

**Jammu and Kashmir
Pollution Control Committee**

chairman87jkspcb@gmail.com
membersecretaryjkspcb@gmail.com
0191 – 2472881, 2476925

368



Parivesh Bhavan, Forest Complex
Transport Nagar, Jammu, 180 006

Silk Factory Road
Rajbagh, Srinagar, 190 008

**Consultant (Judicial),
Hon'ble National Green Tribunal, (P.B)
New Delhi.**

No. PCC/NGT/134/30-31

Dt. 28-05-2024.

**Sub: - Supplementary Status Report in O.A NO. 151/2023 titled Hassina Wajid
(Sarpanch) v/s State of Jammu and Kashmir (UT) & Ors.**

Sir,

Kindly refer to the subject captioned above. In this connection, the
Supplementary Compliance Report in O.A NO. 151/2023 titled Hassina Wajid
(Sarpanch) v/s State of Jammu and Kashmir (UT) & Ors. is enclosed.

The Supplementary Status Report may kindly be taken on record and placed
before the Hon'ble NGT for consideration please.

Yours faithfully,

Encl: (As above).


(Ghansham Singh) JKAS
Member Secretary 28.5.24
J&K PCC.

Copy to the:-

1. Sh. Parth Awasthi, Standing Counsel for J&K Govt. in Hon'ble NGT matters
in New Delhi, for information and necessary action. This is in reference to
Govt. of J&K Order No. 8495-JK(LD) of 2022 Dated 12-10-2022.

**Before the Hon'ble National Green Tribunal
Principal Bench, New Delhi**

Original Application No. 151/2023

In the case of : Hasina Wajid Vs State of J&K and Ors.

In the matter of : Supplementary status report in OA No. 151/2023 titled Hassina Wajid (Sarpanch) Vs. State of Jammu and Kashmir & Others.

May it please your Lordships.

The applicant most respectfully submits as under:

That Petitioner, Shazad Shabnum approached the Hon'ble High Court of Jammu and Kashmir and Ladakh by filling a writ petition (C) No. 2033/2023 along with CM (M) No. 976/2024 titled **Shazad Shabnam vs UT of J&K and others**, which vide its order dated 20.03.2024 directed as under:

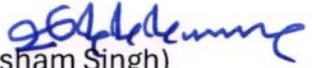
“Having regard to the aforesaid facts and circumstances, the instant petition is disposed of with the direction to the respondent 2 to accord effective consideration to the case of the petitioner having regard to the report of the committee bearing No. JKPC/Div/P/2024/10 dt. 22.01.2024, preferably within a period of 4 weeks from the date a copy of this order is produced before respondent No. 2. The decision be taken in accordance with law on its own merits and uninfluenced by any observations made by this Court.”

That in compliance to the aforesaid directions of the Hon'ble High Court of Jammu and Kashmir and Ladakh dated 20-03-2024, the J&K Pollution Control Committee after considering the report of the committee bearing No. JKPC/Div/P/2024/10 dated 22.01.2024, issued the consideration order vide this office order No. 4 of 2024 dated 25-05-2024, copy of which is enclosed herewith at **Annexure 'A'**.

It is further submitted that it has been recorded in the **Consideration order** that the said order is subject to the outcome of the Writ Petition, if any, pending in the matter before the Hon'ble High Court of J&K and Ladakh and also the outcome of the Original Application No. 151 of 2023 pending before the Hon'ble NGT, New Delhi.

370

In the premises, it is therefore requested that the supplementary status report may kindly be taken on record and placed before the Hon'ble National Green Tribunal for consideration.


(Ghansham Singh)
Member Secretary
J&K PCC

Jammu and Kashmir Pollution Control Committee

Parivesh Bhavan, Forest Complex || Silk Factory Road
Transport Nagar, Jammu, 180 006 || Rajbagh, Srinagar, 190 008

Tel - 0191-2476927; mail - membersecretaryjkspcb@gmail.com

Subject:- Shazad Shabnam V/s UT of Jammu and Kashmir.

Reference:- Hon'ble High Court of Jammu and Kashmir & Ladakh's order dated 20-03-2024.

JKPCC Order No. 04-05-2024

Dated :- 25-05-2024

Whereas, the Hon'ble High Court of Jammu and Kashmir and Ladakh at Jammu in writ petition (C) No. 2033/2023 along with CM (M) No. 976/2024 titled Shazad Shabnam vs UT of J&K and others, in its order dated 20.03.2024 directed as under:

"Having regard to the aforesaid facts and circumstances, the instant petition is disposed of with the direction to the respondent 2 to accord effective consideration to the case of the petitioner having regard to the report of the committee bearing No. JKPCC/Div/P/2024/10 dt. 22.01.2024, preferably within a period of 4 weeks from the date a copy of this order is produced before respondent No. 2. The decision be taken in accordance with law on its own merits and uninfluenced by any observations made by this Court."

Whereas, the operation of this stone crusher has also been challenged before the Hon'ble National Green Tribunal, Principal Bench, New Delhi, in OA No. 151/2023 titled Hassina Wajid (Sarpanch) V/s State of Jammu & Kashmir (UT) & Ors, and, the Hon'ble NGT in its order dated 20 March 2023, constituted a Joint Committee comprising of representatives of Central Pollution Control Board (CPCB), Jammu and Kashmir Pollution Control Board and District Magistrate, Poonch to verify the factual position and suggest appropriate remedial action and;

Whereas, the Joint committee visited the site on 26.04.2023 and submitted its report and recommendations in the matter. The gist of findings of the Committee are as under:

- i. *The Unit namely, M/s Diwan Stone Crusher is not presently complying with the applicable siting criteria w.r.t. distance from Residential Area and Educational Institution.*
- ii. *The Unit namely, M/s Diwan Stone Crusher is not fully complying with the environmental guidelines specified by J&K Pollution Control Committee in the Consent to Operate (CTO) granted to the Unit and Mandatory requirement of obtaining NOC from the Deputy Commissioner.*

W

iii. *M/s Diwan Stone Crusher has not complied with Final Notice for operating the Stone Crusher in violation to Environmental Laws and specific conditions laid down in Consent Order.*

iv. *The Unit namely M/s Shahzad Shabnam Contractor Hot Mix Plant has been partially complying with the environmental guidelines specified by J&K Pollution Control Committee in the Consent to operate (CTO) granted to the Unit.*

It is therefore, recommended that an appropriate action may be taken by J&K Pollution Control Committee as per applicable Environmental Law, to ensure that:

i. *The unit under reference are operated only after complying with the conditions of the consent to operate granted by J&K PCC.*

ii. *Environmental Compensation is levied for the entire period of non-compliance and also for not complying with various orders of J&K PCC.*

Whereas, the representative of CPCB in the Joint Committee in additional observations reported that M/s Diwan Stone Crusher was neither complying with the siting criteria applicable at the time of establishment in 2016 nor it is complying with the revised siting criteria applicable in 2023 with reference to residential area and educational institution.

Whereas the Hon'ble NGT in its subsequent order dated 01.04.2024 has, *inter alia*, directed as follows:

"21. However, in view of the peculiar facts and circumstances of the case referred above particularly the observations made in the report of the Joint Committee and action taken report of the J&K PCC that the stone crusher and the hot mix plant do not meet the siting criteria and the provisions of Section 20 of the National Green Tribunal Act, 2010, it is ordered that stone crusher and hot mix plant shall remain closed till further orders to the contrary to be passed by this Tribunal and will be allowed to operate only after specific orders to be passed by this Tribunal in this regard on due verification of the factual position after proper hearing and giving opportunity of being heard to the concerned parties.

22. However, in case of any conflict with any order to be passed by Hon'ble High Court of Jammu and Kashmir, the order passed by this Tribunal shall not operate to the extent of such conflict."

Whereas, M/s Diwan Stone Crusher also does not meet the additional guidelines for old and existing stone crushing units as provided vide item 6.2 of Order No. 37 JKPC of 2023 dated 27 Feb 2023, that is:

- *All such existing old stone crushing units consented prior to coming into force of these guidelines must develop three rows of thick green belt all along the*

periphery of the unit. This green belt must include a row of adequate number of broad-leaved tree species having good canopy.

- All such existing old and consented stone crushing units must construct at least ten to twelve feet high permanent wind breaking brick wall/CGI Sheets barrier all along the periphery of the unit.
- All such existing old and consented stone crushing units must install permanent and mechanical water sprinkling system interlocked with the crushing point and other allied machinery of the stone crushers, and in no case the stone crushers shall operate without a functional water sprinkling system. A permanent water storage tank of a minimum 2000 lt. capacity must be installed.

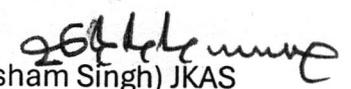
Whereas, from perusal of the report of Divisional Officer, JKPCC, Poonch furnished vide JKPCC/Div/P/2024/10 dt. 22.01.2024, it is transpires that M/s Diwan Stone Crusher continues to be deficient with respect to some of the measures required to be taken above by old stone crushers.

Now, therefore, in compliance to the directions of the Hon'ble High Court of Jammu and Kashmir and Ladakh at Jammu dated 20.03.2024 in writ petition (C) No. 2033/2023 along with CM (M) No. 976/2024 titled Shazad Shabnam vs UT of J&K and others, the case of the petitioner especially with reference to the report of the Joint Committee has been examined and considered on merits and found not fulfilling the requirements as stipulated under law for grant of consent to operate (renewal) **on the grounds that the unit does not fulfil the siting criteria for stone crushers and the measures for abatement of pollution are also insufficient vis-à-vis guidelines as prescribed in Order No. 37 JKPCC of 2023 dated 27 Feb 2023.**

In view of the above, the application of the petitioner for renewal of consent to operate is hereby refused. However, this order shall be subject to the outcome of the Writ Petition if any, pending in the matter before the Hon'ble High Court of J&K and also the outcome of the Original Application No. 151 of 2023 pending before the Hon'ble NGT, New Delhi.

Sd/-
(Vasu Yadav)
Chairman

Copy to the: - Regional Director, J&K PCC, Jammu for information.


(Ghansham Singh) JKAS
Member Secretary
J&K PCC

25/5/24