The Regional Director,
JKPCC, Jammu.

No: JK PCC /Div/P/2023/ 378

Dated: 22-06-2023

Subject: Report of Joint Committee in the matter of O.A.No.151/2023; Hassina Wazid (Sarpanch) Versus State of Jammu and Kashmir (UT) & Ors, in compliance to the Order of Hon'ble National Green Tribunal dated 20-03-2023 .

Ref.:- Worthy Member Secretary, JKPCC Letter No. JKPCC/NGT/23/134/917-924
Dated: 31-03-2023.

Sir,

Kindly refer above cited Subject and Reference. In this context, Kindly find enclosed herewith the report of Joint Committee framed as per letter in reference. Twenty four (24) nos. Annexure have also been enclosed herewith for ready reference. Hence the report is submitted for further necessary action at your end please.

Your's faithfully,


(Sampat Singh Manhas)
Divisional officer,
PCC, Poonch.

Report of the Joint Committee in the matter of OA No. 151/2023; Hassina Wajid (Sarpanch) Versus State of Jammu and Kashmir (UT) & Ors, in compliance of the order of Hon'ble National Green Tribunal dated 20/3/2023

1. Background:

The matter is related to an application filed before the Hon'ble National Green Tribunal, regarding established stone crushers just 100 to 200 kms (the word "Kms" seems to be a typo error and it is therefore assumed that it is "mtrs") away from residential area and adjoining to agricultural land without requisite permissions and in violation environmental norms. It was directed by the Hon'ble National Green Tribunal vide order dated 20/3/2023 (Annexure-1) as follows:

"In view of the averments made in the application, we also consider it appropriate that a Joint Committee be constituted to verify the factual position and suggest appropriate remedial action. Accordingly, we constitute a Joint Committee comprising of representatives of Central Pollution Control Board (CPCB), Jammu and Kashmir Pollution Control Board and District Magistrate, Poonch and direct the same to meet within two weeks, undertake visits to the site, look into the grievances of the applicant, associate the applicant and representative of the concerned project proponent, verify the factual position and suggest appropriate remedial action. The State PCB will be the nodal agency for coordination and compliance"

2. Compliance of the Directions of Hon'ble National Green Tribunal:

In compliance of the Directions of Hon'ble National Green Tribunal, a Joint Committee was constituted comprising of Mr. Tahir Mustafa Malik, JKAS, Additional District Magistrate, Poonch, Dr. Narender Sharma, Additional Director, CPCB and Mr. Sampat Singh Manhas, I/c Divisional Officer, J&K Pollution Control Committee.

The Joint Committee visited the site on 26/04/2023 and associated both the applicant and the representative of the industry, to verify the factual position.

3. Report of the Joint Committee:

The report of the joint Committee prepared based on the site visit, interaction with the applicant and the representative of the Industry, verification of the compliance of siting criteria & environmental norms and examination of records and various reports provided by the member representing J&K PCC and District

Administration w.r.t. Industries under reference namely M/s Dewan Stone Crushers and M/s Shahzad Shabnam Contractor Hot Mix Plant, both owned and operated by the same person and also located in the same premises, is submitted as follows:

3.1. M/s Dewan Stone Crusher, Chaktroo, Tehsil Haveli, District Poonch:

3.1.1. Compliance of the Siting Criteria:

Since M/s Diwan Stone Crusher, was established in the year 2016, the siting criteria approved in the 19th Board meeting of J&K Pollution Control Board held on 20th December, 2004 was applicable (**Annexure-2**) at the time of establishment of the unit. Therefore, compliance of the siting criteria approved on 20th December, 2004 was verified w.r.t M/s Diwan Stone Crusher as under:

S.No.	Siting Parameter	Siting Criteria (Distance) No stone Crusher can be allowed to operate within the limits of :	Actual Distance of Stone Crusher. as per Distance Certificate issued by Office of Deputy Commissioner, Poonch vide Distance Certificate No. DMP/J/2383-86 dated 03/09/2016	Compliance Status as on 3/9/2016
1	a. National Highway in plain area b. National Highway in sub mountainous area	100 m 50 m	Not applicant	
2	a. State Highway and other District Roads in Plain areas b. State Highway and other District Roads in sub mountainous areas	50 m 50 m	500 mtr	
3	Jammu and Srinagar Municipal Limits	1 Km	Not applicant	
4	Major District Head Quarters	1 Km	15 Km	
5	Nearest Residential Area/Abadi	½ Km (500 mtr)	500 mtr	Compliant as per Distance Certificate No. DMP/J/2383-86 dated 03/09/2016 already mentioned in this table
6	Near Tourist Complex/Resorts	1 Km	Not applicant	
7	Forest Land	1 Km	1 Km	As per DFO certificate attached herewith as Annexure-3, the proposed site of this Stone

				Crusher is more than 1 km. from the nearest demarcated Forest
8	Hospital Nursing Home/Health Centre	2 Km	Not applicant	
9	Approved Water Supply of 20 Kilo Liter	1 Km	Not applicant	
10	Notified Bird or other Sanctuaries/National Park	1 Km	Not Applicant	
11	Nearest educational institution or other similar Institution	1 Km	1 Km	Compliant as per Distance Certificate No. DMP/J/2383-86 dated 03/09/2016 already mentioned in this table

(As per distance certificate vide No. DMP/J/2383-86 dated 03/09/2016 issued by the Office of Deputy Commissioner, Poonch & Tehsildar Haveli vide No. OQ/806 dated 03-09-2016 and attached herewith as Annexure-4&5, the Unit namely M/s Diwan Stone Crusher was compliant w.r.t siting Criteria of Distance from nearest residential area/abadi. And Nearest Educational Institution as the distance of proposed site of the said Stone Crusher from the Residential Area/Abadi is mentioned as 500 mtr. and the distance of proposed site of the said Stone Crusher from the Education Institution is mentioned as 01 km. in these Distance Certificates).

Further, as per J&K PCC Order No. 30-JK PCB of 2020 dated 11/2/2020 on the subject “**Addendum to guidelines of J&K PCB dtd. 9/2/2004 for the existing old and consented stone crushing units and integrated hot mix plants in the UT of J&K**” (Annexure-6), all the existing /old and consented stone crushing Units, which do not meet the siting criteria/guidelines dtd. 9/2/2004 due to change in demography and the developmental activities in the area shall follow the additional pollution mitigation measures with augmentation in PCDs for compliance of environmental standards.

It was observed that even after more than 2 years of release of the above order of J&K PCC dtd 11/2/2020, the points of the above order of J&K PCC are not fully complied with, with regard to the stone crusher under reference in this matter. However, the Point No. iv) of the order with regard to operational hours could not be verified due to non-availability of the log books.

It was informed by the member representing, J&KPCC that “JKPCC has already initiated the Legal Action against the said Stone Crusher immediately from the period the Stone Crusher became operational after descaling of said Stone Crusher by District Administration on 16-01-2023 (as mentioned in below paras), by issuing directions through a letter followed by Notice-1 and Final Notice for operating the Stone Crusher in violation to Environmental Laws, specific conditions laid down in Consent Order and operating the unit without

valid Consent from JKPCCC (Copies of letter and Notices attached herewith in Annexure - 7, 8 & 9)". But the unit holder has not made compliance till date as reported by D.O. PCC Poonch vide letter No. JKPCCC/DIV/P/2023/372 dated 13-06-2023 (Copy enclosed) as Annexure -10."

Further, now the revised siting criteria/guidelines for establishment of new stone crushers/hot mix plants have been notified/issued by J&K PCC vide Order No. 37-JKPCCC of 2023 dated 27/02/2023 (**Annexure-11**). In view of this, Tehsildar Haveli was requested to provide the distance certificate of various parameters as on date w.r.t. M/s Dewan Stone Crusher and as per feedback received from the Office of Tehsildar, Haveli (Poonch) vide No.TH/OO/143 dtd. 02/05/2023 (**Annexure-12**), ***the unit does not meet the siting criteria w.r.t. Distance from Residential Area and Educational Institution at present, which come under critical criteria.***

Further, as per rule 3(3) of Jammu and Kashmir Stone Crusher/Hot and Wet Mixing Plants Regulation Rules, 2021 notified vide SO-60 of 2021 dated 23-02-2021 issued by the Mining Department, Government of Jammu and Kashmir, the stone crusher/Hot Mix Plant shall establish/operator only on securing:

- i) *Consent to establish/operate from the Jammu and Kashmir Pollution Control Board issued as per the procedure/ guidelines and siting criteria prescribed by the Jammu and Kashmir Pollution Control Board ;*
- ii) *No Objection Certificate from Deputy Commissioner concerned regarding title verification of land and its usage ; and*
- iii) *Registration with the District Industries Centre (DIC) if the unit holder intends to avail any incentives available in the Industrial Policy.*

As per rule 3(3)(ii), the NOC from Deputy Commissioner concerned regarding title verification of land and its usage is prerequisite for operating the unit. *The unit existing prior to the commencement of the ibid rules having valid consent to operate from the J&K Pollution Control Board have been allowed to operate in pursuance of rule 10 of ibid rules. But after expiry of CTO, the unit holder has to obtain afresh permission as per rule 3(3)(ii) as one time requirement regarding title verification.*

In this regard, it was informed by member representing J&K PCC that "Scrutiny of records reveals that Jammu & Kashmir Pollution Control Committee vide No. PCC/digital/ 22061834784 of 2022 dated 27-04-2022 (copy attached as Annexure-13) issued the Consent to Operate Renewal with the insertion of Specific Condition at S.No. 6 that " This Consent is issued with condition that the site papers from the Revenue Department with geo references as per Rule 10 of SO 60 dt. 23-2-2021 to be submitted by the unit holder within a period six months

without fail"). Moreover, in the Condition inserted at S.No. 1 of the said Consent, it is reflected that "The Consent granted by the Committee is restricted to Prevention and Control of Pollution only and shall not be treated as substitute of permission required under other laws of the land" It has been informed by the member (ADM Poonch) that the condition has not been fulfilled by the unit holder within stipulated period of six month as mentioned in the Consent to Operate. The unit holder continues to operate without having mandatory NOC from Deputy Commissioner after the expiry of stipulated period of six months as mentioned in the Consent to Operate issued by JKPCC.

Also it was informed by the member representing JKPCC that, as already mentioned below ,on behalf of the member(ADM Poonch) that the Stone Crusher was sealed on 26-03-2022 and desealed on 16-01-2023. So, it is clear that the unit was not operational in the said period. Further he submitted that, it is already mentioned above that "JKPCC has already initiated the Legal Action against the said Stone Crusher immediately from the period the Stone Crusher became operational after desealing of said Stone Crusher by District Administration on 16-01-2023 (as mentioned in below paras), by issuing directions through a letter followed by Notice-1 and Final Notice for operating the Stone Crusher in violation to Environmental Laws, specific conditions laid down in Consent Order and operating the unit without valid Consent from JKPCC." It is also informed by the said member representing JKPCC that the unit holder had applied for renewal of Consent to operate through Online Consent Management & Monitoring System on 26-04-2023 Vide Application ID 3752815. As the unit holder had failed to submit Land Title Certificate from concerned Deputy Commissioner, Poonch under SO 60 and also failed to make compliance to Environmental Laws, specific conditions laid down in Consent Order, the said Consent to Operate Renewal case was not processed and Final Notice (copy already attached at Annexure-9 above) has been served to the unit holder.

The unit holder has got NOC issued in his favour by Office of the Deputy Commissioner, Poonch vide No.DMP/J/2328-30 dated 27-08-2016 (copy attached at Annexure-14) that was issued at the time of establishment of unit. The Schedule-II (inspection report) submitted by the Divisional Officer, PCC Poonch at the time of processing of Consent to Establish case of the unit also reflects the site satisfied siting criteria w.r.t residential area / abadi and nearest Educational Institution (copy of Schedule-II dated 21-09-2016 is attached as Annexure-15) .

Therefore, it may be concluded that the unit namely M/s Dewan Stone Crusher has not been fully compliant with regard to : i) Compliance of the applicable siting criteria at present; ii) environmental guidelines and specific conditions laid down in the consent order issued by J&K Pollution Control Committee and Mandatory requirement of obtaining NOC from the Deputy Commissioner.

In addition to the above, earlier the Unit was also found be involved in encroachment of Government land.

In this regard as per details received from the member (ADM, Poonch) representing DM, Poonch “ A Commission was constituted for demarcation of state land adjoining the unit in view of the complaints received regarding encroachment of the state land by the unit holder.

The Commission submitted its report which clearly indicated that the unit holder encroached upon the state land in Khasra No. 218 of Village Chaktroo. The encroached State land was being used for running Stone Crusher with the name as M/S Dewan Stone Crusher established by Mr. Shazad Shabnam.

Despite repeated notices and opportunities given to the unit holder to vacate the state land, the same had not been vacated by the unit holder. It was the responsibility of the District Administration/ Revenue Authority to protect and safeguard its land. As a sequel to that the stone crusher operating on the encroached state land was duly sealed on 26-03-2022 by adopting and following the due procedure and legal process. The authorities are well within their domain, jurisdiction and powers to safeguard the state land by any means.

Pertinent to mention here that later on the unit holder approached the Hon'ble High Court. The Hon'ble High Court in WP(C) No.2712/2022 in case titled Shazad Shabnam Vs UT of J&K and Ors. dated 16-12-2022 directed Deputy Commissioner Poonch to de-seal the stone crusher of the petitioner in case the petitioner has removed the encroachment from the state land and has made the same encumbrance free and in case if there is no other legal impediment in doing so. Respondent No. 2 (DC) was directed to take a decision in this regard within four weeks from that day by passing a detailed speaking order.

Based on the report of Tehsildar Haveli that the unit holder had removed the encroachment, the written directions were passed by the District Magistrate vide order No. DMP/J/2637 dated 12-01-2023, to Tehsildar Haveli to de-seal the Diwan Stone Crusher at Village Chaktroo Tehsil Haveli, District Poonch. Accordingly, the stone crusher was de-sealed on 16.01.2023.”

According to Member representing J&K PCC, J&KPCC has nothing to do with the above reflected sealing and de-sealing procedure of District Administration.

3.1.2. Compliance w.r.t. Environmental Guidelines/Conditions of Consent to Operate granted by J&KPCC:

The Unit was not in operation at the time of visit of the Joint Committee. It was informed by the representative of the unit that the stone crusher has not been in operational for the last two years. However, it was apprehended from the physical condition of the plant (quantum of raw material and finished products stored at site), that the stone crusher is being operated regularly. Also, in light of contents of the above two paras related to JKPC, it is confirmed that the said Stone Crusher is operational in the recent past.

During inspection, it was observed that the Unit has provided dust containment cum suppression system/washing system at the Vibrator/screening point and water sprinkling system at the Primary and Secondary Jaw crushers. However, the adequacy of the dust suppression system and the Interlocking of conveyors and water spray system with the crusher could not be verified, as the unit of was not in operation.

The following violations/shortcomings were observed during inspection, by the Joint Committee:

- i. The sprinkling system installed at Primary and Secondary Jaw Crushers were temporary of PVC pipes instead of Permanent fitted Sprinklers of GI pipes. However, complete washing system found installed and operational at the screening point (**Photograph 1 & 2 of Annexure-16**)
- ii. The Jaw Crusher and Screeners, the main dust emitting structures were not found properly covered/enclosed (**Photograph 3 of Annexure-16**)
- iii. The Wind breaking wall all along the Periphery of the unit was not found to be Installed/constructed during inspection, which is a violation of the condition of the Consent to Operate . The Unit has provided 15 ft. wind breaking wall with CGU Sheets, on one side only (**Photograph 4 of Annexure-16**)
- iv. The Unit has not provided a green belt of broad leave trees in three rows along the periphery, in compliance of the conditions of Consent to Operate (**Photograph 5 of Annexure-16**)
- v. The road with the premises of the stone crusher is not metaled as prescribed in in the conditions of the Consent to Operate (**Photograph 6 of Annexure-16**)
- vi. The unit has required to get the suspended particulate matter (SPM) measured at least twice a month for all the 12 months in a year. *No such details/copies of Analysis reports done either by MOEF, GOI/CPCB/JKPC approved labs or JKPC lab were provided by the representative of the unit during*

visit. The unit is submitting Self Monitoring Report (SMR) only at the time of renewal of consent to Operate. J&K PCC has conducted monitoring in the year of 2018, wherein Unit was found to be compliant with the emission norms.

- vii. The unit is involved in unscientific disposal of solid waste (silt/fines) into the nearby river in violations to the granted CTO condition. The unit holder has not provided settling tanks and water recycling system for treatment and recycling of washing effluent containing silt/fines. It was observed that the washing effluent is discharged in an earthen pit, leading to nearby river, with no arrangement of removals of silt and recycling of treated waste water (**Photograph 7 of Annexure-16**)
- viii. The unit is using both river water and ground water in the process. Neither river water nor ground water is metered by the unit, to assess the exact quantity of water used from these two sources. The representative of the unit failed to produce NOC for abstraction of ground water and surface water.

3.2. M/s Shahzad Shabnam Contractor Hot Mix Plant, Chaktroo, Tehsil Haveli, District Poonch:

M/s Shazad Shabnam Contactor Hot Mix Plant is an integrated hot mix plant owned by the same owner and located in the same premises (at 100 mtr distance from the stone crusher), where stone crusher under reference is established.

3.2.1. Compliance of the Siting Criteria:

As per J&K PCC Order No. 30-JK PCB of 2020 dated 11/2/2020 on the subject “**Addendum to guidelines of J&K PCB dtd. 9/2/2004 for the existing old and consented stone crushing units and integrated hot mix plants in the UT of J&K**” (Annexure-17), *the guidelines/siting criteria for the stone crushers shall be applicable to the integrated hot mix plants, as well.*

Since the both the stone crusher and hot mix plant are established in the same premises, the Hot Mix plant is also not meeting the siting criteria notified by J&K PCC. However, it was informed by the Member representing J&K PCC that “*In the 26th Board meeting of J&K SPCB held on 25-06-2012 in Item No. 2 (Annexure-18), the Board in reference to the proposed guidelines/comprehensive document for Stone Crushers and Hot Mix Plants, had authorized the JKPCCC Chairman for relaxation of Criteria for grant of consent to Stone Crushers and Hot Mix plants in respect of Habitation, Educational institution, Health Care Establishment etc. in exceptional cases. Keeping in view the Government Allotted Works and Development of the area, CTO (F) was granted to this hot mix plant on Project specific basis by JKPCCC with the insertion of Specific condition at S.No. 4 stating that*

"Being project specific, the unit holder shall dismantle the Hot Mix Plant after completion of work" (Annexure-19).

3.2.2. Compliance w.r.t. Environmental Guidelines/Conditions of Consent to Operate granted by J&KPCC:

The Unit was not in operation at the time of visit of the Joint Committee. It was observed that the unit has provided i) inbuilt dry dust collector as primary dust collection system, for removal of dust from the dryer; ii) wet dust collector with water sprinklers in the drum as secondary dust collection system for hot air; iii) Stack and iv) settling tank for waste water from wet dust collector, as Pollution Control Devices.

The following violations/shortcomings were observed during inspection, by the Joint Committee:

- i. *During the inspection, it was observed that the wind breaking wall, which is a requirement stated in the Consent to Operate, was not installed or constructed all along the periphery of the unit (Photograph 8 of Annexure-16).*
- ii. *In accordance with the Consent to Operate conditions, the unit was supposed to establish a green belt consisting of broad-leaf trees in three rows all along the periphery. However, this requirement was not met, as observed during the inspection (Photograph 9 of Annexure-16).*
- iii. *The road within the premises of the stone crusher does not meet the specified standards for metallization, as outlined in the Consent to Operate conditions.*
- iv. *The unit failed to provide the necessary analysis report confirming the effectiveness of the pollution control devices/measures in place. Additionally, they did not submit the required half-yearly Self Monitoring Report (SMR) regarding emissions. This failure to comply violates the conditions specified in the Consent to Operate. It has also come to light that the unit holder has not submitted Self Monitoring Report (SMR) in compliance to specific condition No. 4 laid down in the consent order No. PCC/Digital/22043101380 of 2022 dated 3-09-2022. However, the Regional Director, JKPCC, Jammu had issued a letter to the said Hot Mix Plant immediately after coming in operation of the said hot mix plant in October 2022 to submit SMR from MoEF&CC, GoI approved Laboratory so that the Adequacy of installed PCDs can be assessed (copy attached herewith in Annexure-20). It was observed by the member representing CPCB that the Unit has not been monitored w.r.t. emissions since its establishment. In this regard, it was informed by the member representing J&K PCC that Since the unit holder has failed to submit the SMR despite issuance of Letter by Regional Director, JKPCC, Jammu, as mentioned above, So the J&KPCC has deputed the team of Scientific Staff /Lab*

Staff to carry out Air & Water Monitoring of the unit to check the efficacy of devices installed (Letter Attached at **Annexure 21**).

- v. The unit did not provide details regarding the disposal of solid waste generated during the processing. The project proponent is obligated to adhere to the Solid Waste Management Rules of 2016, as stated in the conditions of the Consent to Operate granted by the J&K PCC. It was informed by the member representing J&K PCC that J&KPCC has issued and served upon legal notice dated 12-06-2023 to the unit holder on account of non-compliance of the rules referred above. (copy attached herewith in **Annexure-22**).

Therefore, it may be concluded that the Unit namely M/s Shahzad Shabnam Contractor Hot Mix Plant has not been fully complying with the environmental guidelines specified by J&K Pollution Control Committee in the Consent to operate (CTO) granted to the Unit.

4. Conclusion and Recommendations:

The following conclusion is drawn from the finding of the Joint Committee:

- i. The Unit namely M/s Dewan Stone Crusher is not presently complying with the applicable siting criteria w.r.t. distance from Residential area and Educational Institution.
- ii. The Unit namely M/s Dewan Stone Crusher is not fully complying with the environmental guidelines specified by J&K Pollution Control Committee in the Consent to Operate (CTO) granted to the Unit and Mandatory requirement of obtaining NOC from the Deputy Commissioner.
- iii. M/s Dewan Stone Crusher has not complied with Final Notice for operating the Stone Crusher in violation to Environmental Laws and specific conditions laid down in Consent Order.
- iv. The Unit namely M/s Shahzad Shabnam Contractor Hot Mix Plant has been partially complying with the environmental guidelines specified by J&K Pollution Control Committee in the Consent to operate (CTO) granted to the Unit.

It is therefore recommended that an appropriate action may be taken by J&K Pollution Control Committee as per applicable Environmental Law, to ensure that:

- i. The Units under reference are operated only after complying with the conditions of the Consent to Operate granted by J&K PCC.
- ii. Environmental Compensation is levied for the entire period of non-compliance and also for not complying with various orders of J&K PCC.

In addition to the above, the member representing CPCB has also submitted additional comments with regard to the compliance of siting criteria by M/s Dewan Stone Crusher, as under:

Additional Comments of CPCB Member:

The member representing CPCB is not in agreement with the conclusion drawn in **Section 3.1.1; Page No. 2 & 3** of the above report, that M/s Dewan Stone Crusher was complying with the siting Criteria applicable at that point of time, for the following reasons:

- i. The distance (Siting) parameters applicable at the time of establishment of the stone crusher under reference, in 2016 and the revised distance (siting) parameters as per revised siting parameters in 2023 are the same (**even more stringent in 2016, with regard to nearest residential area**), with regard to residential area/abadi and Educational Institutions, as tabulated below:

S.No.	Parameter	Siting Criteria applicable in 2016	Siting Criteria applicable in 2023
1.	Nearest Residential Area/Abadi.	No stone crusher will be allowed to operate within the limits of ½ Km (500 mtr.). (20 or more houses within the radius of 1 km shall constitute the area for the purpose of this siting criteria.).	500 mtr. (20 or more house within a radius of 500 mtr. shall constitute the residential area as per orders of Hon'ble Supreme Court of India in Civil Appeal No. 10732/1995 dated 25/4/1990. It shall be a critical siting criteria.
2.	Nearest Educational Institution or other similar institution.	No stone crusher will be allowed to operate within the limits of 1 Km.	No stone crusher will be allowed to operate within the limits of 1 Km.

The distance certificates with regard to applicable siting criteria issued by concerned deptt. at the time of establishment of stone crusher in 2016 and now in 2023 on the request of Joint Committee, are as under:

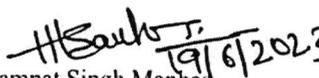
S.No.	Parameter	Distance Certificate issued by Revenue Deptt. in 2016	Distance Certificate issued by Revenue Deptt. in 2023
1.	Nearest Residential Area/Abadi.	500 mtr	Within 500 mtr: 70 houses, 114 families
2.	Nearest Educational Institution or other similar institution.	1 Km	Govt. Middle School, Chaktroo is situated within 500 mtr. (428 mtr)

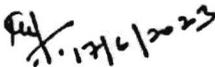
It is unclear how the same school that is currently located 428[^] meters away from the stone crusher could have been situated more than 1 kilometer away in 2016. The same inconsistency applies to the residential area, as well.

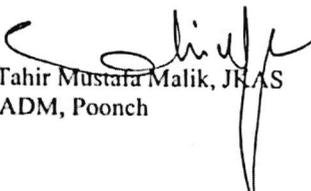
- ii. As per letter received from DO, Poonch, J&K PCC (**Annexure-23**), "The distance parameters reflected in Para 22 are in contradiction with the Distance certificates issued by Assistant Commissioner Revenue Poonch and Tehsildar Haveli in 2016.(Distance Certificates issued by Assistant Commissioner Revenue Poonch & Tehsildar Haveli in 2016, Tehsildar Haveli distance certificates vide No. TH/OQ/125 Dated 27-04-2023 & No. TH/OQ/143 Dated 02-05-2023)"
- iii. In its response to the above letter of DO, Poonch, ADM, Poonch (**Annexure-24**) mentioned "It is a fact that there are contradictions in the distance certificate issued by the then ACR on the basis of report of the then Tehsildar in the year 2016 and the latest distance reported by the Tehsildar Haveli. There may be difference in some error of assessment in view of different method of measurement adopted by the then Tehsildar. It is not known whether the certificate issued in the year 2016 was used by the JKPC and is admissible for issuance of CTE/CTO*. The latest distance parameter has been mentioned based on the report of Tehsildar Haveli using modern method of measurement." (*It was confirmed by Member representing J&KPC that distance certificate issued by Deptt. of revenue in 2016 was considered for issuing Consent).

Based on the above facts, *CPCB member is of the view that "M/s Dewan Stone Crusher was neither complying with the siting criteria applicable at the time of establishment in 2016 nor it is complying with the revised siting criteria applicable in 2023".*

The above report of the Joint Committee is being submitted for the consideration of Hon'ble National Green Tribunal. The Joint Committee shall abide by further orders of Hon'ble NGT, in this regard.


Sampat Singh Manhas
J&K PCC, Poonch


Dr. Narender Sharma
CPCB, Chandigarh


Tahir Mustafa Malik, JKAS
ADM, Poonch

Dated: June 17, 2023



PCC

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**J&K POLLUTION CONTROL COMMITTEE
OFFICE OF THE REGIONAL DIRECTOR - JAMMU**

*Parivesh Bhawan, Forest Complex Gladni, Transport Nagar, Narwal, Jammu
Email: regionaldirectorjkspcbmu@gmail.com, Tel/fax 0191-2476926*

The Member Secretary,
J&K PCC, Jammu.

No.: PCC/RDJ/Consent-O/23/1127-28

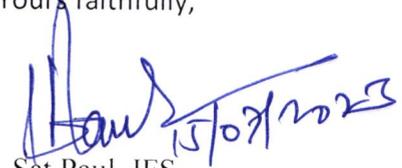
Dated: 15-07-2023

Sub: - Submission of Closure format of M/s Diwan Stone Crusher, Chaktrou, Haveli, Poonch.

Sir,

Kindly find enclosed herewith the Closure format of the subject unit submitted by Divisional Officer PCC Poonch vide his letter No. JKPC/Div/P/2023/399 dated 15-07-2023 for initiation of legal proceedings.

Yours faithfully,


Sat Paul, IFS
Regional Director

Copy to Divisional Officer, PCC Poonch for information & necessary action.



Government of Jammu and Kashmir
Office of the Divisional Officer
Pollution Control Committee
Poonch

The Regional Director,
JKPCC, Jammu.

No: JK PCC /Div/P/2023/ 399

Dated: 15 -07-2023

Subject: Submission of Closure Format of M/S Diwan Stone Crusher, Chaktroo, Haveli, District Poonch.

Ref.:- Your Goodself office Letter Nos.:-

1. PCC/RDJ/2022/O/869 Dated: 16/06/2023.
2. PCC/RDJ/2022/O/1090 Dated: 14/07/2023.

Sir,

Kindly refer above cited Subject & Reference. In this context, Kindly find enclosed here with the Closure Format of M/S Diwan Stone Crusher, Chaktroo, Haveli, District Poonch for further necessary action at your end please.

Your's Faithfully


 (Sampat Singh Manhas)
 Divisional Officer,
 PCC, Poonch.

J&K State Pollution Control Board
 (JAMMU)

Receipt No..... 1417
 Dated..... 15/07/23
 One Set

SA(R) | for the needful
 Go ahead, please.



TO
check & do
needful

15/07/2023

Revised Closure Order Format

1	2	3	4	5	6	7	8
Name of unit with complete address (Location)	Name of proprietor/ Incharge of the unit with contact number	Line of Activity	Category of Unit	UCM status/ Sr. number of the category as per UCM	Status of the Consent	Status of PCDs	Complaint, if any (with reference NO. and Date)
M/s Diwan Stone Crusher, Chaktroo, Haveli, District Poonch	Mr. Shazad Shabnam (Prop.) 9622157797, 7051815151	Stone Crusher	Small	Orange	CTO('R) upto April 2023. Operational without valid CTO at present .	Partially Installed	Yes
9	10	11	12	13	14	15	16
Whether matter subjudice, if yes title of the case, name of the Court	Notices Issued with No. and Date	Signatory of the Notice	Date of inspection. Name of PCC officer	Divisional Office PCC, Poonch Office file No. and title etc	Recommendations	Remarks	Enclosures, if any
Yes. O.A.No.151/2023; Hassina Wazid (Sarpanch) Versus State of Jammu and Kashmir (UT) & Ors. Hon'ble National Green Tribunal .	Notice- 1 vide No. PCC/RD-J/ N-I/ Consent-O/23/110-12 Dated 28-04-2023. Final Notice vide No.PCC/RD-J/O/ N-II/2023/320-22 dt. 18/05/2023	Regional Director, JK PCC, Jammu	Unit was inspected latest by 24-6-2023 by Naseem Hussain Shah, Research Assistant , PCC, Poonch	Nil	Recommended for issuance of Closure Order	Unit is operational without proper PCDs/PCMs and Valid CTO.	Copy of Latest inspection report, Latest Geo tagged photographs, Notice-1, Final Notice

H. S. S.
15/7/23
Divisional Officer,
PCC, Poonch

[Signature]
15/07/2023
REGIONAL DIRECTOR,
JKPCC, JAMMU



Government of Jammu and Kashmir
Office of the Divisional Officer
Pollution Control Committee
Poonch

The Regional Director,
JKPCC, Jammu.

No: JK PCC /Div/P/2023/ 398

Dated: 15 -07-2023

**Subject: Latest Inspection Report of M/S Diwan Stone Crusher, Chaktroo, Haveli,
District Poonch.**

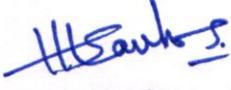
Sir,

Kindly refer above cited Subject. In this context, it is to submit that the unit was inspected by field officer of PCC, Poonch latest by 24-06-2023 and following observation were made during inspection:-

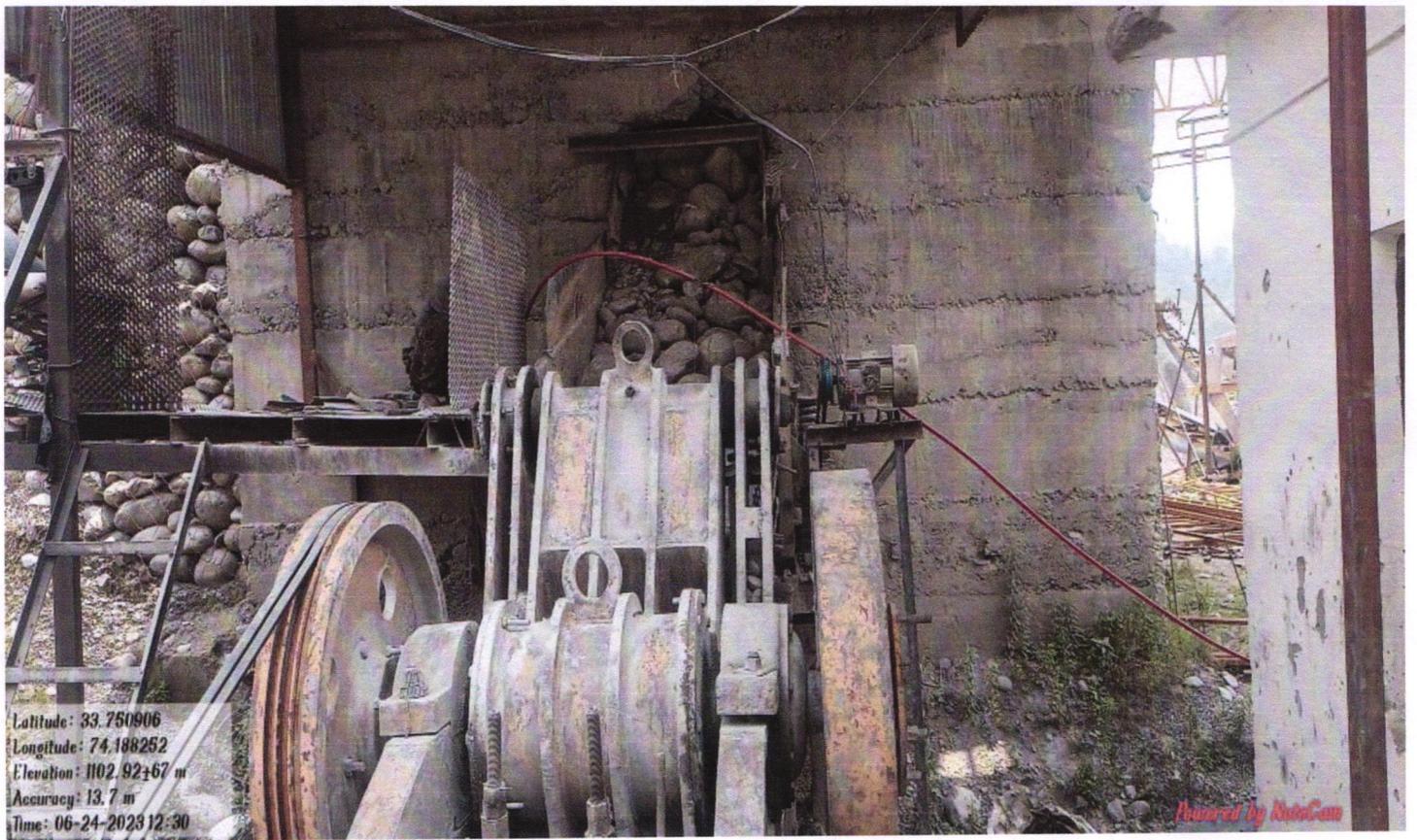
1. The sprinkling system installed at Primary and Secondary Jaw Crushers were temporary of PVC pipes instead of Permanent fitted Sprinklers of GI pipes and found inadequate.
2. The dust emitting points viz. Jaw Crusher and Screeners found not properly covered during inspection.
3. About 15 ft. high wind breaking wall consisting of CGI sheets installed on concrete wall of length about 50 ft. found installed along on one side only. However the required 15 ft. permanent Wind breaking wall all along the Periphery of the unit not found installed or constructed during inspection.
4. A green belt comprising broad leave trees in three rows along the periphery not found planted during inspection.
5. The roads in the Stone Crusher premises not found metalled during inspection.
6. The unit holder has not provided a concrete settling tanks and water recycling system for treatment and recycling of washing effluent containing silt/fines.

The related Geo tagged photographs have been enclosed herewith for ready reference.
Hence submitted for further necessary action at your end please.

Your's Faithfully


(Sampat Singh Manhas)
Divisional Officer,
PCC, Poonch.

Photographs reflecting uncovered & without fixed sprinkling system Primary Jaw Crusher



*H/Sanku S
Do, PCC, Poonch.*

Photographs reflecting uncovered & without fixed sprinkling system Secondary Jaw Crusher



*H/Sanku
Do, P.C.C, Pouch.*

Photographs reflecting non installation of wind breaking wall & absence of three rows plantation along the Periphery of Stone Crusher



*At least
Do, Rec, Pouch.*

Photographs reflecting uncovered screeners & Crushing point of Stone Crusher



H. Sankar J.
DO, PCC, Poonch.



PCC

**J&K POLLUTION CONTROL COMMITTEE
OFFICE OF THE REGIONAL DIRECTOR - JAMMU**

Parivesh Bhawan, Forest Complex Gladu, Transport Nagar, Narwal, Jammu
Email: regionaldirectorjkspcbpmu@gmail.com, Tel-fax 0191-2476926

www.jkspcb.nic.in

M/s Diwan Stone Crusher,
Chaktroo,
Poonch.

NOTICE-I

No.PCC/RD-J/N-I/Consent-O/23/ 110 -12 .

Dated: -28/04/2023

Legal Notice

Whereas, no industry can be established or run without the consent of the Committee as envisaged under section 25/26 and section 21 of the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981, respectively.

Whereas, every industry is also under statutory obligation to meet the prescribed standards of emissions / effluents by installing requisite pollution control devices.

Whereas, consent to operate (Renewal) granted in favour to your stone crusher is valid upto April 2023.

Whereas, directions was issued to you vide letter no. PCC/EDJ/2022/SA-O/5059-60 dt.14-02-2023 for improvement of CGI covering, construct metalled road, wind breaking wall, ensure daily water sprinkling on roads and plant three rows of broad leaves tress around the unit within one month, but no compliance is received from your side till date, thereby violating the Environmental. Laws & condition lay down in the Consent Order.

Whereas, Divisional Officer PCC, Poonch has reported that you are operating stone crusher in night hours in violation to one of the consent conditions.

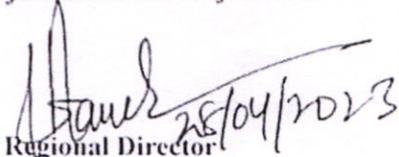
Whereas, operation of stone crusher with this status is punishable under Section 5 of the Environment Protection Act 1986 which includes closure of your stone crusher.

Whereas, operation of your stone crusher with status is a flagrant violation of the above mentioned laws and is also punishable under Section 15 of Environment Protection Act 1986 which states whosoever fails to comply with or contravenes any of the provisions of this Act or the rules made or order or directions issued there under, shall be punishable with imprisonment for up to five year or with fine up to one Lakh Rupees or with both.

Whereas, the Committee accordingly proposes to initiate legal action against you including closure of the Unit as well for:-

- Operating the unit in violation to Environmental Laws & specific condition lay down in Consent Order.
- Causing environmental pollution especially water pollution in the area adversely affecting the health of general public.

This notice is therefore, issued and served upon you to show cause within 15 days from its issuance as to why legal action including closure is not taken against your unit for the violation of various environmental laws.


Regional Director
vs PCC Jammu

Copy to:-

- The Member Secretary, J&K PCC Jammu for kind information
- Divisional Officer, PCC Poonch for information and necessary action. This is in reference to his Office letter no. JKPC/Div/P/2023/312 dt.25-03-2023.



PCC

www.jkspcb.nic.in

**J&K POLLUTION CONTROL COMMITTEE
OFFICE OF THE REGIONAL DIRECTOR - JAMMU**

Parivesh Bhawan, Forest Complex Ground, Transport Nagar, Narwal, Jammu
Email: regionaldirector@jkspcb.nic.in, Tel: fax 0191-2476926

M/s Diwan Stone Crusher,
Chaktrou,
Poonch.

FINAL NOTICE

No. PCC/RD-J/O/N-II/2023/ 320-22

Dated: 18/05/2023

NOTICE

Ref: - (i) Legal Notice-I vide no. PCC/RD-J/N-1/Consent-O/23/119-21 dt.28-04-2023.

You have already been served with the above referred notice but you have failed to respond to the notice till date.

Whereas, no industrial unit can be installed or run without the consent of the Committee as envisaged under section 25/26 and section 21 of the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981, respectively.

Whereas, every unit is also under statutory obligation to meet the prescribed standards of emissions / effluents by installing requisite pollution control devices.

Whereas, Previous CTO ® granted in favour of your stone crusher was valid upto April 2023, thereafter you have applied CTO ® renewal on 26-04-2023 vide application ID 3752815, but case was sent back to you on 02-05-2023 for rectification of shortcomings, but you have not re-submitted the case back till date.

Whereas, Divisional Officer PCC, Poonch has reported that you are operating stone crushers un-authorizedly i.e. without valid consent from the Pollution Control Committee and without proper PCDs.

Whereas, Operation of the stone crusher with this status is punishable under Section 5 of the Environment Protection Act 1986 which includes closure of your stone crusher.

Whereas, Operation of the stone crusher with this status i.e. without consent from the Committee is a flagrant violation of the above mentioned laws and is also punishable under Section 15 of Environment Protection Act 1986 which states whosoever fails to comply with or contravenes any of the provisions of this Act or the rules made or order or directions issued there under, shall be punishable with imprisonment for upto five year or with fine up to one Lakh Rupees or with both.

This notice is therefore issued and served upon you to show cause within 15 days from its issuance as to why legal action including closure of your stone crusher should not be taken against you for the violation of various environmental laws.

Sat Paul, IFS

Regional Director, Jammu

- i) The Member Secretary, J&K PCC Jammu for information.
- ii) Divisional officer, PCC Poonch for information and necessary action. This is in reference to his office letter no. PCC/Div/P/2023/352 dt.12-05-2023.
- iii) Record file

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 5022 OF 2024

ANNEXURE P/2

SHAHZAD SHABNAM APPELLANT(S)
VERSUS
STATE OF JAMMU AND KASHMIR & ORS. RESPONDENTS

O R D E R

We do not find any good ground and reason to interfere with the impugned judgment and hence, the present appeal is dismissed.

However, it will be open to the appellant - Shahzad Shabnam to produce documents and papers before the National Green Tribunal¹, to show that he is fully compliant and not in breach of law.

Pending application(s), if any, shall stand disposed of.

.....J.
(SANJIV KHANNA)

.....J.
(DIPANKAR DATTA)

.....J.
(PRASANNA BHALACHANDRA VARALE)

NEW DELHI;
APRIL 26, 2024.

Signature Not Visible
Digitally signed by
Deepak Gujral
Date: 2024.05.02
17:07:46 IST
Reason: []

1 "NGT", for short.

ITEM NO.29

COURT NO.2

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. 5022 OF 2024

SHAHZAD SHABNAM APPELLANT(S)

VERSUS

STATE OF JAMMU AND KASHMIR & ORS. RESPONDENTS

(IA No.94089/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No.94091/2024-STAY APPLICATION)

Date : 26-04-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE DIPANKAR DATTA
HON'BLE MR. JUSTICE PRASANNA BHALACHANDRA VARALE

For Appellant(s)

Mr. P.S. Patwalia, Sr. Adv.
Mr. Ajit Sharma, AOR
Mr. M. Zulkarnain Chowdhary, Adv.
Mr. A. Renganath, Adv.
Mr. Kanchan Kumar, Adv.
Mr. Akshat Sharma, Adv.
Mr. Amrit Pradhan, Adv.
Ms. Shweta Jain, Adv.

For Respondent(s)

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

The appeal is dismissed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(DEEPAK GUGLANI)
AR-cum-PS

(VIDYA NEGI)
ASSISTANT REGISTRAR

(signed order is placed on the file)



Government of Jammu and Kashmir
OFFICE OF THE TEHSILDAR, HAVELI (POONCH)

The Deputy Commissioner
Poonch

No: *TH/ G C 03-04*

Date: *01-07-2023*

Subject: **Online Grievance Id No. 999003964529 lodged on JK-Integrated Grievance and Monitoring System**

Ref: Your good office letter No.DCP/Gen/166 dated 10-06-2023

Sir,

In reference to the subject cited above It is to submit that as far as the grievance of the applicant is concerned it is to most humbly submit:-

- i. Whether CTO has been issued or not, the same may be verified from the concerned department but as far as NOC is concerned, no NOC has been issued from the office of Worthy Deputy Commissioner Poonch in last one year to this stone crusher unit, as per the information available in this office.
- ii. The other grievances of the applicant are beyond the competence of this office and a detailed report with regard to the distance of different Govt. institutions from the unit has already been submitted, the copy of which is enclosed herewith.

Hence submitted for your kind perusal and further necessary action.

Yours faithfully

Anjum Bashir Khan Khattak
1-7-XXIII
Anjum Bashir Khan Khattak (KAS)
Tehsildar Haveli (Poonch)

Copy to the Assistant Commissioner (Rev) Poonch for kind information.





Government of Jammu and Kashmir

OFFICE OF THE TEHSILDAR HAVELI (POONCH)

The Additional Deputy Commissioner

Poonch

Subject: Nomination in the NGT matter of OA No. 151 of 2023; Hassina Wajid (Sarpanch) V/S State of J&K (UT) and Drs.

Ref: Order No. DMP/JC/231-33, Dated: 15-04-2023.

Sir,

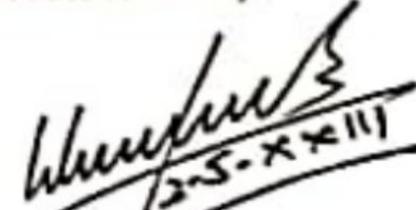
In compliance with the directions received from your goodself with regard to the submission of details regarding the total families/houses & institutions residing/situated within 500 meters radius of M/S Dewan Stone Crusher Chaktrou, the concerned Naib Tehsildar was directed to furnish the same in response to which he has re-submitted a report vide his office letter No. NTC/53, Dated: 02-05-2023 which is enclosed herewith and is summarized as under:-

S. No.	M\S Dewan Stone Crusher		M\S Dewan Hot mix Plant		Remarks
	No. of houses/families within 500 meters of the conveyer belt	No. of houses/families within 500 meters from the nearest boundary of the Crusher	No. of structures/families within 500 meters from the Chimney of the HMP	No. of houses/families within 500 meters from the nearest boundary of the HMP	
1.	Number of houses as per the spot= 70	Number of houses as per the spot= 72	Number of houses as per the spot= 70	Number of houses as per the spot= 70	Details of head of the families is enclosed herewith
2.	Number of families as per Malshumari (Revenue record) residing in these houses= 114	Number of families as per Malshumari (Revenue record) residing in these houses = 116	Number of families as per Malshumari (Revenue record) residing in these houses = 114	Number of families as per Malshumari (Revenue record) residing in these houses = 114	

3. Govt Middle School Chaktroo is situated within 500 meters of the conveyer belt of the Stone Crusher as well as from the chimney of HMP.
There is one Health Sub-Centre in ward No. 05 situated at a distance of around 430 meters from the unit.
There is one Anganwadi Centre in Ward No. 05 of the village which is situated within 500 meters.

No:TH/OQ/143
Dated: 02-05-2023

Yours faithfully


2-5-2023
Anjum Bashir Khan Khattak (KAS)
Tehsildar Haveli (Poonch)


GOVERNMENT OF UNION TERRITORY OF JAMMU & KASHMIR
OFFICE OF THE DEPUTY COMMISSIONER Poonch
Tel. No: 01965-220333 Fax No: 01965-222363 e-mail: dcpoonch@gmail.com

To
Sh. Mohd Riaz.
S/O Mohd Ayoub.
R/O Village Chaktroo.
Tehsil Haveli.

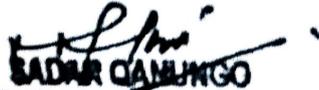
Subject : Reply to your Application Dated: 20/10/2022 under right to Information Act, 2009.

Point No: 1 . No such land title certificate has been issued from this office.

Point No: 2. Read same as Para one.

Point No: 3. Yes, this office has received an application from Sh. Shahzad Shabnam S/O Abdul Rashid R/O Village Chaktroo for issuance of Land Title Certificate for Land bearing Khasra No. 256 Of Village Chaktroo On 10/05/2022 . But above said certificate has not been issued yet as the matter is subjudice in the court of District Collector Poonch.

Point No: 4. Copy of file enclosed (34 pages.)


SADAR QANUNGO
DEPUTY COMMISSIONER OFFICE
POONCH

No.DCP/SQ/2022/1610-11
Date:- 05/11/2022

Copy to

1. Assistant Commissioner Revenue (Public Information Officer) Poonch for Kind Information. This is in reference to letter No. ADCP/PS/1058-59.

Photo of 22/11/2024



Q53P+7M9, Chaktroo, 185101

Latitude

33.75106413°

Longitude

74.18622372°

Local 08:50:36 AM

GMT 03:20:36 AM

Altitude 1225 m

Friday, 22.11.2024



Unnamed Road, 185101

Latitude
33.75027424°

Longitude
74.18403109°

Local 09:45:54 AM
GMT 04:15:54 AM

Altitude 1271 m
Friday, 22.11.2024

Photo of 3/11/2024



Q53P+7M9, Chaktroo, 185101

Latitude
33.75134595°

Longitude
74.18662444°

Local 09:59:50 AM
GMT 04:29:50 AM

Altitude 1225 m
Sunday, 03.11.2024

photo of 21/03/2024



50 Shindra, Near Shindra Man Road Poonch, 185101

Latitude

33.75026432°

Longitude

74.18404765°

Local 12:17:07 PM

GMT 06:47:07 AM

Altitude 1271 m

Thursday, 21.03.2024

photo of 13/12/2024 , day expert committee visited

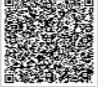


photo of 13/12/2024 , day expert
committee visited



ANNEXURE P/6

2024:PHHC:158409

**In the High Court of Punjab and Haryana, at Chandigarh****Civil Writ Petition No. 12107 of 2018 (O&M)****Reserved On: 19.11.2024**
Pronounced On: 29.11.2024

M/s Ambala Stone Crushers and Others

... Petitioner(s)

Versus

State of Haryana and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Sheel Nagu, Chief Justice.
Hon'ble Mr. Justice Anil Kshetarpal.**Present:** Mr. Shailendra Jain, Senior Advocate
with Ms. Richa Sharma, Advocate
for the petitioner(s) (In CWP-11305-2019).Ms. Bhagyashri, and Mr. Shivam Sharma, Advocates
for the petitioner(s) (In CWP-19945-2020, CWP-12107-2018,
CWP-30125-2018 and CWP-20595-2021).Mr. Sanjeev Sharma, Senior Advocate
with Mr. Sandeep Singh and Mr. Jugansh Goyal, Advocates
for the petitioner(s) (In CWP-27094-2017).Mr. Chetan Slathia, Advocate
for the petitioner(s) (In CWP-11209-2019).Mr. Tarun Gupta, Advocate,
for the petitioner (s) (In CWP-9374-2021, CWP-11694-2020,
CWP-15981-2021 and CWP-19538-2020).Mr. Rajinder S.Rana, Advocate,
for the petitioner(s) (In CWP-12771-2019 and CWP-10871-
2019).Mr. Raj Kumar Gupta, Advocate,
for the petitioner(s) (In CWP-5101-2021 and CWP-5103-2021).Mr. Vijayveer Singh, Advocate
for Mr. Akshay Jindal, Advocate,
for the petitioner(s) (In CWP-15299-2020).

**Civil Writ Petition No. 12107 of 2018 (O&M)
And Other Connected Cases**

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Mr. D.S.Patwalia, Senior Advocate
with Mr.Abhishek Singh, Advocate,
for the petitioner(s) (In CWP-9577-2019, CWP-11163-2019
and CWP-3992-2020).

Mr. Surender Dhull, Advocate,
for the petitioner(s) (In CWP-12683-2019).

Mr. Pankaj Gupta and Mr. Paras Jain, Advocates
for the petitioner(s) (In CWP-1012-2021).

Mr. Deepak Basatia, Advocate
for the petitioner(s) (In CWP-11204-2019, CWP-12636-2019,
CWP-13526-2019, CWP-5796-2020 and CWP-5666-2020).

Mr. Surender Dhull, Advocate,
for the petitioner(s) (In CWP-12683-2019).

Mr. Abhishek Singh, Advocate
for the petitioner(s) (In CWP-17483-2020).

Mr. Himanshu Arora, Advocate
for the petitioner(s) (In CWP-9713-2019).

Mr. Amandeep Singh Talwar and Mr. Abishai Alfred George,
Advocates, for the petitioner(s) (In CWP-3286-2021).

Mr. Ankur Mittal, Additional Advocate General, Haryana
with Mr. Saurabh Magu, Deputy Advocate, General, Haryana
and Mr. Karan Jindal, AAG, Haryana, for State of Haryana.

Mr. Ankur Mittal, Mr. Deepak Sabharwal, Ms. Kushaldeep
Kaur, Mr. Siddhanth Arora and Ms. Saanvi Singla, Advocates
for the Haryana State Pollution Control Board.

Anil Kshetarpal, J.

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**Civil Writ Petition No. 12107 of 2018 (O&M)
And Other Connected Cases**

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1. Factual Background

1.1 With the consent of the learned counsel representing the parties, 28 connected writ petitions, detail whereof is given at the foot of the judgment, shall stand disposed of by this common judgment. In all these writ petitions, the petitioners have assailed the State Government's final notification issued on 11.05.2016 and the amended notification issued on 04.04.2019 laying down the norms for location of stone crushers in the State.

1.2 In order to comprehend the issues involved, the relevant facts, in brief, are required to be noticed. Under Sections 3 and 5 of the Environment (Protection) Act, 1986 (hereinafter referred to as "the 1986 Act"), the Central Government has power to take measures to protect and improve the environment while regulating the areas where certain operations, industries, or processes shall not be carried out or shall be carried out subject to certain safeguards. Section 5 enables the Central Government

**Civil Writ Petition No. 12107 of 2018 (O&M)
And Other Connected Cases**

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including the closure, prohibition or regulation of any industry, operation or process. Section 23 enables the Central Government to delegate its powers and functions under the 1986 Act to any officer, State Government or any other authority except the enabling power to constitute an authority under sub-section (3) of Section 3 and to make rules under Section 25.

1.3 The Central Government vide the notification issued on 10.02.1988 delegated the powers vested in it under Section 5 to the State Governments of Andhra Pradesh, Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Mizoram, Orissa, Rajasthan, Sikkim and Tamil Nadu. In view of the delegated powers, the State Governments have been issuing directions including laying down the norms for location of the various industries which cause pollution to provide healthy environment for the residents and to maintain ecological balance. The State of Haryana on 21.10.2015 invited objections while issuing a draft notification proposing to lay down the norms for location of the stone crushers. During the hearing, the Government Counsel has disclosed that 22 objections were received, which were considered and eventually final notification was issued on 11.05.2016 giving three years' period to the existing stone crushers to shift while making a provision for grant of extension for a period of one more year after the expiry of initial period of three years.

2. Arguments put forth by the learned counsel representing the parties

2.1 The learned counsel representing the parties have been heard at

length and their respective synopsis/notes of submissions have also been

**Civil Writ Petition No. 12107 of 2018 (O&M)
And Other Connected Cases**

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considered.

2.2 Mr. Shailendra Jain, Senior Advocate, the petitioners' counsel has submitted that the final notification issued on 11.05.2016 by the State of Haryana is notified under a wrong provision of law i.e. Section 5 and 7 of the 1986 Act read with Rule 4 of the Environment (Protection) Rules, 1986 (hereinafter referred to as "the 1986 Rules"). In other words, the submission is that vide the notification dated 10.02.1988 the Central Government has not delegated its powers under Section 3(2)(v). Hence, the State of Haryana has no jurisdiction to lay down norms for location of stone crushers. It has further been submitted that the directions in Section 5 of the 1986 Act pertain to closure, prohibition or regulation of any industry whereas the impugned notifications relate to siting parameters and Section 3(2)(v) of the 1986 Act confers the said power. It has been asserted by the learned counsel that the only power vested with the State Government vide the notification issued on 10.02.1988 is under Section 5 of the 1986 Act. Moreover, the procedure as laid down in Rule 5 of the 1986 Rules has not been followed by the State Government.

2.3 The learned counsel argues that the notification dated 11.05.2016 is violative of both substantive as well as the procedural provisions contained in the 1986 Act and the 1986 Rules. He asserts that the introduction of item No. III of Schedule-II of the impugned notification has been made only to help those stone crushing units which are lying closed since 2012 in order to give them a new lease of life initially for a period of

**Civil Writ Petition No. 12107 of 2018 (O&M)
And Other Connected Cases**

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2.4 The learned counsel also submits that under the rule of estoppel, respondents No. 4 and 5 cannot refuse to renew/grant consent to operate without any omission and commission on the petitioner's part after allowing them to operate their stone crushers continuously from 19 to 22 years particularly when the petitioners have made their huge investments in erection and installation of the stone crushers. Furthermore, the petitioners will suffer grave injuries if their stone crushers are closed due to the issuance of the impugned notifications as it will not only cause loss of employment to hundreds of employees but will also result in loss of capital investment made by the petitioners for establishment of the stone crushers.

2.5 In the end, it has been argued that the crushing zones as proposed in villages Doewala and Balewala, District Yamuna Nagar, can be expanded to include all the stone crushers located around the proposed crusher zones as it will solve the problem efficaciously.

2.6 Finally, it has been argued that the notification infringes upon the petitioners' fundamental rights of practice any profession, to carry out any occupation, trade or business as guaranteed to all the citizens under Article 19 (1)(g) of the Constitution of India and the petitioners hold the licenses to operate their stone crushers for the period upto 31.03.2022.

2.7 Mr. D.S.Patwalia, Senior Advocate, while drawing the attention of the Court to Clause (ii) of the policy, submits that exemption from shifting has been granted to the existing stone crushers located in the notified approved crushing zones which is discriminatory and arbitrary, as all the stone crushing units which are not in consonance with the location

**Civil Writ Petition No. 12107 of 2018 (O&M)
And Other Connected Cases**

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criteria prescribed have been directed to shift within three years from the date of issuance of the impugned notification.

2.8 Mr. Sanjeev Sharma, Senior Advocate, has contended that the notification is arbitrary because the minimum distance is to be calculated from the boundary of the stone crushing unit irrespective of the size of plot. He also asserts that the State Government has failed to make a provision to calculate the distance of place where the machines are installed for crushing the stone vis-a-vis the size of the plot or area.

2.9 Mr. Vaibhav Jain, Advocate, has sent a written note of his submissions drawing the attention of the Court to the litigation which was decided by the National Green Tribunal on 09.01.2014. It is submitted that the petitioner herein set up their stone crushers in accordance with the prevalent policy decisions from time to time. The learned counsel has submitted that the method of measurement used in the impugned notification is unfair in comparison with the notifications issued in the year 1992/1997.

2.10 It has also been submitted that when the stone crushers were established, the adjoining land was not notified as a forest area because in the jamabandi, the forest area has been recorded for the first time in the year 2007-08 hence the petitioners who had set up their units much before the declaration of Forest, should not be forced to shift. In the end, it has been contended that the petitioners' vested rights cannot be taken away by issuing the executive instructions.

2.11 Additionally, Mr. Tarun Gupta, Advocate, has also challenged the correctness of the amended notification issued on 04.04.2019 which lays

**Civil Writ Petition No. 12107 of 2018 (O&M)
And Other Connected Cases**

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down the requirement of 500 meters distance between the educational institutions and the stone crushers. He further submits that the school in the vicinity was constructed subsequently where the stone crusher had already been established. Hence, a direction to the stone crushers to shift cannot be issued as they were established prior in point of time and the educational institution came into existence subsequently. Apart from that the learned counsel representing the petitioners in various other writ petitions have adopted the arguments of the learned senior counsels.

2.12 Per contra, Mr. Ankur Mittal, Additional Advocate General, Haryana, has submitted that the requirement of protecting the environment cannot be static and the environment can be protected by a dynamic approach and keeping in view the directive principles of State policy as envisaged in the Constitution, the State is bound to make efforts for maintaining delicate balance between the requirement of healthy environment and industrialization.

2.13 The learned counsel while referring to the various notifications issued from time to time, submitted that the norms for location of the crushing units have been laid down from time to time as per the need of the hour. He has submitted that Section 5 of the 1986 Act must be read in conjunction with Section 3 of the Act for harmonious construction of the statutory provisions. He has also submitted that same notification issued on 10.02.1988 was the subject matter of adjudication before the Supreme Court in *A.P. Pollution Control Board II v. Prof. M.V. Nayudu (Retd.) and*

Others (2001) 2 SCC 62. He further submitted that sufficient time/period of

**Civil Writ Petition No. 12107 of 2018 (O&M)
And Other Connected Cases**

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three years' time has been given to the existing units to shift which is extendable by another year in the identified safe zones. He also submitted that exemption to units existing in already notified crushing zones have been granted only in those areas where sufficient safety measures were possible and the procedure as prescribed under Rules 4 and 5 of the 1986 Rules has been followed.

2.14 Mr. Deepak Sabharwal, Advocate, has submitted that the stone crushers cause air pollution and they are harmful for the environment.

3. Analysis and Discussion

I Harmonious interpretation of Section 3, 5 and 23 of the 1986 Act for effective environmental protection.

3.1 Before adjudicating upon the merits of the case, it is significant to note that the 1986 Act was enacted to protect and prevent environment from further degradation while making efforts to improve in order to make it healthier and livable in accordance with the decision taken at the United Nations Conference on the Human Environment held in Stockholm in June 1972. As per Section 2(a), the word "environment" includes water, air and land and the inter-relationship which exists among and between water, air and land, and human beings.

3.2 Section 3 of the 1986 Act enables the Central Government with expansive powers including the measures enlisted in Section 3(2) of the 1986 Act. Section 3(2) uses the word "include" to give a wider/extensive construction.

3.3 Section 5 enables the Central Government to issue directions in

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exercise of its powers and performance of its functions under the Act. In substance, Sections 3 and 5 enable the Central Government to issue directions and take such measures to protect and improve environment.

3.4 Section 23 is non-obstante provision which enables the Central Government to delegate all its powers and functions under the 1986 Act to any officer, State Government or any other authority except the power to constitute authority under Section 3(3) of the Act and to make rules under Section 25. In other words, the Central Government is entitled to delegate all its powers and functions except as provided under Section 3(3) and the rule making power under Section 25 to achieve the goals of protecting and improving the environment. It is in that context, the notification issued on 10.02.1988 is required to be construed which is extracted as under:-

“In exercise of the powers conferred by section 23 of the Environment (Protection) Act, 1986 the Central Government hereby delegates the powers vested in it under section 5 of the Act to the State Governments of Andhra Pradesh, Assam, Bihar, Gujarat, Haryana, Himachal Pradesh, Karnataka, Kerala, Madhya Pradesh, Mizoram, Orissa, Rajasthan, Sikkim and Tamil Nadu subject to the condition that the Central Government may revoke such delegation of powers in respect of all or any one or more of the State Governments or may itself invoke the provisions of section 5 of the Act, if in the opinion of the Central Government such a course of action is necessary in public interest.”

3.5 The first argument of Mr. Shailendra Jain, Senior Advocate, lacks substance because Sections 3 and 5 are required to be read in conjunction with each other to enable the appropriate authority to take steps

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for protecting the environment. The enabling power under Section 3(2)(v) to restrict the areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out cannot be read in isolation of the enabling power of giving directions.

3.6 In para 43 of *A.P. Pollution Control Board's case (supra)* the Supreme Court held that as per notification dated 10.02.1988, Andhra Pradesh Government, as delegatee of the Central Government is entitled to lay down the norms for establishment operation and continuance of the industries. Though the main question involved in the aforesaid judgment was different, however, the Court interpreted same notification in Para 43, which reads as under:-

“43. Under Section 3(2)(v) above extracted, the Central Government or the State Government as its delegate, could issue directions as permitted by Section 5. Now Section 3(2)(v) permits restriction specifying "areas" in which industrial operations or processes shall not be carried out or shall be carried out subject to certain safeguards. The notification issued by the State Government in GO 111 dated 8.3.96 falls within the first part i.e. where industries shall not be carried out. This is a total prohibition within 10 KM of the two reservoirs. When such a prohibition was in force, the State Government could not obviously grant any exemption to a specified industry like the seventh respondent, located within the 'area'. Nor was it permissible for the State to direct the appellant-Board to prescribe conditions for grant of NOC.”

3.7 Moreover, Sections 3 and 5 of the 1986 Act are part of the same

scheme and series. The right to life is higher than the right to carry business

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as provided under Article 19 of the Constitution of India. The notification being environment centric is not required to be interfered with unless it is totally arbitrary or the authority issuing it lacks power.

II. Lack of specificity in allegations regarding violation of notification and Rules of the 1986 Act

3.8 The petitioner has, in para 24(d) of the writ petition, made vague assertion that the notification dated 11.05.2016 is violative of both substantial and procedural law without any further elaboration. Even during hearing, the petitioners' counsel made no efforts to draw the attention of the Court to any substantive violation which may have impact on the validity of the notification. Rule 4 of the 1986 Rules provides for an opportunity to file the objections. However, the petitioner has not alleged that an opportunity to file objections was not given. Moreover, an opportunity was granted to all the stake holders to file their objections.

3.9 Rule 4 of the 1986 Rules provides that before issuing proposed direction a notice of 15 days shall be required to be served while giving him an opportunity to file objections. Though the petitioner in Civil Writ Petition No. 11305 of 2019 has not disclosed about the draft notification dated 21.10.2015, however, in Civil Writ Petition No. 9577 of 2019, the same has been annexed as Annexure P16. It is evident that while issuing the draft notification, fifteen days period was given to all stake holders to file objections before the Additional Chief Secretary to Government of Haryana, Environment Department. It has been stated by the learned State counsel that 22 objections were received which were considered and decided after

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3.10 While alleging infringement of the procedure, the petitioner is required to make specific averments while elaborating the infringement so alleged. In the absence thereof the Court cannot be expected to decide. The onus lies on the petitioner to clearly outline and substantiate the infringement for the Court to adjudicate effectively.

III. Unsubstantiated claims regarding revival of closed stone crushers under the impugned notification

3.11 With regard to the argument based on item No. III of Schedule-II of the notification, it is evident that all the stone crushing units that are not located within the location parameters laid down as per Schedule I are required to be shifted within a period of three years from the date of notification which is extendable for a period of one year. The learned counsel representing the petitioners have failed to elaborate as to how already closed crushers will get new lease of life.

IV. Doctrine of Estoppel and Government Obligations

3.12 Clause (ii) of notification exempts the existing stone crushers from shifting if they are located in the notified approved crushing zones. The stone crushers that are neither located in the approved crushing zones nor fulfill the new guidelines for location of the stone crushers have been asked to shift their location as per new policy. It is clear that the government never made a promise that the location parameters shall never change.

3.13 The argument put forth by the learned counsel representing the petitioner is without merit, as the earlier notification did not establish any binding promise between the government and the petitioner. Furthermore,

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under the 1986 Act, if it determines, in the interest of the public, that such actions are necessary. Undoubtedly, the doctrine of estoppel binds the government in cases of contracts and promises. However, it is a well settled principle that estoppel cannot be invoked against the government if the action is taken to prevent it from acting in public interest or fulfilling its statutory duties. The Supreme Court has outlined exceptions regarding the applicability of the rule of estoppel. Reliance in this regard can be placed on *Kasinka Trading and Another v. Union of India and Another AIR 1995 (SC) 874*, the relevant paras are extracted hereunder:-

“12. The doctrine of promissory estoppel or equitable estoppel is well established in the administrative law of the country. To put it simply, the doctrine represents a principle evolved by equity to avoid injustice. The basis of the doctrine is that where any party has by his word or conduct made to the other party an unequivocal promise or representation by word or conduct, which is intended to create legal relations or effect a legal relationship to arise in the future, knowing as well as intending that the representation, assurance or the promise would be acted upon by the other party to whom it has been made and has in fact been so acted upon by the other party, the promise, assurance or representation should be binding on the party making it and that party should not be permitted to go back upon it, if it would be inequitable to allow him to do so, having regard to the dealings, which have taken place or are intended

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to take place between the parties.

13. *It has been settled by this Court that the doctrine of promissory estoppel is applicable against the Government also particularly where it is necessary to prevent fraud or manifest injustice. The doctrine, however, cannot be pressed into aid to compel the Government or the public authority "to carry out a representation or promise which is contrary to law or which was outside the authority or power of the officer of the Government or of the public authority to make". There is preponderance of judicial opinion that to invoke the doctrine of promissory estoppel clear, sound and positive foundation must be laid in the petition itself by the party invoking the doctrine and that bald expressions, without any supporting material, to the effect that the doctrine is attracted because the party invoking the doctrine has altered its position relying on the assurance of the Government would not be sufficient to press into aid the doctrine. In our opinion, the doctrine of promissory estoppel cannot be invoked in the abstract and the courts are bound to consider all aspects including the results sought to be achieved and the public good at large, because while considering the applicability of the doctrine, the courts have to do equity and the fundamental principles of equity must for ever be present to the mind of the court, while considering the applicability of the doctrine. The doctrine must yield when the*

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equity so demands if it can be shown having regard to the facts and circumstances of the case that it would be inequitable to hold the Government or the public authority to its promise, assurance or representation.

14. 13. *The ambit, scope and amplitude of the doctrine of promissory estoppel has been evolved in this country over the last quarter of a century through successive decisions of this Court starting with Union of India v. Anglo Afghan Agencies Pvt. Limited. References in this connection may be made with advantage to Century Spinning & Manufacturing Co. Ltd. and Anr. v. The Ulhasnagar Municipal Council and Anr. : Motilal Padampat Sugar Mills Co. (P) Ltd. v. State of UP and Ors. : Jit Ram Shiv Kumar and Ors. Etc. v. State of Haryana and Anr. : Union of India v. Godfrey Philips India Ltd. : Indian Express Newspaper (Bom) Pvt. Ltd. and Ors. v. Union of India and Ors. : Pournami Oil Mills and Ors. v. State of Kerala and Anr. [1986] Supp. SCC 728 : Bakul Oil Industries and Anr. v. State of Gujarat and Anr. : Asstt. Commissioner of Commercial Taxes and Ors. v. Dharmendra Trading Co. and Ors. : Amrit Banaspati Co. Ltd. And Anr. v. State of Punjab and Anr. and Union of India and Ors. v. Hindustan Development Corporation and Ors. [1993]3 JT SC 15. In Godfrey Philips India Ltd., this Court opined: (SCC p. 388, para 13)*

"We may also point out that the doctrine of promissory

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estoppel being an equitable doctrine, it must yield when the equity so requires; if it can be shown by the Government or public authority that having regard to the facts as they have transpired, it would be inequitable to hold the Government or public authority to the promise or representation made by it, the Court would not raise an equity in favour of the person to whom the promise or representation is made and enforce the promise or representation against the Government or public authority. The doctrine of promissory estoppel would be displaced in such a case, because on the facts, equity would not require that the Government or public authority should be held bound by the promise or representation made by it."

3.14 Environmental laws prioritize public interest as a result the government must act in alignment to the requirements of time. It is significant to note that public interest must over-ride any consideration of private loss and gain. The principle of promissory estoppel is not rigid; as an equitable doctrine, it must be adapted to fit the specific circumstances of each case. The applicability of doctrine of estoppel against the government depends upon balancing equity and public interest. The government must be permitted to modify its stance if overriding public interest demands it. In situations where public interest prevails, the principle of estoppel cannot be enforced in a rigid manner.

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3.15 Under Article 48A of the Constitution of India, it is the responsibility of the governments to protect and improve environment. The petitioners may have established their stone crushers pursuant to the earlier policy decisions. However, the environmental requirements are not static, as they must be dynamic. With the development in the area, the priority of the government is to maintain ecological balance as a part of its responsibility to ensure sustainable development, environmental protection and welfare of its citizens. The government holds a unique and critical role in maintaining ecological balance through policies, enforcement and taking proactive and ethical responsibility for the environment to ensure balance between development and conservation.

3.16 Right to life is higher than the rights flowing from Article 19 i.e. to carry business. The business of stone crushers is considered *res extra commercium* and is, therefore, subject to stringent regulation. The pollution caused by the stone crushers is inherently injurious to the health of all living beings including humans, wildlife, rivers and plants. The efforts made to maintain delicate ecological balance which is the need of the hour particularly in view of rising pollution is not required to be interfered with.

3.17 Although stone crushers are a vital sector from a socio-economic perspective, but they generate significant amounts of fine fugitive dust. The dust poses serious health risk to workers and nearby communities, contributing to respiratory illnesses. Additionally, it diminishes visibility, inhibits vegetation growth, and negatively impacts the area's aesthetics. To mitigate or control these emissions, measures must be implemented. Stone

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crushers are critical to infrastructure and construction industries but they also pose significant environmental and health challenges. The Court must balance socio-economic development with environmental protection, ensuring that activities like stone crushing are conducted sustainably and within the legal framework.

3.18 Therefore, the petitioners contention regarding the applicability of rule of Estoppel lacks merit. The rule of Estoppel is not applicable to the facts of the present case.

V. Potential impact of the impugned notification on worker's employment

3.19 Similarly, there is no substance in the argument of the learned counsel that the impugned notification will cause loss of employment because the workers can shift to new crushing zones as and when the stone crushers are set up in the allowed areas.

VI. Court's lack of technical know-how and limited jurisdiction

3.20 Likewise, there is no substance in the submission that the crushing zones as proposed in villages Deowala and Balewala, District Yamuna Nagar, can be expanded. This Court, in the absence of any technical know-how, is unable to make any suggestions particularly when the scope of jurisdiction in exercise of power of judicial review is limited. In the absence of material to show that the policy decision is fundamentally flawed, the Court is not expected to interfere.

VII. Challenge to Item-III of Schedule-II of notification as arbitrary and discriminatory

Clause (ii) exempts the existing stone crushers from shifting if

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they are located in the new notified approved crushing zones as the government will take adequate safety measures to fulfill the requirements of co-existence so as to maintain delicate balance between ecology and the requirement of industrialization. Hence, this argument is insubstantial as the exempted stone crushers will not operate without strict regulations. The classification and differential treatment accorded to the stone crushers are neither arbitrary nor discriminatory. They are rooted in reasonable grounds, with a clear objective of balancing industrial activity and environmental sustainability. Units that have demonstrated adherence to pollution control regulations, posed minimal risk to public health, or are located in areas with negligible environment impact have been exempted. The State has assured the Court that strict regulatory measures shall be implemented to ensure that the exempted units comply with applicable environmental and safety standards

VIII. Adequate time provided for alternative arrangements

3.22 The next argument of the learned counsel also has no substance because the government has granted three years' time to all the polluting stone crushing units to shift which is extendable by another year. Hence, sufficient time has been granted to the stone crushers to make alternative arrangements.

IX. Consideration of distance calculation provision in policy context

3.23 Similarly, the provision for calculating distance from the nearest boundary of the plot in which the stone crushers are installed to the

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learned counsel has tried to impress upon the Court that the machine which crushes the stones may be located in the inner side or on the rear side of the plot. The Court is not expected to decide the validity of the notification only on assumptions. No concrete evidence has been given to show prejudice caused. Moreover, it is a policy decision taken by the competent authority keeping in view the environmental requirement.

3.24 With reference to the orders dated 09.01.2014 passed by the National Green Tribunal, it would be noticed that the location parameters have been notified subsequently, hence, the aforesaid order is not applicable to the facts of the present case.

3.25 As already noticed, the requirement to protect the environment and prevent further degradation evolves over time and cannot remain static. While some of the petitioners may have established their units in compliance with notification issued in the years 1992 and 1997, however, to protect the living beings on the mother earth, the regulatory measures are required to be taken.

X. Area declared as 'Forest' after establishment of stone crushers

3.26 Similarly, there is no substance in the argument that when the stone crushers were set up the land was not notified as a Forest. On this ground, the policy cannot be quashed. Moreover, it is the State which being the guardian is required to take tough decisions to make the earth livable. As already noticed, the petitioners do not have any vested right to continue to operate from the area which has become injurious to health of living beings

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XI. Validity of 2019 Amendment and its implications

3.27 As already noticed, the State Government vide notification dated 11.05.2016, laid down the norms for location of the stone crushers in order to prevent further damage to all the living beings in the area. For the same reasons, which have already been recorded, this Court does not find that the stone crushers can be permitted to exist within the periphery of 500 meters from the educational institutions even if the schools came into existence subsequently.

3.28 The learned counsel has also challenged the refusal of the State to grant 'consent to operate' to the petitioners in terms of the amended notification. As already noticed, the consent to operate itself cannot be granted particularly when the stone crushing unit does not fulfill the siting norms laid down by the State.

3.29 The reliance placed on the judgment passed in *Jayam & Company v. Assistant Commissioner and Another (2016) 15 SCC 125* is also wholly misplaced because the Court in the aforesaid judgment has examined the legality of a fiscal legislation. The same parameters cannot be applied to a notification which makes an attempt to preserve and protect all the living beings on the earth. Moreover, as already held, the stone crushing units and the schools cannot co-exist side by side because it would adversely impact the health of the children who are the future of the nation.

3.30 It is significant to note that protection of the environment is a dynamic and evolving responsibility that requires constant adaptation to address emerging challenges and prevent degradation. Activities that pose a

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significant risk to ecological balance, such as the stone crushing operations, demand stringent regulatory oversight to safeguard natural resources and the well being of all living beings. Upholding these principles not only aligns with constitutional and legal obligations but also secures the planet's health for future generations.

4. Decision

4.1 In view of the aforesaid discussion, the result is inevitable. The writ petitions lack merit and as a result are hereby dismissed.

4.2 The miscellaneous application(s) pending, if any, in all the writ petitions, shall stand disposed of.

**(Anil Kshetarpal)
Judge**

**(Sheel Nagu)
Chief Justice**

November 29th, 2024

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

Sr.No	Case No.	Petitioner's Name	Respondent's Name
1.	CWP-27094-2017	Shri Balaji Grit Udyog	State of Haryana and Others
2.	CWP-30125-2018	M/s Walia Stone Crushing Company	State of Haryana and Others
3.	CWP-9577-2019	M/s New Markanda Stone Crusher and Others	State of Haryana and Others
4.	CWP-9713-2019	M/s Haryana Stone Crusher and Others	State of Haryana and Others
5.	CWP-10871-2019	M/s Kaveri Stone Crusher and Others	State of Haryana and Others
6.	CWP-11163-2019	M/s Vasundhra Stone Crusher and Others	State of Haryana and Others
7.	CWP-11204-2019	M/s Shree Ganesh Stone Crusher	State of Haryana and Others
8.	CWP-11209-2019	M/s Diamond Crushing Plant and Others	State of Haryana and Others
9.	CWP-11305-2019	Kurukshetra Stone Crusher and Another	State of Haryana and Others
10.	CWP-12636-2019	M/s Angad Stone Crusher	State of Haryana and Others

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11.	CWP-12683-2019	M/s Sneh Stone Crusher	State of Haryana and Others
12.	CWP-12771-2019	Kamboj Gram Udyog Mandal and Another	State of Haryana and Others
13.	CWP-13526-2019	M/s Shivalik Stone Crusher	State of Haryana and Others
14.	CWP-3992-2020	M/s New Markanda Stone Crusher and Others	State of Haryana and Others
15.	CWP-5666-2020	M/s Walia Stone Crushing Company	State of Haryana and Others
16.	CWP-5796-2020	M/s Parkash Stone Crusher	State of Haryana and Others
17.	CWP-15299-2020	M/s Om Sai Stone Crusher	State of Haryana and Others
18.	CWP-17483-2020	M/s Guru Kirpa Enterprises	State of Haryana and Others
19.	CWP-19945-2020	M/s Suraj Stone Crushing Co. and Others	State of Haryana and Others
20.	CWP-11694-2020	Shree Vinayak Stone Crusher	State of Haryana and Others
21.	CWP-1012-2021	M/s Prakash Stone Crusher and Another	State of Haryana and Others
22.	CWP-3286-2021	M/s Jewra Stone Crushing Mills and Others	State of Haryana and Others
23.	CWP-5101-2021	M/s Meenu Stone Crushing and Others	State of Haryana and Others
24.	CWP-5103-2021	M/s Capital Stone Crushing Mills and Others	State of Haryana and Others
25.	CWP-9374-2021	M/s Ksy Buildcon	State of Haryana and Others
26.	CWP-15981-2021	Jai Maa Kamakhya Industries	State of Haryana and Others
27.	CWP-20595-2021	M/s Chaudhary Stone Crusher and Another	State of Haryana and Others

**(Anil Kshetarpal)
Judge**

**(Sheel Nagu)
Chief Justice**

November 29th, 2024

“DK”

AIROnline 1996 SC 603

SUPREME COURT

KULDIP SINGH , J. and S. P. KURDUKAR , J.CIVIL APPEAL NO - 10732 of 1995 **D/- 25 - 4 - 1996**

Kennedy Valley Welfare Association v. Ceylon Repatriates Labourers Welfare And Service Society and Ors.

Environment Protection Act (29 of 1986), S.3 - Pollution control - Writ seeking Mandamus that stone crusher and stone-quarries operating in close vicinity to residential area be directed to be closed - Single Judge of High Court on basis of recommendations of Expert Committee issuing ban on quarrying and crushing operation within 500 meters of residential area - In appeal Division Bench reducing area restriction from 500 meters to 50 meters - Held, said reduction in area restriction was unjustified

(Paras 4 , 5)**Judgement**

1. KULDIP SINGH, J. :-Krishna Nagar and Kennedy Valley Welfare Association and various other residents of the area filed bunch petitions under Article 226 of the Constitution of India before the High Court of Madras seeking mandamus that the stone-crusher and stone-quarries operating in close vicinity to the residential area be directed to be closed.

2. Learned Single Judge of the High Court appointed an Expert Committee consisting of Dr. S. Narayan, IAS., Secretary to Government, Environment and Forests Departments, Madras, Mr. N.S. Tiwana, Chairman, Central Pollution Control Board and Mr. Desigavinayagam Pillai, Member Secretary, Tamil Nadu Pollution Control Board to inspect the area and submit a Report.

3. The learned Single Judge of the Madras High Court accepted the Report of the Committee and allowed the Writ Petition in the following terms. As a result of my discussion, as above, I am satisfied that it is a fit case in which a direction must issue to the respondent-State of Tamil Nadu to implement the recommendations of the Expert Committee dated 3.7.1991 on stone quarrying and crushing operation at Kennedy Valley and Krishna Nagar in Thirusoolam area, submitted before this Court pursuant to the order of this Court dated 30.11.1990 and not to allow any quarrying or crushing operation close to the residential area and within 500 meters of the residential area. Accordingly, all the existing crushers must be stopped from operating within 500 meters of the periphery of the Kennedy Valley and Krishna Nagar residential quarters. They, however may be considered for such license/permission only if they operate within the safe zone and thus not within 500 meters of any residential area and adopt pollution control measures recommended by the National Productivity Council, New Delhi, that is to say, enclosing the jaw crusher and the screens so as to contain dust and noise and making arrangements for suppress dust as well as air pollution control measures to the satisfaction of the Pollution Control Board. No quarrying of blue metal shall be permitted within 500 meters of the residential area and permitted only if they are beyond the limit of 500 meters of the residential

area and strictly follow the procedures required by the Mines and Safety regulations. Such quarrying, however, can be allowed by the respondent-State only at such- places and in such area which do not in any manner endanger human life and if there is any likelihood of danger to any grass or plant. In such cases the state Government after satisfying about the requirement of the community at large may surrender the need of the environment to a limited extent.

I have not been able to appreciate why the respondent Collector of the District and the state Government have not shown necessary concern for granting licence/ permit for quarrying operation, when the owner thereof have indicated that they would abide by all the conditions that may be imposed and that they will not violate the norms indicated above. If there is any loss of revenue on that account and the need of the community is not fulfilled, the responsibility shall be entirely that of the Government of the State. It will thus be in the interests of the public that such applications are immediately attended and disposed of as early as possible in accordance with law. It is accordingly directed that any application for stone quarrying pending with the state Government shall be disposed of as quickly as possible but not later than I month from the date of service of a copy of this order.

In the result W.P. Nos. 14930 and 14931 of 1989 are allowed in the terms as above. There shall be no order as to costs.

4. The Writ Appeals filed by the Quarry-owners against the Judgment of the learned Single Judge to the extent that the ban so far as it related to the operation of quarries was reduced from 500 meters to 50 meters. This appeal by the residents of the locality are against the Judgement of the Division Bench.

5. We have examined the recommendations of the Committee, we are of the view that the learned Single Judge rightly accepted the report of the Committee and issued the directions banning operation of Stone-Crushers and quarries within the radius of 500 meters of the residential area. The Division Bench was not justified in reducing the area restriction from 500 meters to 50 meters in respect of the quarries. The Division Bench also issued further directions in modification of the directions issued by the learned Single Judge which were not warranted in the facts of the case.

6. We, therefore, allow the appeal to set-aside the impugned Judgment of the Division Bench of the High Court and restore that of the learned Single Judge. No costs.

Appeal Allowed