

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

Original Application No. 637/2022

IN THE MATTER OF:-

Sadhana Devi

.....Applicant

Versus

State of HP & Others

.....Respondents

INDEX

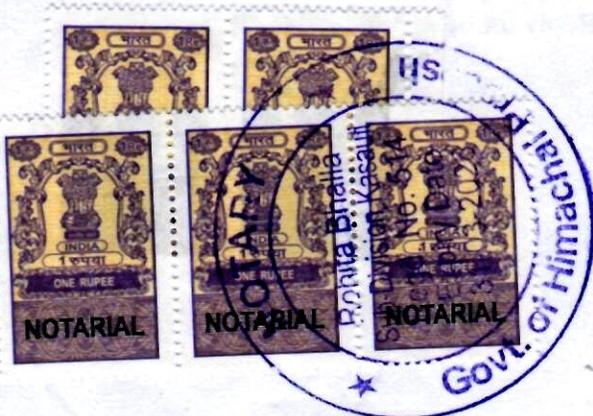
Sr. No.	Particulars	Pages
1.	Reply on behalf of Respondent No. 4	1-4
2.	Affidavit	5
3.	Annexure R-4/1 Copy of State Board's Consent dated 17-9-2018 granted to Stone crusher unit of respondent No.8.	6
4.	Annexure R-4/2 Copy of inspection report of the Regional Office, HPSPCB, Parwanoo.	7
5.	Annexure R-4/3 Copies of Board's notices dated 6-5-2022 and 8-6-2022.	8-9
6.	Annexure R-4/4 Copy of reply received from the M/s Shiva Stone Crusher .	10

Respondent No. 4

Place: Parwanoo

Dated:- 15-11-2022

Through Counsel



ATTESTED
Rohita Bhalla
Notary
17/11/2022

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IN THE MATTER OF:-

Sadhana Devi, W/o Late Mr. Rakesh Kumar, R/o Village Khanleg, PO Manjhu, Tehsil Arki, District Solan, (H.P.)

.....Applicant

Versus

1. The State of Himachal Pradesh through its additional Chief Secretary (Industries) to the Government of Himachal Pradesh, Shimla 171002 (HP).
2. The State Geologist, Geological Wing, Udyog Bhawan, Shimla 171001 (HP).
3. The District Mining Officer Solan, District Solan 173212, (HP).
4. The Regional Officer, HP State Pollution Control Board, Parwanoo, District Solan, (HP).
5. The Sub-Divisional Magistrate Arki, District Solan, (HP).
6. Forest Range Officer Arki, Forest Division Arki, District Solan (HP).
7. Junior Engineer, Jal Shakti Vibhag Arki, Sub-division Arki, District Solan (HP).
8. Mr. Arun Thakur S/o Mr. Gian Chand R/o Village Panjri, PO Chaura Maidan, Tehsil & District Shimla-171004, (HP).
9. Mr. Om Prakash S/o Mr. Vaziru, R/o Village Khanleg, PO Manjhu, Tehsil Arki, District Solan, (HP).

.....Respondents

Reply on behalf of Respondent No. 4

Assistant
HPS: Environmental Engineer
Parwanoo, Solan

ATTESTED
Notary
Rohita Bhalla
12/11/2022



May it please your Lordships:-

- 1-2 Contents of para 1-2 relating to address of the Applicant and Respondents are a matter of record and need no reply from the replying respondent.
3. Contents of para 3 relate to filing of present application which is a matter of record. The applicant has alleged illegal mining beyond the mining lease area by the respondent No. 8, which pertains to the Geological (mining) wing of Industries Department which approves and regulate mining lease areas. Hence there are no acts of omission or commission on the part of respondent Board and the applicant has no cause of action qua the replying respondent, so the application may be dismissed qua the respondent Board.

Reply to the facts of the case:-

1. Contents of para 1 relate to applicant's joint ownership of the land with Respondent No.8, which do not pertain to the replying respondent.

2. Contents of para 3 relate to issue of grant of Mining Lease to the Respondent No. 8 under Himachal Minor Minerals (Concession) and Minerals (Prevention of illegal Mining, Transportation and Storage) Rules, 2015 for extraction of stones which pertain to and calls for reply of the Department of Industries i.e. Respondent No. 1-3.

3. Contents of para 3 relate to a joint inspection report of the site appraisal Committee under Chairmanship of SDO (Civil) of the area for establishment of stone crusher by Respondent No.8 which are a matter of record and pertain to Respondent No. 5.

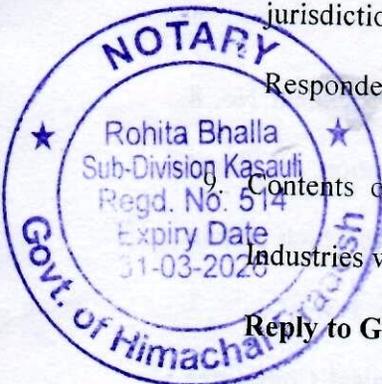
4. Contents of para 4 relate to recommendations at Sr. No. 4.5 and 6.7 of the report of site appraisal Committee and its observations qua plausible, damage from mining activity and restoration activity, which pertain to and calls for reply of the Public Works department and Mining wing of the Industries Department.

5. Contents of para 5 relate to recommendation at Sr. No. 6.8 of the report of site appraisal Committee for mining lease area which pertain to the Industries Department. The issue of grant of Environment Clearance pertains to State Level Environment Impact Assessment Authority. The respondent Board had also asked the Mining Officer vide letter dated 5-1-2012 (Annexure A-3) to ensure precautionary measures while granting mining lease and subject to stipulations for environment protection, which are a matter of record.
6. Contents of para 6 relate to grant of Mining Lease for 5 years to the Respondent No. 8 under HP Minor Mineral (Concession) Rules, 2015 notified by the Industries Department which pertain to the Respondent No. 1-3.
- 7-8. Contents of para 7-8 relate to alleged illegal mining by the Respondent No. 8 in the applicant's land and is in the nature of revenue issue/ civil dispute which lies in the jurisdiction of civil court and also calls for reply of the Industries Department i.e. Respondent No. 1-3.

Contents of para 9 relate to grant of permanent registration by the Department of Industries which pertain to and calls for reply of the Respondent No. 1-3.

Reply to Grounds :-

- 1-2. Contents of para 1-2 relate to alleged illegal mining in the joint-land of the applicant without her consent which is a civil dispute which pertain to Revenue Department (Respondent No. 5), Industries Department i.e. Respondent No. 1-3 and Respondent No.8. However, it is submitted that the respondent Board had granted renewal of consent to operate on 17-9-2018 for operation of stone crusher of Respondent No.8 subject to stipulations therein which was valid upto 6-9-2020 (copy annexed as



Annexure R-4/1). The stone crusher of Respondent No. 8 was inspected by the State Board's Regional office Parwanoo on 3-6-2022, 6-9-2022 and 8-10-2022 and during these inspections the stone crusher was found non-operational. Copy of inspection report of Regional Office, Parwanoo of the State Board is annexed as **Annexure R-4/2.** The State Board had issued notices to the stone crusher on 6-5-2022 and 8-6-2022 (**Annexure R-4/3**) to apply online renewal of consent to operate of the State Board. The unit has responded that it is not working as it has applied for renewal of environmental clearance. Copy of respondent unit's reply is annexed as **Annexure R-4/4.** It is submitted that though the unit has applied for further renewal of consent, however it has not been granted as the unit does not have valid registration and mining lease from the Industries Department.

Limitation :-

Contents of para are denied. It is submitted that present Application is barred by limitation provided under section 16 of the NGT Act, 2010.

PRAYER:

In view of the submissions made in the foregoing paras above, it is respectfully prayed that the Application may please be dismissed qua the replying respondent in the interest of justice. Any other order deemed fit by this Hon'ble Tribunal may kindly be passed in public interest.

Date: 15/11/2022

Place:-Parwanoo

[Signature]
Respondent No. 4

Assistant Environmental Engineer
HPSPCB Parwanoo, Solan

ATTESTED

[Signature]
Notary
Rohita Bhalla

This application of reply has been presented to me to attestation by the executant today on 17/11/2022. The content of the same has been read over and the executant has committed to be correct. The executant has been identified by Suresh Kumar Sharma Through Counsel

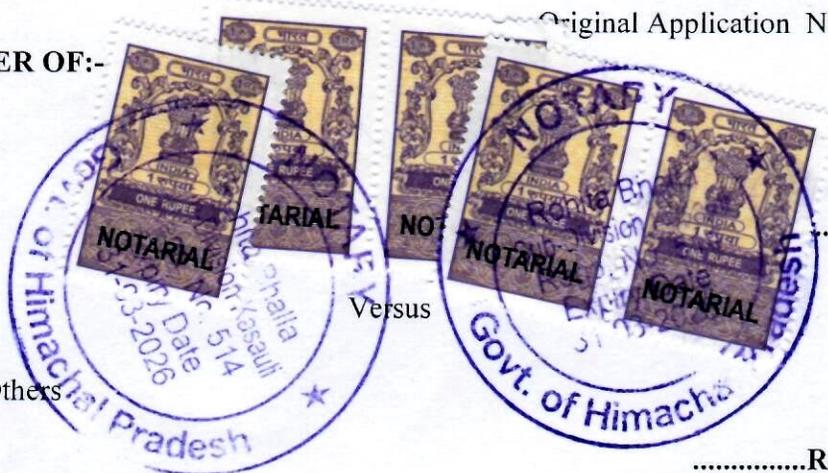
[Signature]
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Rohita Bhalla

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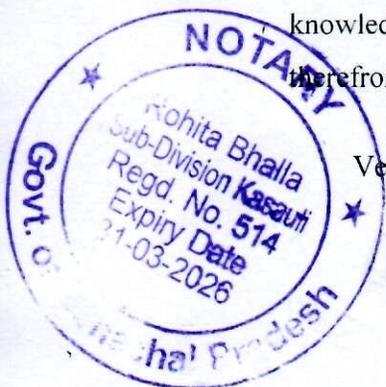
.....Respondents

Affidavit

I, Pardeep Modgil S/o Sh. Ramesh Chand Sharma, aged 37 years, presently working as Regional Officer, H.P. State Pollution Control Board, Regional Office, Parwanoo District Solan, H.P. do hereby solemnly declare and affirm on oath as under :-

1. That I am duly authorized to file reply and the accompanying reply has been drafted at my instance and under my instructions.
2. That the contents of paras 1-9 of reply to the facts and paras 1-2 of reply to grounds and limitation are true and correct to the best of my knowledge, derived from official record, no part of it is false and nothing material has been concealed therefrom.
3. I further affirm that the contents of this affidavit of mine are true and correct to my knowledge and belief, no part of it is false and nothing material has been concealed therefrom.

Verified at Parwanoo on 15th day of November, 2022.



ATTESTED
Rohita Bhalla
Notary
17/11/2022

Pardeep Modgil

DEPONENT

Assistant Environmental Engineer
HPSPCB Parwanoo, Solan

This Pardeep Modgil has been presented before me to attestation by the executant today on 17/11/2022. The contents of the same has been read over and explained to the executant which have been admitted to be correct. The executant has been identified by Q39.3 2106 1073.

ANNEXURE R-4/11 0 378

HIMACHAL PRADESH STATE POLLUTION CONTROL BOARD

HIM PARIVESH, PHASE-III, NEW SHIMLA-171009

Ph: 91 177 2673766, 2673019 & 32, Fax 91 177 2673018

No. H.P. PCB/PCB-ID20271

16362-64



DATE: 17-9-18

To

Shiva Stone Crusher
P.O. Manjoo - Manjoo
District - Solan (Parwanoo)

Sub: Renewal of Consent to Operate for the installation of stone crusher measuring area of 2-01-00 bighas in khasra no. 134/1/1 in Mauza Khanalag, Tehsil Arki, Distt. Solan with permission for mining/extraction of stone @ 14900 TPA comprising over area of 12-00 Bighas (0.96 Ha) in khasra no. 134/1 at mauza and mohal Khanalag, PO manjoo, Lhanalag Tehsil Arki Distt Solan under Water (Prevention & Control of Pollution) Act, 1974 & Air (Prevention & Control of Pollution) Act, 1981.

- | | |
|--|------------|
| 1) Validity of Previous Consent | 31/03/2018 |
| 2) Recommendation made By Regional officer on date | 24/08/2018 |
| 3) Validity of this Renewal of Consent | 06/09/2020 |

This Renewal is granted on the recommendation of SEE(HQ) and RO and subject to following conditions:

- > This Consent/Renewal of Consent is for:
 - a) The Compliance to the norms for emission as prescribed in schedule-1 of environment (protection) Rules, 1986 as may be prescribed by the Board.
 - b) Noise and ambient air quality to be maintained within Ambient Air Quality Standards for noise as specified in schedule III of aforesaid Rules.
 - c) The effluent (domestic / industrial) conforming to the limits as prescribed in Schedule-I or Schedule-VI of Environment Protection Rules 1986 as amended or as may be prescribed by the Board.
- > Pollution Control Devices provided by the unit shall be operated and maintained to achieve the norms as prescribed in Environment (Protection) Act, 1986 as amended from time to time.
- > The State Board reserves the right to revoke/review and alter the conditions of consent as the case may be.
- > Unit shall not undertake the expansion activity/ or additional product in the existing unit without obtaining consent from State Board.
- > Unit shall comply with the provisions of the e-waste (Management & Handling) rules, 2011.
- > Unit shall not pollute any water sources in the area like drinking pond or well etc.
- > No debris shall be thrown along the roads or water course and the debris shall be either utilized or disposed in designated dumping sites.
- > The project proponent shall be liable to clear any past/current liability on account of difference consent fees if detected at any subsequent stage.
- > The emission/effluent shall be got sampled and tested by the unit as well as concerned Regional Officer as prescribed and further renewal shall be dependent up on the results of samples so collected and tested.
- > The samples of effluent/emissions shall be collected by the Regional Officer concerned and the unit shall also get the self monitoring of effluent/emission done within the month and convey the results to the State Board.
- > This consent is subject to Environmental Clearance granted to the project SLE/IAA vide letter dated 12-05-2015. This consent is subject to PMT issued vide letter dated 28-09-2015.
- > The unit shall be sole responsible to obtain/renew any other mandatory permission required for the installation and operational activities.
- > This consent is valid till 06-09-2020 only. This Consent is subject to the ratification of the State Board and subject to any litigation pending at any Court of law.
- > All the PCDs provided by the unit shall conform to the norms as prescribed under EP (Act), 1986 and rules there under. Mining operation shall be carried out strictly as per approved mining plan.



Copy to:-

The Regional Officer, H.P. State Pollution Control Board Parwanoo for information and further necessary action please.
The PSO, HPS PCB Shimla for information please.

Sr. Environmental Engineer

Sr. Environmental Engineer

12/09/2018

N I C



H.P. STATE POLLUTION CONTROL BOARD
SCF- 6, 7, 8, Sec-4, Parwanoo, Distt. Solan (H.P.) 173220
Telefax- 01792-234081, Website: <http://hppcb.nic.in/>



Inspection Report

This is in reference to the HPSPCB H.O. office vide letter No. HPSPCB/(DL-332)OA no. 637-2022/12831-32 dated 22.09.2022 regarding the compliance of order passed by Hon'ble NGT in OA no. 637 of 2022 dated 12.09.2022 titled as Sadhana Devi v/s State of Himachal Pradesh & Ors. for illegal operation of Stone crusher name and style as M/s Shiva Stone Crusher, Khasara No. 134 at Mohal Khanalag, Patwar Circle Palog, Thesil Arki, Distt. Solan, H.P.

In this regard, the site was inspected on dated 08th October, 2022 by the officials of state board and it is observed that the said Stone Crusher was not operational, and no fresh mining material was observed at the site, and the same was verified from the available electricity bill at site. The plant and machines were found placed at site. It is further submitted that the said crusher was found non operational during previous inspection conducted on dated 03.06.2022 & 06.09.2022 respectively.

Further unit was not in operation due to not having the valid permanent registration form the department of industries and not valid consent from HPSPCB.

Er Rajesh
JEE,
HPSPCB RO Parwanoo

Er Anurag
JEE,
HPSPCB RO Parwanoo

Er. Punesh Kumar
JEE,
HPSPCB RO Parwanoo

H.P. STATE POLLUTION CONTROL BOARD

SCF- 6, 7, 8, Sec-4, Parwanoo, Distt. Solan (H.P.) 173220

Telefax- 01792-234031, Website: <http://hppcb.nic.in/>

318

No. HPSPCB/R.O. Parwanoo599 / Shiva Stone Crusher /20021- 204 Date: 06.05.2022

From: Asstt. Environmental Engineer

To

M/S Shiva Stone Crusher,
Village khalalag, p o Manju,
Tehsil Arki Distt Solan.

Solan

Subject: Regarding Violation of Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981.

Whereas consent / renewal of consent granted in favour of your has already been expired on 06.9,2020.

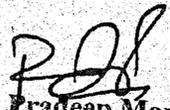
Whereas you are operating your unit without having valid consent / consent to operate / renewal of consent of the State Board as required under the provisions of Section 25 of the Water (Prevention & Control of Pollution) Act, 1974 & Section 21 of the Air (Prevention & Control of Pollution)Act, 1981.

And whereas the above mentioned facts tantamount to the violation of the provisions contained in section 25 of Water (Prevention & Control of Pollution) Act, 1974 and section 21 of Air (Prevention & Control of Pollution) Act, 1981 constituting a cognizable offence punishable under the aforesaid Acts;

Now therefore in accordance with the provisions of above quoted laws, it is proposed to initiate action against you in accordance with the provision of:

- Section 41, 43 & 44 of the Water (Prevention & Control of Pollution) Act, 1974 attracting with fine(s) upto Rupees Ten Thousand and imprisonment upto seven years.
- Section 37 and 39 of the Air (Prevention & Control of Pollution) Act, 1981 attracting fine(s) upto Ten Thousand and imprisonment upto Seven years or both, as the case may be.

The above is proposed notwithstanding action for disconnection of Power Supply and closer of the unit under section 33-A of Water (Prevention & Control of Pollution) Act, 1974 & 31-A of Air (Prevention & Control of Pollution) Act, 1981 or penalty for the amount of Rs. 5000/- (Rupees Five Thousand per day) or both. However, before proceeding against you finally in the matter, you are hereby directed show cause and directed to apply online for Consent / Consent to operate of the State Board within 15 days. Please note that in the event of non compliance or not satisfactory reply, the action as proposed shall be initiated as per relevant provisions of law at your own risk & cost.


(Er. Pradeep Moudgil)
Asstt. Environmental Engineer

Handwritten note: Curial copy



H.P. STATE POLLUTION CONTROL BOARD
 SCF- 6, 7, 8, Sec-4, Parwanoo, Distt. Solan (H.P.) 173220
 Telefax- 01792-234081, Website: <http://hppcb.nic.in/>

No. PCB/ R.O. PWN/ All Stone Crushers/ Misc. Mining /2021-394-418 Dated: 08.6.2021

To

M/s

As per list attached
 (M/s Shiva Stone Crusher, S.No. 20)

Subject: Compliance of Emission Norms and Pollution Control Measures fixed by the GoHP, Department of Environment, Science & Technology vide Notification No. STE-E(5)-9/2018 dated 29.06.2021

In continuation to this office letter No. PCB/ RO Pwn/ All Stone Crushers/ Misc. Mining/ 2021- 1087-1106 dated vide which copy of the Notification No. STE-E(5)-9/2018 dated 29.06.2021 of Department of Environment, Science & Technology was circulated vide which new norms w.r.t. Site Suitability, constitution of the Joint Inspection Committee for site appraisal, Emission Norms and Pollution Control Measures, Advancement in Pollution Control Devices for proposed and existing Stone Crushers have been fixed and you were directed to comply with the norms / standard, provide proper pollution control measure and submit the action within a period of 07 days positively.

It is regretted to say that time period more than 06 months have been elapsed, but no compliance has been submitted by you.

Therefore, you are hereby directed to submit the compliance and action plan a/w six monthly compliance report and self monitoring reports for the ambient air quality at Crusher Site within a period of 15 days without any further delay. Failing which the State Board will be bound to take action under section 33-A of Water (Prevention & Control of Pollution) Act, 1974 and 31-A of Air (Prevention & Control of Pollution) Act, 1981 without issuing any further directions at your own risk & cost.

Pradeep Moudgil
 (Pradeep Moudgil)
 Asstt. Env. Engineer
 H.P.SPCB RO Parwanoo

8/12

SHIVA STONE CRUSHER

VIII. Khanalag, P/o Manju, Teh. Arki, Distt. Solan, 173208 (H. P.)

Email: mahindorraiput675@gmail.com

Ref. No. _____

Dated _____/_____/_____

To

The Asstt. Env Engineer

HPSPCB, RO Parwanoo

Himachal Pradesh

Sub:- Regarding compliance emission Norms and Pollution Control Measures Fixed by the GoHP, Department of Environment, science and Technology Vide Notification NO STE-E (5)-9/ 2018 dated 29/6/2021.

Reference No. – PCB/R.O.PWN/ALL Stone Crusher Misc Mining/2021-394-418 dated 08.06.2022.

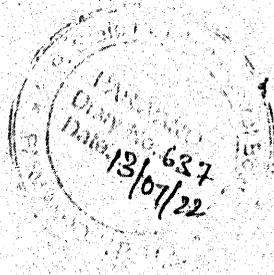
Respected Sir,

In reference to the letter mentioned above would like to inform you that, during period from Sept.2020 – March2022 our stone crusher was not working as we have applied for the expansion of Environment Clearance. We are not operating since 2022 and not apply for RCTO as we have not valid registration from Industry department.

Thanking you,

Yours Sincerely,

Karan Choudhary
Shiva Stone Crusher
Vill. Khanalag P.O. Manju,
Teh. Arki. Distt. Solan (H.P.)

Fr
04-07-22AEE
Clerk

f

AEE/CK