

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

WESTERN ZONE BENCH AT PUNE

ORIGINAL APPLICATION 81 OF 2023

IN THE MATTER OF:

JIGNESH BHAI CHHAGANBHAI TOGADIA

... APPLICANT

VERSUS

STATE OF GUJARAT & ORS.

... RESPONDENTS

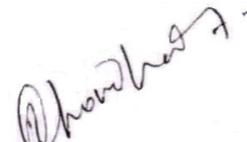
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THROUGH



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PLACE: NEW DELHI/PUNE

DATE:- 14.05.2024

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL**WESTERN ZONE BENCH AT PUNE****ORIGINAL APPLICATION 81 OF 2023****IN THE MATTER OF:**

JIGNESH BHAI CHHAGANBHAI TOGADIA

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**RESPONSE TO THE JOINT COMMITTEE REPORT DATED 29.04.2024 ON
BEHALF OF THE APPLICANT****MOST RESPECTFULLY SHOWETH:**

1. That the Applicant had filed the above-mentioned Original Application No. 81 of 2023 before this Hon'ble Tribunal regarding the in the CRZ area of Tapi River in village Dumas, Taluka Majura of Surat district in Gujarat, in violation of the Coastal Regulation Zone Notification, 2011, EIA Notification, 2006, Sustainable Sand Mining Management Guidelines, 2016 (SSMMG) and Enforcement and Monitoring Guidelines for Sand Mining, 2020 (ESMGSM) issued by MoEF&CC and orders and directions passed by this Hon'ble Tribunal.
2. That by order dated 29.05.2023, this Hon'ble Tribunal had formed a Joint Committee comprising of one member each of Gujarat Coastal Zone Management Authority (GCZMA), the District Magistrate, Surat and State Level Environment Impact Assessment Authority. The Hon'ble Tribunal had given the following Terms of Reference to the Committee for inspection:
 - (i) Visit the site after intimating Applicant and Project Proponent – respondent No. 7
 - (ii) Assess actual quantity of sand mined based on available records / actual survey. Take photos wherever required.
 - (iii) Assess market value of mined sand.
 - (iv) Find out the purpose for which mined material was used.

- (v) Find out quantity mined vis a vis permitted quantity.
 - (vi) Find out if any blasting was carried out.
 - (vii) Find out if any trees were cut without permission.
 - (viii) Find out aerial distance to nearest residence/house, school, road, water body, forest, agricultural land (with crops grown), eco-sensitive zone / protected area.
 - (ix) Assess environmental damage in the terms of damage to roads/buildings, air/noise/water/soil pollution, damage to ecology, impact on health of nearby residents, tree cutting, change in hydrology, change in ground water level etc. Quantify damage wherever possible. If quantification is not possible then assess damage as severe/high/significant/insignificant.
 - (x) Assess environmental damage compensation.
 - (xi) Recommend remediation measures along with timeframe, budget, and responsibility.
3. That in compliance of the direction of this Hon'ble Tribunal, the 'Expert Group' including members of the Joint Committee as well as expert members from educational institute- SVNIT, Surat has submitted its report dated 29.04.2024 on the basis of site visit conducted on 19.08.2023. At the outset, it is submitted that the Joint Committee has accepted the fact that the Project Proponent has indeed undertaken illegal and unscientific mining of sand from the Tapi riverbed under the garb of dredging activity. The Joint Committee has further confirmed that the Project Proponent has failed to take any permission under the environmental statutes which includes CRZ Clearance, and has also failed to comply with the Sand Mining Guidelines, 2016 and 2020. The Applicant is making following submissions in response to the Joint Committee Report dated 29.04.2024.

Preliminary findings of the Joint Committee:

4. That as per the Terms of Reference [TOR] given by the Hon'ble Tribunal through order dated 29.05.2023, the Expert Group has submitted its findings mentioned in subsequent paragraphs below:

- a. That the Expert Group conducted site visit on 19.08.2023 after informing both the Applicant as well as the Project Proponent. However, the Project Proponent failed to be present during site visit as well as failed to submit its written representation to the Expert Group. **[Para i, Chapter-6: Compliance as per Terms of Reference, Pg. 236]**
- b. That on site visit, the Expert Group observed that although no mining operation was seen to be going on, machineries and deposition of coarse material of sediment were observed on the bank of Tapi River. Various machineries like Barges, Dredgers, Boats, Screeners, Pumps, transfer pipes, Pokland excavator etc. were observed at site. Further, mangroves were also observed to be destroyed by the Project Proponent from the sand mining activity. **[Para i, Chapter-6: Compliance as per Terms of Reference, Pg. 236]**
- c. That the Expert Group assessed that the mined quantity of sand was actually greater than the quantity shown in the royalty pass records based on secondary data and satellite images (Point IX in Report). The Quarry Permits: QP2100001550 and QP210001551 respectively, only permitted for extraction of sand up to 1,00,000 MT each. However, the actual sand mined was found to be up to 13,10,115.633 MT, which is at least close to 7 times more than the permitted quantity. **[Para ii, Chapter-6: Compliance as per Terms of Reference, Pg. 236]**
- d. That on consulting the Geology and Mining Department, the Expert Group was informed that the market value of mined sand to be Rs. 200 and Rs. 250 per ton. However, the Expert Group found the figure to be lesser than the actual prevailing market value. Therefore, the Expert Group calculated the actual market value of mined sand to be Rs. 550 per ton based on the actual market value rates which is in the range of Rs. 500 to Rs. 600 per ton. **[Para iii, Chapter-6: Compliance as per Terms of Reference, Pg. 236]**
- e. That the Expert Group stated that the mined material was being used for construction work, based on the submission of the Geology and Mining Department- Surat. It is clear from such submission that the Project Proponent

had actually undertaken sand mining activity and not dredging since the excavated sand was being sold for construction purposes. **[Para iv, Chapter-6: Compliance as per Terms of Reference, Pg. 237]**

- f. That the Expert Group observed that mangroves were destructed over an area expanding up to 5 hectares on the bank of Tapi River. **[Para vii, Chapter-6: Compliance as per Terms of Reference, Pg. 236]**
- g. That the Expert Group produced a table showing damage to the environment caused from the operation of machineries and sediment removal as per TOR No. ix from the directions in order dated 29.05.2023. The Expert Group had found herein that high scale damage had been caused to the roads, loss of flora and fauna and loss of vegetation including damage to mangroves up to 5 ha. **[Para ix. (B), Chapter-6: Compliance as per Terms of Reference, Pg. 240]**. The relevant portion of the table is reproduced below:

<i>Damage area</i>	<i>Scale assigned by Expert Group</i>	<i>Remarks</i>
<i>Road</i>	<i>High</i>	<i>Heavy loaded truck movement damaged to road.</i>
<i>Damage to Ecology</i>	<i>High</i>	<i>Based on the assessment done by expert group, there is loss of Flora & Fauna i.e. Major ecological parameters, Hence the impact is considered High.</i>
<i>Loss of Vegetation/Tree Cutting</i>	<i>High</i>	<i>Based on analysis of available satellite data, The Group opiates/ observes loss of vegetation in approximate area spreading over 5 hectares. Vegetation cover majorly constituted of protective natural mangroves.</i>

- h. That based on the damage found by the Expert Group during site visit and further considerations, the Expert Group calculated the environmental compensation based on three methods as below **[Para x, Chapter-6: Compliance as per Terms of Reference, Pg. 240]**:

(i) CPCB Methodology- Total compensation calculated is Rs. 97,45,312

[EDC 1, Chapter-6: Compliance as per Terms of Reference, Pg. 241]

(ii) Government of Gujarat Government Resolution- Total compensation calculated is Rs. 12,89,15,378 [**EDC 2, Chapter-6: Compliance as per Terms of Reference, Pg. 241-242**]

(iii) Compensation based on OA 360 of 2015: Total compensation calculated is Rs. 35,84,898 [**EDC 3, Chapter-6: Compliance as per Terms of Reference, Pg. 242-243**]

(iv) That the Expert Group calculated the average of the compensations derived from the three methodologies, and calculated the total compensation to be Rs. 4,74,15,196. [**Table, Chapter-6: Compliance as per Terms of Reference, Pg. 243**]

- i. That the Expert Group recommended that all mine tailings to be removed by the Project Proponent within 3 months under supervision of Commissioner of Geology and Mining. Further, the area needs to be restored along with plantation of mangroves at 50 hectares under the guidance and supervision of the Forest Department. Also, the roads damaged are required to be restored within a period of 3 months and to carry out roadside plantation in consultation with Surat Municipal Corporation. [**Para xi, Chapter-6: Compliance as per Terms of Reference, Pg. 243**]

Submissions and Objections on behalf of the Applicant to the Joint

Committee Report:

5. That the Applicant submits the following submissions and objections to the report dated 29.04.2024:
 - a. **Action against erring officers is required to be taken:**
6. That although the Expert Group has observed significant violations and non-compliances on part of the Project Proponent, punitive action is also required to be taken against all erring officers for not taking action against such large scale illegal mining.
7. That the Expert Group had observed that no study was conducted by the Fisheries Department and the Geology and Mining Department prior to the issuance of NOC

and Permission to the Project Proponent. **(Point 8, 2nd Expert Group, Pg. 194).**

8. That further, on submitting its submissions before the Expert Group, the Commissioner of Fisheries under **Para 4, Pg. 204** stated that they did not receive any representation from the fishermen community for requirement of dredging. Further, when asked about monitoring of the NOC conditions, the department replied that they issued NOC but did not issue work order. The relevant portion is reproduced below:

"4. Commissioner of Fisheries, Gandhinagar: (Submission vide email Dated: 20-07-2023 & 21-09-2023, 07-10-2023,18-10-2023)

...

- *Commissioner of Fisheries also been asked regarding any monitoring conducted by organization to verify NOC conditions, They have replied, Commissioner of Fisheries has issued NOC & no work order has been issued to the company hence no monitoring is conducted after issuing NOC.*
- *The Commissioner of Fisheries has not received any representation from the fishermen community regarding dredging requirements in Tapi river.*
- *Commissioner of Fisheries has not issued any work order for maintenance dredging in Tapi river."*

However, it is submitted that non-issuance of work order does not negate the validity of the NOC granted for dredging. On a brief perusal of the NOC dated 4.02.2022, it is clearly shown that the Fisheries Department gave permission to undertake maintenance dredging activity to the Project Proponent for a valid period of 5 years. Therefore, the Fisheries Department cannot claim the defense of technicality that no work order was issued.

9. That as for the Geology and Mining Department, the Expert Group found that the Geology and Mining Department had indeed issued permit to the Project Proponent for the dumping and selling of sand from the Tapi River **[Pg 210]**. The Expert Group further found that no monitoring was being done by the concerned department. Therefore, the activity undertaken by the Project Proponent was clearly a sand mining activity.
10. That the Expert Group has observed that the NOC and Permission issued by both the departments, without undertaking any proper studies, and without mentioning the safe disposal of the sediments. It was observed that no need had arisen for

the dredging activity to be required to be undertaken in Tapi River. The relevant portion at **Pg. 210** is reproduced below:

"Expert Group has critically reviewed the document submitted by the various departments. Expert Group inferred that,

d. Neither of the permissions/NOCs were mentioning safe disposal of sediment material.

e. Furthermore, No any department has conducted technical study before issuing the permission/NOCs.

f. Even after issuing NOC, No any authority has conducted periodical monitoring on activity & verification of NOC conditions.

...

h. Usually dredging should be carried out by any Department/agency to fulfill the requirement as per dredging plan prepared by expert institute or irrigation department. In this case neither the need of dredging has been arisen nor technical study has not been conducted by any authorities. Even the agency has not approached any authorities with proper Dredging plan."

11. That from the above, it is clear that no due diligence was conducted by the Commissioner of Fisheries and Commissioner of Geology and Mining. Only permits were issued by the said departments without any study done, and without monitoring. Such gross negligence on part of the authorities resulted in the destruction of the environment on the bank of Tapi River. Therefore, it is imperative that action must be taken against the erring officials which resulted in such a large scale sand mining activity in Tapi River, Dumas, Surat.

12. That this Hon'ble Tribunal in ***Dinesh Kumar Chadha v. State of Punjab and Ors. O.A 767 of 2018*** was hearing the issue of illegal mining occurring in District Rupnagar, Punjab. Vide order dated 31.01.2019, the Hon'ble Tribunal directed for action to be taken against erring officers who allowed the illegal mining to occur.

The relevant portion is reproduced below:

"6. ...Action be taken against the erring officers who allowed the illegal mining, preferably within three months. Compliance of these directions be overseen by the Chief Secretary, Punjab which should be included in the report to be furnished to this Tribunal on personal presence of the Chief Secretary on 07.03.2019 in Original Application No. 606/2018, Compliance of Solid Waste Management Rules, 2016. In the light of monitoring, the Chief Secretary may consider issuing appropriate directions for restitution and also to prevent repetition of any such illegal activity in future."

A copy of the relevant portion of the order dated 31.01.2019 in ***Dinesh Kumar Chadha v. State of Punjab and Ors. O.A 767 of 2018*** is annexed herewith as **ANNEXURE A-1.**

13. That the Hon'ble Tribunal in ***Munish v. Haryana State Pollution Control Board*** in **O.A. 269 of 2023** vide an interim order dated 21.07.2023 directed the Haryana Pollution Control Board to take action against erring officer as it failed perform its duties and indirectly permitted for illegal mining to occur. The relevant portion is reproduced below:

*"4. The perusal of the report reveals that the matter was within the knowledge of the Regional Officer, HSPCB and inspite of the knowledge that the unit has no valid CTO it was indirectly permitted to operate without any valid CTO in violation of environmental rules. No further action has been taken to recover the environmental compensation which was assessed to the tune of Rs. 35,66,000/-. Inaction on the part of Regional Officer concerned reveals that the Regional Officer is supposed to do his duty sincerely, fairly, and honestly but he failed to exercise his duty sincerely, fairly, and honestly, and thus causing loss to the state exchequer by his inaction and indirectly permitting the unit to operate without obtaining CTO. **The Member Secretary, HSPCB is directed to take disciplinary action against the concerned Regional Officer for negligence in performing his duties and indirectly permitting for illegal mining causing loss to state exchequer.**"*

It is submitted that the matter is pending before the Hon'ble Tribunal, Principal Bench.

A copy of the relevant portion of the interim order dated 21.07.2023 in **O.A. 269 of 2023** in ***Munish v. Haryana State Pollution Control Board*** is annexed herewith as **ANNEXURE A-2.**

14. That therefore, coercive and punitive action must be taken against all the erring officers of the departments of Commissioner of Fisheries and Commissioner of Geology and Mining. It is their lackadaisical approach while issuing permits and NOC, which resulted in such large scale illegal mining operation, which has destroyed the natural vegetation and mangroves over an area of 5 ha. on the bank of Tapi River.

b. The Expert Group incorrectly calculated the compensation in EDC 3 which is based on O.A. 360 of 2015:

15. That the Expert Group has calculated compensation for the illegal sand mining undertaken by the Project Proponent using three different methodologies which are i) CPCB computation method, ii) Industries and Mines Department, Govt. of Gujarat Resolution method, iii) calculation as per O.A. 360 of 2015 method.
16. That as per EDC 3 (**Pg 242-243**), the following variables have been derived by the Expert Group:
- Total Mined Quantity= 13,10,115.633 MT [**As derived in Para ii, Chapter-6, Pg. 236**]
- Market Value of Sand= Rs. 550 per ton [**As derived in Para iii, Chapter-6, Pg. 236**]
- However, it is submitted that under EDC 3: calculation as per O.A. 360 of 2015 method, the Expert Group has incorrectly calculated the total compensation, as the Present Value calculated has been based on Metric Ton (MT) value whereas the market value of sand is as per 'per ton (T)' value.
17. That the values used to decide the compensation figure is incorrect, as both the values: total mined quantity and market value of sand quantity is required to be in a single value i.e. 'per ton' value. **As per conversion, 1 MT= 1.102311 Ton.**
- Therefore, after conversion from 'MT' to 'T':
- Total Mined Quantity= 13,10,115.633 MT x 1.102311= 14,44,153.563 Ton
- Market Value of Sand= Rs. 550 per Ton
- Hence, the Total Market Value of Illegally Mined Material= Total Mined Quantity x Market Value of Sand
- i.e. 14,44,153.563 ton x Rs. 550 per ton= **Rs. 79,42,84,459.87**
- Therefore, the total market value of illegally mined material is **Rs. 79,42,84,459.87**. Hence, total compensation calculation should be done in accordance to the figure Rs. 79,42,84,459.87.
18. That further, the Expert Group has calculated the compensation based on a period of one year, whereas it should be calculated for a period of 5 years. As per the report dated 29.01.2020 submitted in O.A. 360 of 2015 (**Pg 142**), it was recommended that the annual Net Present Value shall be calculated for a period of 5 years in the net value. The logic behind 5 years period was that reversal

and/or restoration of the ecological damages is usually not possible within a short period of time and rarely is it feasible to achieve 100 % restoration, even if the sand deposition in the river basin is restored through flooding in subsequent years.

The relevant portion is reproduced below:

"4.2 Approach 2: Computing a Simplified NPV for ecological damages

...

*Thus, it is recommended that the annual net present value (NPV) of the amount arrived at after taking the difference between the costs and the benefits through the use of the above approach, **maybe calculated for a period of 5 years** at a discount rate of 5% for mining which is in a severe ecological damage risk zone. **The rationale for levying this NPV is based on expert opinion that reversal and/or restoration of the ecological damages is usually not possible within a short period of time and rarely is it feasible to achieve 100% restoration, even if the sand deposition in the river basin is restored through flooding in subsequent years. The negative externalities of the mining activity are therefore to be accounted for in this manner.**"*

19. That in the present scenario, the total compensation has been calculated using the formula with only 1 year as the time period. However, the compensation shall be calculated for 5 years as mentioned above in Para 18, because the 5 year period is taken as the time period for the restoration and reversal of ecological damages, which is not possible within a short period of time.
20. That therefore, the compensation based on EDC 3 must be again calculated so as to get an accurate figure on the compensation from the illegal mining undertaken by the Project Proponent.
21. That therefore, the Hon'ble Tribunal, in the interest of justice may consider the above submissions and objections on behalf of the Applicant for further adjudication of the matter.

THROUGH



RITWICK DUTTA



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PLACE: NEW DELHI/PUNE

DATE:- 14.05.2024

Item No. 04

Court No. 1

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

Original Application No. 767/2018

Dinesh Kumar Chadha

Applicant(s)

Versus

State of Punjab & Ors.

Respondent(s)

Date of hearing: 31.01.2019

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
 HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
 HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
 HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

For Applicant(s):

Mr. Sumit Rana, Mr. Gurladh Singh, Advocates

For Respondent (s):

ORDER

1. The issue for consideration is illegal mining in District Rupnagar, Punjab.
2. Vide order dated 20.10.2018, a Joint Committee of the Central Pollution Control Board (CPCB), Director Mining, State of Punjab and the Punjab State Pollution Control Board(PSPCB) was directed to take remedial measures and the PSPCB was to furnish a compliance report.
3. Accordingly, PSPCB has sent a report by e-mail dated 02.01.2019 to the effect that the Committee visited the mining sites. The report refers to the status of illegal mining in Villages Harshabela, Swarha and Baihara. Order of the Hon'ble Supreme Court dated 10.05.2018 in *SLP No. 1798 of 2018, Baljit Singh Vs. State of Punjab & Ors.* and connected matters has also been referred to. The Hon'ble Supreme Court directed stopping of illegal mining.
4. The Joint Committee has found that mining was taking place beyond the permitted depth. Mine lease area was not demarcated. Mining was being done in unscientific manner, without leaving the necessary strip of 7.5m

width. Slope height not exceeding 45° was not being maintained. Bench was not provided along the boundary of mining site as required. Heavy vehicle movement was noticed. Stock piling of the mined material within the river bed was also seen. Water sumps were used. No check posts were found. Safety and stability of river banks was not maintained. No plantation had been done as required. No toilet/urination facility was provided. Stone crushers were located near the river bed in violation of law.

5. The authorities lodged FIR on 07.12.2018, sealed 76 stone crushers and suspended the mining lease. The Committee has suggested as follows:

“The mining activity within the river bed should not be permitted without the preparation of Comprehensive Mining plan/ District Survey report as required in Sustainable Sand Mining Management Guidelines, 2016 issued by the MoEF by the State of Punjab with replenishment/ scientific study by an institute of national importance and prior recommendations of MoEF&CC.

The State of Punjab may be asked to develop mechanism to stop the illegal extraction and transportation of river bed material. The mechanism must include the environmental compensation for violators and vehicles used for the purpose to be seized along with prosecution of owners of such vehicles. Including cancellation of registration certificate of such vehicles.

The District Administration may consider establishing the check post barrier at suitable site to check vehicles carrying the river bed material and to maintain strict vigil over overloading vehicles involved.

The Detailed Survey of river eco system comprising of identification of river stretches affected by unscientific mining should be carried out for preservation and exclusion of stretches from any type of extraction process or mining activity. In addition the auction of identified stretches may not be considered without, approved annual replenishment report.

The restoration plan of river ecosystem in mine lease area should be enforced for minimising the impacts of unscientific mining and to improve the riparian habitat. The State of Punjab can be asked to execute the restoration plan within time bound manner.

The demarcation of auctioned mine lease area should be done urgently with pillars fencing along with geo-referencing to protect the river ecosystem and to avoid bed degradation.

The raw material to be imported, processed, dispatched and balance stock shall be regulated strictly as per the policy guidelines for registration and working of stone crushers in the

State of Punjab issued by the Department of Industries and Commerce vide notification dated 19.03.2015.

As regards to initiating action against the erring officials, the Heads of the concerned Departments should identify the erring officials who allowed to take place illegal mining and initiate action against these officials, after conducting detailed investigations.”

6. We accept the suggestions and direct that the State of Punjab and its authorities to take action in accordance with above suggestions prohibiting mining activities within the river bed, stop illegal extraction and transportation of river bed material, recover compensation for violations and take action against the vehicles used, establish check posts at suitable sites, conduct survey of river eco systems, take steps for protection of such river stretches, have demarcation of the mine lease areas with pillars/fencing with geo-referencing, the raw material be accounted for and working of stone crushers duly regulated in accordance with the carrying capacity of the area, which may be duly assessed, prepare restoration plan of the river eco systems and execute the same within the stipulated time, preferably three months. Action be taken against the erring officers who allowed the illegal mining, preferably within three months. Compliance of these directions be overseen by the Chief Secretary, Punjab which should be included in the report to be furnished to this Tribunal on personal presence of the Chief Secretary on 07.03.2019 in *Original Application No. 606/2018, Compliance of Solid Waste Management Rules, 2016*. In the light of monitoring, the Chief Secretary may consider issuing appropriate directions for restitution and also to prevent repetition of any such illegal activity in future.

7. The Committee constituted vide order dated 22.10.2018 may make an assessment of the damages to be recovered, keeping in mind the principles laid down in some of the judgments of this Tribunal on the subject. The compensation should be deterrent so as to render illegal activities unprofitable. The vehicles involved may not be released unless

50% of the showroom value of the new vehicle is recovered. The damages should include not only the cost of the illegally mined material but also for damage to the environment and for deterrent affect and for the cost of the ecological services forgone forever.

8. A copy of this order be placed in the file of *Original Application No. 606/2018* so that the matter can be further monitored on 07.03.2019 which is the scheduled date already fixed and a copy be also sent to the Chief Secretary, Punjab and the CPCB.

The application is disposed of.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

January 31, 2019
Original Application No. 767/2018
DV



ANNEXURE A-2

Item No. 12

Court No. 1

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

Original Application No. 269/2023

Munish

Applicant

Versus

Haryana State Pollution Control Board & Ors.

Respondent(s)

Date of hearing: 21.07.2023

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, CHAIRPERSON
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. Narender Pal Singh & Mr. Ram Naresh Yadav, Advs. for Applicant

Respondent: Mr. Rahul Khurana, Adv. for HSPCB

ORDER

1. Issue raised in this application is illegal mining by M/s Ultimate Group, Tehsil Gannaur, District Sonipat, Haryana. It is further contended that the unit is extracting sand from Yamuna beyond permissible quantity and without consent to operate in violation of section 33 (A) of the Water (Prevention and Control of Pollution) Act, 1974 and in violation of EC conditions.

2. The report submitted by the Pollution Control Board reveals that

(i) *Unit was operating without valid CTO under Water Act, 1974 and Air Act, 1981 from the Board, thus violating the condition of environmental clearance.*

(ii) *Not submitted six monthly compliance report of the environmental clearance conditions.*

Tribunal. Further report shall be submitted through Joint Committee within 06 weeks on all issue after receiving survey report from the Mines & Geology Department.

4. The perusal of the report reveals that the matter was within the knowledge of the Regional Officer, HSPCB and inspite of the knowledge that the unit has no valid CTO it was indirectly permitted to operate without any valid CTO in violation of environmental rules. No further action has been taken to recover the environmental compensation which was assessed to the tune of Rs. 35,66,000/-. Inaction on the part of Regional Officer concerned reveals that the Regional Officer is supposed to do his duty sincerely, fairly, and honestly but he failed to exercise his duty sincerely, fairly, and honestly, and thus causing loss to the state exchequer by his inaction and indirectly permitting the unit to operate without obtaining CTO. The Member Secretary, HSPCB is directed to take disciplinary action against the concerned Regional Officer for negligence in performing his duties and indirectly permitting for illegal mining causing loss to state exchequer.

5. It is undisputed that there is huge degradation of environment on account of unregulated sand mining remains which is otherwise lucrative activity. It poses threat to bio-diversity, could destroy riverine vegetation, cause erosion, pollute water sources, badly affecting riparian ecology, damaging ecosystem of rivers, safety of bridges, weakening of riverbeds, destruction of natural habitats of organisms living on the riverbeds, affects fish breeding and migration, spell disaster for the conservation bird species, increase saline water in the rivers. It has direct impact on the physical habitat characteristics of the rivers such as bed elevation, substrate composition and stability, in-