

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

Original Application No. 667/2018
(M.A. No. 18/2019 & M.A. No. 19/2019)

WITH

Original Application No. 679/2018
(M.A. No. 1373/2018 & M.A. No. 1374/2018
M.A. No. 47/2019 & M.A. No. 48/2019)

Mahendra Singh

Applicant(s)

Versus

State of Haryana &Ors.

Respondent(s)

With

Tejpal

Applicant(s)

Versus

State of Haryana &Ors.

Respondent(s)

Date of hearing: 24.07.2019

(Compliance Report filed by DM, Mahendergarh in O.A. No.
667/2018)

CORAM:

**HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s):

Mr. Rajkumar, Advocate

For Respondent (s):

Mr. Anil Grover, AAG, Mr. Rahul Khurana,
Advocate with Deputy Commissioner, Narnaul

ORDER

1. The issue taken up for consideration in Original Application Nos. 667/2018 and 679/2018 is alleged illegal operation of stone crushers in District Mahendergarh, Haryana. Objection of the applicant is

against location of the stone crushers close to the plantation, reserved forest and educational institution. Second objection is that the area is critical/over exploited in terms of the ground water. There is scarcity of water even for drinking purposes. If the stone crushers operate, the ground water will be illegally extracted. Before any consent to operate is granted, the Project Proponent must be required to disclose the source of water for operation of the stone crushers and to mitigate dust and air pollution.

2. The Tribunal sought factual and action taken report from a joint Committee comprising representatives of the Deputy Commissioner Mahendergarh, District Town and Country Planning Mahendergarh, Haryana Pollution Control Board and the Divisional Forest Officer Mahendergarh. Two reports earlier submitted were found without application of mind and were rejected.¹

3. Today third report has been submitted which is also inadequate to deal with the matter. According to the report dated 23.07.2019, the observations and action taken are as follows:

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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*

¹ Order dated 12.12.2018, Paragraph 3
Order dated 09.04.2019, Paragraph 2

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 Tablke-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)."

4. The report shows the State Administration in poor light. The State Administration is the guardian of environment and public health. In this case it appears to be oblivious of its responsibility to check the damage to the environment and to act against the polluters. There is no explanation as to how potable water has been continued to be drawn without any restriction by the State Administration even though the area is critical in terms of ground water and in spite of such illegality brought to notice. It is also not clear as to how blatant violation of air quality norms is being allowed for permitting operation of stone crusher units at the cost of public health and environment. The report does not clarify as to how many stone crushers, if any, are legitimate which do not conflict with the environment. It appears that

the State Administration has not cared to fully verify the compliance of environment norms while permitting continuation of the stone crushers, even after proceedings before this Tribunal. Though the Deputy Commissioner and many officers are available, none of them is in a position to give precise information about the number of stone crushers still operating and on what basis they are being allowed.

5. In view of the above unsatisfactory state of affairs, we require the Deputy Commissioner, Mahendergarh to ensure immediate closure of all illegally operating polluting stone crushers in the area and initiation of action by way of prosecution and recovery of compensation which must be deterrent and relatable to the cost of restoration so that illegal activity is not profitable. The compliance of environment norms including the siting criteria, the ambient air quality, the carrying capacity of the area for permitting such polluting activity and health impact on the inhabitants may also be assessed. Such further compliance report be filed before the next date of hearing by email at judicial-ngt@gov.in.
6. The Deputy Commissioner, Mahendergarh along with the Regional Commissioner, Haryana State PCB may remain present on the next date also.
7. The Chief Secretary, Haryana may look into the conduct of the officers, who gave earlier reports, in withholding the information which has now been given and give a report before the next date by email at judicial-ngt@gov.in.

List for further consideration on 05.09.2019.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

July 24, 2019
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