

Item No. 01

Court No. 2

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

Original Application No. 1086/2018
(Earlier O. A. No. 140/2014)

Nanga Ram Dangi

Applicant(s)

Versus

Secretary, Department of Environment
& Forests&Ors.

Respondent(s)

Date of hearing: 27.05.2019

CORAM:

**HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

For Applicant(s)

Ms. Katyayni, Advocate

For Respondent(s)

Mr. D.K. Devesh& Mr. Shailya
Nanda Mishra, Advocates for Dr.
Manish Singhvi, Sr. Advocate for
State of Rajasthan
Mr. Raj Kumar, Advocate for
CPCB
Mr. S. P. Sharma, Mining
Engineer, Udaipur

ORDER

The Learned Counsel for the applicant submits that she has received a copy of the compliance report filed by the respondent. She prays for some time to study the report and respond to it, if required.

While considering the original application no. 140/2014, we had heard the Learned Counsels for the parties at length. Even the Director Mining and Geology, State of Rajasthan along with his team of officers was present on that day.

After considering in detail the facts on the issue involved herein and by tracing out the events since 2012, it was also observed that instead of stopping illegal mining, it was on a rise in State of Rajasthan which is clearly reflected from the fact that during the period of five years, from 2012 to 2017, there are said to have been 72 cases of illegal mining. But in the current year i.e. August 2017 to August 2018, during one year alone, there had been 70 cases of illegal mining.

In the circumstances, the Department of Mining and Geology was directed to take appropriate steps so as to ensure that no mining is carried out in the catchment area of Jaisamand lake. We had specifically observed that merely recovering of penalties is not the only duty of the Department but also to ensure that no illegal mining is carried on. We had taken into consideration the peculiar location of Jaisamand Lake and its ecology, which is only 70 -80 kms. from the head office of the Mining Department and directed the department to take immediate steps so that the area is totally free from illegal mining activities. In respect of eight villages which fall in the catchment area of the lake, we had also directed that they should be free from any sort of mining. It was made clear that if any illegal mining takes place again then the officials of the Department shall be held responsible and accountable. We had also noted the order passed by Hon'ble High Court of

Rajasthan on 21.10.2013 that Jaisamand Lake area is to be free from mining operations.

The Director of Mining and Geology and its officers had themselves accepted the fact that there are 1221 mining operations which were going on in the District for which the Department was to take immediate steps in accordance to law, including imposition and recovery of penalties. It was also made clear that while doing so they will also take into account amount of compensation/ damage caused to the environment.

For the purpose of implementing the directions, we had granted three months time to the Director of Mining and Geology, Udaipur to ensure that illegal mining activities in the catchment area of Jaisamand Lake are permanently stopped. It was ordered that the Department shall submit a report to the Tribunal on or before 01.01.2019. In other words, the Department was given sufficient time of three months to implement the directions. Further the Tribunal had accepted the prayer of the applicant and ordered in exercise of our power under Section 15 of the NGT Act, 2010, that the Department shall recover the amount of Rs. 1 lakh from each person who is found to do illegal mining. The amount of compensation was to be deposited with Divisional Forest Officer who was to utilize the same for restoration of the ecology etc. of the area. In addition to it, we had directed the Divisional

Commissioner, Udaipur and Inspector of General of Police, Udaipur Range to provide adequate assistance to the Department, as and when required and demanded for.

Purporting to be in compliance of our order dated 19.09.2018 a report was submitted by the Department in the month of March, 2019. On perusal of the report as well as submissions made on behalf of the Department, it was clear that neither the illegal mining had been stopped nor the payment of environmental compensation had been recovered from the miners who had been doing illegal mining. Therefore, the respondent-Department was directed to file a detail report and the same has been done on 08.04.2019. A bare perusal of the report further fortifies the fact that except three persons, neither environmental compensation has been paid by the concerning persons who were involved in illegal mining nor illegal mining has been stopped.

It is rather regrettable that despite of the order of 19.09.2018 having been passed, in the presence of Director of Mining and Geology and its officers, the compliance of the said order has not been done at all. In order to illustrate as to what the Department has done so far, we would like to refer to the table attached to the report of April, 2019 which consist of 21 columns. It is noteworthy that at serial no. 4 it is mentioned that illegal mining was being carried on 05.04.2019 and therefore panchnama was

prepared. Similarly, another illegal mining was taking place on 03.01.2019, 27.03.2019 etc. which establishes the fact that even after the aforesaid order of 19th September, 2018 the Department had totally failed to stop illegal mining in Jaisamand Lake. In our order, we had also directed that in case it was so required, the Department may take help from the Divisional Commissioner, Udaipur and Inspector General of Police, Udaipur Range. But there is nothing before us which shows that any such efforts were ever made by the Department. The fact remain that illegal mining is continued after passing of our order in September, 2018. The notice for compensation to be given by 31st March, 2019, as per annexure A-15 appended to the report and issued on 22.02.2019, to show that a team has been constituted for the purpose of stopping illegal mining only after five months from the initial order.

In the aforesaid circumstances, when the original application had been finally decided on 19.09.2018, proceedings thereafter was for execution of the said order. Despite of sufficient time having been given to the Director of Mining and Geology to execute the order, they have not only failed to do so by recovering the environmental compensation but could not stop the illegal mining which is still being carried on. More importantly the said fact is establish from the report given by the Department itself.

Therefore, we deem it proper to give notice to the Mining Department through Director Mining and Geology, Mr. S. P. Sharma, Mining Engineer, Mining Department is present before us, under Section 51 of CPC, 1908, as to why the procedure for execution enumerated in it may not be followed to enforce the execution of the order dated 19.09.2018. The Counsel for Mining Department State of Rajasthan is directed to accept notice.

A copy of this order be sent to the Chief Secretary, State of Rajasthan and Additional Chief Secretary, Mining Department for their information, through e-mail, forthwith.

List the matter on 03rd July, 2019.

Raghuvendra S. Rathore, JM

Dr. Satyawan Singh Garbyal, EM

May 27, 2019

JG

