

Item No. 03

(Court No. 1)

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

(By Video Conferencing)

Original Application No. 01/2022

In re: News item published in The Indian Express Newspaper dated 02.01.2022 titled "**Four killed in Haryana mine landslide**"

Date of hearing: 03.01.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

ORDER

1. The matter has been taken up on basis of information in media¹ to the effect that four persons have died and several others injured in a landslide at Dadam Mining Zone in Tosham Block of Bhiwani District of Haryana on 01.01.2022 at 08:30 am. Death is due to large scale unscientific mining. Porcelain machines were being illegally used. Since the Project Proponent (PP) is accountable under the principle of absolute liability laid down inter-alia in *M. C. Mehta & Anr. v. Union of India* (1987) 1 SCC 395, it is necessary to ascertain whether the deceased have been given adequate compensation. Further, it is necessary to ascertain the status of compliance of environmental norms and extent of damage to the environment. Depending upon facts found, the Tribunal may be required to issue directions for restoration of environment and remedial action for

¹ News item dated 01.01.2022 published in The Indian Express News titled "Four killed in Haryana mine landslide"

violation of environmental norms, apart from payment of compensation to the heirs of the deceased and the injured.

2. We note from the record that the issue of illegal mining by M/s Govardhan Mines and Minerals, Hisar at Dadam Hills, Tosham, District Bhiwani is already subject matter of consideration before this Tribunal in OA No. 169/2020, *Kuldeep Singh vs. State of Haryana & Ors.* Vide order dated 20.07.2021, the Tribunal considered the matter in the light of inspection report dated 06.10.2021 by a six-member Committee holding the PP responsible for the violations. Show cause notice for closure of the mine was issued on 08.10.2020 by the State PCB. Illegal mining was also noted in the report of the Forest Department dated 21.12.2020. The Tribunal observed:

“10. 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 30th 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.*

11. *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.*

12. *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-*

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

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.

13. 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. From the above, it is seen that there are allegations of unscientific mining, supported by material which calls for remedial action, including closing of deep mining pits and compliance of laid down norms for future and accountability for the past violations, which remains to be done.

4. Having regard to the incident reported in media, resulting in loss of lives and injuries, it is necessary to constitute eight-member joint Committee comprising of nominees of 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. The CPCB and State PCB will act as nodal agency for coordination and compliance. The joint Committee may meet within two weeks, undertake visit to the site and interact with the stakeholders. Except visit to the site as and when necessary, other proceedings may be conducted online, if necessary. The Committee may ascertain the extent of violations, extent of damage to the environment and to the human lives, extent of compensation paid and payable, safety precautions taken and required to be taken, steps to prevent recurrence of such happenings in future by the PP and the statutory regulators. The report may be furnished to this Tribunal within two months 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. A copy of the report also be hosted on the website of CPCB, to enable the PP to furnish its comments, if any, before the next date. The Committee may consider such earlier reports of committees in respect of accidents due to violation of safety norms, in recent past, available on the website of the CPCB.

List for further consideration on 05.04.2022.

A copy of this order be forwarded to 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, by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Dr. Nagin Nanda, EM

January 03, 2022
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