

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

Original Application No. 1047/2019

In the case of:- Nisar A. Gattoo V/S Union Territory of J&K & Ors.

In the matter of:- Submission of Action taken report on behalf of the respondent No. 4 i.e District Magistrate, Doda in terms of the order dated 09-01-2020 passed by Hon'ble NGT, New Delhi in the above subject.

May it please your Lordships;

The answering respondent most respectfully submits as under:-

1. That, at the very outset the answering respondent respectfully submits that he has highest regard for the orders passed by the Hon'ble Court and has always believed it to be his bounden duty to implement the orders/directions issued by the Hon'ble Court in letter and spirit.
2. That, in compliance to the orders/directions issued by the Hon'ble National Green Tribunal Principal Bench, New Delhi in case titled Nisar A. Gattoo Versus Union Territory of J&K and others, wherein the Hon'ble NGT vide its order dated 09-01-2020 has issued the following directions which is reproduced as under:-

“In order to consider the matter further, we find it necessary to require a factual and action taken report in the matter from the District Magistrate, Doda and Jammu & Kashmir Pollution Control Board. The J&K PCB will be the nodal agency for coordination and compliance. The report may be filed by email within one month at judicial-ngt@gov.in”.

3. That, the applicant (Nisar A. Gattoo) has earlier filed a (PIL) Public Interest Litigation bearing No. 26/2018 titled Nisar A. Gattoo V/S State of J&K and others, before the Division Bench of Hon'ble High Court J&K at Jammu regarding the same subject matter, wherein


District Magistrate
Doda (J&K)

the Hon'ble Division Bench in its order dated 31-10-2018 has been pleased to pass the following order which is reproduced as under:-

“Meanwhile, Deputy Commissioner, Doda shall verify the present status of the functioning of the Stone Crushers, which are respondent No. 10 to 21 in the instant case and in case it is found that they are running in violation of the rules governing the field, then appropriate action be initiated”.

4. That, after receipt of the above said order of the Division Bench of the Hon'ble High Court dated 31-10-2018 this office initiated action in the matter by directing all the concerned Officers/Tehsildars to verify the status in respect of all such cases/crushers functioning in District Doda and to take appropriate action under rules governing the field. The information/action taken report was received by this office from the concerned Tehsildars/Revenue Officers and this office vide letter No. 2554/SQ dated 31-01-2019, conveyed the said information to Sh. Farooq Ahmed Natnoo Ld. Addl. Advocate General Hon'ble High Court J&K, Jammu and subsequently the status report has been filed on behalf of Deputy Commissioner, Doda before the Hon'ble High Court J&K at Jammu in terms of the above said order dated 31-10-2018.

The copies of the status report alongwith letter No. 2554/SQ dated 31-01-2019 addressed to Sh. Farooq Ahmed Natnoo Ld. Addl. Advocate General, Hon'ble High Court J&K Jammu are enclosed herewith as **Annexure R-1** and **sR-2** respectively.

5. That the above said PIL has been finally disposed off by the Division Bench of Hon'ble High Court J&K Jammu by passing a detailed judgement dated 08-04-2019. The operative part of the above said judgement is reproduced as under:-

“Considering the fact that the prayer made in the present petition has been granted, namely, that the State authorities have inspected the stone crushers. Against those which were operating without permission, action has been taken, nothing survives in the present petition. The same is disposed of


District Magistrate
Doda (J&K)

accordingly in terms of the stand taken by the learned State Counsel”.

A copy of the above said judgement dated 08-04-2019 is enclosed herewith as Annexure R-3.

Hence, the action taken report is submitted for your kind perusal.


District Magistrate
Doda (J&K)
(Dr. Sagar D. Doifode) IAS
District Magistrate,
Doda.

Place Doda.

Dated: 12-02-2020

BEFORE THE HON'BLE HIGH COURT OF J&K AT JAMMU. (9)

WPIL(O) No. 26/2018

In the case of:

Nisar A. Gattoo **Versus** State of J&K and ors.

In the matter of:

Status Report on behalf of the respondent No. 8 i.e. Deputy Commissioner, Doda in terms of the Order dated 31-10-2018 passed by this Hon'ble Court in the above titled PIL.

May it please your Lordships;

The answering respondent most respectfully submits as under:-

1. That the above titled PIL is pending disposal before this Hon'ble Court wherein the Hon'ble Court vide order dated 31-10-2018 has been pleased to pass the following order;

"...Meanwhile, Deputy Commissioner, Doda shall verify the present status of the functioning of the Stone Crushers, which are respondent No. 10 to 21 in the instant case and in case it is found that they are running in violation of the rules governing the field, then appropriate action be initiated."

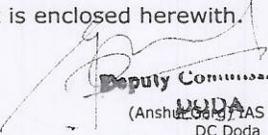
2. That it is submitted that the answering respondent immediately after receipt of the copy of aforesaid order dated 31-10-2018 has initiated action in the matter by directing all the concerned Officers/Tehsildars to verify the status in respect of all such stone crushers functioning in District Doda and to take appropriate action under rules governing the field.

3. It is submitted that in furtherance thereof, all the Executive Magistrates/Tehsildars after verification of each stone crusher functioning in District Doda have found ten (10) numbers of stone crushers functioning illegally and have been thus closed/ locked on spot. It is only in respect of two (2) stone crushers i.e.

respondent No. 14 and 16 which are functioning as per the norms, as such, they have been allowed to function accordingly. The requisite steps taken in respect of each stone crusher have further detailed in the documents enclosed herewith and marked as **Annexure-I** collectively for kind perusal of this Hon'ble Court.

Hence, the Status Report.

An affidavit in support of the status report is enclosed herewith.


Deputy Commissioner
(Anshu Singh) IAS
DC Doda
Mob No.94192-64422

Answering Respondent
through Counsel.

(Farooq Ahmed Natnoo)
Additional Advocate General.

Doda :
Dated: 06-02-2019.

Amir R-2

GOVT OF JAMMU AND KASHMIR
OFFICE OF THE DEPUTY COMMISSIONER, DODA

Sh. Farooq Ahmad Nattar,
Ld. Addl. Advocate General,
Hon'ble High Court,
J&K at Jammu.

No: 2554 /SQ

Dated: 31 -01-2019

Sub:- PIL No. 26/2018, IA No. 01/2018, titled Nisar Ahmed Gattoo
V/S State of J&K and others.

Sir,

The Hon'ble High Court J&K at Jammu in its order dated 31-10-2018 issued directions to the Deputy Commissioner, Doda to verify the present status of the functioning of the stone crushers mentioned in the said PIL No. 26/2018 figuring at S.No. 10 to 21 and in case it is found that they are running in violation of the rules governing the field, then appropriate action be initiated.

In pursuance of the said directions of the Hon'ble High Court dated 31-10-2018 all the concerned Revenue Officers were directed to verify the present status all such stone crushers falling in their respective jurisdiction and furnish the compliance report to this offices. The information received by this office from the concerned Tehsildar/Revenue Officer is submitted as under:-

S.No.	Name of Stone Crusher	Location	Present Status/Action taken
1.	Mir Stone Crusher	Kurmail	As per information furnished by the Tehsildar Assar Vide No. TA/OQ/2019/11-20 dated 09-01-2019, the stone crusher has been installed in Khasra No. 200 in State Land of village Karmail.

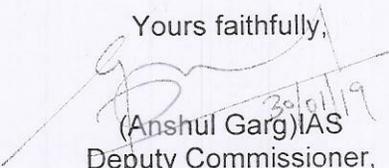
					Due to non production of the required NOC's the unit stands closed/locked by the Tehsildar Assar on 09-01-2019.
2.	M/S Malik Crusher	Stone			As per information furnished by the Tehsildar Assar vide No. TA/OQ/2019/11-20 dated 09-01-2019. The stone crusher is located in village Karmail (Assar). The Manager of the stone crusher did not produced the NOC's from the different Departments and as such, unit stands locked/closed by the Tehsildar Assar on 09-01-2019.
3.	M/S Rayaz Crusher	Stone	Arnora Ghat		As per information furnished by the Tehsildar Doda vide No. 1104-16/OQ dated 04-01-2019, the owner of the stone crushers were provided sufficient opportunity to produce the requisite NOC's/Permission in this behalf. But they did not produce the required NOC's , as such units have been sealed and locked by the Tehsildar Doda on 03-01-2019.
4.	M/S Shiva Crusher	Stone			
5.	M/S Bhat Son's Crusher	Stone			
6.	M/S Zargar Crusher	Stone	Indloo		As per information furnished by the Tehsildar Kahara vide No. 426-30/Gen/TK dated 03-01-2019, the owners of the stone crushers have failed to produce the requisite permission from the concerned Department and as such, the both stone crushers have been locked/sealed on 03-01-2019 by the Tehsildar Kahara.
7.	M/S Kwality Crusher	Stone			

8.	M/S LSR Logistic Pvt. Ltd. Stone Crusher/Hot Mix Plant	Bhella	As per information furnished by the Tehsildar Bhella vide No. 285/TB dated 07-01-2019, the stone crusher in question got sealed on 02-01-2019 by the Tehsildar Bhella being running in violation of rules.
9. 1	M/S Susheetal Stone Crusher	Karara	As per information furnished by the Tehsildar Bhella vide No. 285/TB dated 07-01-2019, the plant was non functional since 6/7 years and now some movement is seen on that plant location so that notice was issued to the crusher owner on 03-01-2019 by the Tehsildar Bhella for production of required NOC's/Permission from the competent authorities. But has failed to produce the same as such, the unit got sealed and locked by the Tehsildar Bhella.
10. 1	M/S Neeru Stone Crusher	Karara Bhella	As per information furnished by the Tehsildar Bhella vide No. 320/TB dated 22-01-2019, that the licences is issued/granted M/S Stone Crusher to operate the stone crusher w.e.f 26-04-2018 to 25-04-2023 by the Director Geology and Mining Department J&K Srinagar/Jammu subject to consent of J&K State Pollution Control Board and having NOC's of all concerned Departments, which the owner of stone crusher have got from all the Departments and the crusher is functioning legally.

11.	M/S Aditya Crusher	Stone	Jangalwar	The Tehsildar Phagsoo furnished report vide his No. 274-75/TP/MM dated 28-01-2019, whereunder he has stated that the unit namely M/S Aditya stone crusher is functioning legally and the record produced by the owner of the unit has been perused by the Tehsildar.
12.	M/S Dar Industry		Dradhu	As per information furnished by the Tehsildar Bhaderwah vide No. 661-62/OQ dated 02-01-2019, that show cause notices was served to the units holder, but no response has been received by him for operating of such unit. Besides the NOC's have not been obtained from the Pollution Control Board and failed to produce the NOC's from concerned Department, as such the said stone crusher has been seized by the Tehsildar Bhaderwah in order to restrain the unit from further operation.

Hence the information is submitted for kind perusal and further appropriate action at your end please. The attested photocopies of the reports obtained from the concerned Tehsildar are enclosed herewith.

Yours faithfully,


(Anshul Garg) IAS
Deputy Commissioner,
Doda

Amended-3

HIGH COURT OF JAMMU AND KASHMIR AT JAMMU

Present: Hon'ble Mr. Justice Rajesh Bindal – Judge

Hon'ble Mrs. Justice Sindhu Sharma - Judge

PIL No.26/2018

Nisar. A. Gattoo, Age 37 years
S/o A.H.Gattoo
R/o Gattoo Mohalla Doda City
District Doda

..... Petitioner

VERSUS

State of J&K through
Commissioner /Secretary to Govt, Department of
Revenue, Civil secretariat Jammu/Srinagar

2. Commissioner /Secretary to Govt , Home
Department, Civil secretariat Jammu/Srinagar
3. Commissioner /Secretary to Govt, Department
Geology Mining, Civil secretariat Jammu/Srinagar
4. Commissioner /Secretary to Govt, Department
Fisheries, Civil secretariat Jammu/Srinagar
5. Commissioner /Secretary to Govt, Department Flood
and Irrigation , Civil secretariat Jammu/Srinagar
6. Chairman, J&K State Pollution Control Board,
Srinagar/Jammu.
7. Director Geology Mining Jammu and Kashmir

True Copy Attested
Asstt. Registrar
High Court of J&K
JAMMU

Gattoo

- ②
-
8. Deputy Commissioner Doda,
 9. Senior superintendent of Police, Doda (SSP).
 10. M/s Susheetal Stone Crusher,
Tehsil Kahara, District Doda.
 11. M/S Kwality Stone Crushers.
District Doda
 12. M/S Zarger Stone Crusher
Village Indlu, Tehsil Thathri District Doda.
 13. M/S Dar Industry
Village Chunna Dradhoo,
Tehsil Bhaderwah District Doda
 14. M/S Aditya Stone Crushers.
Village Jangalwar
Tehsil Thathri District Doda.
 15. M/S LSR Logistic Pvt Ltd.
District Doda
 16. M/S Neeru Stone Crushers.
Village Bhella (Kahara),
Tehsil Thathri District Doda.
 17. M/S Malik Industries.
District Doda
 18. M/S Mir Stone Crushers.
District Doda
 19. M/S Riaz Stone Crushers.
Village Arnora
Tehsil and District Doda.

True Copy Attested

Asstt. Registrar
High Court of J&K
JAMMU,

July

3

- 20. M/S Bhat Son's Crushers
Village Sharipiran Bagh (Ghat),
Tehsil and District Doda
- 21. M/S Shiva Stone Crushers.
Ghat Road Near Sharafran,
Tehsil and District Doda

.....Respondent

True Copy Attested
Asstt. Registrar
High Court of J&K
JAMMU
7/11/14

4

PIL 26/2018 (O&M)

Date of Order:- 08.04.2019

Nissar A. Gattoo

v/s State of J&K and others

Present : None for the Petitioner.

Mr. F. A. Natnoo, AAG, for the Respondent Nos. 3, 7 & 8:

Mr. Ajaz Lone, GA, for Respondent no.4.

Mr. Y. P. Koushal, Advocate for Respondent nos. 13, 15, 17 and 21.

None for the other respondents.

Rajesh Bindal, J.

1. This petition has been filed in public interest raising a plea that certain stone crushers were operating in District Doda without proper approval from the authorities concerned.

2. In the status report filed by Deputy Commissioner, Doda, dated 06.02.2019, it has been mentioned that out of 12 stone crushers operational there, two have been found to be meeting all the norms whereas ten were functioning illegally. Those ten illegal stone crushers have been closed.

3. Learned counsel for the official respondents submitted that applications for permission to operate stone crushers in that area are pending

True Copy Attested

Acct. Registrar
High Court of J&K
JAMMU.

[Handwritten Signature]

(2)

with the authorities in some of the cases. The same shall be considered and finally disposed of in terms of SRO 302 of 2017 dated 19.07.2017.

4. In case those applications will be complying with the requirements for grant of permission to operate stone crushers, the same shall be granted otherwise reasons for rejection of applications shall be conveyed to the applicants within one month from today.

5. The application filed by some of the private respondents, raising grievance regarding closure of their stone crushers, was dealt with by this Court vide order dated 05.03.2019, which reads as under:-

“ The instant application is premised on a reading of the order dated 31st October, 2018 by submitting that this Court has directed the respondents to interdict operation of the stone crushers. We do not find that the order dated 31st October, 2018 so directed. The direction has been issued to the Deputy Commissioner, Doda to only verify as to whether the stone crushers are being run in accordance with law and with due authorization. Certainly it cannot be contended by any person that he has a right to run the stone crusher without any authority or permission by law.

In case the applicants are aggrieved by any order passed by any authority against the stone crushers being run by them, they can avail the appropriate remedy under law.

This application is not maintainable. The same is, accordingly, dismissed.”

6. Considering the fact that the prayer made in the present petition has been granted, namely, that the State authorities have inspected the stone

True Copy
Asstt. Registrar
High Court of J&K
JAMMU

crushers. Against those which were operating without permission, action had been taken, nothing survives in the present petition. The same is disposed of accordingly in terms of the stand taken by the learned State counsel.

2

Sd/- Honble
(MS. SINDHU SHARMA)
JUDGE

Sd/- Honble
(RAJESH BINDAL)
JUDGE

JAMMU

08.04.2019

Anil Raina, Secy (SG)

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No

Registration No. 3993
Date of Assn. Copy 9.4.19
Name of the Assn. F.A. Naturo (ASH)
FIC
12.4.19
16.7.15
FIC
Sudip Chandra

High Court of Jammu & Kashmir
12.4.19
FIC