

Item Nos. 01 to 03

Court No. 1

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

(By Video Conferencing)

Original Application No. 23/2017 (EZ)

(With report dated 21.09.2020)

Syed Arshad Nasar

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

WITH

Original Application No. 776/2018

Ramchandra Chaurasia

Applicant(s)

Versus

State of Jharkhand

Respondent(s)

WITH

Original Application No. 373/2019

Pradeep Kumar Singh

Applicant(s)

Versus

State of Jharkhand

Respondent(s)

Date of hearing: 23.09.2020

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

Respondent(s): Mr. Kumar Anurag Singh, Advocate with Mr. R.L. Bakshi, MS,
JSPCB
Mr. Mukesh Kumar, Advocate for CPCB

ORDER

1. This matter is being taken up in continuation of order dated 05.12.2019 relating to enforcement of environmental norms in the operation of quarrying and crushing units in Rajmahal hills of the Vindhya Mountains, District Sahebganj, Jharkhand. All the three matters involve identical issues and are being dealt with together.

2. The Tribunal, in its last order, noted that the area is rich in mineral resources. The mining companies or other entities are indulging in indiscriminate mining and operating stone crushers without due regard to the environmental norms. In this process, the hills are blown up. To remedy the problem, the Tribunal passed several orders in the last three years, including prohibiting illegal mining and non compliant stone crushing activities vide order dated 06.07.2017 followed by order dated 17.04.2018. Finally, a Committee was constituted comprising (a) Senior Scientist/ Engineer from CPCB; (b) Regional Office, EZ, MoEF&CC, Bhubneswar and, (c) Experts from SEIAA and Jharkhand State PCB to undertake study and give a report as follows: -

- “i) Undertake Carrying Capacity Assessment of the area viz-a-viz stone mines and stone crushing units.***
- ii) Undertake Ambient Air Quality Assessment in at least 10 representative locations of the area.***
- iii) Assess (a) the pollution control devices of the stone mining and stone crushing units in the area and the environmental damage caused and (b) the cost of restoration of such damage.***
- iv) Any other relevant studies cognate to the above.***

In undertaking the task, the Committee may co-opt expert/experts from any institution identified by it.”

3. The Tribunal noted vide order dated 07.05.2019 that the State PCB had failed to take adequate remedial action against illegal mining and crusher units and also failed to realize Environmental Compensation on 'Polluter Pays' principle. The Committee constituted by the Tribunal filed its report in O.A. 23/2017 (EZ) finding wide scale flouting of norms and also recommended that only compliant mining should be allowed purported the Bio-diversity of the area. On 11.09.2019, the Member Secretary, State PCB appeared in person and made a statement that there are 407 stone crushers and 300 stone mines. The specific detail of non-conforming stone crushers and mines were directed to be complied. Further, as per information given by the Member Secretary, 508 units had applied for Consent to Operate out of which 445 had been granted and the case of 24 had been rejected, while in the case of 39, applications for grant of Consent to Operate were under consideration. 293 stone crusher units and stone mining units had been found to be non-compliant during the inspections between 11.11.2019 to 17.11.2019 and, therefore, show cause notices had been issued. 106 units had been imposed with interim environmental compensations. Total environmental compensation of ₹6,33,57,000/- had been imposed by the State PCB cumulatively on the stone mines and stone crusher units out of which ₹2,36,25,000/- was upon 55 stone mines and ₹3,97,32,000/- against 141 stone crushing units. The District Task Force had demolished 34 illegal crusher units and sealed and demolished another 107 where illegal storage, processing and dispatch of minerals were being indulged in. 70 such illegal processing units (stone crushers) had been sealed and demolished. Apart from lodging FIRs, further 47 numbers of illegal stone crushers were also sealed and demolished as observed during the inspection undertaken on January, 2019.

4. Vide order dated 05.12.2019, the Tribunal observed:-

“18. Upon consideration of the entire facts and circumstances borne out of the record of O.A. No. 23/2017/EZ and O.A. No. 776/2018, it is more than evident that the State machinery and the regulatory authorities had allowed a free run to the operation of mines and crusher units resulting in the present sordid condition. Even after the present cases were filed, they had been reluctant in dealing with the matters as directed by the Tribunal. They had to be perforce made to discharge their responsibilities and perform the duties. The actions taken by them are as a result of repeated orders passed by the Tribunal from time to time. The reports filed by the regulatory authorities are found to be far from satisfactory, mutually conflicting, bereft of clarity and inconsistent. The Member Secretary, State PCB who had appeared before the Tribunal was unable to answer questions put by the Tribunal and chose to be adamant in not furnishing the requisite information with clarity. As would be quite apparent from what had been noted earlier, the State PCB and the District authorities including the District Mining Officer did not appear to be clear as to how many stone mines and stone crusher units are in operation. The Member Secretary was also unable to answer on the distance maintained between the stone crusher units as well as the individual leases granted for stone mines. Taking the figure provided by the Member Secretary on 11.09.2019, there are more than 407 stone crushers and 300 stone mines operating in the area notwithstanding the fact that actual figures have not been provided as admittedly detailed inventORIZATION of all such units have not been undertaken thus far.

19. The photographs placed before us by the Applicant demonstrate an alarming situation where hills had been found to have been flattened due to mining out of the stones. The terms of reference which had been referred to the Committee vide order dated 19.01.2019 have also not been considered by the Committee so far except to give general recommendations in the report filed through the CPCB on 30.04.2019.

20. As regards undertaking carrying capacity assessment, ambient air quality assessment and effectiveness of pollution control devices, it has been stated in a note of the Committee as follows:

“Regarding Carrying Capacity Assessment, Ambient Air Quality Assessment and effectiveness of Pollution Control Devices is a study of one year to arrive at a certain conclusion. This in-depth study requires ‘Secondary Data Base’ of at least last five years and one ‘Primary Data Base’ to arrive at a meaningful conclusion through ‘Time Series’ analysis. Already in the World Bank project-National Ganga River Basin Authority (NGRBA) a project on industrial monitoring and assessment is given to Jadavpur University. Considering the gravity, similar study may be awarded to Department of Environmental Engineering, Jadavpur University or any other reputed Institute.”

We find the observation of the Committee to be unreasonable and an attempt to delay the entire process.

21. The Member Secretary instead of answering the questions upfront chose to hedge around to deflect the questions posed to him. Considering the obvious ineptitude of the Member Secretary, option before this Tribunal is either to take coercive measures for failure and negligence of the Member Secretary or to require the Chief Secretary to look into the matter and take decision whether such important office as Member Secretary, State PCB should be headed by any other suitable, technically sound person with the ability of effective environmental governance. Such decision may be taken at the earliest so that public service functions assigned to such high office are discharged in a responsible manner.”

5. Finally, the Tribunal directed as follows:-

“26. We direct the Committee constituted vide order dated 22.01.2019 to place before us a table giving the details of the stone mines and the stone crushers separately containing the following particulars:

- a) Name of the mines and crusher units and its locational depiction on the map of appropriate scale.*
- b) Dates of grant of Consent to Establish, Consent to Operate and, also Environmental Clearance (EC) in respect of stone mines. The area of stone mines and distance with adjoining mine(s) may clearly be stated.*
- c) Adequacy of pollution control devices of stone crushing units.*
- d) Details of individual violations of conditions of EC/Consent to Operate w.r.t. mining units and details of violation of Consent to Operate w.r.t. Stone Crushing units.*
- e) Action taken against those which do not have EC and Consent to Operate and against those which have violated the conditions of EC/Consent to Operate w.r.t. mining units.*
- f) The amount of environmental compensation assessed and recovered along with the individual computation sheets indicating period of default.”*

6. Accordingly, a joint inspection report dated 12.03.2020 has been filed on 21.09.2020 which is signed by the representatives of State PCB, CPCB and MoEF&CC. It is stated that the SEIAA is not in existence in

State of Jharkhand as its tenure expired on 08.11.2019 and no new body has been constituted.

7. We have perused the report and heard the Member Secretary who is present in person. The report gives details of some of the crushing units and mining units inspected. All the crushing units and mines have not been inspected. In respect of the units inspected, the observations are as follows:-

“A brief description of the mines and crushers and inspected by committee members on 16.01.2020.

*The committee members visited the crushers and Mines in Bakudi. Details of inspected mines and crushers are given in table B & A respectively. Details of violations of the EC & CTO conditions in inspected mines and CTO conditions of the inspected crushers are provided in table 7 photo no. 1 to 20 is also provided in annexure for depiction of the conditions prevailing in mines & crushers. **Most of the crushers violated the rules of EC and CTO. No boundary wall or metal sheet was found in the boundary but Jial Das unit these were present. Scanty plantation in all the unit. Presence and effectiveness of pollution control equipments especially water sprayers were present but their implementation is poor . Stone mines visited in Bakudi Sahebganj by the committee and revealed that almost all the mines bench height and width was not proper. Unscientific and unsystematic mining was being done in all mines visited . Haul roads were kutcha inadequate arrangement for water spraying on haul road.***

A brief description of the mines and crushers and inspected by committee members on 17.01.2020.

I. *The committee members visited Mundli area in Mizrachowki, Sahebganj district. There were large number of crushers (approx 40-50 crushers) in that area (see photos 31 to 35). **Most of the crushers had no boundary wall or metal sheet boundary around their periphery (see photo 31 to 34). There was no plantation around the crushing units (see photo 31 to 35) except in a very few. The trees in the area were laden with dust. Roads were full of trucks (see photo 31 &32). Human habitation was not far away and appeared to be in impact zone of these crushers (see photo 31&34). There was mining activities carried out in the hills adjacent to these crusher units (see photo 32&33). Most of the crushers were not running and no officials/staff were present to explain***

the measures taken to comply the CTO conditions. Therefore presence and effectiveness of pollution control equipments especially water sprayers could not be ascertained.

One of the crusher units of M/s Maa Vaishnavi Stone works was visited. The crusher owners & staff were present and showed the status of compliance of CTO conditions. Water sprayers on some of the crusher transfer points in their unit were provided but they were not able to prevent dust emissions while running of crusher (see photos 24 & 25). Some plantations had been done (see photo 26 & 27). It was instructed to grow more plants/trees around the crusher periphery in all sides. **On one side metal sheet boundary has been provided but its height was not adequate (see photo 26). Rainwater harvesting/Groundwater recharge arrangements were not provided in the unit.** Some workers of the crushers units were provided dust mask and helmet (see photo 28).

A large number of crushers in Mundli, Mirzachaouki would have many adverse impacts on the environment of the area that are enumerated below:

- a) **Dust pollution and subsequently adverse impact on health of workers and nearby population (habitations & dwellings were not very far from the crusher area, see photo 31&34).**
- b) **There was no large water tank, water storage area in the crusher premises. Generally crusher units withdraw groundwater for water spraying, etc and therefore groundwater resources of the area may get depleted.**
- c) **Due to very large number of vehicles the roads gets chocked, traffic jams occurs i.e. roads are not wide for such high traffic load vehicular emissions also add to air pollution. Besides such large number of vehicles plying on road at night also may lead to noise pollution in the area and other sleep related problems.**

II. Some stone mines were also visited in Mundli & Bhutha Mauza in Mirzachouki by committee members on 17.01.2020. Details of mines are given in table B above Some of the observations are as given below:

- i. **In almost all the mines bench height and width was not proper. Bench height was very high compared to the loading equipment posing danger to man and machinery (see photo 21,22,29,30,37 & 38). Unsystematic, unscientific mining was being done in all mines visited.**

- ii. **Environmental & pollution control measures were inadequate or not followed such as: Sump/ rainwater storage area was not provided and if provided in one or two mines the sump is very small & water in them would finish within 1-3 months of end of rainy season(see photo 21). Haul roads were Kutcha and inadequate arrangement for water spraying on haul roads was done. Overburden/ waste material was also dumped improperly. Mine plan/drawing sections were not made available so it was difficult to ascertain whether the O/B dump is within the lease area or outside. O/B was dumped without any catch drain, siltation ponds & retaining wall in its periphery (see photo 36,40,44,45). No grassing and vegetation on O/B dump was done (see photo 36,40,44,45). There was no separate dump for top soil storage.**
- iii. **There was one illegal mine approximately 300 to 400 m from the Mines of M/s Star India Mines as reported by DMO, Sahebganj (see photo 43) where O/B was dumped improperly without catch drains, retaining wall.**
- III. **One of the crusher (of M/s Tarkeshwar Jaiswal) could be observed from the hills of Bhutha Mauza. The waste material which was used to fill & make the landfill was very improper thrown and lead to destruction of green belt in the surrounding, in fact the land fill was destroying the green belt in periphery (see photo 43). In the further low lying side there were two ponds and silt of O/B materials from mines and the M/s Tarkeshwar Jaiswal crusher would flow into these ponds in rainy season.**
- IV. **The committee members visited Kirtania, Mirzachowki where again there was a large number of crushers). Due to such large number of crushers there were numerous trucks moving, standing in the area which resulted in traffic jams, air pollution, noise pollution, etc. The details of mines and crushers inspected in this area in Mirzachowki is given in table A & B. Mining was done in hills. In almost all the mines bench height and width was not proper Bench height was very high compared to the loading equipment posing danger to man and machinery. Unsystematic, unscientific mining was being done, sump/ rainwater storage area was not provided and if provided (in one mine of CTS industries ltd.) the sump is small & water in them would finish within 3-4 months of rainy season. Haul roads were Kutcha and there was no arrangement for water spraying on haul roads. Overburden water material was also dumped im-**

properly. Mine plan/drawing sections were not made available so it was difficult to ascertain whether the O/B dumped is within the lease area or outside. O/B was dumped without any catch drain, siltation ponds & retaining wall in its periphery (see photo 63,67). No grassing and vegetation on O/B dump was done (see photo 63,67). There was no separate dump for top soil storage. Illegal mines of Md. Yashin was visited (see photo 55&56) in Belbhadri Mauza (details in table B). Illegal Mines adjacent to mine of M/s S.S Blackstone can also be seen(see photo 66). District Mining Officials & JSPCB members were not aware of the person responsible for illegal mining at that place (i.e adjacent to M/s S.S Blackstone Mine in Belbhadri Mouza). Thick dust layers seen on the floor of the Crusher units (see photo 54,62) would lead to dust propagation wherever wind blows. Housekeeping should be improved & floor should be cleared of dust regularly.

- V. One important point of observation at that place at other places in Sahebganj district was that crushers are established on the hill, hill slopes and therefore they are at higher altitude. The metal sheet used for boundary in the periphery become useless since it is in the lower portion of these crushers & therefore useless in control in propagation of dust to far areas.**

Crushers should be located in the bottom of the hills, in low altitude or else the brick wall should be high enough to prevent the dust from propagation to flung areas.

- VI. Objectionable location of crusher resulting in close cluster causing accumulation of pollution in excess of carrying capacity. Such close clusters of stone crusher should not be established in the first place , if at all necessary or unavoidable ,prior EIA with appropriate EMP is essential.**

A brief description of the mines and crushers and inspected by committee members on 18.01.2020.

- I. Some crushers were observed adjacent to the road in the Badi Kodarjana,Pratapganj, Dt: Sahenganj(see table 9 and see photo 68to 76). The crushers were within a distance of 50-100 m from the road. A railway line was also seen within 75-125m from the above crushers(68,72,76). Crushers were not running during inspection. One old fort was observed within 100-200 distance from one the crushing unit(see photo 76). Trees near these crushers were laden with dust (see photo 71,73 & 74). **There was no wall/metal sheet at****

the boundary of these crushers. No/negligible plantation was observed in the periphery of these crushers. Other details of these crusher units are given in table 9 District Mining officer & Regional Officer JSPCB informed that these crushers were sealed and FIR has been lodged against these crushers. Since these were illegal units, action had been taken on these crusher units (see table 9). However, during inspection it was observed that all the equipments & installations were in place & the crushers were operational before inspections. At some crushers the water was warm in tanks, DG set was in place in some other, etc. which indicated that even though action had been taken by district administration the crushers units have not stopped working implying that the closure action taken by authority has not been fully effective.

- II. **The committee member visited the Hill in Sundre Mauza. On the way to the hill one small mine pit was observed (see photo 77). DMO Sahebganj informed that it was on illegal mines. (see table above for lat,long) On the top of hill two legal mines of Shri Patru Singh & Shri Ramsewak Tiwary were observed (see table above). Scientific & systematic mining was not observed in these mines (see photo 79,81,82 &83). Bench height was too high which posed danger to men and machinery. Bench width was not proper/very less/negligible. There was no storage of water in the mines for water sprinkling to minimize/control dust emissions. Green belt development was not done. Overburden/waste material was dumped without any Catch drain, siltation ponds & retaining wall in its periphery. No grassing & vegetation on O/B dump was done. There was no dump for top soil storage. No water tanker or fixed water sprinklers was observed for water sprinkling system for control of dust emissions. Roads were kutcha roads. Mine plan/drawing/sections were not made available so it was difficult to ascertain whether the O/B dump is within the lease area or outside.**

Near the mines of Shri Ram Sewak Tiwary O/B material/waste was thrown over a natural nala flowing in the hills (see photo 84& 85). Even though water was passing through the waste material but it carried silt with it and ultimately silt would reach the main drainage system/river of the area. Below the hills there was a large lake (see photo86). Mines projects there should follow the conditions of EC and CTO so as to prevent pollutions in the lakes/rivers nearby.

On the hills near Sundre Mauza there were illegal mining also being carried out (see photo 87& 89). DMO, Sahebganj informed that action has been taken on the owners of some of the illegal mines

(see table 8). At one place of illegal mines different people mined different portions of the hills adjacent to each other (see photo 89) without any systematic & scientific approach. Between the low lying areas of two hills there was a local nala (jharna) as reported by some local people (see photo 88) but it had turned dry due to mining in the hills. The committee members also observed signs of many illegal mining operations that were carried out on that hill and tried to approach those portions for closer look. However at one place a truck blocked the road (see photo 91) and the members had to return from that place since driver of the truck could not be found and the truck covered the whole road.

- III. The committee members visited some illegal crushers near Mirzachowki Railway station (approx 0.5 km to 1 km from Mirzachowki Railway Station). **There were a 12-14 different crushers units at that place (see photo 92 &93). DMO Sahebganj informed that 12 crushers at that location (Bartalla in Mirzachawki) had been sealed and FIR lodged vide letter no. 551 dated 11.5.2019 on 01.03.2019 in Mirzachawki P.S but once again the user agency have made it operational violating the closure.**

An enlistment of environmental protection and pollution control measures, norms and good practices meant for stone crushers in Sahebganj, which have not been followed in general.

1. Location of crusher point. **Crushers should be located in the bottom of the hills, in low altitude or else the brick wall should be high enough to prevent the dust from propagation to far flung areas.**
2. Mostly the crusher units that were visited have installed some water spraying arrangements but the sprayers were ineffective. Dust emissions took place when the crushers were in running conditions. Some of the measures that can be taken up for minimizing the dust emissions are:
 - a. **Fogging/Misting arrangement at the hopper (where trucks unload the large stones) and other transfer points/loading/unloading points should be installed.** Although the system is bit expensive than general water sprayers it is very effective method for dust control. Also **consumption of water would be considerably reduced through the use of this system.**
 - b. **Use of G.I water pipes instead of plastic pipes that break with the rocks/boulders.**
 - c. **Mist guns should be kept/utilised in the crusher area so that even after fogging, water**

spraying some dust generates & emission occurs there mist guns suppress them.

- d. Roads should be made pucca within the crusher premises & the approach road from mine to crushers should also be made pucca.
 - e. **Availability of enough water for water spraying/sprinkling should be ensured. Large storage tanks may be constructed within the crusher area, Rainwater harvesting measures, accumulation of rainwater must be done so that there is no/negligible dependency on the groundwater, local rivers.**
3. Green belt development should be done in and around the crusher area.
 4. CGWB/State Ground Water Board should be consulted and measures taken for groundwater recharge/rainwater harvesting.
 5. Housekeeping should be done regularly, layers of dust should not be allowed to accumulate on floor of the crusher premises.
 6. Almost in all the premises of Crushers there is a huge accumulation of fines very small size crushed stones, huge dumps of such fines/ fine chips could be observed at many places (see photos 5,15,35,54). **The dumps of these fines/fine chips are very steep and there can be slope failures posing risk to man & machinery, etc. If the demand of those fines/fine chips in the market is very less/negligible they can be used for backfilling in the nearby mines. This can prove to be win-win situation for both mine owners and crusher owners.**
 7. JSPCB has made PM10 analyzers mandatory for the crushing units. It is recommended that stringent action including closure should be taken on these units that don't install PM10 analysers within one month/stipulated time given by JSPCB. JSPCB has given show cause to 340 Crushers during the month of November 2019 after their inspections. **After that Environmental Compensation have also be done on many crusher units in November 2019. Still during inspections on 16, 17, 18 Jan 2020 most of the CTO conditions are partially complied or are not complied. In such a case units can be given closure notice after hearing.**
 8. **JSPCB should not give CTE/CTO to large number of crushers in an area** (for example Mundli (30-40 crushers), Kirtania (more than 60 crushers) without proper carrying capacity study, cluster EIA-EMP (either by JSPCB or by Project proponents in the cluster).
 9. Mass awareness program should be conducted by JSPCB & District Administration explaining the adverse effects of dust on the lungs, human body, irreversible nature of diseases like silicosis, etc. Local people, workers, crushers owners should be the target audience of such mass awareness program. Awareness program should also include best practices/techniques to control dust in

crushers with photographs, scarcity of groundwater & methods to recharge it, greenbelt development & their use.

10. **Some of the illegal units in which action has been taken by district administration have again started to operate as was observed during inspection. It is recommended that for such illegal units demolition of crusher units & other penalties levied be done.**

An enlistment of environmental protection and pollution control measures, norms and good practices meant for stone mines in Sahebganj, which have not been followed in general

1. Mines should strictly follow mine plans. Bench height, width should be as per the mine plan approved. In any case bench height should not be more than boom height of the loading equipment. Bench width should not be less than the bench height. In almost all the mines bench height was more than stipulated posing danger to man & machinery. DGMS (Directorate **General of Mines Safety**) should look into the matter and actions may be taken for not following the Metal Mining regulations, Mine Rules, DGMS guidelines.
2. **Pillars should be installed to demarcate the mine boundary.** No O/B or waste material should be dumped outside the lease boundary. **Surface plan/drawing/sections should be made available to the inspecting officers (DMO, JSPCB, MoEFCC, DGMS, etc.) by mine owners during inspections**
3. Catch drains, siltation ponds, retaining walls in the periphery of O/B dumps should be made. Grassing and vegetation on the O/B dumps should also be done.
4. Sump/lower portion in a mine where rainwater can be stored in plenty so that it caters to all seasons should be made and water stored in it. This accumulated rainwater could be used for water sprinkling on haul roads & other places in mines and also used for green belt development, etc.
5. **At least two water tankers should be kept in the mines. A log book of water tanker should be filled/maintained mentioning registration number, running hours, kilometer reading, place of water sprinkling, shift wise. Log book of water tanker should be signed by competent person in the mine. Copy of log book should be sent with six-monthly compliance reports.**
6. Green belt development should be done in and around the mine.
7. Approach roads to and from the mine should be made black top.
8. Top soil should be stored on a site as submitted on the mine plan.
9. Backfilling should be practiced as per the approved mine plan. **Mine owners should keep in view that mine closures have to be done as per the progressive & final closure plan. DMO should also**

keep in mind that mine closure is extremely important aspect for sustainable and environment friendly mining and ensure that it takes place as provided in mine plan.

10. **The committee member visited Mundli, Bakudi, Sundre, etc. and observed that most mines were in the hills & were located near to each other. Mine leases were given adjacent to other/adjoning mine which means hill may be excavated altogether at one go (see table B and map. Fig 1). A decision may be taken by State Government/ District administration after discussion with experts in environment, ecology, as to whether mining is essential in the hills . If mining in hills is very essential the mine lease should be so given that mining is done in one portion of mine, mine operated, mine closure plan implemented and then other lease adjacent to previous mine lease executed. In such a manner the hills may not plundered haphazardly and DMO also can ensure implementation of mine plan/mine closure plan effectively.**
11. **Mass awareness program should be made including knowledge about mine plans, mine safety rules (involving DGMS), affect of dust on workers & local, affect of silt on nearby rivers/nallas, depletion of groundwater resource, systematic & scientific mining, etc., targeting mine owners and works, local people. JSPCB, DMO should conduct such awareness program taking the help of Indian Bureau of Mines and Directorate General of Mines safety. Model Mines following the condition of EC& CTO may be developed in all the tehsils where mining activity is taking place. Capacity enhancement of District mining officials and JSPCB RO should be done (both quantitatively & qualitatively) to ensure the implementation of conditions of EC& CTO.**

All the above stipulations are generally provided in EC & CTO but they were not found to be implemented in any of the mines visited by committee members. JSPCB has issued show case notices to 111 Mines in Sahebganj District. Also they have charged Environmental Compensation to Mines. But still the conditions of EC&CTO are not complied as can be seen from tables (B) and photos annexed with this report.”

8. Apart from the above report, the State PCB has filed an undated report under the heading ‘Additional information for the Hon’ble Tribunal w.r.t. the measures taken by the Jharkhand State Pollution Control

Board for curbing the air pollution caused by the stone mines/crushers in Sahebganj district' which states that Source Apportionment Study, Carrying Capacity Assessment and preparation of Clean Air Action Plan for Sahebganj district has been awarded to Centre for Environment and Energy Development (CEED), New Delhi. The preliminary Clean Air Action Plan for Sahebganj district has been submitted by them and the final report is expected by January 2021. It is further stated that total Environmental Compensation of INR 6,33,57,000/- had been imposed by JSPCB cumulatively on the stone mines and stone crusher units out of which INR 2,36,25,000/- was upon 55 stone mines and INR 3,97,32,000/- against 141 stone crushing units. An Environmental Compensation amounting to INR 1,66,71,000/- has been collected by JSPCB cumulatively from the stone mines and stone crusher units. Due to Covid-19 pandemic the Occupiers have requested for some extra time to deposit the Environmental Compensation. Accordingly, time has been granted till December, 2020 with a clause that interest as per the guidelines of CPCB will be charged on the Units till the deposition of the Compensation to the Board.

9. From the above, it is patent that the violation of environmental norms is rampant and in spite of orders passed by the Tribunal in the last three years, the situation has only deteriorated on account of failure of the statutory regulator in taking adequate action. The State PCB appears either to be in collusion or incompetent in performing its duties of taking stringent action against rampant violation of law. The damage to the environment and public health cannot be brushed aside and effective measures are required to be taken for realizing the guaranteed Fundamental Right to clean environment which is part of Right to life. The Tribunal has to enforce the principle of "Sustainable Development",

the “Precautionary Principle” and the “Polluter Pays” principle under Section 20 read with Section 15 of the National Green Tribunal Act, 2010. The environmental compensation assessed is highly inadequate, in spite of the parameters being clearly laid down, the State PCB has chosen to assess compensation equal to violation on or before 30 days though violation is more than three years in flagrant violation of the mandate of ‘Polluter Pays’ principle, to the benefit of the law violators. Thus, there is patent incompetence and /or collusion which needs to be looked into at appropriate level. If situation is not remedied, the State itself may have to be held accountable for causing huge loss to the environment. The loss apparently is to the extent of hundreds of crores. The agency hired is not shown to be having requisite credentials. The exercise falls short of the requirements. Such exercise must be done with the involvement of CPCB

10. In view of above, to enforce the rule of law and for protection of environment and public health, we are of the view that a scientific action plan is required to be prepared after in-depth study of the problem with a clear road map. For this purpose, we constitute a four-member Committee to be headed by an officer of the rank of Joint Secretary in the MoEF&CC, Government of India. The other three members will be the nominees of Indian Institute of Technology (IIT), Dhanbad, a Senior Officer of CPCB and Secretary Environment, Government of Jharkhand. The State PCB and the District Magistrate, Sahebganj will provide all logistic support to the Committee to undertake their task. It will be open to the Committee to co-opt any other Expert or Institution and to conduct the proceedings in such manner as may be found viable. CPCB will be the nodal agency for compliance. First meeting of the Committee may be held within one month. Restoration plan and mode of execution

may also be proposed. 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.

11. There is a need to examine as to how many stone crushers and mining units can be allowed and subject to what special conditions, having regard to the existing scenario already noted and to what extent the existing activities need to be regulated. It is made clear that in the light of joint Committee and observations of the Tribunal, with a view to protect environment, the State PCB must perform its duties of maintaining necessary vigil and close polluting activities not complying with the norms and permit them only when norms are achieved. The 'Polluter Pays' principle should be implemented effectively having regard to the cost of restoration, extent of damage and the deterrent element. The Chief Secretary may in light of the above observation to take steps to revamp the State PCB and file his own affidavit of compliance, failing which this Tribunal may have to take stringent action for enforcing the law.

12. A copy of this order be forwarded to the Secretary, MoEF&CC, Government of India, IIT, Dhanbad, CPCB, the Chief Secretary of Jharkhand and the District Magistrate, Sahebganj. The State PCB is already represented during the hearing and has been apprised of the order.

List for further consideration on 01.02.2021.

Adarsh Kumar Goel, CP

S. P. Wangdi, JM

Dr. Nagin Nanda, EM

September 23, 2020
Original Application No. 23/2017 (EZ)
and connected matters.
SN