

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

.....

**ORIGINAL APPLICATION NO. 411 Of 2015**

**IN THE MATTER OF:**

M/s Yogendra Grit Udhyog,  
Village – Angrawali, Tehsil-Kaman,  
District-Bharatpur,  
Rajasthan

.....Applicant

**Versus**

1. State of Rajasthan  
Through Chief Secretary,  
Government of Rajasthan,  
Secretariat,  
Jaipur
2. State of Rajasthan  
Through Principal Secretary,  
Government of Rajasthan,  
Secretariat,  
Jaipur.
3. District Collector  
Bharatpur
4. Deputy Secretary  
(Environment Department),  
Government of Rajasthan,  
Secretariat,  
Jaipur
5. Rajasthan State Pollution Control Board  
Through Chairman  
4, Institutional Area, Jhalana Doongri,  
Jaipur-302501
6. Rajasthan State Pollution Control Board  
Through Member Secretary  
4, Institutional Area, Jhalana Doongri,  
Jaipur-302501

.....Respondents

**AND**

**ORIGINAL APPLICATION NO. 412 Of 2015**

**IN THE MATTER OF:**

M/s Bahubali Stone Crusher,  
Village – Bolkhera, Tehsil-Kaman,  
District-Bharatpur, Rajasthan  
Through its partner Mr. Amit Jain

.....Applicant

**Versus**

1. State of Rajasthan  
Through Deputy Secretary,  
(Environment Department)  
Government of Rajasthan,  
Secretariat,  
Jaipur
2. Rajasthan State Pollution Control Board  
Through Chairman  
4, Institutional Area, Jhalana Doongri,  
Jaipur-302501
3. Rajasthan State Pollution Control Board  
Through Member Secretary  
4, Institutional Area, Jhalana Doongri,  
Jaipur-302501

.....Respondents

**AND**

**ORIGINAL APPLICATION NO. 413 Of 2015**

**IN THE MATTER OF:**

M/s Vimla Grit Udhyog,  
Village –Bilang, Tehsil-Kaman,  
District-Bharatpur, Rajasthan  
Through its holder of power of attorney  
Mr. Satish Chandra Agrawal

.....Applicant

**Versus**

1. State of Rajasthan  
Through Deputy Secretary,  
(Environment Department)  
Government of Rajasthan,  
Secretariat, Jaipur
2. Rajasthan State Pollution Control Board  
Through Chairman  
4, Institutional Area, Jhalana Doongri,  
Jaipur-302501

3. Rajasthan State Pollution Control Board  
Through Member Secretary  
4, Institutional Area, Jhalana Doongri,  
Jaipur-302501

.....Respondents

**COUNSEL FOR APPLICANT:**

Mr. Sanjay R. Hegde, Sr. Adv. with Mr. A. Rohan, Singh, Mr. Arun Khatri, Adv.

**COUNSEL FOR RESPONDENTS:**

Mr. Shiv Mangal Sharma, AAG with Mr. Shrey Kapoor, Mr. Adhiray Singh, Adv. for Respondent No. 1

Mr. Lokender Singh Kachhawa, Adv. for Respondent No. 2 (RSPCB)

**JUDGMENT**

**PRESENT:**

**Hon'ble Mr. Justice Swatanter Kumar (Chairperson)**

**Hon'ble Mr. Justice M.S. Nambiar (Judicial Member)**

**Hon'ble Dr. Devendra Kumar Agrawal (Expert Member)**

**Hon'ble Mr. Bikram Singh Sajwan (Expert Member)**

**Reserved on: 3<sup>rd</sup> November, 2015**

**Pronounced on: 10<sup>th</sup> December, 2015**

1. Whether the judgment is allowed to be published on the net?
2. Whether the judgment is allowed to be published in the NGT Reporter?

**JUSTICE SWATANTER KUMAR, (CHAIRPERSON)**

By this order, we will dispose of the above three applications which arise from somewhat similar facts and raised common question of law.

2. The applicants before the Tribunal had filed writ petitions before the Hon'ble High Court being S.B. Writ Petition No. 1111, 1952 and 1953, all of 2012 raising a challenge to the directions issued by the State of Rajasthan and Rajasthan State Pollution Control Board (for short, "RSPCB") dated 25<sup>th</sup> August, 2011 and the order dated 30<sup>th</sup> September, 2011 passed by the RSPCB declining to grant Consent to Operate to the applicants.

3. All the above three Writ Petitions were directed to be transferred to the Tribunal vide order of the Rajasthan High Court dated 21<sup>st</sup> January, 2014. Upon transferring, they were ordered to be registered as original application being O.A. No. 54, 55 and 98 all of 2014 at the Central Zonal Bench at Bhopal. The Central Zonal Bench at Bhopal again directed transfer of these three applications to the Principal Bench vide order dated 15<sup>th</sup> December, 2014. These applications came to be registered as Original Application Nos. 411, 412 and 413 all of 2015 at the Principal Bench of the Tribunal at New Delhi.

4. All these matters came up for final hearing after being registered along-with the Appeal No. 99 of 2013 “Bharat Stone Crusher vs. State of Rajasthan” and Original Application No. 216 of 2014 “Bharat Stone Crusher vs. Rajasthan State Pollution Control Board & Ors.” on different dates. They were also listed for final hearing. When the arguments in Bharat Stone Crusher were heard, the learned Counsel appearing for the State of Rajasthan brought to the notice of the Tribunal that all three applicant’s units have shifted. Upon inspection they were found to be dismantled and that is why nobody was appearing to pursue these applications.

5. However, we would like to notice that in these applications additional ground has also been raised while impugning the order dated 25<sup>th</sup> August, 2011. It is contended that the State Government could not have issued the order dated 25<sup>th</sup> August, 2011 imposing a blanket ban on carrying on stone crushing activities in the specified areas and such notification is violative of Article 300 and 301 of the

Constitution of India. In any case, the power to issue such a notification would be vested in the Central Government alone. As already noticed vide notification dated 25<sup>th</sup> August, 2011, the State Government while exercising its powers under section 5 of the Environment Protection Act, 1986 (for short 'Act of 1986') issued directions under section 5 of Act of 1986. The contention of the applicants that the State Government has no jurisdiction to exercise such a power in terms of section 5 of the Act of 1986 as it vests in the Central Government alone, is without any substance. In the notification itself it has been noticed that the Ministry of Environment & Forest, Climate Change (MoEF & CC) dated 10<sup>th</sup> February, 1988 read with section 18 of the Air (Prevention and Control of Pollution) Act, 1981 had delegated the power to the State Government and the State Board to be bound by the directions issued under section 5 of the Act of 1986. Thus, the State Government is vested with the powers to issue such directions. There is no inherent lack of power. Furthermore, the very foundation of these directions is the notification issued by the State Government dated 13<sup>th</sup> November, 2009 wherein the entire area was declared as a 'reserved forest' in exercise of the powers vested in State Government under the Forest (Conservation) Act, 1980 and Indian Forest Act, 1927. In the present petition there is no challenge to the said notification. Furthermore, the Tribunal would have no jurisdiction to decide on the validity or otherwise of the said notification. With reference to the present case, there is no challenge to that notification and specific power is vested in the State Government to issue directions under section 5 of the

Environment (Protection) Act, 1986. Thus there is no occasion for the Tribunal to interfere in the orders passed by the respondent authority.

6. In view of the fact that by a detailed judgment passed in Original Application No. 216 of 2014 and Appeal No. 99 of 2013, we do not find any merit even in those applications. These applications besides barred by time are liable to be dismissed even for non-prosecution. None has appeared to contest these applications. Consequently, applications are dismissed without any order as to costs.

7. M.A. Nos. 601, 960 of 2015 do not survive for consideration as the main applications itself have been dismissed.

**Justice Swatanter Kumar**  
**Chairperson**

**Justice M.S. Nambiar**  
**Judicial Member**

**Dr. D.K. Agrawal**  
**Expert Member**

**Mr. Bikram Singh Sajwan**  
**Expert Member**

New Delhi  
10<sup>th</sup> December, 2015