

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

Original Application No. 973/2019

(With report dated 18.12.2019)

Shujaat Hussain

Applicant(s)

Versus

Union Territory J & K

Respondent(s)

Date of hearing: 02.03.2020

CORAM:

**HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER
HON'BLE MR. SIDDHANTA DAS, EXPERT MEMBER**

ORDER

A report was sought from the District Magistrate, Anantnag and Jammu & Kashmir State PCB with reference to the allegation of illegal sand mining from Jhelam River affecting aquatic life without following environmental norms.

Accordingly, a report has been filed by the State PCB on 18.12.2019 mentioning the steps taken in the matter.

In view of the above, no further order is necessary except that the seized vehicles may be dealt with as per order of this Tribunal as modified recently vide order dated 19.02.2020 in *M.A. No. 16/2020 In Original Application No. 44/2016, Mushtakeem v. MoEF & CC & Ors.*, as follows:

"5. Having regard to the above practical difficulty, we modify the orders dated 05.04.2019 and 26.07.2019 as follows:

Sr. No.	Category of Vehicle	Penalty Amount
1	Vehicles/Equipments/Excavators with showroom value more than Rs. 25 lacs and less than 5 years old.	Rs. 4 lacs
2	Vehicles/Equipments/Excavators with showroom value more than Rs. 25 lacs and more than 5 years but less than 10 years old.	Rs. 3 lacs
3	For the remaining Vehicles older than 10 years/Equipments/ Excavators which are otherwise legally permissible to be operated and not covered by Serial No. 1 and 2.	Rs. 2 lacs
<p>Note – I: On repetition of the offence by the same vehicle/ equipment, Order dated 05.04.2019 will be applicable.</p> <p>Note – II: The option of release may be available for a period of one month from the date of seizure and thereafter, the vehicles may be confiscated and auctioned.</p>		

6. *The State may issue an appropriate Office Order/Rule to the above effect and publish the same. Needless to say that any private contract between a financier and a debtor cannot affect the States' sovereign power to protect the environment and take incidental coercive measure for enforcement of rule of law. Lien of the State will override any private interest. The above compensation regime will be over and above any existing Rules or provisions. The amount collected may be remitted to the State PCBs/PCCs for being utilized for restoration of the environment.*

7. *The above course of action will be permissible to all the States at their option.*

A copy of this order be sent to all the Chief Secretaries of all States/UTs, PCBs/ PCCs, CPCB and MoEF&CC."

A copy of this order be sent to the Chief Secretary, Jammu & Kashmir and the State PCB.

The application is disposed of.

Adarsh Kumar Goel, CP

Dr. Nagin Nanda, EM

Siddhanta Das, EM

March 02, 2020

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