

Item No. 04

(Court No. 1)

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

(By Video Conferencing)

Original Application No. 169/2020  
(I.A. No. 161/2021: For intervention on behalf of intervenors)

Kuldeep Singh

Applicant

Versus

State of Haryana & Ors.

Respondent(s)

Date of hearing: 18.01.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER  
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER  
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: Ms. Pallvi Hooda, Advocate  
Mr. Aseem Mehrotra, Advocate for Applicant in I.A 161/2021

Respondent(s): Mr. Pinaki Misra, Senior Advocate with Ms. Sunita Sharma,  
Advocates for M/s Govardhan Mines and Minerals  
Mr. Rahul Khurana, Advocate for HSPCB

**ORDER**

1. Grievance in this application is against illegal mining in forest area by M/s Govardhan Mines and Minerals, Hisar at Dadam Hills, Tosham, District Bhiwani and also unscientific mining outside forest area in violation of EC conditions. It is stated that there are FIRs, complaints and letters pointing out such illegalities but no remedial action is taken.

2. The matter was considered earlier in the light of reports from the statutory regulators. Last order is dated 20.07.2021. By the said order, while issuing notice to the project proponent (PP), the Tribunal

constituted an eight-member joint Committee headed by Justice Pritam Pal, former Judge of Punjab and Haryana High Court to ascertain facts and also sought report from the Chief Secretary, Haryana in the light of report to be submitted by the said Committee.

3. For background of the matter, it will be appropriate to reproduce the operative part of the last order:-

“

4. Accordingly, the joint Committee has filed its report dated 16.07.2021 *inter alia* stating that another application on the same subject being OA No. 132/2020, *Rakesh Dalal v. State of Haryana*, has been dealt with by this Tribunal vide order dated 02.06.2021. Therein, report was similar to the report now furnished that damage was found but the present project proponent (PP) was not responsible but it was the predecessor of this PP who had caused the damage. **The report now filed states that inspection was first conducted by the Committee on 06.10.2020 finding violations by the PP. Based thereon, show cause notice dated 08.10.2020 was issued by the State PCB under Section 5 of the Environment (Protection) Act, 1986 and after considering the reply, the Regional Officer, State PCB recommended closure on 06.11.2020. However, the scenario underwent change after the meeting convened by the Deputy Commissioner, Bhiwani on 01.12.2020.** Therein differing stands were presented by the mining, forest and ground water departments at variance with the findings in the site inspection report of the joint Committee. Such differing stands were noted by the Deputy Commissioner, Bhiwani, who directed the stakeholder Departments to examine the presentation of the project proponent for sending a report to the Chairman, State PCB. Accordingly, the Forest Department vide report dated 21.12.2020 and the Mining Department vide report dated 31.12.2020 sent their observations to the Deputy Commissioner, contrary to the findings in the site inspection report dated 6.10.2020. Based on later reports, the present report has been filed to the effect that no illegal mining has been done by the present PP. Illegal mining had been done by the predecessor of the project proponent.

5. We have heard learned Counsel for the parties and perused the record.

6. Learned Counsel for the applicant submitted that order of this Tribunal dated 02.06.2021 in OA No. 132/2020 may not be treated as final as the Tribunal did not have the benefit of any assistance from the side of the applicant and thus patent illegalities which exist in mining by the PP could not be pointed out. The Tribunal has merely directed further action in terms of the report without any discussion in absence of objections thereto. Conclusion in the report is patently perverse and against the record. It is pointed out that the

inspection reports submitted on 06.10.2020 by the six-member Committee headed by Addl. Deputy Commissioner, Bhiwani and including Mining Officer, Bhiwani, Assistant Geologist, Ground Water Cell, Bhiwani, Addl. District Forest Office, Bhiwani, SDO Nagina, Water Service and Sub Div. Bhiwani could not be deviated from without any factual basis. The reports clearly find the PP responsible for the violations. The PP is successor of the earlier mining lessee and responsible for the continuing violations which are of serious nature. Subsequent reports by the Mining and the Forest Department cannot be held to be reliable in view of earlier reports. The reports are similar but separate for the two OAs filed before the Tribunal. The Tribunal passed two separate orders in the said OAs seeking reports. In OA 132/2020, report is reproduced below:

**“1. Regarding illegal mining by M/s Govandhan Mines at Dadam, Tosham, Bhiwani Haryana.**

**Observation** – During the inspection it is observed that the sand mining project has **illegally created ways in the forest area without having any valid permission**. At the time of inspection, the mining equipment's/machines are also found standing in the non-minable forest area.

The Dadam Hill Minor is a protected forest area under IFA, 1927 and same is found illegally mined at the time of the inspection.

**2. It is alleged that mining is done upto 150 meters which is not permissible.**

**Observation** – During the inspection, the concerned mining officer stated that **the mining is done at the site about 200 feet depth**. But actual depth of the mining pits will be assured by the inspection of the mining surveyor from Mining Dept., Head Office, Panchkula within 7 days as mentioned by concerned mining officer.

**3. The Mining Company has not given a closure plan.**

**Observation** – During the inspection the concerned mining officer stated that an approved mining plan as well as a progressive closure plan of same is already submitted by the said mining project and the mining project is still in progress and **closure plan will be implemented after closure of the mining**.

**4. In the progressive closure plan, the depth is shown to be up to 42 meters.**

**Observation** – During the inspection the concerned mining officer stated that the said mining project has given following dimensions of mining pit as per approved mining plan:

(i) Length: 536 meters (ii) Width : 528 meters (iii) Depth : 78 meters (from ground level). But no record provided at the site during inspection in this regard.

**5. Mining is not being done in a scientific manner.**

**Observation** —During inspection the concerned mining officer stated that the mining is not done in scientific manner i.e.

benches of 9- meters height and 9-meter width are not properly formed.

**6. Ground water is also being illegally extracted.**

**Observation** – During the inspection the concerned Assistant Geologist, Ground Water Cell reported that no bore well found in the lease mining area. The project is meeting water requirement for plantation, dust suppression and domestic etc. through tankers from outside the mining area and also using the waters stored within mining pits and water stored in pits cannot be identified at spot whether it is groundwater or rain water and same will be identified within 7 days as assured by the concerned Assistant Geologist, Ground Water Cell.

**7. The applicant has annexed a letter addressed to the Additional Chief Secretary, Mines and Geology Department pointing out irregularities in the process of mining.**

**Observation** – During the inspection the concerned officer stated that he is not aware about the said communication because the letter number and date are not mentioned. During the inspection the concerned SDO, Irrigation Department stated that the said mining project is using the land of Dadam distributary illegally for mining purpose.”

Report on same day in OA 169/2020 on the subject of illegal mining in the forest area is as follows:

**“Point: Grievance in this application is against alleged illegal mining in forest area by M/s Govardhan Mines and Minerals, Hisar at Dadam Hills, Tosham. District Bhiwani. The applicant has relied upon FIR, complaints and letters in support of the allegation.**

**Observation** — During the inspection it is observed that the said mining project has illegally created ways in the forest area without having any valid permission. At the time of inspection, the mining equipment’s/machines are also found standing in the non-minable forest area.

The Dadam Hill Minor is a protected forest area under IFA,1927 and same is found illegally mined at the time of the inspection.

**At the time of inspection, the team has also reported following observations:**

During the inspection, the concerned mining officer stated that **the mining is done at the site about 200 feet depth.** But actual depth of the mining pits will be assured by the inspection of the mining surveyor from Mining Dept., Head Office, Panchkula within 7 days as mentioned by concerned mining officer. At the time of inspection the concerned mining officer also stated that an approved mining plan as well as a progressive closure plan of same is already submitted by the said mining project and the mining project is still in progress

and closure plan will be implemented after closure of the mining.

During the inspection the concerned mining officer stated that the said mining project has given following dimensions of mining pit as per approved mining plan:

(i) Length: 536 meter (ii) Width: 528 meter (iii) Depth: 78 meter (from ground level).

At the time of inspection, the concerned mining officer mentioned that the **mining is not done in scientific manner i.e. benches of 9-meter height and 9-meter width are not properly formed.**

During the inspection the concerned Assistant Geologist, Ground Water Cell reported that no bore well found in the lease mining area. The project is meeting water requirement for plantation, dust suppression & domestic etc., through tankers from outside the mining area and also using the water stored within mining pits and **water stored in pits cannot be identified at spot whether it is groundwater or rain water and same will be identified within 7 days as assured by the concerned Assistant Geologist, Ground Water Cell.**

The concerned SDO, Irritation Department at time of inspection stated that the said mining project is using the land of Dadam distributary illegally for mining purpose.”

7. Show cause notice for closure dated 08.10.2020 issued by the State PCB issued as follows:

“Whereas an NGT order dated 21.07.2020 OA No. 169/2020 titled as *Kuldeep Versus State of Haryana* and order dated 20.08.2020 OA No. 132/2020 titled as *Rakesh Dalai Versus State of Haryana*

Whereas a joint team constituted by Worthy Deputy Commissioner, Bhiwani and headed by Addl. Deputy Commissioner, Bhiwani including Mining Officer, Bhiwani, Assistant Geology, Ground Water Cell, Bhiwani, Addl. District Forest Office, Bhiwani, and SDO Nigana, Water Service, Sub Div. Bhiwani visited the site of mining project on 06.10.2020 Whereas during inspection, following deficiencies are observed by the joint team :-

1. **You have created illegal ways in the forest area without having any valid permission.**
2. The mining equipment's/machines are also found standing in the non-minable forest area.
3. **The Dada Hill Minor is a protected forest area under IFA, 1927 and same is found illegally mined at the time of inspection.**
4. **During the inspection the concerned mining officer stated that the mining is not done in**

- scientific manner i.e. benches of 9-meter height and 9-meter width are not properly formed.**
5. **During inspection water found standing in mining pits clarify your position whether it is ground water or rain water.**
  6. **Your project is found using land of Dadam Distributary illegally for mining purpose.**

Whereas unit will be liable to pay the environmental compensation in the terms of direction of the Board issued by order no. HSPCB/PLG/2019/6043-75 dated 29.04.2019 as assessed by the Board as per methodology defined.

Whereas you are not complying with the conditions of Env. Clearance issued by Competent Authority i.e. MoEF & CC, New Delhi.

In view of the above, you are hereby directed to show cause for 15 days, as to **why closure/legal action may not be taken under Section 5 of 15 of EP Act, 1986 taken against your unit besides disconnection of electric supply and captive powers for non-compliance of the provisions of the said Acts and CTO granted previously vide No. 7841923 dated 08.08.2020 for the period 01.10.2020 to 30.09.222 may not be withdrawl.**

Section 5 of 1986 notwithstanding anything contained in any other law, But subject to the provision of this Act. The Central Government may, in the exercise of its powers and performance of its function shall be bound to comply with such directions.

Explanations; For the avoidance of doubts, it is hereby declared that the power to Issue directions under this section includes the power to direct:-

- (a) The Closure, prohibition or regulation of any industry operation or process or
- (b) The stoppage or regulation of supply of electricity, water or any other service.”

8. The minutes of the meeting dated 01.12.2020 presided over by Deputy Commissioner, Bhiwani show that the Deputy Commissioner noticed the contradictory stands of the Forest Department - stand in the report dated 06.10.2020 based on the site inspection and contradictory stand in the report in the letter dated 17.11.2020. The observations are reproduced below:

- “
- During the meeting **Worthy Deputy commissioner, Bhiwani has raised concerned over dismantling of Dadam miner canal and SDO Irrigation, Bhiwani was present during the meeting on 01.12.2020 has stated that the said canal lying dismantled since for long time and Mining project is using land of this canal area without taking any permission from Irrigation department. The Ld. Deputy**

**Commissioner, Bhiwani directed irrigation department to verify the exact time period in the said when the said canal was dismantled & list of officers responsible for not taking appropriate action against the violators during that period. The Deputy Commissioner also directed to irrigation department, Bhiwani to rebuilt the said canal and to ensure the availability of water for irrigation upto the tail.**

- **At the time of meeting Ld. Deputy Commissioner, Bhiwani asked forest department to clarify the exact time period when Illegal mining was carried out and who has done illegal mining & also directed to assess total area & quantity of mineral illegally extracted and approximate cost of the material.**

**The worthy Deputy commissioner, Bhiwani also shows concern regarding self contradictory reports submitted by forest department, Bhiwani in last three months which may bring adverse remark against the officers involved in verification of compliance status of Hon'ble NGT orders.**

The Deputy commissioner, Bhiwani directed DFO, Bhiwani to submit the clear-cut recommendation/report on the reply submitted by the unit personally.

- **During inspection worthy Deputy commissioner, Bhiwani asked Assistant Geologist groundwater table, Bhiwani to clarify whether the said mining project has intersected the ground water cell. The Ld. Deputy Commissioner, Bhiwani also directed to verify where the water reported by the team on 06.10.2020 disappeared. The assistant Geologist ground water cell told that he will recommend case of the project for further verification from central ground water Board.**
- **At the time of inspection the mining officer, Bhiwani stated that as per recent survey conducted on 03.11.2020 by the team consisting of Senior Geologist Head office, Mining officer, Bhiwani, Senior surveyor, Surveyor and official of HARSAC, the detail survey of the mine area was carried out with the help of DGPS instruments in the presence of concerned revenue official i.e. Haika Girdawar & Patwari, The revenue officials gave the reference point as red stone chakbandi for detail survey. But no illegal mining was found. The boundary pillars of the mining lease area were found in the order with GPS coordinates as per approved mining plan.**

**The mining officer stated that to verify scientific mining status, the case of this project already recommended to Director General Mines & Safety, Ghaziabad because**

**the matter regarding scientific mining relates to DG mines and safety, Ghaziabad and reminder has also sent in this regard.**

The mining officer, Bhiwani was asked by Ld. Deputy commissioner regarding dues of the M/s Goverdhan Mines & Minerals, Dadam, Mining officer stated that **73.49 Crore are pending on account of royalty/dead rent, R & R and interest against M/s Goverdhan Mines & Minerals, Dadam. Which is already intimate to Director General Mines & Geology, Panchkula for necessary action and Worthy Deputy commissioner, Bhiwani directed to send reminder to higher authority again for necessary compliance immediately.**

- The Ld. Deputy commissioner directed to all the stake holder departments to examine the presentation received from the said project proponent within 15 days from date of meeting i.e. 01.12.2020. So that report can be sent to the Chairman, HSPCB, Panchkula to decide closure case of the unit.”

9. Further report of the Forest Department dated 21.12.2020 is as follows:

“3. As far as the extent of illegal mining area is concerned, RFO, Tosham has reported vide letter no. 364 dated 21.12.2020 that **illegal mining has been done near point B & C in an area of about 0.8 hectare by the then lease holder (KSL Sunder Marketing Associate) prior to M/s Goverdhan Mines and Minerals. Further 300 Sqm area of illegal mining was found for which FIR No.587 dated 23.12.2019 has been registered.** Further, it is informed that forest department does not have any technique to estimate the quantity of mineral extracted and its cost. Hence for the extent of illegal mining i.e. 0.8 hectare in area and 300 sqm of area, the quantity of minerals extracted and cost may be sought from the Mining department.”

10. Report of the Mining Department dated 28.12.2020 is as follows:

#### **“6.0 Observations:**

- i. There were 25-30 numbers of pits dug within the lease hold area. The pit name was locally numbered for identification and convenience. The size of these pits was about 80-200 m X 100m-200m.
- ii. The size of pit no. 38 was about 80mx60mx18m. The height of benches were 5-9m and width was about 5-7m. A haul road leading to benches was provided. The Aravali forest land was located on the western part of the excavation. Men' and machinery were deployed by contractor. The size of pit no. 35 was about 60-65m(L)x40-45m(W)x8m-9m(D). The height of bench was about 8-9m.

Adjoining to this pit, forest land of Aravali was located on western side. The size of pit no. 31 was about 100-110 m(L)x80- 90m(W)x 16-18m(D). The height of bench was about 8-10m. Adjoining to this pit, forest land of Aravali was located on southern side. Loading of stone was being carried on in these pits.

- iii. The size of pit no. 22 was about 200mx200mx20m(D) The height of benches were about 9-10m. Drilling of holes were being carried on the bottom bench. The drill machine was provided with wet drilling arrangement (photograph enclosed) Management informed that the drill machines whose wet drilling mechanism was out of order were under repair.
- iv. There were three portable foggers machines installed near the pit where loading operation was being carried on to settle the dust being generated during loading. It was informed that these foggers are moved to different pits where loading operations are carried on. Two to three dedicated tractor mounted water wanker was available for supplying water to these fogger machine.
- v. Three water tankers with water spraying arrangement on the top (whirling type) were provided for wetting the haul roads and benches (photograph enclosed). Water spraying was being done on the haul roads and benches.
- vi. The danger zone was demarcated by means of red flag (photograph) enclosed). The lease boundary was fenced by barbed wire. During inspection it was observed that a staffs and work persons were wearing safety gadgets like helmet and shoes.
- vii. An order under section 22(3) of the Mines Act, 1952 was imposed in pit no. 12 vide this Directorate's letter no. 2169 dated 28.05.2019. No work was being carried out at in this pit. Men and machinery were not found deployed in this pit.
- viii. The records of attendance in form D were kept maintained. The employment register in Form-B was kept maintained (copy enclosed).
- ix. The deep hole drilling and blasting was carried out under the personnel supervision of assistant manager and foreman. The blasting time was reported to be between 1-4pm. A signage of blasting time was displayed on board at several places (photograph enclosed). Transport of explosive in license van for blasting in the mine was done by the explosive supplier that was in agreement with the owner of mine. The records of explosive used and return in RE-13 were being maintained by the explosive supplier (copy enclosed) and firings of shot were done by statutory persons appointed by the owner of mine.
- x. An efficient means of signaling by siren within the radius of 300m from the place of firing was provided and in use (photograph enclosed).
- xi. High mast tower consisting of clusters of bulb was found installed on the haul roads around the quarry of the mine (photograph enclosed for lighting arrangement to work beyond day light hours.

- xii. **There were crushers not belonging to owner of mine within the danger zone in north eastern and north western side. However, the crusher were located outside the danger zone from active working face.** The fly rocks generated during the, blasting was towards free face. It was informed by the management that the adjoining field to the lease were acquired by the lessee on rental basis. No signs of fly rocks were seen near the adjoining field to the lease.

## **7. CONCLUSION**

- 1) It is to be noted that, Mining lease for Dadam Stone Mine, Khasra No. 132, Ms. Goverdhan Mires & Minerals was granted by department of Mines & Geology, Government of Haryana. Consent to operate, consent to establish and environment clearance was granted by the state authority simplified Mining Scheme for working the mine in a scientific way by method of opencast mining has been approved by department of Mines & Geology, Haryana.
- 2) Inspection of Dadam stones Mines, Ms. Goverdhan mines & Minerals was carried out in accordance with the Mines Act, 1952.
- 3) Under constitution of India, Safety welfare and health of workers employed in the mines is regulated by the Mines Act, 1952 and subordinate legislations framed under it. This Directorate, a subordinate office under Ministry of Labour & Employment, Government of India administers and oversees the compliance of the provisions of the Mines Act, 1952 & the Rules, Regulations and Bye-laws framed there under. Beside this Directorate grants permission under certain Regulations for specific mining operations like Deployment of Heavy Earth Moving Machinery & deep hole blasting.
- 4) Inspections are carried out in accordance with Mines Act, 1952 to oversee compliance.
- 5) **Scientific study is not carried out by this Directorate. However, Department of Mines & Geology may Engage recognized scientific organization or institutions to carry out scientific study of the mine.**
- 6) This inspection was carried out solely on the request of mining, officer, Bhiwani without prejudice to any other law in place.
- 7) Mining officer, Bhiwani may be addressed. Letter is put up.”

11. After referring to the above, it is pointed out on behalf of the applicant that the conclusion in the report that no illegal mining has been done by the PP is perverse for the following reasons:

- i. On inspection of the site on 06.01.2020 by a six-member Committee, encroachment of the protected forest area has

been found. Further, mining has been found to have been done even beyond depth of 150 meters. Closure plan has not been given by the predecessor of the PP which was the responsibility of the Chief Secretary of the State. If mining closure plan has not been filed, the Chief Secretary of the State must explain or the successor i.e the PP must be held responsible in terms of the EC conditions and as required in terms of order of the Hon'ble Supreme Court in order dated 11.08.2017 in SLP (C) No. 19166/2017, M/s. Sunder Marketing Associates v. State of Haryana & Ors. inter alia directing:

"33. Keeping in view the prayer made:

- (i) We permit the petitioner to continue its mining operations till 30<sup>th</sup> November, 2017 in accordance with the Mining Plan. **On or before that date, it shall ensure implementation of the mining closure plan to the satisfaction of the concerned authorities in the State of Haryana.**

xxx.....xxx.....xxx.....

- (iv) All the laws applicable to the petitioner shall be strictly enforced by the State Government regardless of its apparent influence in high places. **We make it clear that we will hold the Chief Secretary of the State of Haryana responsible for any lapse in this regard."**

(ii) Mining was not being done in scientific manner. Ground water was being illegally extracted. Mining equipments were found in the non-mineable forest area. In IA No. 76/2021, which has been allowed by a separate order today, the applicant has inter alia filed a copy of order of Mining Department dated 05.08.2020 directing the project proponent to close deep mining pits along the Eastern Boundary of the Mine, which also contradicts the report that the PP is not responsible for the violations. Further, report of the Assistant Geologist, Ground Water Cell, Bhiwani is to the effect that water table data of selected wells available on record in surrounding alluvial formation is from 9.41 mtrs to 18.52 mtrs., whereas the depth of mining pits is approx. 60 mtrs, as told by mining officer at the site.

(iii) The report of the investigating officer in the FIR, exonerating the PP is unacceptable as equipments were seized on the spot in the mining area during the currency of the mining operations by the present project proponent.

**12. We have considered the objections of the applicant and find that the same require consideration after due opportunity to the PP and after obtaining a further credible report.**

**13. Accordingly, while issuing notice to the PP - M/s. Govardhan Mines and Minerals, Hisar, we direct further inspection by eight-member joint Committee to be headed by Justice Pritam Pal\*, former Judge of Punjab and Haryana**

**High Court and comprising Ms. Urvashi Gulati,\* former Chief Secretary, Haryana, Regional Officer, MoEF&CC, Chandigarh, nominees of CPCB, Indian Institute of Soil and Water Conservation, Research Centre, Chandigarh, Haryana State PCB, SEIAA Haryana and District Magistrate, Bhiwani. The CPCB and State PCB will act as nodal agency for coordination and compliance.** The first meeting of the Committee may be convened within two weeks. The Committee may peruse the record, undertake visit to the site (by such of the members as may be decided by the Chairman) and conduct other proceedings online. The Committee may interact with the stakeholders and take assistance from any other individual/institution. **The Committee may also study the satellite imagery maps, in coordination with the concerned authorities.** The report of the Committee may be furnished within two months by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF with a copy to the Chief Secretary, Haryana for remedial action in the light of the said report following due process of law.

14. **The Chief Secretary, Haryana may give action taken report in the light of the report of the Committee. The report may also comment on the conduct of the Forest and Mining Departments in giving contradictory reports and also contradictory stand of the investigating officer that no mining was done by the present project proponent while equipments were seized during currency of the mining by the present project, based on which FIR was lodged and during site inspection by six-member Committee on 6.10.2020 violations were recorded.”**

3. In pursuance of above, interim report dated 13.10.2021 has been filed by the Committee constituted by this Tribunal. The Committee has found that illegal mining was done in Aravali plantation area. The Forest Department has to recover cost of stone mined illegally and State PCB has to impose environmental compensation. Study with regard to period for which such illegal deep mining was done up to depth of 109 m against the permissible depth of 78 m have not been completed. In Dadam mined area, there was no unscientific mining. The Committee also found damage to the Dadam distributory, illegal mining where depth of mining pit had gone down to 200-250 ft. The recommendations include specifying transport route for the vehicles, restriction on loading

---

\* They comprise Monitoring Committee for several environmental issues in the State of Haryana

and transportation during night, giving the list of permitted vehicles to the Authorities, use of drone technology, regular inspections, seizure of vehicles used in illegal mining, providing geo-fencing on mining leased area, providing GPS on the vehicles, checking of transport permits and more rigorous monitoring. Conclusions and recommendations are extracted below:-

### **“3.0 Conclusions and recommendations**

*Based on the data, record, reports of various departments viz., Department of Mining and Geology, Department of forest, Jui Water Services and Department of Ground Water Cell, District Bhiwani, detailed discussions held with the officers of concerned departments on 16.8.2021, 4.9.2021, 17.9.2021 by the subcommittee and Joint Committee and field inspection carried out by the subcommittee on 20.8.2021 and Joint Committee on 1.10.2021, the following conclusions and recommendations are made*

#### **A) Illegal Mining in forest area (non minable area) in 300m 2 area in Dadam mining Hills in village Dadam, Tehsil Tosham.**

*Keeping in view the facts mentioned in para No. 2.3.6.1 and 2.3.7.3, the Monitoring Committee concludes the issue regarding illegal mining in forest area in 300 m 2 in Dadam mines hills as under:*

*M/s Govardhan Mines and Minerals has done illegal mining in Aravali plantation area (forest area) in 300 m 2 area between approach line (Pathways) AB and BC.*

*Therefore, the eight members Joint Committee recommends as under*

- i) The Department of Forest shall recover the cost of stones mined illegally in forest area (Aravali Plantation area) as per the methodology mentioned in order dated 26.2.2021 in OA No. 360 of 2015 in the matter of National Green Tribunal Bar Association vs union of India and Ors and order dated 19.2.2020. in MA No.16/2020 in OA No. 44 of 2016.*
- ii) HSPCB shall impose environmental compensation of suitable amount as a cost of damage caused to the environment by the project proponent for by carrying out illegal mining in forest area (Araveli platation area) and damaging ecology and ecosystem.*

**B) Illegal Mining in forest area (non minable area) in 0.8 hectares area in Dadam mining Hills in village Dadam, Tehsil Tosham.**

*Regarding illegal mining in forest area (non minable area) in 0.8 hectares area in Dadam mining Hills in village Dadam, Tehsil Tosham, eight members Joint Committee concludes as under.*

*During the visit of the subcommittee and eight members Joint Committee to the mining site near Araveli Plantation area at village Dadam near pillars A, B and C on 20.8.2021 and 1.10.2021, it was informed that the illegal mining in Araveli Plantation area (forest area) in front of pillar B between A and C has been done. The Google earth images, as produced by District Forest Officers, show that the illegal mining in an area of 0.8 hectare was done in the year 2019, whereas, Principle Scientist, HARSAC was of the view that the images of Google earth cannot be relied upon for establishing the actual time period of illegal mining in 0.8 hectares of forest area. Therefore, there is need to get the satellite imageries of the area, for which the survey of the area has been started by the scientists of HARSAC, Hisar as per the directions issued during the last meeting of the joint committee held on 17.09.2021. Therefore, Joint Committee recommends as under.*

*Principal Scientist, HARSAC, Hisar shall complete the study, who has been started at the Dadam Mining site and submit the report based on satellite imageries at the earliest so as to sort out the issue with regard to illegal mining in an area of 0.8 hectares at the earliest.*

**C) Illegal mining in Dadam mining area done up to depth of 109 m.**

*On the directions of Director General, Mines and Geology, a team consisting of Senior Geologist, Head Office, Panchkula, Mining Officer Bhiwani, Senior Surveyor and officials of HARSAC inspected the mining lease area on 3.11.2020. The detailed survey of mining area was carried out with the help of DGPS instrument in the presence of concerned Revenue officials and observed that the maximum depth of mining pits was found to be 109 m from the surface level at the time of inspection.*

*M/s Govardhan Mines & Minerals, stone mining lease holder in Dadam mine hills, was asked to submit a copy of receipt of Department of Mining & Geology or Department of Forest or any other department in the year, 2018 regarding submission of study report conducted by M/s Shivom Engineers Associates Pvt. Ltd. mentioning the depth of mining at places is more than 100 m in the year, 2018. However, no such receipt has been submitted by M/s Govardhan Mines & Minerals.*

*Therefore, the identification of the project proponent and time period during which illegal deep mining done up to the depth of 109 m against the permissible depth of 78 m shall be made after*

*the completion of study by the scientists of HARSAC, Hisar at Dadam mining site and submission of report by HARSAC, Hisar.*

**D) Illegal abstraction of ground water in Dadam mining area.**

*Depth of mine pit is approximately 109 m from ground level as measured by the officials of mining department and as per the report dated 3.11.2020 of Assistant Geologist, Ground Water Cell and version of CGWA, there is hard compact quartzite formation with some cracks and fissures. The ground water occurs in permeable geological formation known as aquifer. The aquifer is the water bearing formation having structure that permits appreciable water to move through it under ordinary field conditions. The ground water existence depends upon porosity, permeability and saturation with in any formation.*

*During field investigation by the Ground Water Cell, it was concluded that water table data of selected wells available in surrounding alluvial formation is from 9.41 m to 18.52 m, whereas, the depth of mining pit is approximately 109 m as measured by the officials of Mining Department. This shows that presently, the surrounding water level is having no inter connectivity with mining pits, as the water table has not been encountered up to the depth of 109 m and the water accumulated in mining pit is seepage from the cracks and fissures of the quartzite rock of Aravali system.*

*Therefore, the Joint Committee concludes that water accumulated in mining pit having depth of 109 m is seepage from the cracks and fissures of the quartzite rock of Aravali system and no ground water abstraction in mining area has been made.*

**E) Unscientific mining in the mining area by the project proponent**

*Deputy Director of Mines Safety, Ghaziabad vide his report dated 04.01.2021, which was based on the inspection made on 28.12.2020, has submitted his report, which is briefly mentioned as under*

- There were 25-30 no. of mining pits dug within mining lease area.*
- The pits have different sizes and height of the benches have been found between 5-9 m, 5-7 m, 9-10 m etc.*
- Three portable fogger machines were found installed near the pits which are moved to different pits. Besides, three water tankers, with water spraying arrangements on the top, have been provided for wetting the haul roads and benches.*
- The danger zone was found demarcated by means of red flag. The lease boundary wall was fenced with barbed wire. During inspection, it was observed that all the staff and work persons were wearing safety gadgets like helmets and shoes.*

- *The deep hole drilling and blasting was carried out under the personal supervision of Assistant Manager and Foreman. The blasting time was reported to be between 1-4 PM and a signage of blasting time was displayed on the board at 7 places.*
- *High mast tower consisting of clusters of bulb was found installed on the haul roads.*
- *Simplified mining scheme for working the mine in a scientific way by method of opencast mining has been approved by the department of Mines and Geology, Haryana.*

*However, it has also been mentioned that scientific study is not carried out by the Directorate and Department of Mine and Geology may engage recognized scientific organisation or institution to carry out scientific study of the Mine area. From the above, the eight member Joint Committee concludes that no unscientific mining has been done in Dadam Mine area and the project proponent shall continue to conduct scientific mining at all the times based on the recommendations/ report submitted by the Department of Mines Safety, Gaziabad.*

*The Joint Committee further recommends that the Department of Mines and Geology, Bhiwani may engage recognized scientific organization or institutions to carry out scientific study of the mine within 01 month as per the observation of Deputy Director of Mining Safety, Ghaziabad.*

***F) Abandoned/damaged Dadam Distributary/ minor constructed by the Department of Irrigation.***

*Based on the data, record and reports submitted by the Department of JUI Water services as mentioned at para 2.3.6.4, 2.3.7.1 and further report of Sub Divisional Officer, Nigana W/5 Division, Bhiwani submitted vide his office letter No.65356 dated 22.9.2021 that joint measurement was carried out by the department of Irrigation and Mining department from RD 20500 to 23500 of Dadam distributary. The width of the damaged portion of Dadam distributary could not be measured due to ups and downs. The depth of pillar No. 15 of mining was found about 50' below the bed level of Dadam distributary in Khasra No. 132.*

*The eight member Joint Committee is of the view that both of these departments could not measure the dimensions of the damaged portion of Dadam distributary. Therefore, eight member Joint Committee concluded and recommended as under.*

- HARSAC, Hisar shall conduct the study of damaged Dadam distributary between RD 20500 to 23500 and shall prepare satellite imageries of the area for the year 2015 to 2021, interpret the data and submit the report regarding illegal mining done in the portion, where the depth of mining pit has gone down to 200-250 ft and*

*the time period during which, the said mining was done. The report may include illegal mining done and using the damaged distributary as pathway for movement of vehicles of mining lease holder in Dadam mine hill. The said study report alongwith the recommendations may be submitted to the eight members Joint Committee within 01 month.*

- ii. *Deputy Commissioner, Bhiwani shall fix the responsibility of the mining lease holder or other persons, who has damaged the Dadam distributary and the cost of the repair of the damaged portion of Dadam distributary may be recovered from the concerned agency and estimate for repairing of damaged portion of Dadam distributary may be prepared by the department of Irrigation within 15 days. The damaged Dadam distributary may be repaired within 03 months.*
- iii. *Department of Mines & Geology shall investigate the issue regarding digging and filling of the area parallel to the Dadam distributary/minor and near weigh bridge, which is presently not in operation, with an objective to check as to whether any illegal mining in that area was done by the project proponent. The said department shall submit the report within 07 days.*

### **3.1 Other recommendations**

1. *The Mining Officer should be the competent authority to specify the transport route which shall be used by the vehicles used by the mining lease holders so that it may route through atleast one of the mining check posts established by the Department. There should be complete restriction on loading & transport of mined material during night hours (7:00 PM to 6:00 AM), since this is the time window which is used for maximum evasion. Lessee should give a list of vehicles to the Mining Officer which should be entered into the portal. The list of permitted vehicles should be shared with the Police Department and with the mining check posts. Any vehicle which is not in the list given by the lessees, should simply be impounded. All these vehicles should be made GPS enabled by the lessee and their movement should be accessible by the Mining Department through a central access login.*
2. *Advance Technological Drones may be provided to the Mining department to take prompt action against illegal mining activity.*
3. *The State of Haryana shall also implement the directions issued in para no.28 of order dated 26.02.2021 in OA No. 360 of 2015 by way of getting conduct visit to the mining lease sites by a five member committee, headed and coordinated by the SEIAA and comprising CPCB (wherever it has regional office), State PCB and two expert members of SEAC dealing*

*with the subject. Such inspection must be conducted at least thrice for each lease i.e, after expiry of 25% of the lease period, then after 50% of the period and finally six months before expiry of the lease period for midway correction and assessment of damage, if any.*

- 4. The Government of Haryana may issue appropriate notification to implement the Judgment of Hon'ble NGT dated 26.02.2021 in the matter of National Green Tribunal Bar Association vs. Virender Singh (OA No. 360/2015) regarding seizure and penalties on vehicles found doing illegal mining, specifically paragraphs 8 and 9 of the judgment and for imposing penalties on violators for releasing of vehicles engaged in illegal mining as per formula approved in para 12 of the said order taking into account the net present value (NPV) of the environmental damage and not merely loss of royalty*
- 5. As per the provisions of section 22 of the Mines and Minerals (Development & Regulation) Act, 1957 [(MMDR Act, 1957)], there is provision that no court shall take cognizance of any offence punishable under this Act or any rules made thereunder except upon complaint in writing made by a person authorized in this behalf by the Central Govt. or State Govt. As such, the police cannot register an FIR against the violator the complaint of any citizen/individual. There is need to amend the said section of MMDR, Act, 1957 to the extent that police department should have powers to register FIR against the violators.*
- 6. The Mining Department may create an online app which can be used by all officers authorized for compounding so that an alert can be generated for vehicle numbers in case of repeat violations are occurred. In all such cases, FIR should be registered and the case should be sent to Court for trial & conviction.*
- 7. For transporting of stones from mining area, only one or two roads may be fixed and notified by department of Mining and all the mined materials should be routed only through these roads. The check posts may be constructed on these roads. There shall be total restriction on the movement of trucks carrying/transporting mined stones on the other non notified roads.*
- 8. The department of Mining/Geology shall provide Geo fencing on mining lease area in Dadam mining hills within 03 months.*
- 9. Mining lease holder shall provide advance technological GPS on the declared/registered vehicles deployed for transportation of mined material having their connectivity with the office of Deputy Commissioner, Bhiwani, Police department and Mining Department, Bhiwani within 03 months so that their movement can be tracked and can be*

*monitored by the Department of Mining and Police and prompt action may be taken against the illegal mining operator.*

10. *For monitoring illegal stone mining at Dadam mining site, there should be a provisions of checking transport permits, printing of transport permit on security papers, invisible ink mark, fugitive ink background and unique barcode system. The department of Mining shall provide said documents to the monitoring teams or District Level Special Task Force at District level within 06 months. The Monitoring team deployed for checking of vehicles/trucks carrying mined material should be in a position to check the validity of Transport permit or receipt by scanning them using website, mobile phone application and SMS etc.*
11. *There should be a mechanism at district level to generate the system which may enable the authorities to develop periodic report on different parameters like daily lifting report, vehicle log or history, lifting against allocation and total lifting. The system can be used to generate auto mails or SMS.”*

4. In further report dated 10.01.2022 it is mentioned that satellite imagery maps of the Dadam stone mining site are not available. Director General, Science and Technology Park, Pune (Maharashtra) has been approached.

5. The PP has also filed affidavit dated 24.10.2021 to the effect that there is no bore-well or illegal extraction of ground water. Blasting is properly controlled. Damage was caused by the previous lease holder and there is no encroachment of forest area.

6. We note that an incident in the area took place resulting in loss of lives which aspect of the matter is being considered in O.A No.01/2022, *In re: News item published in The Indian Express Newspaper dated 02.01.2022 titled “Four killed in Haryana mine landslide”, now listed for hearing on 05.04.2022.*

7. As found by the Committee, there has been illegal mining including in the forest area and also beyond the permitted depth. Though the

Committee has observed that there was no illegal mining in the mining area, the said observation appears to refer to the time of inspection as the Committee has recorded its conclusion about earlier illegal mining. The Committee has observed that there was no ground water extraction but explanation of the PP that the ground water was privately procured but it is difficult to accept explanation in absence of such private sources being identified. As found in the order dated 20.07.2021 and in the report of the Committee, there was mining even beyond depth of 150 mtrs. Closure plan have not been given by the predecessor of the PP which is to be ensured by the Chief Secretary of the State. There is order of the Mining Department dated 05.08.2020, requiring the PP to close deep mining pits.

8. Thus, while directing recommended remedial action against illegal mining in the light of report of the Committee and in pursuance of order dated 20.07.2021 by the State PCB and Mining Department, to be overseen by the Member Secretary CPCB, we find it unnecessary that the joint Committee may wait for procurement of satellite imagery, if the same is not readily available and can make its final conclusions by undertaking ground truthing and drawing inferences from the available material.

9. Let the joint Committee give its final report by March 31, 2022. The Chief Secretary, Haryana may also file action taken report in pursuance of order of this Tribunal dated 20.07.2021 and report of the joint Committee by March 31, 2022. The reports may be filed by email at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

List for further consideration on 05.04.2022.

A copy of this order be forwarded to the joint Committee, MoEF&CC, CPCB, (Regional Office, Chandigarh), National Disaster Management Authority, GoI, Director General of Mines Safety, GoI, PCCF (HoFF), Haryana, SEIAA, Haryana, State PCB and District Magistrate, Bhiwani and the Chief Secretary, Haryana by e-mail for compliance.

I.A. No. 161/2021 is intervention is allowed so as to permit making of submissions during the hearing.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Brijesh Sethi, JM

Prof. A. Senthil Vel, EM

Dr. Afroz Ahmad, EM

January 18, 2022  
Original Application No. 169/2020  
(I.A. No. 161/2021)  
AB