

DEPARTMENT OF MINES AND GEOLOGY, PUNJAB
OA No. 532 of 2019 Gangneshwar Singh Walia vs Ministry of
Environment & Forest and others

Status report regarding observations made by Hon'ble National Green Tribunal in order dated 22.08.2019

The above noted case came up for hearing before the Hon'ble NGT on 03.06.2019 and the Tribunal had constituted a committee of officers from MOEF &CC, SEIAA and PPCB (the "**Committee**"). The said committee prepared a report and submitted the same to Hon'ble National Green Tribunal. When the matter came up for hearing on 22.08.2019, the Hon'ble Tribunal accepted the report of the Committee. The Hon'ble Tribunal further directed the Committee to recommend accountability of persons concerned and the amount of compensation to be recovered for illegal mining carried out within one month and further directed that consequential remedial action be taken by the concerned departments of the State Government. The Committee is yet to furnish its recommendations in terms of the order dated 22.08.2019. In the meantime, the present status report is being filed to demonstrate the status with respect to the conclusions of the report of the Committee as accepted by this Hon'ble Tribunal in its order dated 22.08.2019. The status with respect to each of the issues under the said order is as under:

1. Updating of District survey reports:

In this regard, it submitted that 196 mines auctioned by the department are located in 15 districts. In all the 15 districts District Survey Reports (DSR) were prepared during the year 2016-17. As per EIA notification dated 15.01.2016 (Appendix X to paragraph 7(iii)), these DSRs need to be updated after 5 years. Therefore, the State is in due compliance of the mandate requiring preparation of district survey reports. The report of the Committee accepted by this Hon'ble Tribunal also does not stipulate that there has been any violation with respect to preparation of DSRs. However, in 5 districts namely Moga, Ferozepur, Sri Muktsar Sahib,

Hoshiarpur and Fazilka the district survey reports prepared as of 2016-17 did not reflect the actual mining potential/ river potential. It is pertinent to mention that the mining sites located in these districts, which have been auctioned by the department pursuant to E-auction notice dated 30.05.2019 have been duly appraised and recommended by site appraisal committees under the Punjab Minor Mineral Rules, 2013 or have valid Environmental clearance/Mine plan. The appraisal conducted shows that these districts have greater mining potential which was not depicted in the earlier DSRs. Therefore these five number aforementioned DSRs needed updating. The process for the same has already been started. Out of five districts, DSRs of District Moga, Hoshiarpur and Fazilka have been updated and approved by the concerned Deputy Commissioners. DSR's related to District Sri Muktsar Sahib and Ferozepur have been updated and uploaded on websites of respective districts for public comments/suggestions following which the same would be approved by the concerned Deputy Commissioners.

2. Replenishment Study of rivers:

Out of the 196 mines that have been auctioned, 109 mines are river bed mines whereas 87 mines are agricultural mines/ mines in agricultural areas. It is to be noted that agricultural mines/ mines in agricultural areas are non-replenishable and provision for its restoration by back filling is made/incorporated in the mining plan and thus a replenishment study in respect of agricultural mines is neither feasible nor required. Even the Sand Mining guidelines refer to the replenishment study in the context of only river-bed mining where the replenishment of minerals through deposition by river is possible. In respect of the 109 remaining river-bed mines, it is submitted that the Committee members were already apprised that the Department of Mines and Geology had conducted survey of the river bed mining sites included in the E-auction notice dated 30.05.19 before auction and as per survey

majority of mining sites in river bed have deposition over and above the bed level of river. The details of the findings in the survey have been set out in para 3 F of the report of the Committee and Annexure R-2 annexed to the said report.

It is submitted that the flow of all the rivers of Punjab i.e., Sutlej, Beas, Ravi and Ghaggar is controlled and regulated by constructing barrages for providing canal water for public utility, i.e., for irrigation as well as drinking purposes. On river Sutlej, barrages have been constructed at Nangal, Ropar, Harike and Hussainiwala and enters Pakistan and a barrage maintains pond level upstream of Sulemanki in Pakistan near Fazilka. On river Beas, Shah Nehar barrage has been constructed near Talwara and is controlled by Harike Headworks at the confluence with river Sutlej. On river Ravi, Madhopur Barrage has been constructed near Pathankot and the river enters into Pakistan where Balleka barrage has been constructed. On river Ghaggar, Banur Weir has been constructed for controlling and regulating the water. Water levels are raised upstream of all the barrages/ headworks to feed the canals in various parts of Punjab. The continuous ponding leads to siltation in riverbed inside of embankment. Therefore, due to the aforesaid controlled/regulated flow of water, most of the riverbeds are silted excessively and mining is one of the ways to de-silt such riverbeds. Mining so as to remove the excess riverbed materials will only restore the riverbed to its natural level while fetching revenue to the government. Replenishment study is called for only in case riverbed material is mined below the natural bed level. From the details furnished along with the survey, it is clear that the allocated mining sites are in the natural deposition zones and have deposition over the river bed level. In view of that replenishment study is not required at this stage. It is submitted that out of total identified mining areas of 1926.29 hectares, 1582.68 hectares area falls under river bed mining. By taking depth of excess riverbed material at 7', 60% of the excess

available sand and gravel quantity as per the guidelines, 383 lac MT material can be safely mined which need not be replenished against 333 lac MT put on auction.

More over as the Drainage wing of the Water Resources Department is the custodian of rivers in Punjab, a meeting was held with the officers of the said wing on 01.11.2019. In the meeting, Officers of the Drainage wing were of the opinion that the river beds in Punjab are silted up in majority of the reaches. Accordingly they were requested to conduct a detailed and scientific survey regarding siltation of rivers and submit the reports. **Minutes of meeting are attached at Annexure A.**

3. Compliance with the Sustainable mining management Guidelines 2016

a. **Transfer of Environmental Clearance** : In this regard it is submitted that out of 196 mining sites allocated in various mining blocks the department had already obtained Environment clearance for 46 mines as detailed in para 3 (e) of the report. These Environmental Clearances were procured by the department before decision of Hon'ble Supreme court in SLP 5745 of 2014 dated 24.11.2017, wherein, it has been held that the environmental clearance has to be procured by the Project proponent i.e., the Contractor. After following due procedure of physical identification/ demarcation of mining sites by revenue officials in the presence of contractors of mining blocks and local villagers/land owners, the Department has already submitted 43 No. Cases for transfer of EC to State Environmental Impact Assessment Authority in the name of contractors of concerned Mining Blocks. The SEIAA in its meeting held on dated 14.11.2019 apprised the same and has allowed transfer in 13 No. cases and has raised certain

objection regarding rest of the cases. The same were resubmitted after compliance of observations and were considered by SIEAA in meeting dated 23.12.2019. SEIAA has allowed transfer of environmental clearance in 21 No. cases. Therefore till date 34 No. cases has been transferred in the name of concerned project proponent i.e contractor. District wise detail of transfer cases is annexed as **Annexure B**.

- b. **Obtaining EC of newly identified Mining Sites:** As already explained above, after the decision of Hon'ble Supreme Court in SLP number 5745 in 2014 dated 24.11.2017 the EC has to be obtained by contractor, the contractors have been directed for necessary action regarding the same. It is pertinent to mention that these mining sites have already been duly identified by the site appraisal committees formed under the Chairmanship of local Sub-divisional Magistrates comprising of officials of various concerned departments. However for facilitation of contractors the due procedure of physical identification/ demarcation of mining sites by revenue officials in the presence of contractors of mining blocks and local villagers/land owners has been started and subsequent preparation of mining plans etc. is under progress. All efforts are being made to complete the process at the earliest so as to procure ECs for mines auctioned by the department as per allocation of each mining block. District wise status of physical identification/ demarcation of mining sites and mining plans whose Environmental Clearance is yet to be granted is at **Annexure C**. It is submitted that no mining activity is being allowed to the contractors of mining blocks without following due procedure as per stipulation of EIA notification 2006 and SSMMG 2016.

c. Prohibition of mining during Monsoon season

In this regard it is submitted that agreement form L-1 to be signed by the contractor of the allocated mining blocks provides a bar for mining activity during monsoon season for river bed mining sites and will be binding on contractors.

4. Action against illegal mining :

As regards the observation of the Hon'ble Tribunal that mining leases were allocated without following the statutory procedure , it is submitted that as per Judgment passed by Hon'ble Supreme Court of India in SLP No. 5745 of 2014 the EC is to be obtained by the concessionaire. It is in light of this Judgment the auction of mining blocks has been conducted and contractors have been directed to obtain/transfer the EC of the allotted mining sites. The concerned project proponent will be allowed mining only after he completes all the statutory provisions like obtaining/transfer of EC, Consent to operate form PPCB, Installations of weighbridge etc. The specific provisions in this regard has been made in the e-auction notice/ agreement form L-1. Moreover the contractors are bound by Punjab minor mineral rule 2013 and provision of the Mines and Minerals act 1957.

Further wherever any illegal mining activity comes to the notice of the department due action has been taken as per procedure laid down in rules. The department has registered a total of 252 no. FIR's during the year 2019. District wise detail is annexed as **Annexure D.**

Also in cases where the contractors have violated the terms of contract or indulged in illegal mining/excess mining than the allotted quantity the department has taken action as per rules and have initiated recovery proceedings against the concerned contractors.

As regards the report of committee pertaining to accountability of persons concerned and amount of compensation to be

recovered for illegal mining which has to be submitted by Joint Committee constituted by Hon'ble NGT is yet to be received. Necessary action as per rules will be taken accordingly.

5. It is submitted that the aforesaid status report has been submitted in terms of the directions of this Hon'ble Tribunal. It is however necessary to point out that the Applicant who has filed the present Original Application before this Hon'ble Tribunal is engaging in gross abuse of process and has been filing petitions repeatedly in various forums with an ulterior objective and motive. In this regard, it is submitted as follows:

a. The main grievance of the Applicant is that the e-auction notice dated 30.05.2019 alleging that it has been issued "without conducting replenishment study of river beds regarding the availability of minerals resources and the same was without District Survey Report as well as without the demarcation of the quarries on site for the excavation of minor mineral". However, it is pertinent to mention that the exact same issues were agitated before the Hon'ble High Court of Punjab and Haryana by the Applicant, while challenging the previous auction notice dated 31.10.2018 in CWP-PIL No. 4846 of 2018 titled as *GagneshwarWalia vs. State of Punjab &Ors.* connected with two Civil Writ Petition bearing CWP No. 31002 of 2018, titled as *Baljit Singh and Anr. Vs. State of Punjab &Ors.* and CWP No. 9160 of 2018, titled as *M/s KBM Contractors and ors. Vs. State of Punjab and Ors.*

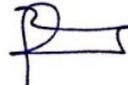
b. Whereas, the Hon'ble High Court, by way of its judgment dated 23.04.2019, found merit in only one issue, i.e., identification of mines before auction, and accordingly directed the State of Punjab to issue fresh auction notice after identification of the mines. Despite the Applicant having agitated the exact same issues in the said Writ Petition, the Hon'ble High Court did not

render any finding to the effect that the State was under a mandate to conduct environmental impact assessment, obtain DSRs, or conduct replenishment study before issuance of e-auction notice. The sole direction issued with respect to identification of the mines stood complied with, as demonstrated by the auction notice dated 30.05.2019. The Department of Mines i.e., Respondent No. 2-4 issued the auction notice dated 30.05.2019 for the 196 mines across the State of Punjab, comprising the following details i.e.,

- i. Block Numbers
 - ii. Districts
 - iii. Name of Mines
 - iv. Had Bast No.
 - v. Mineable Area (in hectare)
 - vi. Khasra Numbers
 - vii. Types and Nature of Minor Minerals
- c. The Applicant has nevertheless sought to raise the exact same issues which were impliedly rejected by the Hon'ble High Court in the present Application before this Hon'ble Tribunal. It is further pertinent that since this Hon'ble Tribunal was pleased not to stay the auction pursuant to the auction notice of 30.05.2019, the Applicant, despite constitution of the Committee by this Hon'ble Tribunal, approached the Hon'ble High Court by filing CWP-PIL No. 130 of 2019 titled as *Gagneshwar Singh Walia vs. State of Punjab &Ors.*, challenging the auction notice on the exact same grounds as raised herein. The Hon'ble High Court has also refused to stay the auction.

- d. It is submitted that the Application is entirely misconceived and misleading. The answering Respondents reserve the right to file a para-wise response to the Application if so directed by this Hon'ble Court. The answering Respondent nevertheless submits that environmental impact assessment and/or replenishment study is not a condition precedent to auctioning of the mines but for obtaining environmental clearance, the onus of which is upon the successful bidders. Further, the State has duly complied with its obligations as DSRs in terms of the EIA notification dated 15.01.2016 have to be conducted once every five years, and the DSR was conducted for all the districts in 2016-17. In any event, as described above, where required, the DSRs for 5 districts are being further updated. Further, given the reports of siltation, the question of replenishment study is immaterial.
- e. It is also submitted that the environmental concerns, if any, would become relevant only when the mining activity/ operations are to commence. Such commencement of mining operations is contingent upon the successful bidder obtaining environmental clearance, for which, environmental impact assessment and environmental management plan is quintessential. Such environmental clearance has to be obtained by the contractor/ bidder (save for cases where the State had already obtained the clearance prior to the judgment of the Hon'ble Supreme Court as mentioned above). As submitted above, the concerned project proponent will be allowed mining only after due compliance with statutory provisions like obtaining/transfer of EC, Consent to operate from PPCB, Installations of weighbridge etc. After getting the requisite clearances from SEIAA and PPCB, mining operations have been started for these mining blocks.

6. Without prejudice, the above status report is being placed in compliance with the directions of this Hon'ble Tribunal.



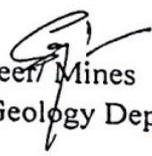
Secretary-cum- Director,
Mines & Geology Department,
Punjab, Chandigarh

**Proceedings of Meeting dated 01.11.2019 regarding
Replenishment study of Rivers in the State of Punjab held at
committee Room , Water Resources Building , Sctor 18-B
Chandigarh**

Meeting regarding replenishment study of rivers in the State of Punjab was held in the committee room of Water Resources Building , Sector 18-B , Madhya Marg , Chandigarh. The List of officers/officials from both the Department of Mines and Geology and Drainage wing of Water resources Department, present in the meeting is hereby Annexed at Flag 'A'.

Regarding the replenishment study, a detailed discussion is held with the officials of drainage wing and as per verbal report by all the concerned officers/officials, almost all the sections in River Ravi, Sutlej, Beas and Ghaggar are silted up over the creek level and very few areas are located which is devoid of siltation. Executive Engineers of District Amritsar, Jalandhar, Mohali has given the example of different mines like Bassian Mine, Pipli Mine, Silkiana mine, Rurewal mine, Rampur kalan mine which are being replenished during the monsoon season and siltation is found over the creek level. As per telephonic conversation with SE Jalandhar and SE Amritsar and officers present in the meeting, a report, on siltation of rivers after conducting detailed survey on the issue cited above, has to be submitted by Chief Engineer Drainage within a stipulated time period as desired by Chief Engineer Mines.

The meeting ended with the vote of thanks.


Chief Engineer Mines
Mines and Geology Department

(Annexure B)

Status of Mines with prior Environmental Clearance							
S.No	Name of District	Total Number of Mines allotted	Mines with prior EC	No. of mines where demarcation completed	No. of cases submitted to SEIAA for transfer of EC	No. of Cases approved by SEIAA	No. of cases pending with SEIAA
1	Ferozepur	68	8	8	8	6	2
2	Shri Muktsar	3	0	1	0	0	0
3	Ludhiana	20	5	4	4	4	0
4	Pathankot	16	9	9	9	8	1
5	Gurdaspur	11	5	5	5	5	0
6	Hoshiarpur	9	2	2	2	2	0
7	Jalandhar	14	3	2	2	2	0
8	Moga	1	1	1	1	1	0
9	Kapurthala	5	0	0	0	0	0
10	Tarn Taran	11	0	0	0	0	0
11	Ropar	10	5	5	5	4	1
12	Mohali	6	4	4	4	0	4
13	SBS Nagar	7	2	2	2	2	0
14	Fazilka	5	1	0	1	0	1
15	Amritsar	10	0	0	0	0	0
	Total	196	45	43	43	34	9

Status of Mines without prior Environmental Clearance

S.No	Name of Distict	No. of Mines without EC	No. of Mines where dimarcation completed	No. of mines where mining Plan prepared	Remarks
1	Ferozepur	60	32	8	Land owner of 1 No. mine Pir Ismil Khan refused to give the consent
2	Shri Muktsar sahib	3	1	1	
3	Ludhiana	15	11	6	
4	Pathankot	7	7	7	
5	Gurdaspur	6	5	0	
6	Jalandhar	11	7	0	
7	Amritsar	10	10	3	
8	Moga	0	0	0	
9	Kaputhala	5	5	0	
10	Tarn Taran	11	11	3	
11	Ropar	5	5	5	
12	Mohali	2	2	0	
13	SBS Nagar	5	5	0	
14	Fazilka	4	3	1	
15	Hoshiarpur	7	7	5	Consultant submitted 5 No. Mine plans on dated 06/01/2020
Total		151	111	39	

Annexure D

District wise FIR's registered since 01.01.2019		
S.No	Name of District	No of FIR's filed since 1.1.19
1	Ferozepur	8
2	Ludhiana	10
3	Pathankot	10
4	Gurdaspur	20
5	Hoshiarpur	68
6	Jalandhar	13
7	Moga	2
8	Kapurthala	4
9	Tarn Taran	15
10	Ropar	34
11	Mohali	15
12	SBS Nagar	22
13	Fazilka	3
14	Amritsar	28
	Total	252