

IN THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

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Execution Application No. 31/2024

In

Original Application 219/2021

IN THE MATTER OF:

Tarun

Applicant

Versus

Dharmender Singh & Anr.

Respondents

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Place: Delhi

Date: 17.12.2024

Through



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Reply on behalf of Deputy Commissioner, Yamuna
Nagar and Superintendent of Police, Yamunanagar.

MOST RESPECTFULLY SHOWETH

1. That this Hon'ble Tribunal vide order dated 12.04.2022 passed the following directions:

"5. From the above, it is clear that illegal mining was being done in the land of the complainant also. Release of vehicles is not in terms of order of this Tribunal dated 26.02 2021 inter-alia in O.A. No. 360/2015, National Green Tribunal Bar Association v. Virender Singh (State of Gujarat) The complainant has not been compensated for illegal mining out his land

6. Accordingly, we direct a joint Committee of District Magistrate and SSP Yamuna Nagar to revisit the action taken in the interest of justice after hearing the parties in accordance with law and file an action taken report within two months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF OCR Support PDF and not on the form of Image PDF with the Registrar General of this Tribunal, who may place the matter before the Bench, if found necessary.

2. That the applicant has filed the present Execution Application No.31/2024 for execution of the order dated 12.04.2022 passed in OA No. 219/2021 titled as Tarun Vs. Dharmender Singh & Anr.

"2. The grievance of the applicant is that no compensation in terms of the said order has been paid

to the applicant and even the report has not been submitted by the Joint Committee of District Magistrate and SSP. Yamuna Nagar till now, though more than two years have passed whereas. the report was to be submitted within two months.

3. Issue notice to the respondents for filing their response/reply by way of affidavit at least one week before the next date of hearing through e-filing. If any respondent directly files the reply without routing it through his advocate then the said respondent will remain virtually present to assist the Tribunal Applicant is directed to serve the respondents and file the affidavit of service at least one week before the next hearing date.

3. That In compliance with the Hon'ble NGT order dated 12.04.2022 Regional Office, Yamunanagar, has written a letter to the Deputy Commissioner, Yamunanagar, and the Superintendent of Police, Yamunanagar vide his office letter no 3140 dated 15.04.2022 and intimated that the Hon'ble NGT has issued directions to the Deputy Commissioner, Yamunanagar, and the Superintendent of Police, Yamunanagar to take further necessary action as per the Hon'ble NGT directions.

4. Subsequently Deputy Commissioner, Yamunanagar, has issued a letter vide No. 1597/MA dated 05.05.2022 to the Superintendent of Police, Yamunanagar and directed to be present at the site for a joint inspection on 30.05.2022 in village Mehar Majra, Tehsil Chhachhrauli and also directed Regional Officer, HSPCB, Yamunanagar vide DC office letter No. 1598/MA dated 05.05.2022 to prepare and submit ATR to the Hon'ble NGT, New Delhi.

5. That in compliance with Deputy Commissioner letter no. 4091/MA dated 04.07.2022, a meeting was convened at Civil


secretariat, Yamunanagar on 08.07.2022 with the Superintendent of Police, Yamunanagar, and other officials. Additionally Deputy Commissioner Yamunanagar written letter vide No. 4092/MA dated 04.07.2022 to the Regional Officer, HSPCB, Yamunanagar and directed to to prepare and submit ATR to the Hon'ble NGT, New Delhi. In response ,the Regional Officer, HSPCB, Yamunanagar, informed vide letter dated 26.09.2022 that Hon'ble NGT is seeking report from Deputy Commissioner, Yamunanagar and SSP, Yamunanagar and this matter is entirely related to the Mines and Geology Department, Yamunanagar.

6. That in compliance with Deputy Commissioner letter no. 5457/MA dated 29.09.2022, a meeting was convened at 12:00 PM at the Civil Secretariat, Yamunanagar with the Superintendent of Police, Yamunanagar, & other officials. During this meeting, the concerned officers undertook a comprehensive review of all aspects related to the case under consideration. Following detailed deliberations and assessments, the Action Taken Report (ATR) was prepared and finalized. The ATR includes inputs from the Deputy Commissioner, Yamunanagar, and the Superintendent of Police, Yamunanagar. For reference and record, the ATR is annexed herewith as **Annexure R-1**.
7. Additionally Deputy Commissioner Yamunanagar written letter vide No. 5458/MA dated 29.09.2022 to Assistant Mining Engineer, Mines and Geology Department, Yamunanagar, and directed to prepare and submit ATR to the Hon'ble NGT, New Delhi. Despite Deputy Commissioner letter no. 5458/MA dated

29.09:2022, the Assistant Mining Engineer, Mines and Geology Department, Yamunanagar, failed to submit ATR to the Hon'ble NGT, New Delhi, which was a serious lapse on his part. Therefore, he was again directed to submit ATR to the Hon'ble NGT vide DC Office letter No. 164/MA dated 11.01.2023.

8. Furthermore, Deputy Commissioner, Yamunanagar has also directed Regional Officer, HSPCB, Yamunanagar to submit ATR to the Hon'ble NGT vide DC office letter no. 275/MA dated 19.01.2023.
9. However, both Assistant Mining Engineer, Mines and Geology Department, Yamunanagar and Regional Officer, HSPCB, Yamunanagar failed to submit ATR to the Hon'ble NGT.
10. Delay in submitting the report is regretted, and it is undertaken to ensure greater care and punctuality in the timely submission of report/reply before this Hon'ble Tribunal in the future.

In view of present facts and circumstances stated herein above, it is humbly submitted prayed that Action Taken Report annexed as Annexure-R/1 may kindly be taken on record. It is undertaken to comply with the directions passed by the Hon'ble Tribunal.


Superintendent of Police,
Yamunanagar


Deputy Commissioner,
Yamunanagar

Place: Yamuna Nagar
Date: 17.12.2024

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Respondents

AFFIDAVIT

I, Mangj Kumar....., Deputy Commissioner, Yamunanagar, aged about years do hereby solemnly affirm and state as under:

1. That deponent is impleaded as Respondent No. 7 in present case. I am well conversant with the facts and circumstances of the case in my aforesaid official capacity, therefore, I am competent to swear this affidavit.

2. That I have read the contents of accompanying reply which has been drafted under my instructions.



VERIFICATION

Verified at Yamunanagar on 17 day of December, 2024 that the contents of above affidavit are true and correct to my knowledge and on the basis of information derived from the Official record which I believe to be true and no material fact has been concealed therein.

DEPONENT

DEPONENT

.....Attested

Devi Chand (M.A.,LL.B.)
Advocate/Notary
Distt. Court, Jagadhri(YNR.)

17/12/24

Serial No. 4671

Dated 17/12/2024

IN THE HON'BLE NATIONAL GREEN TRIBUNAL
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AFFIDAVIT

I, Rajiv Desai Superintendent of Police, Yamunanagar, aged about 59 years do hereby solemnly affirm and state as under:

1. That deponent is impleaded as Respondent No. 5 in present case. I am well conversant with the facts and circumstances of the case in my aforesaid official capacity, therefore, I am competent to swear this affidavit.



That I have read the contents of accompanying reply which has been drafted under my instructions.

DEPONENT

VERIFICATION

Verified at Yamunanagar on 17 day of December, 2024 that the contents of above affidavit are true and correct to my knowledge and on the basis of information derived from the Official record which I believe to be true and no material fact has been concealed therein.

DEPONENT

..... Attested

Devi Chand (M.A., LL.B.)
Advocate/Notary
Distt. Court, Jagadhri (YNR.)

Serial No. 4678

Dated 17/12/2024

A meeting regarding OA No. 219/2021 titled as Tarun Vs Dharmender Singh & Anr. was held on October 03, 2022 at 12:00 pm in the Civil Secretariat in compliance of orders of the Hon'ble NGT, New Delhi dated April 12, 2022. The following officers/ officials/ persons were present in the meeting:-

- a. Sh. Mohit Handa (IPS), Superintendent of Police, Yamunanagar.
- b. Sh. Virender Punia, Regional Officer, HSPCB Yamunanagar.
- c. Sh. Naresh Kumar, AEE, HSPCB Yamunanagar.
- d. Sh. Bhupinder Singh, Sub Inspector, Police Station Buria.
- e. Sh. Aman, Mining Inspector, Yamunanagar.
- f. Sh. Rohit Singh Rana, Mining Inspector, Yamunanagar.
- g. Sh. Tarun Kumar, Complainant.

The mining officials briefed in detail about the complaint given by Sh. Tarun Singh S/o Sh. Raj Kumar against Sh. Dharmendra Singh & Sh. Bhupendra Singh S/o Sh. Randhir Singh who illegally mined his field in Vill. Mehar Majra, Teh. Chhachhrauli, Dist. Yamunanagar and also about the latest NGT orders dated April, 12 2022. Detailed discussion as per the queries raised by Hon'ble NGT is as under:

1) That illegal mining was being done in the land of the complainant:

On receipt of the complaint on 15.01.2019, the mining team inspected the site at 07:30 pm. A dumper (truck HR 68B 7279) and a pochain/ chain excavator (Eng. No. N601D03394) was found on the spot and were impounded/seized by the team in P. S. Buria. The complainant on the spot gave written statement that he was satisfied with the action of the team. The dumper was released on dated 24.01.2019 after recovery of the fine of Rs. 20,000 having GRN No. 00434636. Later, a complaint was also sent to a P.S. Buria on dated 17.01.2019 to take a legal action against Sh. Dharmendra Singh & Sh. Bhupendra Singh S/o Sh. Randhir Singh who had illegally mined the land of the complainant.

On dated 06.12.2021, the mining team jointly inspected the area of the complainant with SEIAA members and other district officials in the presence of both the parties. The

team took the dimensions (LxBxH ft.) of the field of Sh. Tarun Kumar (Rakba 10//2, record as provided by Kanungo/Patwarl on the spot) i.e., 84x15x11 ft. As per report, the challan for payment of fine, price of royalty and price of mineral was issued to Sh. Ashu Tomar (owner of machine) and he submitted the fine accordingly equal to the sum of Rs. 79200/- having GRN No. 0084945603. A letter was sent to SHO, P.S. Buria that fine was submitted by the concerned persons and the complaint (FIR) should be disposed off.

2) Release of vehicles is not in terms of order of this Tribunal dated 26.02.2021 inter-alia in O.A. 360/2015, NGT Bar Association v. Virender Singh (State of Gujarat):

In reply to this, the mining officials told that the fine was recovered as per the State Mining Rules, 2012 and before the outcome of the orders of Hon'ble NGT in OA 219/2021 dated 26.02.2021. Royalty, penalty and price of the mineral is calculated for only the quantity of the mineral raised/ excavated illegally. As the royalty, penalty and price of the mineral was deposited, the case was compounded in view of Section 23 (A) 2 of MMDR Act, 1957.

3) The complainant has not been compensated for illegal mining on his land:

In reply to this, the mining officials told that there is no provision of compensation according to MMDR Act, 1957 and State Mining Rules, 2012. Compensation is given only by the legal contractors/lessees to whom the contract/lease have been granted by the state Govt. as per Rule 62 & 63 of State Rules, 2012.

After this, the complainant Sh. Tarun Kumar explained his concerned issues to DC, Yamunanagar and told that the police department didn't take any legal action on his complaint. In reply to this, SP Yamunanagar informed that the SHO, Burla registered an FIR regarding this but as the offences (related to illegal mining/illegal transportation) are compoundable according to the MMDR Act, 1957 and State Mining Rules, 2012 so the FIR is now cancelled on basis of intimation by Mining Officer, Yamunanagar.

W/Deputy Commissioner, Yamunanagar raised the following issues:

1. Why the fine was not recovered according to the Hon'ble NGT New Delhi orders in OA No. 360/2015 dated 26.02.2017


In reply, it was informed by the mining officials that incident of illegal mining and recovery of royalty, penalty & price of mineral, all happened before the outcome of orders of Hon'ble NGT in OA No. 360/2015 dt. 26.02.2017.


2. Why was not all the illegally mined area included by the officer at that time?

Separate actions with regard to either filing of complaint in the concerned police stations or recovery of applicable dues have been done in other illegally mined areas by the department.

3. Is there any pending investigation by the police officials regarding this complaint?

No investigation is pending with the police department as the case has been compounded by the mining department.


Superintendent of Police
Yamunanagar


Deputy Commissioner
Yamunanagar