

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
Principal Bench, New Delhi**

**Execution Application No. 44/2019
In
Original Application No. 767/2018**

In The Matter of: -

Dinesh Kumar Chadha

Applicant(s)

Vs.

State of Punjab & Ors.

Respondent(s)

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1.	CPCB Report in compliance of Hon'ble NGT Order dated 18.03.2020, in E.A. No. 44/2019 in O.A No. 767/2018 in the matter of Dinesh Kumar Chadha Vs. State of Punjab & Ors.	
2.	Annexure- I Hon'ble NGT order dated 18.03.2020.	



(Nazimuddin)

SCIENTIST 'E'

CENTRAL POLLUTION CONTROL BOARD
PARIVESH BHAWAN, EAST ARJUN NAGAR
DELHI- 110032.

Date: 03.07.2020

Place: Delhi

CPCB Report in the matter of Hon'ble NGT - E.A. No. 44/2019 filed in OA No. 767/2018.

1.0 Background

In E.A. No. 44/2019 filed in O.A. No. 767/2018 in Dinesh Kumar Chadha Vs. State of Punjab & Ors. Hon'ble NGT (PB) New Delhi vide order dated-11.12.2019 directed Joint Committee of CPCB, Director Mining, State of Punjab and Punjab SPCB to furnish a status report in terms of factual position and action taken. Accordingly, a joint report was submitted on 27.02.2020 in Hon'ble NGT by Punjab SPCB (nodal agency) and was considered during the hearing on 18.03.2020.

As per the said report, a total quantity of material mined illegally is 91,40,011.9 MT in Swara mining site till 18.05.2018, 32,64,266 MT in Baihara mining site till 18.05.2018, and 40,728 MT in Harsabella mining site till 06.01.2018. The Joint Committee made an assessment of damage to be recovered as below:

Mining Sites	Swara	Baihara	Harsabella
Total Value of illegal mined material (Rs.)	2321563022.6/-	829123564/-	10344912/-
Total Compensation with deterrent (Rs.)	4643126045.2/-	1658247128/-	20689824/-

Hon'ble NGT (PB) New Delhi by further order dated-18.03.2020 directed for amount already assessed in said report need to be recovered as interim compensation and CPCB to examine the final liability for the damage on account of illegal mining.

2.0 Final Liability of damage:

In order to deal with the cases of illegal sand mining from riverbeds in different states, Hon'ble NGT in OA No. 360/2015 (and 13 clubbed cases) constituted a Committee of Experts to suggest a scale of compensation to be adopted in whole of country. The Committee of Experts prepared a report to suggest a scale of compensation to deal with the cases of illegal sand mining in whole of country, which has been submitted to NGT by CPCB on 30.01.2020. Report prepared by Committee of Experts in NGT OA No. 360/2015 included two approach for computing compensation. The said report prepared by committee of experts is under review by NGT and the case is yet to be heard by NGT.

The first approach suggested in the Report of the Committee of Experts in OA No. 360/2015 is based on consideration of different factors such as Exceedance, Risk and Deterrence, and the other approach is based on simplified NPV for ecological damages. In the first approach, the environmental compensation is in range of 01 times (Minimum) and 02 times (Maximum) of market value of the illegally mined material. For illegal mining instances with high severity of damages, total compensation is equivalent to 02 times (Max.) of the total market value of

illegally mined material. The maximum total liability as per the first approach suggested by the Committee of Experts is equal to "Market value of the illegal mined material + 2 times of Market value of illegal mined material".

The Joint Committee in the present case of OA No. 767/2018 recommended environmental compensation as **02 times of total market value of illegally mined material**. Therefore, the final liability for the damage on account of illegal mining may be considered as "**Market Value of the illegal mined material + 2 times of Market Value of the illegal mined material**", which is as per first approach recommended by the Committee of Experts in OA No. 360/2015.

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

Execution Application No. 44/2019

In

Original Application No. 767/2018

(With report dated 27.02.2020)

Dinesh Kumar Chadha

Applicant(s)

Versus

State of Punjab & Ors.

Respondent(s)

Date of hearing: 18.03.2020

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

For Applicant(s): Mr. Gurlabh S. Bhika Sidhu, Mr. Sumit Rana, Advocates

For Respondent(s): Mr. Divya Prakash Pande, Advocate for CPCB

ORDER

1. The issue for consideration is remedial action against illegal mining. This Tribunal issued directions in the matter on 31.01.2019 in Original Application No. 767/2018. Complaining of non-compliance, this Execution Application has been filed. The matter was earlier dealt with on 11.12.2019 as follows:

"2. According to the application, no action has been action taken and illegal mining is still continuing at large scale. No survey has been conducted. Stone crushers are still operating without any safeguards. There is no plan for restoration of river ecosystems.

3. *Before proceeding further, we find it necessary to require a joint Committee of Central Pollution Control Board (CPCB), Director Mining, State of Punjab and the Punjab State Pollution Control Board (State PCB) to furnish a status report in terms of*

factual position and action taken. The nodal agency will be State PCB for coordination and compliance.

4. *The report may be furnished by 28.02.2020 by e-mail at judicialngt@gov.in."*

2. Accordingly, a joint report has been filed on 27.02.2020 mentioning the steps taken for enforcement of order dated 11.12.2019 inter alia as follows:

" The team of these officials had concluded their findings as follows:

I) *Mine contractor is found not guilty during investigation as per report sent by SP of Roopnagar vide letter no. 194/5 dated 13/02/2019 of the case for which FIR no. 149 dated 21/09/2018 was lodged. Subsequently, contractor of said Mine Sh. Surinder Paul was absolved of charges framed in FIR by SP, Head Quarter (Local), Roopnagar and on the basis of which recommendation for reinstatement of this mine was made by Xen-cum-District Mining Officer, Mohali vide letter no 675-79 dated 18/03/2019.*

II) *The auctioned khasra nos. 73/ /11,12 fall in the Swan river bed and as per site conditions, no violation of rules of Mining Act was found/noticed in these khasra nos.*

III) *The khasra nos. which were un-auctioned and illegal mining reported, the action against the landowners had already been taken imposing the required fine on them by the department. It is put forth that the total production of illegally mined mineral from the land bearing Khasra no. 48/ /11, 12, 20 situated in village Harsabella was determined at 40,728 and recovery amounting to Rs. 4,07,286 has been credited to Govt. treasury on 6/01/2018.*

Hence, based on the above conclusion for this mine, recommendations to reinstate the contract was sent to Superintending Engineer, Mining Circle-1 by Executive Engineer-cum-District Mining Officer, Mohali vide letter no. 675-79 dated 18/03/2019. The reinstatement of contract of Harsabela mine is under process with the Secretary-Cum-Director Mining, Punjab.

4.0 About the present scenario of all three mines

As per report of the Executive Engineer-cum-Distt. Mining Officer, Roopnagar, till date two flood seasons have passed including the one in 2018, in which the area witnessed heavy flood with record time high discharge of 83,966 Cs in swan rivulet and 2,40,930 Cs in river Sutlej, disturbing the geographical parameters of the area in question as Harsabella Mine is situated in river bed only and the river bed being replenished during the process. So, in the view of that two flood seasons have passed and replenishable nature of river bed, it is not feasible to assess the quantity of minor minerals which was assessed in the month of March, 2018. Moreover, In this context, site visit was conducted on 15.01.2020 by the field staff of the Mining division Roopnagar, along with revenue staff and former & present sarpanches, which concluded & testified these facts.

5.0 Action taken by the Govt

The Chief Engineer, Department of Mines and Geology, Punjab vide letter no. 2851-52/4 Mining dated 14/10/2019 informed the Department of Science, Technology and Environment as under:

1. Recovery notices to the defaulting contractors on account of illegal mining have been issued. The contractors have filed the appeals against the recovery notice with the Director-Cum-Secretary, Department of Mines of Geology, Punjab which have been sent to Deputy Commissioner, Roopnagar for getting it re-checked by the Site Appraisal Committee. The reports submitted by the Sub Divisional Magistrate Anandpur Sahib, have been submitted by the Deputy Commissioner Roopnagar vide Memo no. 100/ADRA-3 dated 05.02.2020 and Memo no 108/ADR,A-3 dated 18.02.2020 to the Secretary-Cum-Director Mining, Department of Mines and Geology, Govt. of Punjab and the appeals are under consideration of the competent authority.
2. Regarding action against erring officials, a meeting was held by Secretary-Cum-Director, Mining on 23/04/2019 with the officials of industries Department and the matter is under active consideration of the concerned authority.

6.0 Discussions:

1. As informed by the Executive Engineer-cum Distt. Mining Officer, Roopnagar:

- A. 91,40,011.90 MT of minor minerals have been illegally mined by the contractor from Swara mining site (within the demarcated as well as outside the mining site) before 18.5.2018.
 - B. 32,64,266 MT of minor minerals have been illegally mined by the contractor from Baihara mining site (within the demarcated as well as outside the mining site) before 18.5.2018.
 - C. 40,728 MT of minor minerals have been illegally mined from Harsabella mining site (within the demarcated as well as outside the mining site) before 6.1.2018.
2. The Executive Engineer-cum-Distt. Mining Officer, Roopnagar also informed that after assessment of above mentioned illegally mined minor minerals, two flood seasons had passed, in which the area witnessed heavy flood had been recorded having discharge of 83,966 cusec in Swan Rivulet and 2,40,930 cusec in river Sutlej, disturbing the geographical parameters of the area where minor minerals have been illegally mined at Swara, Bainhara and Harsabella mines.
 3. No record is available w.r.t illegal mining after 18.05.2018.
 4. As the assessment of the damages due to illegal mining is being done post-facto that the passing of flood season causing enough replenishment of the minerals, re-assessment of illegally mined material is not possible and the Joint Committee has to rely upon the information/data/record of the Department of Mines and Minerals.

7.0 Assessment of damage to be recovered

- Market Rate of the material = Rs. 12 per cft
- Density of the material = 1.89T/m³
- Therefore, market rate of the material per cubic m of the material = $12/0.02831685 = \text{Rs. } 423$ per m³ of material or $423/1.89 = 223.80 = \text{Rs. } 224$ per Ton of material As informed by the Executive Engineer-cum-Distt. Mining Officer, Roopnagar, the royalty paid = Rs.30 per Ton of material.
- As informed by the Executive Engineer-cum-Distt. Mining Officer, Roopnagar, the royalty paid = Rs.30 per Ton of material.

Location of site	Quantity of Material mined illegally as per report of the Executive Engineer-cum-Distt. Mining Officer, Roopnagar (MT)	Market value of the mineral (Rs.)	Royalty to be Paid to the Govt. (Rs.)	Total cost (Market value+ Royalty)	Total value of the illegal mined material =X (Rs.)	Total compensation with deterrent=2X (Rs.)
Swara	91,40,011.90 MT till 18.5.2018	224	30	254	232,15,63,022.6	464,31,26,045.2
Baihara	32,64,266 MT till 18.5.2018	224	30	254	82,91,23,564	165,82,47,128
Harsabela	40,728 MT ,r. till-,6.1.2018	224	30	254	1,03,44,912	2,06,89,824

3. It is clear from the above that notwithstanding acquittal in the criminal court, factually illegal mining was found and recovery notices were issued to the defaulting contractors for payment of compensation for illegal mining. The amount already assessed need to be recovered as interim compensation and the CPCB may examine the final liability for the damage on account of illegal mining. Further progress report in the matter be filed by the State PCB and the CPCB before the next date by email at judicial-ngt@gov.in.

4. A copy of this order be sent to the State PCB and the CPCB by email for compliance. A copy of this order be also sent to the Committee headed Justice Jasbir Singh, former Judge of the Punjab and Haryana High Court constituted by this Tribunal in terms of order of this Tribunal dated 01.10.2019 in *Original Application No. 138/2016 (TNHRC), Stench Grips Mansa's Sacred Ghaggar River* by email so that the Committee may also oversee the remedial action in the matter.

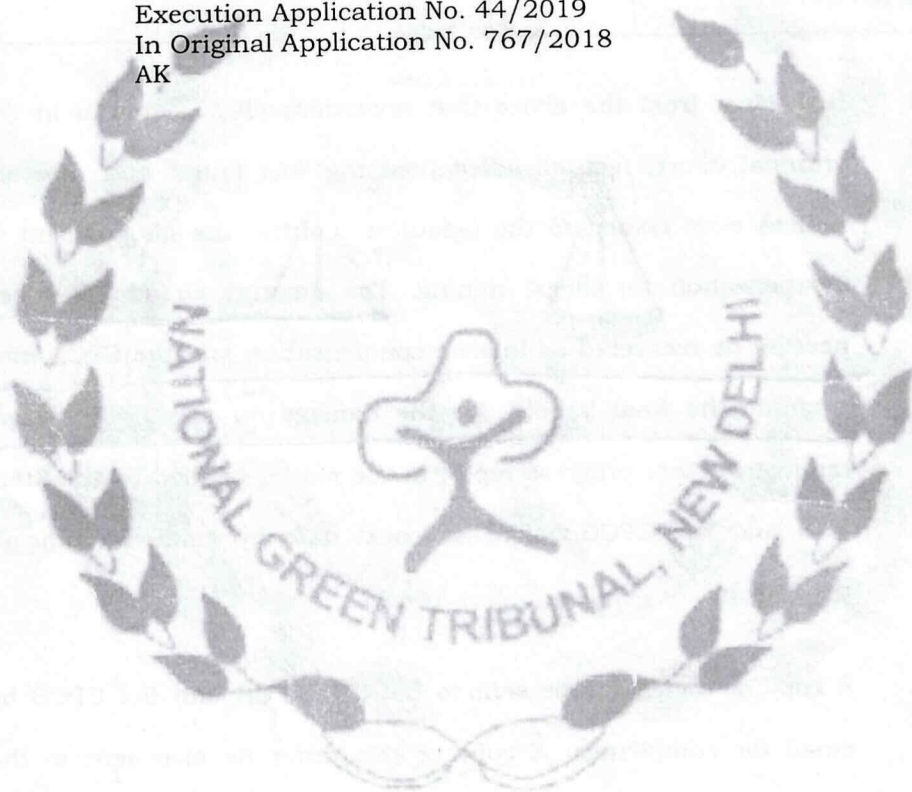
List for further consideration on 10.07.2020.

Adarsh Kumar Goel, CP

Sheo Kumar Singh, JM

Dr. Nagin Nanda, EM

March 18, 2020
Execution Application No. 44/2019
In Original Application No. 767/2018
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