

I/106053/2022

HARYANA STATE POLLUTION CONTROL BOARD
C-11, SECTOR-6, PANCHKULA
Ph-0172-577870-73, Fax No. 2581201
E-mail: hspcbhazardouswaste@gmail.com

HSPCB/HWM/2022/ Dated: 06/04/2022

To

1. The Deputy Commissioner, Mahendergarh.
2. Hon'ble NGT.
3. Counsel of the Board.

Subject: Status of consent of the Stone Crusher of M/s BHAWANI GRIT UDYOG Khewat No. 58, Khatoni No. 62, M.No. 8, Kila No. 17/1(7-11), 18/1 min East (4-09) Total 12 Kanal 0 Maria At Village-Khatoli Ahir, Tehsil-nangal Chaudhary, Distt-Mahendragarh.

In this connection, it is intimated that above said unit is a stone crusher and obtained Consent to establish (CTE) on 16.02.2018 from the Board on the basis of siting criteria report submitted by the unit obtained from concerned revenue and Forest Department. After that Consent to operate (CTO) was granted from 27.10.2019 to 31.03.2023. Thereafter, as per the directions of Hon'ble NGT passed in OA No. 667 and 679 of 2018, siting criteria of this unit was again verified by Joint committee(constituted by NGT) and found that is not meeting the siting criteria as per notification 11.05.2016.

The above said stone crusher is established and operated after the notification dated 11.05.2016 and not complying with the siting criteria prescribed under this notification as per re-verification siting report submitted in the matter of said O.A. by the joint committee before the Hon'ble NGT. On the basis of the report, CTO revocation order issued against the unit by the Board on dated 12.05.2021.

After that, the applicants has filed an appeal before Appellant Authority against the CTO revocation order issued by the authority regarding the said matter vide Appeal no. 1452 dated 10.06.2021 and as per order passed by the Authority dated 19.08.2021" *There are two issues emerging in this case that the unit was granted CTE and CTO after the reports from concerned departments were considered and due diligence was taken by the Board. In this case and other similar cases the reports of certain departments whose reports are later found contrary to the ground reality or the authorities keep changing their reports under duress subsequently, these officials need to be proceeded against. The moot question is whether the earlier report is right or the later one. Enquiries need to be conducted by independent agency to ascertain this fact, and strict action against the officials of concerned department need to be taken. The field officers of the PCB, also in such cases get away with impunity. Once a CTO has been granted to any unit, the cancellation of it must be accompanied by strict disciplinary action*

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against the officer of the Board who did not verify the facts while proposing the grant of CTO. Second issue here is that the distance parameters have been measured from the Dhani and not from the Revenue village. In the notification dated 11.5.2016 the distance to be considered is from the Revenue village. The Dhani is not a legal entity as far as the notification is concerned. Moreover, this Dhani Chiragupeena is stated to be on the land whose ownership has been shown as 'Central Government in the Revenue record Jamabandi as submitted by the applicant counsel. The Deputy Commissioner Mahendergarh may be asked to look into it and see whether the Dhani is an encroachment on government land, if so the action required should be taken following due procedures. The case is remanded to the Board to take action accordingly".

Then, a letter was issued to DC Mohindergarh to submit the detail about the place "Chiragupeena" in Dist. Mahendergarh vide letter no. I/62400/2021 dated 06.09.2021 and DC, Mahendergarh has submitted that the report on the detail of Chiraglu Peenwali obtained from Tehsildar vide letter no. 426 dated 09.11.2021 and as per the report submitted by Tehsildar, it is cleared that the said Chiragupeena is a Dhani, not village and as per record, the ownership of land is with Central Government. Further, as per notification dated 11.05.2016, Minimum distance is required from the nearest Village Phirni, in case, if there is no phirni then the distance will be measured from Village Lal Dora. Minimum distance is required from the nearest Village Phirni, in case, if there is no phirni then the distance will be measured from Village Lal Dora. In the notification dated 11.05.2016, there is no where mentioned that distance of stone crusher should measured distance of stone crusher from Dhani. But in present case the CTO of the unit was revoked only on the basis of distance of the unit from Chiraglu Peenwali i.e Dhani. However, unit is meeting the distance parameter from the phirni of vill. Khatoli Ahir i.e 1.102 KM.

Legal Opinion was also obtained from the District Attorney of the Board which is reproduced as under "directions were issued to RO concerned to take up the matter with the office of Deputy Commissioner to verify the facts mentioned in order of Appellate Authority. Now report has been received from the Deputy Commissioner, wherein, it is clear that the said Chiragupeena is a Dhani, not a village and as per record, the ownership of land is with Central Government. In view of the report submitted by the Deputy Commissioner, Mahendergarh, i am of the opinion that the unit is meeting distance parameter as per the provisions of notification dated 11.05.2016".

Therefore, as per the facts given above, the unit is meeting distance parameter as per the provisions of notification dated 11.05.2016 on the basis of report of Tehsildar. So, CTO revocation order is withdrawn by the Board on dated 04.01.2022.

This is submitted for information and further necessary action.

Signed by Naveen Gulia
Date: 06-04-2022 16:47:23
Reason: Approved
Sr. Env. Engineer (HQ)
For Member Secretary