

**REPORT IN THE HON'BLE NATIONAL GREEN TRIBUNAL (NGT) MATTER IN
OA NO. 54 OF 2022 (WZ), DATTATRAY PHALKEVS UNION OF INDIA & ORS.**

1.0 Background

Hon'ble NGT passed an Order, dated 06/07/2021, in the matter of OA no. 54 of 2022 (WZ), Dattatray Phalke Vs Union of India & Ors. The matter relates to illegal mining being carried out by M/s. Rajendrasingh Bhamboo Infra Pvt. Ltd. It is alleged in the Application that the Project Proponent has deliberately not obtained prior Environmental Clearance (EC) for the impugned project for excavating more than 4,50,000 brass of stone, murum, sand etc., and hence, has carried out illegal mining activities at the impugned project.

Hon'ble NGT directed vide Order dated 06/07/2022 (copy of Hon'ble NGT Order, dated 06/07/2022 is given at **Annexure-I**) has constituted joint committee comprises of:-

- 1) One representative from the State Environment Impact Assessment Authority (SEIAA)
- 2) One representative from the Maharashtra Pollution Control Board (MPCB)
- 3) District Magistrate of District Hingoli.

Relevant section of the order is reproduced as below: -

"The Committee is directed to visit the site and submit a factual and action taken report within one month on the following points:-

- A. *Whether leasing of private land for mining by land owners to Respondent No.6 at fixed compensation is allowed as per MMR Rules, 2017;*
- B. *Whether EC for mining was obtained;*
- C. *Whether CTE/CTO for mining was obtained;*
- D. *How many temporary permits were granted and under which rules?;*
- E. *Whether excavated material was exclusively used for road construction;*
- F. *What was actual quantity of quarried material;*
- G. *Work out environmental compensation amount and also prepare remediation plan, if quarrying was carried out without permissions."*

In compliance of H'ble NGT directions The Joint Committee visited stone quarry sites, on 4th August 2022, located at Gut No. 41, Devdari, Tal Kalamnuri, Dist. Hingoli and Gut No. 113, Bhosi, Tal Kalamnuri, Dist. Hingoli on 04/08/2022 and

submitted the report before H'ble NGT on 23/08/2022.

H'ble NGT in order dtd. 05/09/2022 directed the Joint Committee to submit additional report with regard to the calculation of loss caused to the environment within a period of 15 days.

2.0 Assessment of Damage to the Environment

It is decided by the Committee to consider the following orders/cases of Hon'ble NGT to ascertain the extent and assessment of damage to the environment and recover the amount from the persons who have undertaken illegal mining.

- i. Para 31 of the Hon'ble National Green Tribunal Principal Bench order dated 04.01.2019 in O.A.No.110(THC)/2012 titled as "Threat to life arising out of coal mining in South Garo Hills District Vs. State of Meghalaya & Ors" reads as follows-

"Paying capacity and the amount which may act as deterrent to prevent further damage is also well recognized. Net Present Value of the ecological services foregone and cost of damage to environment and pristine ecology, the cost of illegal mined material, and the cost of mitigation and restoration are also relevant factors, The committee may go into these aspects to determine the final figure".

- ii. For the purpose of arriving the Net Present Value of the ecological services foregone and cost of damage to the Environment and pristine ecology and cost of mitigation and restoration, the decisions of this Hon'ble Tribunal dated 31.07.2015 in O.A.No.110 (THC) of 2012 and O.A.No.73 of 2014 and O.A.No.13 of 2014 and O.A.No.186 of 2014 in the matter of the "Threat to life arising out of coal mining in South Garo Hills District Vs. State of Meghalaya & Ors", has been relied upon. The same is reproduced as under.

" We further direct that all the coal miners / transport us would be liable to pay 10% Environmental compensation, for the coal being transported, irrespective of the fact that they had paid royalty for the same even prior the date of the order." However where the coal has already been transported prior to the date of the order, that is 25th March, 2015, for the present the liability to pay 10% to comply with the directions as environmental compensation

would not be enforced by the State, subject to final orders.”

The Hon'ble Tribunal in its order dated 25.03.2015 referred above in the related Original Application Nos.73 of 2014 and 13 of 2014 in pages 15 and 16 has ordered as follows:

“No one has even thought of restoration of the area in question, to bring to some extent, if not completely, restoration of ecology and environment in question. Serious steps are required to be taken for cleaning polluted water bodies and ensure that no further pollution is caused by this activity and the activity which would be permitted to be carried on finally including transportation of coal. On the basis of 'Polluter Pay Principle', we direct that the State Government shall in addition to the royalty payable to it, shall also collect 10% on the market value of the coal for every consignment.

Thus, we direct that the State Government shall in addition to the royalty payable to it, also collect 10% of the said market value of the coal per metric tone from each person. The amount so collected shall be deposited in the account to be titled as 'Meghalaya Environment Protection and Restoration Fund' to be maintained by the State under the direct control of the Chief Secretary of the State of Meghalaya.

This amount shall only be used for restoration of environment and for necessary remedial and preventive measures in regard to environment and matters related thereto.

We make it clear that this 10% of the additional amount shall be payable by all persons who had transported the coal in the past or would transport in future, without exception”

The similar methodology adopted in the Joint Committee Report dated 02.01.2020 submitted to the Hon'ble NGT, South Zone Bench in the matter of OA No. 08 of 2017(SZ), titled “Smt. S. Kannammal Vs. Govt. of India, Ministry of Environment, Forest & Climate Change, New Delhi and 6 others” which was related to illegal stone mining.

Accordingly, as per information provided by the District Mining Officer (DMO), Hingoli vide letter dated 16/09/2022 (Annexure –I) regarding mining area,

schedule rates, mined quantity statement of excavation, at Gat No. 41, Devdari, Tq. Kalamnuri, Dist. Hingoli and Gat No. 113, BHosi, Tq. Kalamnuri, Dist. Hingoli, the Committee assessed the Environmental Compensation to be imposed project proponent who have undertaken illegal mining

The compensation to be recovered from stone mine lease holders are calculated, quantified and tabulated in Annexure-II. As per calculation, Restoration & Environmental Compensation cost is Rs. 288930161.44/-

Table indicating the compensation amount to be recovered from stone mine lease holder is as shown below.

Table3. Compensation amount to be recovered from each stone mine lease holder

| Sr. No. | Lessee Name | Mining Site | Area As Per 7/12 Extract Or Lease Order H.R | Total Excavated Quantity In Cubic Meter | Total EC Cost In Rs. |
|--------------|--|---|---|---|----------------------|
| 1 | M/s RajendrasinghBhamboo Infra Pvt. Ltd. | Gut No. 41, Devdari, Tal.Kalamnuri, Dist. Hingoli | 3.28 | 141239.07 | 110674938.39 |
| 2 | | Gut No. 113, Bhosi, Tal.Kalamnuri, Dist. Hingoli | 4.00 | 227482.42 | 178255223.06 |
| Total | | | | 368721.49 | 288930161.44 |



Pankaj Joshi
Member, SEIAA



Shripad Kulkarni
Sub Regional Officer,
MPCB



Ravindra Marbate
District Mining Officer,
Hingoli on behalf of District
Magistrate, Hingoli



महाराष्ट्र शासन
जिल्हाधिकारी तथा जिल्हादंडाधिकारी यांचे कार्यालय, हिंगोली.

दुरध्वनी क्र - (02456) 221450

फॅक्स क्र - (02456) 222400

जा.क्र. 2022/गौ.ख./कावी-

दिनांक 16.09.2022

प्रति,

उप प्रादेशिक अधिकारी,
परभणी.

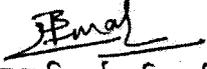
विषय :- राष्ट्रीय हरीत लवाद यांच्याकडे दाखल करण्यात आलेल्या याचिका 54/2022
संदर्भात गौणखनिज व इतर आवश्यक माहिती सादर करणे बाबत...

संदर्भ :- 1) आपले कार्यालयीन पत्र जा.क्र.MPCB/SRO-P-108 दि.14.09.2022
2) सार्वजनिक बांधकाम विभाग, महाराष्ट्र शासन यांचे शासन परिपत्रक क्र.रादसू-
2022/प्र.क्र.12/नियोजन-3 दि.25/07/2022

उपरोक्त विषयी व संदर्भीय पत्राच्या अनुषंगाने राष्ट्रीय हरीत लवाद यांच्याकडे दाखल करण्यात आलेल्या याचिका 54/2022 संदर्भात जिल्हाधिकारी यांच्यावतीने सदर प्रकरणात राष्ट्रीय हरीत लवादास पर्यावरण आघात मुल्यांकनाची माहिती तात्काळ सादर करणे बाबत संदर्भ क्र.1 नुसार कळविण्यात आले आहे.

त्यानुसार सार्वजनिक बांधकाम विभाग, हिंगोली यांच्याकडून प्राप्त माहितीनुसार संदर्भ क्र.2 च्या शासन परिपत्रकात नमुद दरसूची प्रमाणे सोबत जोडलेल्या विवरणपत्रामध्ये माहिती भरून पुढील आवश्यक त्या कार्यवाहीस्तव सादर करण्यात येत आहे.

सोबत :- विवरणपत्र


जिल्हा खनिकर्म अधिकारी
हिंगोली

INFORMATION RELATED TO MINED MATERIAL - STONE QUARRY

| Sr. No. | Stone Quarry Name/ Lease Name/Gat No. | Lease area/Quarry area | Year | Permitted quantity (cubic meter or brass) (as per permission by collector office) cubic meter or brass) | Excavated quantity (mind material) (cubic meter or brass) | Royalty/Seigniora ge fee per cubic meter or brass | Net present value year wise in cubic meter or brass (as per district schedule rate) | market rate/value per cubic meter or brass |
|--------------|---------------------------------------|------------------------|--|---|---|--|---|--|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| 1 | Devdhari Stone Quarry Gat No. 41 | 3.28 Hector | 30.06.2021 08.02.2022 10.03.2022 15.03.2022 | 25000 10000 10000 25000 | 49907.80 Brass (As per ETS Measurement) | Rs.400/- Brass Rs.600/- Brass Rs.600/- Brass Rs.600/- Brass | Rs.653 Per Cu.Mt. | Rs.900/Brass Rs.900/Brass |
| Total | | | | 70000 Brass | | | | |
| 2 | Bhosi Stone Quarry Gut No.113 | 4.00 Hector | 18.10.2021 08.02.2022 07.03.2022 16.03.2022 | 10000 10000 10000 25000 | 80382.48 Brass (As per ETS Measurement) | Rs.600/- Brass Rs.600/- Brass Rs.600/- Brass Rs.600/- Brass | Rs.653 Per Cu.Mt. | Rs.900/Brass |
| Total | | | | 55000 Brass | | | | |

Note :- Rate Shown in Coloumn No.8 is taken from MATERIAL RATES FOR SSR FOR YEAR 2022-2023 सावजनिक बांधकाम विभाग, महाराष्ट्र शासन यांचे शासन परिपत्रक क्र.रादसू- 2022/प्र.क्र.12/नियोजन-3 दि.25/07/2022

MATERIAL RATES FOR SSR FOR YEAR 2022-2023

(As per Govt. of Maharashtra, Public works Department State Schedule of Rates
for the year 2022-23)

| Sr. No. | Description | Per Unit | Rate (Excluding GST) SSR 2022-23 |
|----------------------|---|-----------|----------------------------------|
| 836 | R.C.C.Pipe 450mm dia.(Np3)2.5m long | R.Mt. | 2085.00 |
| 837 | R.C.C.pipe Np2 class 1000mm dia. 2.5m long | R.Mt. | 3763.00 |
| 838 | R.C.C.Np2 Pipe Collar 1000 mm Dia. | No. | 575.00 |
| 839 | R.C.C.pipe Np2 class 1200mm dia. 2.5m long | R.Mt. | 5497.00 |
| 840 | R.C.C.Np2 Pipe Collar 1200 mm Dia. | No. | 803.00 |
| 841 | R.C.C.pipe Np2 class 1800mm dia. 2.5m long | R.Mt. | 9170.00 |
| 842 | R.C.C.pipe Np2 class 900mm dia. 2.5m long | R.Mt. | 3299.00 |
| 843 | R.C.C.Np2 Pipe Collar 900 mm Dia. | No. | 465.00 |
| 844 | R.C.C.pipe Np2 class 800mm dia. 2.5m long | R.Mt. | 2758.00 |
| 845 | R.C.C.Np2 Pipe Collar 800 mm Dia. | No. | 282.00 |
| 846 | R.C.C.pipe Np2 class 700mm dia. 2.5m long | R.Mt. | 2332.00 |
| 847 | R.C.C.pipe Np2 class 600mm dia. 2.5m long | R.Mt. | 1655.00 |
| 848 | R.C.C.Np2 Pipe Collar 600 mm Dia. | No. | 261.00 |
| 849 | R.C.C.pipe Np2 class 500mm dia. 2.5m long | R.Mt. | 1318.00 |
| 850 | R.C.C.pipe Np2 class 450mm dia. 2.5m long | R.Mt. | 1074.00 |
| 851 | R.C.C.Np2 Pipe Collar 450 mm Dia. | No. | 107.00 |
| 852 | R.C.C.pipe Np2 class 100mm dia. 2m long | R.Mt. | 327.00 |
| 853 | R.C.C.pipe Np2 class 150mm dia. 2m long | R.Mt. | 346.00 |
| 854 | R.C.C.pipe Np2 class 225mm dia. 2m long | R.Mt. | 392.00 |
| 855 | R.C.C.pipe Np2 class 300mm dia. 2m long | R.Mt. | 642.00 |
| 29 | RCC Pipe Np 4 heavy duty non presure pipe 1000 mm diameter | R.Mt. | 8266.00 |
| 856 | RCC Pipe Np4 heavy duty non presure pipe 1200 mm diameter | R.Mt. | 9824.00 |
| 857 | RCC Pipe Np4 heavy duty non presure pipe 900 mm diameter | R.Mt. | 6629.00 |
| General Rates | | | |
| 1 | Cement | M.T. | 6000.00 |
| 2 | Structural Steel | M.T. | 62575.00 |
| 3 | TMT FE - 500 | M.T. | 61000.00 |
| 4 | HCRM/CRS Reinforcement | M.T. | 63755.00 |
| 5 | Tubular steel | M.T. | 65720.00 |
| 6 | Bitumen VG 10 (Bulk) (80/100) | M.T. | 49488.00 |
| 7 | Bitumen VG 30 (Bulk) (60/70) | M.T. | 49862.00 |
| 8 | Bitumen VG 40 (Bulk) (30/40) | M.T. | 52764.00 |
| 9 | Bitumen VG 30 (Packed) (60/70) | M.T. | 59411.00 |
| 10 | Bitumen VG 40 (Packed) (30/40) | M.T. | 64748.00 |
| 11a | Bitumen VG 10 (Packed) (80/100) | M.T. | 57913.00 |
| 12 | Sand - Natural/V.S.I.(Vertical Shaft Impact Crusher)Quality Artificial Sand | Cu.Mt. | 1670.00 |
| 13 | Sand - Crushed | Cu.Mt. | 1200.00 |
| 14 | Natural Sand - Screened (for plaster work only) | Cu.Mt. | 1781.00 |
| 15 | Bricks II Class | No. | 8.50 |
| 16 | Rubble stone excluding royalty | Cu.Mt. | 653.00 |
| 17 | Aggregate 40 mm (Hand Broken) Blasted excluding royalty | Cu.Mt. | 900.00 |
| 18 | Aggregate 25 mm | Cu.Mt. | 1050.00 |
| 19 | Aggregate 20 mm | Cu.Mt. | 1050.00 |
| 20 | Aggregate 12 mm | Cu.Mt. | 1050.00 |
| 21 | Aggregate 10 mm | Cu.Mt. | 1050.00 |
| 22 | Aggregate 6 mm | Cu.Mt. | 1050.00 |
| 23 | Stone Dust | Cu.Mt. | 835.00 |
| 24 | Soft Murum | Cu.Mt. | 313.00 |
| 25 | Hard Murum | Cu.Mt. | 316.00 |
| 26 | Water | 1000 lit. | 213.00 |
| 27 | White Cement | Kg. | 36.00 |
| 28 | Plasticizer | Ltr. | 193.00 |
| 29 | Stainless Steel Plate | Kg. | 218.00 |
| 30 | EMULSION RSI (Hincol) BULK | M.T. | 40000.00 |
| 31 | EMULSION RSI (Hincol) Packed | M.T. | 42500.00 |

Annexure-II
Statement of Environmental Compensation of for Illegal Mining at Gut No. 41, Devdari and Gut No. 113, Bhosi, Tal Kalamnuri,
Dist. Hingoli

| SR. NO. | LEASEE NAME | GAT NO. | Area as per 7/12 Extract or Lease Order H.R | Total Excavated quantity in Brass | Excavation quantity in cubic meter | District/ State Schedule Rate in Cubic Meter | Cost of Mineral Based on DSR (A) in Rs. | Ecological Services & Cost of Damage to Environment (10 %) of A (B) in Rs. | Cost of Mitigation & restoration 10% cost of A (C) in Rs. | Total EC Cost = (A+B+C) in Rs. | Remark |
|---------|---|---|---|-----------------------------------|------------------------------------|--|---|---|---|--------------------------------|---|
| 1 | 2 | 3 | 5 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 17 |
| 1 | M/s Rajendrasingh Bhamboo Infra Pvt. Ltd. | Gut No. 41, Devdari, Tal Kalamnuri, Dist. Hingoli | 3.28 | 49907.80 | 141239.07 | 653.00 | 92229115.32 | 9222911.53 | 9222911.53 | 110674938.39 | Cost of Mineral calculated as per rate of SSR |
| 2 | M/s Rajendrasingh Bhamboo Infra Pvt. Ltd. | Gut No. 113, Bhosi, Tal Kalamnuri, Dist. Hingoli | 4.00 | 80382.48 | 227482.42 | 653.00 | 148546019.22 | 14854601.92 | 14854601.92 | 178255223.06 | Cost of Mineral calculated as per rate of SSR |
| | Total | | | 130290.28 | 368721.49 | | 240775134.54 | 24077513.45 | 24077513.45 | 288930161.44 | |

1. Total Excavated Mineral Quantity in Cubic Meter - 368721.49
2. Total Cost of Excavated Mineral Based on District Scheduled Rate (DSR) in Rs. - 240775134.54/-
3. Net Present Value of Ecological Services & Cost of Damage to Environment in Rs. - 24077513.45/-
4. Total Cost of Mitigation & Restoration in Rs. - 24077513.45/-

Total Cost of Environmental Compensation (2+3+4) in Rs. 288930161.44/-