

Item Nos. 03 to 05

(Court No. 1)

BEFORE THE NATIONAL GREEN TRIBUNAL

(By Hybrid Mode)

Original Application No. 667/2018

Mahendra Singh

Applicant

Versus

State of Haryana & Ors.

Respondent(s)

With

Original Application No. 679/2018

Tejpal

Applicant

Versus

State of Haryana & Ors.

Respondent(s)

With

Original Application No. 599/2019

Bishamber Singh

Applicant

Versus

State of Haryana & Ors.

Respondent(s)

Date of hearing: 18.01.2023

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

Applicant: Mr. Raj Kumar, Advocate

Respondent: Mr. Rahul Khurana, Advocate for the State of Haryana & HSPCB with Mr. Krishan Kumar, Regional Officer, HSPCB
Mr. Aman Bhalla, Advocate for CPCB
Mr. Tarun Gupta, Advocate for Shree Vinayak Stone Crusher

ORDER

1. This order will deal with Original Application Nos. 667/2018, 679/2018 and 599/2019. O.A Nos. 667/2018 and 679/2018 were earlier also being dealt with by a common order as shown by order dated 03.12.2020. O.A. No. 599/2019 was dealt with by a separate order earlier

but vide order date 3.12.2020, it was made clear that directions in O.A. No. 667/2018 will also apply to O.A. No. 599/2019. Issues in all the three matters are interconnected in terms of air and noise pollution due to crushing of stone or other such minerals in same area, in violation of norms and extraction of ground water in the water deficient area of District Mahendragarh, Haryana (dark zone), to the detriment of environment. In first two matters, crushing of stones is involved while in OA No. 599/2019, polluting activity is of grinding of minerals, which may be other than stones.

2. Order dated 03.12.2020 in O.A Nos. 667/2018 and 679/2018 deals with the facts and the background, including the order of the Hon'ble Supreme Court dated 02.11.2020 in *Civil Appeal No. 6368 of 2019* directing this Tribunal to dispose of the matter, preferably within four weeks, leaving open for the parties to argue all points before this Tribunal. The order also contains substantial discussion on the issue. The Tribunal considered the Notification of the State of Haryana laying down siting criteria for the stone crushing activities and environmental norms and proceedings before the Punjab and Haryana High Court on the subject of distance criteria for location of such units. The Tribunal also considered the status of air pollution in the NCR region and its adverse health impact so as to consider prohibition/regulation of activities adding to pollution load to the detriment of public health. Reference was made to the earlier order of the Tribunal dealing with the closing/restricting coal fired brick kilns, having regard to the data of air pollution. It will be appropriate to reproduce certain parts of the said order.

3. We may first reproduce the charts about the laid down air quality standards and nature of health impact of the increased air pollution,

which have been extracted from the judgement of the Hon'ble Supreme Court in *Arjun Gopal & Ors. v. UOI & Ors*¹:

“Table 1

AQI	Associated Health Impacts
<i>Good (0-50)</i>	<i>Minimal impact.</i>
<i>Satisfactory (51-100)</i>	<i>May cause minor breathing discomfort to sensitive people.</i>
<i>Moderately polluted (101-200)</i>	<i>May cause breathing discomfort to people with lung disease such as asthma, and discomfort to people with heart disease, children and older adults.</i>
<i>Poor (201-300)</i>	<i>May cause breathing discomfort to people on prolonged exposure, and discomfort to people with heart disease.</i>
<i>Very Poor (301-400)</i>	<i>May cause respiratory illness to the people on prolonged exposure. Effect may be more pronounced in people with lung and heart diseases.</i>
<i>Severe May (401-500)</i>	<i>May cause respiratory impact even on healthy people, and serious health impacts on people with lung/heart disease. The health impacts may be experienced even during light physical activity.</i>

Table 2

AQI Category, Pollutants and Health Breakpoints								
AQI category (Range)	PM₁₀ 24-hr	PM_{2.5} 24-hr	NO₂ 24-hr	O₃ 8-hr	CO 8-hr (mg/m³)	SO₂ 24-hr	NH₃ 24-hr	Pb 24-hr
Good (0-50)	0-50	0-30	0-40	0-50	0-1.0	0-40	0-200	0-0.5
Satisfactory (51-100)	51-100	31-60	41-80	51-100	1.1-2.0	41-80	201-400	0.5-1.0
Moderately polluted (101-200)	101-250	61-90	81-180	101-168	2.1-10	81-380	401-800	1.1-2.0
Poor (201-300)	251-350	91-120	181-280	169-208	10-17	381-800	801-1200	2.1-3.0
Very poor (301-400)	351-430	121-250	281-400	209-748*	17-34	801-1600	1200-1800	3.1-3.5
Severe (401-500)	430+	250+	400+	748+*	34+	1600+	1800+	3.5+

4. Report dated 23.07.2019 filed by the joint Committee of the Deputy Commissioner, the District Town and Country Planning department, the Divisional Forest Officer Mahendergarh and the Haryana Pollution Control Board considered in the earlier order is reproduced below for ready reference:-

¹(2017) 1 SCC 412

“

a. Siting criteria

1. There are total 158 Nos. of stone crushers; out of these 118 Nos. are installed/operational and remaining 40 Nos. of stone crushers are under installation at various stages after obtaining CTE from HSPCB on the basis of siting norms reports submitted by the Tehsildar and DFO as per Notification 11.05.2016. Out of 118 Nos. of installed/operational stone crushers, **46 Nos. of stone crusher are not meeting the siting criteria**, as mentioned in Table-2 (Sr. no. 1 to 46). Out of 40 Nos. of stone crushers which are under installation at various stages, **26 Nos. of stone crushers are not meeting the siting criteria as per notification dated 11.05.2016 & Notification dated 04.04.2019** as mentioned in Table-2(Sr. No. 47 to 72). Brief details of total 72 Nos. non complying stone crushers is described as below in Table-4:-

Table-4

Sr. No.	Remarks	Nos.
1.	Total Non-Complying stone crushers as per siting criteria	72
2.	Action already taken CTE Revoked Closed by Board due non compliances under Air Act, 1981 CTE Revocation under process Closure and CTO Revocation under process	31
3.	Show cause notices issued non complying units identified after DGPS measurement	29
4.	No Action required at this stage Operational stone crushers granted time for shifting (Annexure II &III) *Already closed by Board described above at Sr. No. 2 =04+01* Under process stone crusher shifting policy w.r.t. notification 07.11.2017 = 08	12

2. **HSPCB has already revoked consent to establish of following 03 Nos. (as mentioned in Table-2, at Sr. No. 70 to 72) stone crushers which are also individual respondents in OA No. 667 of 2018 titled as Mahendra Singh Vs. State of Haryana and Ors. and OA No. 679 of 2018 titled as Tejpal Vs. State of Haryana and Ors. filed before Hon’ble National Green Tribunal respectively:-**

- i) M/s. DEV SHRI KRISHNA STONE CRUSHER Khewat No. 45, Khatoni No. 53, M.No. 12, Kila No. 25/2 (3-13) M. No. 15, Kila No. 5 min East (7-0) Total 10 Kanal 13 Marla, Village-Karota, Tehsil-Narnaul, Distt. Mahendragarh.
- ii) M/s. Unique Stone Crusher, Khewat No. 15, Khatoni No. 15, M. No. 11, Kila no. 11/2(2-15), 20(7-12) & 21/1 (6-9) Total 16 Kanal 16 Marla, Vill-Karota, Narnaul, Distt. Mahendragarh.

iii) M/s. KSY BUILDCON, Khewat No. 47, Khatoni No. 68, M. No. 9, Kila no. 15/2(3-16), 16(7-19), 24/1/1(0-16), 25/1/1(0-18) Total 13 Kanal, 09 Marla at Vill- Khatoli Jat, Nangal Chaudhary, Distt. Mahendragarh. Copies of CTEs revocation order is attached as Annexure-XIII to XV.

3. **HSPCB has initiated action for closure and revocation of CTE/CTO as applicable against all those 29 stone crushers (s mentioned in Table -2, at Sr. No. 1 to 24 & 68 to 72) whose parameters were not accordance with measurement done earlier through Shazra & also are not meeting siting criteria as per the fresh measurement report with DGPS.**
4. **HSPCB has also issued show cause notices for closure and revocation of CTE/CTO on 23.07.2019 as applicable under provisions of sub section 4 of section 21 of Air (Prevention and Control of Pollution) Act, 1981 against all other 29 stone crushing units (as mentioned in Table-2, at Sr. No. 31 to 42 & 51 to 67) which were found non-complying with the report (submitted by Tehsildar on 27.07.2019) after DGPS measurement and further action shall be taken accordingly.**
5. **Two stone crushers (as mentioned in Table-2, at Sr. No. 29 to 30) have already been closed & sealed by Board due to non-compliance under Air Act, 1981.**
6. **Five stone crushers (as mentioned in Table-2, at Sr. No. 25 to 29) have already been granted time for shifting/relocation as per notification 11.05.2016 and Govt. Order 11.06.2019, out of these one stone crusher mentioned in Table -2 at Sr. No. 29 has already been closed & sealed by Board due to non-compliance under Air Act, 1981.**
7. **Eight stone crushers (as mentioned in Table-2, at Sr. No. 43 to 50) are not meeting siting criteria only by the municipal limits notification dated 07.11.2017 of Urban Local Bodies. If draft Urban Local Bodies Notification, dated 08.03.2019 will be finalised as such, then all these 8 stone crushers will fulfil the siting criteria. Further, decision of Govt. of Haryana regarding policy for shifting such stone crushing units as proposed by HSPCB is yet to be finalised by the Govt. of Haryana.**

b. Mechanism for drawl of Water

1. **Twenty Nos. of operating stone crushers are not taking treated water from STP of PHED as per detailed list provided by PHED (Annexure-XVI). HSPCB had issued show cause notices to submit the source of water being used and permission from any other permitted source. Only five units have submitted reply which was not found satisfactory. HSPCB has initiated action for closure and**

revocation of CTO against all these twenty stone crushers.

2. ***Eighteen Nos. of stone crushers falling in dark zone have installed illegal bore-well/tube-well in their premises without any permission from the GWC and illegal bore-well/tube-well has been sealed by the GWC, Narnaul as mentioned in Table-3.***

3. *Joint Committee in coordination with CGWA shall make an assessment of environmental compensation for illegal extraction of ground water by these stone crushers, in accordance with order of this Hon'ble Tribunal dated 30.11.2018 in Harinder Singh & Ors. Vs. Prateek Buildtech (India) Pvt. Ltd. & Ors and order dated 30.04.2019 in Ramkmar Vs. State of Haryana & Ors. (OA No. 1032/2018)."*

5. The discussion in the said order is as follows:-

"8. Substance of the submissions is that the joint Committee report with regard to violation of siting norms is against the order of the High Court and further decisions of the State. Though this Tribunal has repeatedly held that even subsequently laid down norms and safeguards will bind already established units to give effect to the principle of sustainable development and there is no vested right of a unit established against any future laying down of safeguards to give effect to the Constitutionally guaranteed citizens right to clean environment² However, to avoid conflicting orders and assuming the argument to be correct, compliance of environmental norms in terms of ambient air quality, health impact on the inhabitants and the carrying capacity of the area cannot be wished away. The only issue which is said to be pending consideration before the High Court is the siting criteria and not the issues of other pollution norms, background concentration of air quality and the carrying capacity in terms of the air quality which is being considered in the present matter by this Tribunal in terms of order dated 24.7.2019 noted earlier. The carrying capacity is a facet of sustainable development which, among others, will require consideration of air quality, inter-se distance and additive impact of operation of the stone crushers on the air quality and water in the light of the 'Precautionary' principle of environmental law to be enforced by this Tribunal under sections 20 and 15 of the NGT Act, 2010.

9. *It is well known that NCR is facing air pollution issues and, in winter months, the problem is further aggravated. Polluting activities, even if otherwise legitimate, are required to be stopped/regulated to avoid adverse health impact on account of air pollution. **Stone crushers add to air pollution.** On that account as per Graded Response Action Plan for Delhi & NCR (GRAP), the stone crushers in NCR have to be automatically closed when the air quality is 'severe'. Relevant portion of the Graded Response Action Plan is as follows:-*

² Order dt 14.8.2019 OA 53/2019, Tej Pal v state of UP, prs 5 to 8

“

Severe (ambient PM2.5 or PM10 concentration value is more than 250 µg/m ³ or 430µg/m ³ respectively)	Agency responsible/Implementing Agency
Close brick kilns, Hot Mix plants, Stone Crushers	Chairpersons Delhi Pollution Control Committee, State Pollution Control Boards of Haryana, Rajasthan, and Uttar Pradesh
	Superintendent of Police and Deputy Commissioner of respective districts

”

10. GRAP is self-operating but does not exclude assessment-based restrictions. **Permissibility of stone crushers depends on the available air quality and impact of operation of such stone crushers on the environment and public health in a particular area.** In this regard, we may notice the observations of the Hon’ble Supreme Court in some matters. In **M.C. Mehta v. Union of India, (1992) 3 SCC 256, at page 257**, it was observed:

“...Utter disregard to environment has placed Delhi in an unenviable position of being the world’s third grubbiest, most polluted and unhealthy city as per a study conducted by the World Health Organisation. **Needless to say that every citizen has a right to fresh air and to live in pollution-free environments.**

3. For the reasons to be recorded and pronounced at a later stage we order and direct as under:

(1) **The mechanical stone crushers established/operating in Lal Kuan, Anand Parbat, Rajokri, Tughlakabad and in any other area of the Union territory of Delhi shall stop operating/functioning with effect from August 15, 1992. No stone crusher shall operate in the Union territory of Delhi from August 15, 1992 onward.**

(2) **The mechanical stone crushers established/operating in Suraj Kund, Lakhampur, Lakkarpur, Kattan, Gurukul, Badkhal, Pallinangla, Saraikhaja, Anangpur and Ballabgarh areas of Haryana shall stop operating/functioning with effect from August 15, 1992. No stone crusher shall operate in the above-said area from August 15, 1992 onward.**

11. Again, in **M.C. Mehta v. Union of India, (2006) 11 SCC 582, at page 586**, it was observed :

“While conducting a study of environmental problems of the Aravalli hills and preparation of action plan for restoration of environmental quality in Gurgaon district, **the Central Mine Planning and Design Institute Limited (CMPDI), had inter alia noted that in the Aravalli hills, large number of activities, operations of stone crushers and deforestation**

besides other activities are causing environmental degradation. These mines are usually located in clusters in remote mineral-rich districts/areas where living standards are lower and understanding of people towards environmental impact is also poor. In the past, the mine operators took no note of environmental damage. In fact, they were not even conscious about it. The attitude of the mining community is to ignore the environmental concerns. In the majority of the cases, the environmental concerns are ignored for making quick profits. The small mines (less than 5 hectares) and the mining of minor minerals which are no doubt small individually but have damaging characteristics when in clusters e.g. the mines of granite, marble, slates, quartzite, etc. (falling under minor minerals) are no less damaging than the others, especially when the processing is taken into consideration. The mining activities result in disturbance of land surface, altering drainage pattern and land use, besides the pollution problems, which may lead to the environmental problems of air, water and noise pollution and solid waste pollution.”

12. In *People Right and Social Responsibility Centre v UoI*, (2010) 14 SCC 769, it was noted that **persons at and close to stone crushers suffer from Silicosis disease against which safeguards are to be adopted.**

13. In *Arjun Gopal & Ors. v. UOI & Ors.*³, the Hon’ble Supreme Court noted the **adverse impact of unsatisfactory air quality on health** and air quality grading as follows:

“5. In India, air quality standards are measured in terms of the Air Quality Index (hereinafter “AQI”). The AQI was launched in India on 17-10-2014 by the Ministry of Environment and Forests. According to the press release of the Press information Bureau of the same date, it consists of a comprehensive set of parameters to monitor and assess the air quality. The AQI considers eight pollutants (PM₁₀, PM_{2.5}, NO₂, SO₂, CO, O₃, NH₃, and Pb), and based on the levels of these pollutants six categories of AQI ranging from “Good” to “Severe” have been prescribed. The index also suggests the health effects of the pollution category wise. The gradation of AQI and its health impact is extracted below:

***.....Table 1 and 2 already reproduced above.

15. In *Arjun Gopal & Ors. v. UOI & Ors.*⁴, it was observed that the residents of NCR faced severe air quality standards which were worst in the World. It had serious adverse health impact. Life of citizens in NCR had been brought to virtual standstill. The Capital was smoked into an environmental

³ (2017) 1 SCC 412

⁴ (2017) 1 SCC 412

emergency of unseen proportions. It will be appropriate to extract some observations from the judgment:-

“4. The onset of winter and the festival/marriage season this year, presented to the residents of NCR severe concerns regarding the air quality standards. According to reports, the air quality standards in early November of this year were the worst in the world. It is reported that the PM_{2.5} levels recorded were “beyond scale” values (see India's Air Quality Among World's Worst Over Diwali Weekend: Report. 4-11-2016, Hindustan Times). The report indicates that 24-hour average of PM_{2.5} levels in South Delhi in 2016 were 38% higher than on the Diwali night of 2015. The day after Diwali, these levels were twice as high as the day after Diwali in 2015, crossing 650 µg/m³, which is 26 times above the WHO's standards or levels considered safe. Shockingly, on the morning of 1-11-2016, Delhi woke up to an average PM_{2.5} level of over 700 µg/m³ — some of the highest levels recorded the world over and 29 times above WHO standards. The report further states that the WHO guideline for 24-hour average PM_{2.5} levels is 25 µg/m³ and with an annual average PM_{2.5} level of 122 µg/m³, Delhi's air is the worst among global megacities with dense populations. We have particularly referred to the PM 2.5 levels because of the extreme effects and near invisibility of this type of particulate matter. PM_{2.5} or particulate matter 2.5 (PM_{2.5}), refers to tiny particles or droplets in the air that are two-and-one-half microns or less in width. It may be noted that the widths of the larger particles in the PM_{2.5} size range would be about thirty times smaller than that of a human hair. These particles primarily emanate from vehicle exhausts and other operations that involve the burning of fuels such as wood, heating oil or coal, and of course, use of fire crackers.

5. xxx.....xxx.....xxx

6. Reports indicate that AQI in Delhi was much above the severe standard, shooting off the AQI 500 mark on many days this November. On the day after Diwali, it was more than 14 times the safe limits (see Delhi's Pollution Levels Peaks at 14-16 Times Safe Limits, 31-10-2016, The Hindu). The adverse health effects of these hazardous levels of

pollution are only too evident from the table given above. We do not intend to refer to the multiplicity of reports and data on this front.

- 7. The hazardous levels of air pollution in the last few weeks has spared very few from its ill effects. The life of the citizens of NCR was brought to a virtual standstill, not to speak about the plight of the thousands of mute flora and fauna in NCR. Schools were declared shut, denizens of the city advised to stay indoors, construction activities stopped, power stations shut and ban imposed on burning of garbage and agricultural waste. The fall in air quality has had a significant impact on people's lifestyle as well. The rising costs to protect against air pollution are substantial. It has come to our notice that people are queuing up to purchase protective masks and air purification systems in the wake of dense smog all over the NCR. In short, the capital was "smogged" into an environmental emergency of unseen proportions.*
- 8. The adverse effects of these extreme levels of air pollution spare no one — the young, the old, the infirm and even the future generations. A study of the data of the Global Health Depository of the World Health Organisation reveals that India has the world's highest death rate from chronic respiratory diseases and that about 1.5 million people in India die annually due to indoor and outdoor pollution (see Delhi Wakes up to an Air Pollution Problem it cannot Ignore, 15-2-2015, The New York Times). The Kolkata-based Chittaranjan National Cancer Institute (CNCI), in a study commissioned and handed over to the Central Pollution Control Board, found that key indicators of respiratory health, lung function to palpitation, vision to blood pressure, of children in Delhi, between four and 17 years of age, were worse off than their counterparts elsewhere. It also found that more than 40% of the school children suffer from lung damage (see Landmark Study Lies Buried, 2-4-2015, The Indian Express). We note with apprehension that there are nascent studies that suggest that pollution can lower children's IQ, hurt their test scores and increase the risks of autism, epilepsy, diabetes and even adult-onset diseases like multiple sclerosis (see Holding Your Breath in India, 29-5-2015, The New York Times).*
- 9. It has been brought to our notice that the severe air pollution in the NCR is leading to multiple diseases and other health related issues amongst the people. It is said that the increase in respiratory diseases like asthma, lung cancer, bronchitis, etc. is primarily attributable to the*

worsening air quality in the NCR. The damage being caused to people's lungs is said to be irreversible. Other health related issues like allergies, temporary deafness are also on the rise. Various experts have pointed towards multiple adverse effects of air pollution on human health like premature deaths, rise in mortality rates, palpitation, loss of vision, arthritis, heart ailments, cancer, etc.

10. **When we refer to these extreme effects, we are not merely referring to the inconvenience caused to people, but to abject deprivation of a range of constitutionally embedded rights that the residents of NCR ought to have enjoyed. Needless to state, the grim situation of air quality adversely affected the right to education, work, health and ultimately, the right to life of the citizens, and this Court is constitutionally bound to address their grave concerns. May we remind ourselves, that this is not the first time that this Court was impelled into ensuring clean air for the citizens of the capital region (see M.C. Mehta v. Union of India [M.C. Mehta v. Union of India, (1998) 6 SCC 60], [M.C. Mehta v. Union of India, (1998) 9 SCC 589], M.C. Mehta v. Union of India [M.C. Mehta v. Union of India, (1998) 8 SCC 648] and M.C. Mehta v. Union of India [M.C. Mehta v. Union of India, (1998) 8 SCC 206].)**
16. *In the context of banning sale of crackers having adverse impact on the air quality, it was held that **even if there were several sources of pollution, a particular polluting activity could be prohibited.** No equality could be pleaded in this regard. Right to trade was not absolute and could be restricted for protection of Environment which was a specific Directive Principle of State Policy enforcement of which was a reasonable restriction on fundamental right to trade. The 'Precautionary Principle' of environmental law allows prohibition of a polluting activity even in absence of scientific certainty."*
17. *Carrying capacity is a facet of sustainable development. It is inherent in 'Precautionary Principle' as well as in 'Intergenerational Equity'. In MC Mehta v. UOI & Ors., construction activity in the catchment area of Badkhal were directed to be restricted/regulated to the level of Carrying capacity. It was observed that:-*

"Preventive measures have to be taken keeping in view of the carrying capacity of the ecosystem operating in the environmental surroundings under consideration."

18. In *Vellore Citizens' Welfare Forum v. UOI & Ors.*⁵, it was observed that quality of human life is to be improved within the carrying capacity to supporting ecosystem. Relevant extract is as follows:-

“10..... During the two decades from Stockholm to Rio “Sustainable Development” has come to be accepted as a viable concept to eradicate poverty and improve the quality of human life while living within the carrying capacity of the supporting ecosystems. “Sustainable Development” as defined by the Brundtland Report means “Development that meets the needs of the present without compromising the ability of the future generations to meet their own needs”. We have no hesitation in holding that “Sustainable Development” as a balancing concept between ecology and development has been accepted as a part of the customary international law though its salient features have yet to be finalised by the international law jurists.”

19. These observations are reiterated in (2006) 6 SCC 371.⁶

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24. The Tribunal has a mandate to follow these principles under Section 20 read with Section 15 of the National Green Tribunal Act, 2010 and can issue appropriate directions for enforcement of these principles, as laid down in *Mantri Techzone Pvt. Ltd. v. Forward Foundation and Ors.*,⁷ and the *Director General (Road Development) NHAI v. Aam Aadmi Lok Manch.*⁸ Environmental rule of law requires strict enforcement of these principles as laid down in *Hanuman Laxman Aroskar v. UOI*.⁹

25. This Tribunal in O.A. No. 681/2018, vide order dated 21.08.2020, dealt with the remedial measures for restoration of air quality in 122 Non-attainment cities, including Delhi where air quality is generally beyond norms. The Tribunal directed stopping polluting activities, including brick kilns and assessment of carrying capacity of urban areas to take policy decisions to control polluting potential activities beyond carrying capacity. The Tribunal observed:-

“3. The Tribunal noted the concern arising from such large scale air pollution which grapples the country in spite of statutory mechanism under the Air Act, directions of the CPCB under section 18(1)(b), dated 29.12.2015 and directions of the Hon’ble Supreme Court for control

⁵ (1996) 5 SCC 647

⁶ Para 66 to 76

⁷ 2019 SCC online SC 322, Para 43-47

⁸ AIR 2020 (SC) 3471, Para 75

⁹ (2019) 15 SCC 401

of **vehicular pollution¹⁰, industrial and construction sector pollution¹¹, power sector pollution¹² and agricultural sector pollution¹³** and orders of this Tribunal dealing with the said issues¹⁴. The Tribunal also referred to a Comprehensive Action Plan (CAP) for air pollution control for NCR prepared in pursuance of order of the Hon'ble Supreme Court dated 06.2.2017 by the Environment Pollution (Prevention and Control) Authority (EPCA) in consultation with the CPCB and Delhi Pollution Control Committee (DPCC) on 05.04.2017¹⁵ and Graded Response Action Plan (GRAP) notified by the MoEF&CC on 12.01.2017 stipulating specific steps for different levels of air quality such **as improvement in emission and fuel quality and other measures for vehicles, strategies to reduce vehicle numbers, non-motorised transport network, parking policy, traffic management, closure of polluting power plants and industries including brick kilns, control of generator sets, open burning, open eateries, road dust, construction dust, etc.**¹⁶

4. Implementation of prescribed norms in the light of legal provisions and court directions remains a challenge. The consequence is that India is being ranked high in terms of level of pollution compared to many other countries with enormous adverse impact on public health. Most victims are children, senior citizens and the poor.¹⁷

5. The GRAP categorises levels of pollution as severe plus, severe, very poor, moderate to poor. The action to be taken in such situations includes **stopping entry of trucks, stopping construction activities, odd and**

¹⁰ Rural Litigation and Entitlement Kendra, Dehradune and Others Vs State of U.P. Others (1985) 2 SCC 431, M.C. Mehta v. Union of India (2001) 3 SCC 756, M.C. Mehta v. Union of India (1998) 6 SCC 63, M.C. Mehta v. Union of India (2002) 4 SCC 356, M.C. Mehta v. Union of India (1998) 6 SCC 60

¹¹ M.C. Mehta v. Union of India (1997) 2 SCC 353, M.C. Mehta v. Union of India and Shriram Foods and Fertilizer Industries and Anr. (1986) 2 SCC 176, Rural Litigation and Entitlement Kendra, Dehradun v. State of U.P. (1985) 2SCC 431, Mohd. Haroon Ansari v. District Collector (2004) 1 SCC 491, Union of India v. Union Carbide Co. (1989) 1 SCC 674, M.C. Mehta v. Union of India (1992) 3 SCC 256, Sterlite Industries (India) Ltd. etc. v. Union of India & Ors.(2013) 4SCC 575 , M.C. Mehta v. Union of India (2004) 6 SCC 588, M.C. Mehta v. Kamal Nath (2000)6 SCC 213

¹² Consumer Education and Research Centre v. Union of India (1995)3 SCC 42, Dahanu Taluka Environment Protection group and Ors. v. Bombay Suburban Electricity Supply Company Ltd. and Ors (1991) 2SCC 539

¹³ Arjun Gopal and Ors v. Union of India and Ors (2017) 16 SCC 280, Dr. B.L Wadhwa v. Union of India and Ors (1996) 2 SCC 594

¹⁴ Vardhman Kaushik v. Union of India and Ors. O.A no. 21 of 2014, Vikrant Kumar Tongad v. Environment Pollution (Prevention and Control) Authority and Ors, O.A No. 118 of 2013, Satish Kumar v. Union of India and Ors, O.A. No. 56 (T_{HC}) OF 2013, Smt. Ganga Lalwani V. Union of India and Ors. O.A No. 451 of 2018

¹⁵ Report No.71, EPCA-R/2-17/L-21, Comprehensive Action Plan for air pollution control with the objective to meet ambient air quality standards in the National Capital Territory of Delhi and National Capital Region, including states of Haryana, Rajasthan and Uttar Pradesh.

¹⁶ S.O.118(E), Notification, Ministry of Environment, Forest and Climate Change

¹⁷ <https://www.thehindu.com/sci-tech/energy-and-environment/india-ranks-177-out-of-180-in-environmental-performance-index/article22513016.ece>, <https://www.ndtv.com/delhi-news/delhis-air-pollution-has-caused-of-death-of-15-000-people-study-1883022>.

even scheme of private vehicles, shutting of schools, closing of brick kilns, stone crushers, hot mix plants, power plants, intensifying public transport services, mechanized cleaning of road, and sprinkling of water, stopping the use of diesel generator sets, enhancing parking fees, etc.

6. The MoEF&CC has by various notifications put restrictions on activities in Coastal areas, Flood plains, Taj corridor Eco-sensitive zones, etc. in view of ecological sensitivity and impact of such activities on environment if such activities are carried out in unregulated areas. This needs to be extended to the NACs in view of impact on public health and environment to give effect to the 'Precautionary' and 'Sustainable Development' principles."

7to13..xxx.....xxxx.....xxx

14. According to the CPCB, draft framework has been prepared and SA study completed in four States (for 05 cities). Study was under progress in 14 States (for 54 cities), and at proposal stage in 10 States (for 37 cities). Methodology for carrying capacity has been shared with State PCBs/PCCs. Twelve (12) States/UTs have given the details of the carrying capacity and the remaining have yet to take necessary steps. CC/SA studies are pre requisite for meaningful planning to enforce environmental law. This pre-requisite should have been undertaken long ago. Air quality norms have been statutorily laid down under the Air (Prevention and Control of Pollution) Act, 1981 as well as the Environment (Protection) Act, 1986 and such norms are being flagrantly violated, which has been made by the Parliament a criminal offence. If the rule of law has to have meaning and guilty are to be punished, the policies of the State have to be based on scientific studies to contain polluting activities within the scope of Carrying Capacity."

26. Dealing with the issue of air pollution in manufacture of tiles at Morbi in Gujrat, vide order dated 6.3.2019 OA 20/17 Babubhai v GPCB, this Tribunal directed closure of industries operating with coal unless they shifted to natural gas. This was referred in the earlier order of this Tribunal in the present matter. It was further observed that while under the orders of the Hon'ble Supreme Court, **GRAP was laid down providing for closing of specified activities on crossing of air quality norms as laid down in the GRAP, the same did not debar consideration of further situations requiring closure/regulation.**

27. Thus, in view of report of the CPCB, at this stage **it is not possible to vacate direction not to permit operation of brick kilns in NCR beyond the carrying capacity found by the CPCB. All applications of the brick kiln owners**

seeking rejection of CPCB report and vacation of interim order against operation of brick kilns, without air quality assimilative capacity permitting such activity will stand rejected subject to further exploring viable options, including change to clean fuel like natural gas. We are conscious that brick kilns may be necessary. Object of this order is not to stop any legitimate business activity but to enforce the right to breathe fresh air which is right to file. The source apportionment studies, placed on record, show that brick kilns contribute 5-7% PM. Air pollution Control devices to be installed by the polluting sources including **the brick kilns need to comply not only the consent standards but are also the Ambient Air Quality norms and available assimilative capacity of the region. If the right to fresh air is not enforced, the consequences of brick kilns beyond carrying capacity of the air quality in the area are disastrous in terms of deaths and air borne diseases. This will be contrary to the mandate of the Constitution and the environmental law, particularly the principle of ‘Sustainable Development’. It is well established that deteriorated ambient air quality in terms of PM₁₀ and PM_{2.5} affects respiratory system particularly, the lungs which may make individuals more vulnerable to get other related fatal diseases.¹⁸”**

14. It is seen from above, that there was no carrying capacity in Mahendragarh District to sustain brick kilns. Thus, stone crushers can also not be allowed in absence of carrying capacity in terms of air quality to sustain operation of stone crushers. Precautionary principle has to be applied having regard to impact of air pollution on health. Right of citizens to breathe fresh air cannot be denied and right of operating stone crushers cannot get preference over and above right to life on specious plea that the stone crushers were set up as per siting parameters allowed by the State without study of impact of the carrying capacity. As already noted, the siting norms is only one of the issues and even if this issue is to be ignored for the time being, there has to be carrying capacity in terms of air quality.

15. Accordingly, we direct that the joint Committee with the addition of the CPCB to take further steps in terms of order of this Tribunal dated 24.07.2019, quoted earlier for compliance of environmental norms in the light of the carrying capacity of the area and the health impact of the operation of stone crushers on the inhabitants. The joint Committee may go by the order of the High Court and the State Government as far as siting criteria is concerned but close illegally polluting stone crushers in terms of all other environmental norms, including the air quality, illegal water extraction. The joint Committee may also study the health impact on the inhabitants and take remedial action. The State PCB will be the nodal agency for coordination and compliance. The

¹⁸ <https://airqualitynews.com/2020/08/13/the-link-between-air-pollution-and-covid-19/http://www.babushahi.com/full-news.php?id=107487>

statutory authorities taking coercive measures may ensure due process of law.

16. Let an action taken and status report in the matter be furnished 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.”

6. The matter was thereafter considered on 15.11.2021 in the light of action taken report filed by the State PCB dated 27.09.2021 which was dealt with as follows:-

“A. Status of Stone Crushing Units

- (i) A report mentioning the consent and operating status of the stone crushing units in the District Mahendergarh was filed before the Hon’ble NGT, vide dated 23.07.2019.
- (ii) The status of the stone crushing units has further been modified as on date (at the time of reporting), wherein the consent to establish and consent to operate were revoked by the Board and the same is enclosed. (Annexure- I).
- (iii) The stone crushing units which were found using ground water without obtaining requisite permission from Central Ground Water Authority (CGWA) have also issued Show Cause Notice for imposing Environmental Compensation (Annexure- II).
- (iv) The stone crushing units are mainly operating in different clusters and the detail of the same is given below:

Table-I

Tehsil	Name of the Clusters/ Villages	No. of Stone Crushing Units
Mahendergarh (34)	Village Garhi	21
	Village Zerpur	13
Narnaul (21)	Village Kultajpur	6
	Village Lutufpur	9
	Village Faizabad	1
	Village Mandlana	1
	Village Raghunathpura	1
	Village Karota	3
Nangal Chaudhary (107)	Village Gangutana	19
	Village Bakhrija	17
	Village Begopur	24
	Village Dholera	15

Village Jainpur	12
Village KhatoliAhir	13
Village Berundla	3
Village Panchnota	2
Village KhatoliJat	1
Village Bayal	1

- (v) It is also place in record by the Committee that out of 162 Nos. stone crushing units, the HSPCB has monitored 48 Nos. stone crushers for verification of the compliance prior to order Hon'ble NGT order dated 03.12.2020 and status of the same is also enclosed (Annexure- III). Out of 48 Nos. units it is submitted that only 05 Nos. found non-compliance in regards to installation of nonadequate air pollution control devices and with the prescribed emission standards. The detail is attached with Annexure- III.
- (vi) HSPCB has established 02 Nos. Ambient air Quality Monitoring Stations (Manual) at Nangal Chaudhary and Mahendergarh. The monitoring of PM 2.5 and PM 10 is undertaken as per the guidelines prescribed by CPCB. The Ambient Air monitoring network was commissioned from February, 2020, however sufficient data could not be gathered for its analysis due to pandemic.

B. Health Impact on the inhabitants

- (i) The concerned CMO vide letter No. PH/2021/72 dated 16.06.2021 has forwarded Air Borne Disease Report, District Mahendergarh for the period 2011 to 2020 (Annexure- IV).
- (ii) The report suggests that the number of cases were 21329 in the year of 2011 which has increase to 42309 in the year of 2019, an increase of 100 % cases in the span of 8 to 9 years.
- (iii) The report however has not indicated the cause of air borne Disease as neither has identified any specific reason of increasing the air borne disease.

C. Assessment of Carrying Capacity

- (i) This refers to the Table 1, mentioned at Para No. A (iv) and which identifies the three clusters of stone crushing units in the District Mahendergarh. The minimum distance between two clusters is found approx. 5 km and the maximum distance is approx. 40 km.
- (ii) The maximum stone crushing units are operating in the Tehsil of Nangal Chaudhary and considered to be within the area of 15 Sq. km. Further, the maximum number of stone crushing units operating in Villages Bakhrija (17), Begopur

(24) and Dholera (15) and therefore becomes the prominent source of air pollution.

(iii) The data of ambient air quality for assessment of carrying capacity are gathered as follows:

Table- II (Stone Crusher Operational)

Pre-Monsoon			
Particulars	Tehsil-Nangal Choudhary	Tehsil-Narnaul	Tehsil-Mahendergarh
Study Area (km ²)	225	49	225
Mixing height (km)	0.6362	0.6362	0.6344
Volume of air in the study area (km ³)	143	31	143
PM10 (µg/m ³)	669	298	Monitoring not undertaken due to non-operation of Stone crushing units
Total Estimated load of particulate matter in ambient air in the study area during study period (kg)	95667	9238	
Assimilative Carrying Capacity (kg)	14300	3100	
Supportive Carrying Capacity (kg)	-81367	-6138	

Table- III (Stone Crusher Operational)

Post-Monsoon			
Particulars	Tehsil-Nangal Choudhary	Tehsil-Narnaul	Tehsil-Mahendergarh
Study Area (km ²)	225	49	225
Mixing height (km)	0.4483	0.4483	0.4483
Volume of air in the study area (km ³)	101	22	101
PM10 (µg/m ³)	427	273	299
Total Estimated load of particulate matter in ambient air in the study area during study period (kg)	43127	6006	30199
Assimilative Carrying Capacity (kg)	10100	2200	10100
Supportive Carrying Capacity (kg)	-33027	-3806	-20099

Table- IV (Stone Crusher Non-Operational)

Pre-Monsoon			
Particulars	Tehsil-Nangal Choudhary	Tehsil-Narnaul	Tehsil-Mahendergarh
Study Area (km ²)	225	49	225
Mixing height (km)	0.555	0.555	0.6344
Volume of air in the study area (km ³)	125	27	143
PM10 (µg/m ³)	499	241	493
Total Estimated load of particulate matter in ambient air in the study area during study period (kg)	62375	6507	70499
Assimilative Carrying Capacity (ka)	12500	2700	14300
Supportive Carrying Capacity (kg)	-49875	-3807	-56199

Table- V (Stone Crusher Non-Operational)

Post-Monsoon			
Particulars	Tehsil-Nangal Choudhary	Tehsil-Narnaul	Tehsil-Mahendergarh
Study Area (km ²)	225	49	225
Mixing height (km)	0.463	0.463	0.463
Volume of air in the study area (km ³)	104	23	104
PM10 (µg/m ³)	380	220	411
Total Estimated load of particulate matter in ambient air in the study area during study period (kg)	39520	5060	42744
Assimilative Carrying Capacity (kg)	10400	2300	10400
Supportive Carrying Capacity (kg)	-29120	-2760	-32344

Note:- As there is no Sound Detection and Ranging (SODAR) station in district Mohindergarh, so atmospheric mixing height of Delhi (i.e. SODAR station located at CPCB, East Arjun Nagar, New Delhi) is considered for calculation.

(iv) The above data have been prepared basis on the Ambient Air Quality Monitored by HSPCB on 18 locations on dated 05.03.2021 to 08.03.2021 (Pre-Monsoon) and 24.08.2021 to 27.08.2021 (Post Monsoon) covering the cluster, the village phirni and distance from the stone crushing units. The data

reveal that the supporting carrying capacity in all the Tehsils of District Mahendergarh found to be negative. This implies that the total pollution generation due to industrial and domestic activities including transportation (auto emission and road dust etc.) is over the assimilative carrying capacity of the study region.

D. Recommendation

The following recommendations are made considering the status of stone crushing units and assessment of carrying capacity.

- a. *No new stone crushing units of any capacity shall further be allowed to establish & operate in the region including any expansion of the existing units.*
- b. *The stone crushing units which were reported not confirming to the notified siting criteria shall remain close and be shifted as per the Notification dated 11.05.2016 and amended 04.04.2019.*
- c. **The stone crushing units shall provide water sprinkling system and cover the conveyer the belt to ensure minimum dust generation from their operation for further improvement of air quality. It is also recommended that the units shall provide telescoping chute at the level of loading/un-loading of the finished crushed material to avoid any suspension of the same.**
- d. **The stone crushing unit may provide concrete/pacca road to assess the crushing and transport area and provide adequate water sprinkling arrangement so as to minimise the dust formation.**
- e. *The Department of Health shall undertake regular survey of the workers and nearby inhabitants to ascertain the impact on inhabitants especially due to operation of stone crushing units besides other air polluting activities.*
- f. *A detailed study needs to be undertaken for ascertaining the number and capacity of stone crushing units that can be allowed to operate so as to bring the ambient air quality of the region within the notified standard. A source apportionment study may suffix the need.”*

7. On behalf of some of the affected units undertaking mineral grinding or stone crushing, including the Association of Crushers Owners and Employees, three separate written submissions have been filed on 08.11.2021. Two sets of written submissions in OA No. 667/2018 are by the stone crushers and are identical. Written submissions by mineral grinding units in OA No. 599/2019 are also in substance similar except that such minerals are smaller in size than stones. The submissions are based on the opinion of a retired Director of MoEF&CC consulted by the industry. The objections relate to methodology of working out the carrying capacity. **We have duly considered the said submissions and do not find any substance therein. The opinion states that mixing height data of Delhi has been taken which is 120 kms away from Mahendragarh. The carrying capacity has been assessed on the**

data of March and August at different locations. Stone crushers are not the only contributors to air pollution. We find that data of Mahendragarh has been separately taken. The opinion relied upon does not show any other data for Mahendragarh to establish that there is carrying capacity. Apart from criticizing the report, if the consultant is of the opinion that there is carrying capacity, the same should be shown with the support of the data compiled, if any, otherwise the opinion is without any tangible basis. As regards the submission of the mining grinding industries, only objection is that size of the minerals grinded is smaller than the stones. This objection has no substance in view of data of air pollution in the concerned area. Smallness of size of the mineral does not by itself rule out air pollution. As regards fulfilment of norms by individual units, the same cannot be seen in isolation, unless it can be shown that no addition is made to the existing excessive pollution load. Stand of the State PCB does not show assimilative air capacity of the area to sustain further contribution of pollution by the mineral grinding units. In any case whether mineral grinding units do not cause any pollution can be directed to be specifically looked into. Further, the PPs have not indicated source of water in absence of which the objection that water is being illegally extracted in the dark zone cannot be brushed aside.

8. In view of above the report and showing negative carrying capacity not only non-complying but also other polluting units may have to be closed unless it is ensured that there are adequate safeguards enabling operation of stone crushers without adding to the pollution load. In respect of units grinding minerals other than stones, same approach has to be adopted if they add to the existing pollution load. Safeguards can be maintaining distance from habitation and educational/health care institutions, inter se distance, limiting the number to sustainable level, afforestation/development of a green belt around the periphery of the area upto 25 meters from location of stone crushers and in any pockets of land available nearby to improve the micro climate and to act as barrier against air pollution. The District Administration may also undertake paving the roads in and around the crushing area in additional water sprinkling on regular basis in the interest of public health of the citizens affected by the air pollution generated in the process.

9. Let a six-member joint Committee of CPCB, State PCB, District Magistrate, Mahendragarh, jurisdictional Conservator of Forest, nominee of IIT Delhi with expertise on the subject of air pollution and a Pulmonologist, nominated by DG Health, Haryana meet within two weeks and ponder over the issue. The CPCB and the State PCB will be nodal agency for coordination and compliance. They may interact with the stake holders, including the representatives of the stone crushers, who may be informed about proceedings before this Tribunal by the State PCB, in coordination with any other concerned authorities, in an appropriate manner by e-mail or otherwise. Any expenses to be incurred will be borne by the State PCB, subject to further

orders. The District Magistrate may provide logistics for execution of the order. The Committee may give a report about the number of stone crushers and mineral grinding units which can be allowed and subject to what conditions, having regard to air pollution load and adverse impact on public health. The report may be furnished within three 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 which may also be uploaded on the website of the State PCB for information of all the affected stone crushers who will be at liberty to file their comments, if any, to the report before this Tribunal within 15 days of uploading of the report.

7. We note with regret that no report in terms of order dated 15.11.2021 was filed within the stipulated period of three months from the said order and only on 08.07.2022, after more than seven months, an interim status report was filed mentioning the allocation of work to different departments. Thereafter, on 08.11.2022, further status report was filed seeking more time for collecting the data. Finally, report dated 16.01.2023 has been filed after more than one year of the last hearing. Such delay in a sensitive matter of this nature where serious violations have been found has only helped the violators and damaged public interest and environment. The report mentions following actions:

- “1. Study of Health Impact:-** *The Civil Surgeon, Health Department, Narnaul has organized health camps in Mahendergarh at 70 crushers sites and 11 adjacent villages to study the effect of dust pollution on workers and villagers, focusing on respiratory diseases, Anaemia, Tuberculosis and Diabetes. The health camps were organised from 24.06.2022 to 02.07.2022. The report finds that **03% people have abnormal spirometry findings and 0.7 % have abnormal chest X-ray suggestive of pneumoconiosis, possibly due to dust pollution. It suggested that workers engaged in stone crushing activities, within and outside the plants, to use masks & eye protection measures** etc. The healths impact study report, dated 06.07.2022 is enclosed **Annexure- 3.***
- 2. Verification of Green Belt:-** *The Notification, dated 11.05.2016 has specified that “all stone crushing units shall provide a green belt along the periphery having avenue plantation of two rows after approval of plantation plan by the Divisional Forest Officer concerned”. It was discussed in meeting that all concerned Stone crushing unit who has submitted plantation plant & the same will be verify thereafter through conducting physical visits.*

The verification report is due for submission at the earliest.

3. **Use of Treated sewage:-** The Public Health Engineering Department has reported that treated sewage has been utilized by individual stone crushers by lifting it from Sewage Treatment Plants following an agreement with PHED, Narnaul. The department at Narnaul has further intimated status of units using treated sewage by stone crushing units for dust suppression and the treated sewage was drawn from STP located at Rewari Road, Narnaul. The report is enclosed as **Annexure- 4**.
4. **Development of Emission Inventory:-** As per the above order issued in OA for the preparation of the emission inventory of the 18-villages. The identification of the different sources was done during the reconnaissance tour of the study region. The road dust sampling was also done at 26-locations which were then experimentally analyzed in the laboratory for estimating the silt loading. A door-to-door household survey comprising of 137 houses was done in the 18 villages. Also, petrol pump survey of over 200 vehicles was also done for the study. The limited available data related to transportation of materials was obtained from Department of Mines and Geology, Haryana on 29.12.2022 and same was forwarded to IIT, Delhi for preparation of final report on the same. The IIT, Delhi has intimated that the report is under finalization and expected to be over by 15.01.2023 (**Annexure-5**).
5. **Illegal Extraction of Ground Water:-** An action has already been initiated in the past against a total of 18 stone crushing units. The show cause notices were issued on 06.04.2021 by the then authority i.e. by Central Ground Water Authority empowered to District Magistrate/Deputy Commissioner. The matter was also discussed with the members of the Committee as the Haryana Water Resource Authority is now constituted, and therefore Deputy Commissioner, Mahendragarh at Narnaul has forwarded all such matters to the Haryana Water Resources Authority recovery of Environment Compensation imposed on 18 stone crushers, found extracting groundwater without necessary permission. The Memo No. 7914/MA, dated 04.01.2022 is enclosed (**Annexure- 6**).
6. **Recharge of Ground water table:** - Haryana Irrigation and Water Resources Department, Narnaul and Panchayat & Development Department, Haryana have made following efforts to conserve the groundwater table in the District Mahendragarh.
 - 1.) There are 02 seasonal rivers flowing through district Mahendragarh i.e. Dohan River and Krishnawati River but due to scanty rainfall in the region, the rivers remain dry. Haryana Irrigation and Water Resources Department, Narnaul has executed a project to recharge the groundwater table by utilizing excess water available in the rainy season in there canals by connecting at 20 various

points of river with canal. List of the points is enclosed. (**Annexure- 7**). A total of 183 new ponds were made under the project and also connected to canals by providing concrete pipes for recharging.

- 2.) A total of 75 ponds (accumulated wastewater generated in the village) were identified and under renovation by the Panchayat and Development Department, Haryana in the district of Mahendragarh. List of the ponds is enclosed. (**Annexure- 8**)
- 3.) “Mission Mahendragarh Apna Jal” MMAJ had voluntarily doing job of water saving and plantation with public involvement, and estimated 100 Crore liters of water has been sent towards ground as to let it stand in talaiyas.

7. **Monitoring and Compliance by SPCB:-**

- 1). With regards to monitoring of Ambient Air Quality, at 03 different locations, the SPCB has installed two Ambient air Quality Monitoring Stations (Manual) i.e. **one at Nangal Chaudhary and other at STP, Mahendragarh to fulfill the criteria Ambient Air Monitoring. In addition, one Continuous Ambient Air Quality Monitoring Station has also been installed by SPCB at Mini Secretariat, Narnaul,** following the norms prescribed by CPCB in this regard. The data (February to November, 2022) captured by Continuous Ambient Air Quality Monitoring Station from is enclosed **Annexure- 9**.
- 2). The status of the stone crushing units has been updated and submitted as follows:- **The SPCB has taken actions such as closure, prosecution and imposition of Environment Compensation. Total, 13 stone crushers found non-complying the provisions under Air (Prevention and Control of Pollution) Act 1981, were Closed by the Board, other 31 Nos. CTO refused / revoked and found dismantled. An environmental compensation amounting to the tune of INR. 1,60,50,000 was imposed on 08 stone crushers. The assessment, imposing and recovery of environment compensation on the remaining unit are under process.** The prosecution action has been filed in Special Environment Court, Faridabad against 04 units found operating without units which were found operating violating various provisions of Air (Prevention and Control of Pollution) Act of 1981 and for remaining are under observations. List of Defaulting units is enclosed as **Annexure- 10**.
- 3). The status of the mineral grinding units has been updated and submitted as follows:- **The SPCB has taken actions such as closure, prosecution and imposition of Environment Compensation. Total 09 mineral grinding units found non-complying, were closed by the Board. Apart from closure action, Environment Compensation**

amounting of Rs. 1,76,37,500/- has been imposed on 08 Nos. mineral grinding units. The assessment, imposing and recovery of environment compensation on remaining 01 No unit is under process. The prosecution action has been filed in Special Environment Court, Faridabad against 08 Nos. units which were found operating violating various provisions of Air (Prevention and Control of Pollution) Act of 1981 & Guidelines dated 02.04.2012. List of Defaulting units is enclosed as **Annexure- 11.**

- 4) The status of the mine has been modified/updated as on date (at the time of reporting), wherein action taken by the Board against the defaulting units found violating the environmental norms were found and Environment Compensation imposed Rs. 3.0 Crore by the Hon'ble NGT vide order dated 11.11.2022 titled as Original Application No. 10/2021 titled as M/s Sanjay Kumar Vs. Union of India and same has been deposited with District Magistrate on dated 15.12.2022 (Copy is enclosed as **Annexure- 12**)
- 5) Further, **draft Notification, dated 11.11.2022 regarding stone crushers is also under consideration and a copy of the same was issued by Environment Department, Govt. of Haryana vide schedule-II on prescribing emission norms and pollution control measures required for stone crushing units the same is enclosed. (Annexure- 13) Wherein it was proposed that additional air pollution control measures by stone crushing units like laying of tiles in the entire area of the unit, fully covering their conveyors and installing fogger machines in their units, within a period of one year of issuance of the Notification.**

At present following recommendations were made:-

- 1) All Stone Crusher units will ensure to provide adequate green belt around the plant and DFO should physical ensure whether they are adequate or not? And accordingly, HSPCB will initiate further necessary action against the non-compliance units.
- 2) All stone crusher unit should strictly comply with directions issued by Environment Department, Govt. of Haryana, vide Stone crusher notification 11.05.2016 and amended from time to time and all mineral grinding unit shall comply guidelines dated 02.04.2012 issued by the HSPCB.

After receiving IIT Delhi report, needful shall be done and further course of action shall be decided and taken by joint committee constituted within 02 months time period.

Keeping in view of above, it is requested the Hon'ble NGT may kindly allow additional time upto March, 2023 to Committee to file its comprehensive report in compliance with its order.”

8. It is disappointing to note flagrant violation of law and attempt of authorities to cover up the same in violation of earlier orders of this Tribunal. It is difficult to understand reason for such blatant attempt on the part of concerned officers to help violators, who need to be dealt with as per law for sustainable development and protection of environment and public health, ignoring economic interest of violators. In spite of negative carrying capacity of the area in terms of air quality, large number of stone crushers are being permitted to continue. Air quality monitoring stations at Secretariat of Narnaul and STP of Mahendergarh have no relevance for determining air quality of the area where stone crushers are functioning. Giving irrelevant data from such stations only helps violators to take false plea that air quality in the area is good while data from area where stone crushers may show different picture. There is nothing to show that requisite green belts have been developed nor action has been taken against such blatant violations.

9. Dealing with similar situations of stone crushers illegally operating in adjoining Charkhi Dadri District of Haryana, the Tribunal by separate order passed today, observed:

“

10. In the light of above discussion, we direct remedial action for recovery of compensation for past violations, prohibiting illegally operating stone crushers till compliance and to the extent of carrying capacity.

11. To capture Robust data to the area, CPCB may install at least 5 more CAAQMS at suitable locations. It will be open to CPCB to install more, if found necessary. Pending setting up of CAAQMS, manual stations may be installed. The number of operating stone crushers be suitably reduced as directed earlier so as to be within the carrying capacity, maintaining appropriate *inter-se* distance as may be suggested by CPCB. Consistent with order dated 26.10.2021, from November to February, no stone crushing unit be allowed to operate in the area unless the air quality index is moderate and above i.e. below 200.

12. We also fix interim compensation at the rate of Rs. 20 Lakhs against each of the stone crushers operating in the area

on 'Polluter Pays' principle. Compensation will cover the period from 5 years prior to filing of this Application and till date. The amount is being fixed at floor level on conservative basis even if particular stone crushers may have operated for shorter period. This will apply to all 343 identified stone crushers as mentioned in para 5 of the report of the joint Committee dated 17.01.2023. The amount may be collected by the State PCB by coercive action on failure of deposit within one month. The amount be used for restoration of environment in the area. Final compensation be fixed by joint Committee of District Magistrate, Charkhi Dadri, Member Secretary, State PCB, CPCB, Forest Department and DFO. CPCB and State PCB will jointly act as nodal agency for coordination and compliance. The Committee may put all the stone crushers to notice of this order and if any stone crusher is aggrieved by order of this Tribunal may be at liberty to move this Tribunal. The units which have been identified as non-compliant may be closed forthwith. The units which are not identified but are operating in violation of norms may also be proceeded against for closure till compliance forthwith. The numbers of units which are to be allowed to operate should be fixed having regard to the carrying capacity. The exercise may be overseen by ACS Environment, Haryana.

13. Action taken report with compliance status as on 30.04.2023 may be filed by 15.05.2023.

List for further consideration on 22.05.2023.

Member Secretary, State PCB and District Magistrate, Charkhi Dadri may remain present in person by Video Conferencing on the next date."

10. Following the above, we direct that remedial action for recovery of compensation for past violations, prohibiting illegally operating stone crushers till compliance and to the extent of carrying capacity. To capture Robust data to the area, CPCB may install at least 5 more CAAQMS at suitable locations. It will be open to CPCB to install more, if found necessary. Pending setting up of CAAQMS, manual stations may be installed. The number of operating stone crushers be suitably reduced as directed earlier so as to be within the carrying capacity, maintaining appropriate *inter-se* distance as may be suggested by CPCB. Consistent with order dated 26.10.2021, from November to February, no stone crushing unit be allowed to operate in the area unless the air quality index is moderate and above i.e. below 200. We also fix interim compensation at

the rate of Rs. 20 Lakhs against each of the stone crushers operating in the area on 'Polluter Pays' principle. Compensation will cover the period from 5 years prior to filing of this Application and till date. The amount is being fixed at floor level on conservative basis even if particular stone crushers may have operated for shorter period. The amount may be collected by the State PCB by coercive action on failure of deposit within one month. The amount be used for restoration of environment in the area. Final compensation be fixed by joint Committee of District Magistrate, Mohindergarh, Member Secretary, State PCB, CPCB, Forest Department and DFO. CPCB and State PCB will jointly act as nodal agency for coordination and compliance. The Committee may put all the stone crushers to notice of this order and if any stone crusher is aggrieved by order of this Tribunal may be at liberty to move this Tribunal. The units which have been identified as non-compliant may be closed forthwith. The units which are not identified but are operating in violation of norms may also be proceeded against for closure till compliance forthwith. The numbers of units which are to be allowed to operate should be fixed having regard to the carrying capacity. The exercise may be overseen by ACS Environment, Haryana. Action taken report with compliance status as on 30.04.2023 may be filed by 15.05.2023.

List for further consideration on 22.05.2023.

Member Secretary, State PCB and District Magistrate, Mohindergarh may remain present in person by Video Conferencing on the next date.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

January 18, 2023

Original Application No. 667/2018 and connected matters.

AVT