

Item No. 03

(Court No. 1)

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

(By Video Conferencing)

Original Application No. 268/2021

Jahangir

Applicant

Versus

State of Haryana

Respondent

Date of hearing: 12.08.2022

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

Respondent: Mr. Pradeep Misra & Mr. Daleep Dhyani, Advocates for UPPCB
Mr. Rahul Khurana, Advocate for HSPCB
Ms. Priyanka Swami, Advocate for SEIAA, UP

ORDER

1. Grievance in this application is against unscientific and illegal mining obstructing the flow of Yamuna River in Village Belgarh, U.P. Fifteen Pokland machines are working day and night causing huge air pollution. Mining is done by a contractor who has been given the lease for the area falling in Saharanpur district but the lessee is also undertaking illegal mining in Village Belgarh.

2. This Tribunal decided to obtain a factual report and for the purpose, constituted a joint Committee comprising Haryana State PCB, UPPCB, SEIAA, UP, SEIAA, Haryana, District Magistrate, Yamuna Nagar and District Magistrate, Saharanpur, U.P.

3. The joint Committee report has been filed before us along with the letter dated 26.05.2022. The report shows that following members inspected the site on 10.01.2022:-

- a. Sh. B B Awasthi, Member SEAC-1, UP.
- b. Sh. R. K Mishr, ADM (FIR), Saharanpur, UP.
- c. Sh. Naveen Kumar Das, Mining Officer, Saharanpur, UP.
- d. Dr. D.C. Pandey, RO, Pollution Control Board, Saharanpur, UP.
- e. Sh. Mahendra Singh, JE, Pollution Control Board, Saharanpur, UP.
- f. Sh. Anil Kumar Mehta, Member SEAC (representative of SEIAA), Haryana.
- g. Sh. R K Sapra, Member SEAC (representative of SEIAA), Haryana.
- h. Sh. Gurjeet Singh, Mining Officer, Yamuna Nagar, Haryana.
- i. Sh. Tarun Sahota, Tehsildar, Chhachhrauli, Haryana.
- j. Sh. Kuldeep Singh, AEE, HSPCB, Haryana.

4. The aforesaid team made observations as under:-

“At the time of inspection water table of the river was very high. The area of verification was boundary of State of Haryana and State of Uttar Pradesh and part area adjacent to the boundary of States. The boundary of the States was not clearly demarcated and so it was decided that Revenue Authority and Mining Authority of both the States will first inspect the site and will provide the clarity about the mining/illegal mining in the adjacent area of boundary of both the States.”

5. Thereafter, the report says that on 02.04.2022, Revenue Authorities and Mining Authorities of both the States jointly inspected the site and submitted their individual report filed as Annexure R2 and R3. The report R3 submitted by the Mining Officer, Yamuna Nagar and Tehsildar Chhachhrauli, Yamuna Nagar, besides other, said as under:-

“नदी के बहाव का बदला हरियाणा प्रदेश की सीमा में हुआ अवैध खाना के करन हुआ है, परंतु नदी में बहाव अधिक होने के करन ये और अंदाज नहीं लगा जा सकता है कि कितना खाना हुआ.”

6. The observations of the Revenue and Mining Authorities who jointly inspected on 02.04.2022 are given as under:-

“As per the report submitted by the team of Uttar Pradesh, no illegal mining carried out by M/s Star Mines in village Bailgarh in the area of State of Haryana.

As per the report submitted by the team from Haryana, the area of dispute i.e. Khasra No. 19//20 and 20//13 of village Bailgarh falls on the boundary of both the States and further submitted that the River Yamuna at the disputed area mostly flowing in the area of Uttar Pradesh and at Khasra No. 20//13 River Yamuna enters in the State of Haryana. The team has given observations that the flow of River changed due to illegal mining but due to flow of River, the quantum of mining could not be ascertained.”

7. Further, another inspection was made on 12.05.2022 by a team comprising of:

1. Sh. Rajnish Kumar Mishr, U.P. PCS, ADM (F/R). Saharanpur, U.P.
2. Sh. Jaspal Singh, HCS, SDM, Bilaspur, Yamuna Nagar, H.R.
3. Dr. B B Awasthi. Member SEAC, U.P.
4. Sh. Prabhakar Kumar Verma, Member, SEAC. Haryana.
5. Sh. Nirmal Kumar, RO. HSPCB, Yamuna Nagar, H.R.
6. Dr. N.K. Das, Joint Director, Mines & Geology Deptt., Saharanpur. U.P.
7. Dr. D.C. Pandey, RO, U.P Pollution Control Board. Saharanpur, U.P.
8. Sh. Gurjeet Singh, Mining Officer, Mines & Geology Deptt. Yamuna Nagar. H.R.
9. Sh. Tarun Sahota, Tehsildar, Chhachhrauli, Yamuna Nagar, H.R.
10. Sh. Naresh Kumar, AEE, HSPCB. Yamuna Nagar, H.R.
11. Sh. Mahendra Singh, J.E, U.P Pollution Control Board, Saharanpur.
12. Sh. Aman, Mining Inspector, Mines & Geology Deptt, Yamuna Nagar. H.R.
13. Sh. Rohit Rana, Mining Inspector, Mines & Geology Deptt, Yamuna Nagar. H.R.

14. Sh. Parkash Singh, Kanungo, Revenue Deptt, Yamuna Nagar, H.R.

8. The observations made by the aforesaid team are as under:-

“During inspection, no illegal mining observed at the border of U.P and Haryana and in the adjacent area of Haryana i.e. village Bailgarh (Haryana) Revenue in the River Yamuna. As per the site observations the machinery of M/s Star Mines was operating substantially away from the border area and within the jurisdiction of State of U.P. and even no foot prints of mining vehicles observed approaching the border area for mining in the area of Bailgarh. Further, the question raised by the complainant Sh. Jahangir regarding diversion of flow of River Yamuna, no such foot prints observed at site that flow of the River Yamuna diverted in the area of dispute.”

9. We find that an attempt has been made in the above report to show that no illegal mining has been carried out, though it is admitted that there is diversion of flow of river Yamuna due to illegal mining conducted in the area falling in the territory of State of Haryana but that has sought to be mellowed down/diluted by observing that the quantity of illegal mining could not be ascertained, no footprints were found at the site and therefore, no further action on this aspect was taken.

10. We find it surprising that once the complaint of illegal mining is found correct which resulted in diversion of river flow, still, the Authorities have tried to belittle this aspect on shallow pretexts without taking any effective appropriate action including, criminal proceedings against the guilty persons. Since the mining was allowed in the present case to a particular person, in the absence of anybody else's involvement, apparently such person's involvement in illegal mining ought to have been proceeded unless proved otherwise. But in the present case, an attempt has been made to save the proponent in one or the other way despite the fact that there was illegal mining which resulted in diversion of river flow. *Prima facie* we are satisfied that the officers of Revenue and Mining Department

of States as also Pollution Control Board of both the States are guilty of suppressing information and also for not taking appropriate action against the persons who have attempted illegal mining. In such circumstances, the Chief Secretaries of State of Haryana and Uttar Pradesh ought to have taken stringent action against the erring officers but nothing has been placed on record to show that such action has been taken.

11. Sh. Pradeep Misra, learned counsel appearing for UPPCB and Sh. Rahul Khurana appearing for Haryana PCB stated that the Authorities may be given one more opportunity but the reason for giving this opportunity or for what purpose this opportunity may be given could not be explained.

12. We therefore, direct the Chief Secretaries of both the States to take appropriate criminal, civil as well as other action for illegal mining conducted in this case and submit action taken reports before the next date by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. They may also take appropriate action against the concerned erring officials who have tried to cover up the act of illegal mining resulting in diversion of river flow by not taking appropriate action against the erring and guilty persons.

13. The documents appended to the joint Committee report shows that mining in the questioned area was allocated to M/s Star Mines, Saharanpur. Notice shall be issued to M/s Star Mines, Saharanpur to submit its response as also objections, if any to the joint Committee report, by the next date.

List for further consideration on 14.09.2022.

A copy of this order be forwarded to the Chief Secretaries of States of
Uttar Pradesh and Haryana.

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

August 12, 2022
Original Application No. 268/2021
AB