

Item No. 06

(Court No. 1)

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

(By Video Conferencing)

Original Application No. 231/2022

All India Kaimur People's Front

Applicant

Versus

Ministry of Environment Forest &
Climate Change & Ors.

Respondent(s)

Date of hearing: 13.07.2022

**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. Vikas K. Singh, Advocate

ORDER

1. Grievance in this application is against illegal mining in Villages Bhagwa, Agorikhas, Khewandha and Rediaya, Tehsil Obra, and Villages Korgi, Tehsil Dudhi, District Sonbhadra, UP.

2. According to the applicant, Poclain Machines are used for mining by Respondent Nos. 11 to 20 - Kewal son of Ram Khelawan, Ramnath Tiwari son of Shabhu Nath Tiwari, Shankar son of Khannu, Somaru son of Budhhu, Tapeshi son of Sadan, Shiv Prasad son of Dadai, Soni Devi wife of Rajkumar, Lalmani son of Dangar, Jamuna Prasad son of Viran and Ram Pyare son of Sarju. Requisite District Survey Report (DSR) has not been prepared nor Environmental Clearance (EC) granted as required under the Sand Mining Guidelines, 2020 read with the EIA Notification,

2006 as well as judgment of Hon'ble Supreme Court of India in *Deepak Kumar Vs. State of Haryana (2012) 4 SCC 629* and *State of Bihar vs. Pawan Kumar & Ors., (2022) 2 SCC 348*. It is further stated that the area where mining is undertaken is within the periphery of 1 Km of forest area and also within the periphery of Son River.

3. Vide order dated 30.03.2022, the Tribunal sought a factual and action taken report from a joint Committee comprising of SEIAA, UP, State PCB and District Magistrate, Sonbhadra. It was further directed that if any violations are found, the statutory regulators may take remedial action and inform the affected parties about the proceedings before this Tribunal.

4. Report has been filed by the State PCB on 13.06.2022 finding the violations as mentioned in the report. The report is reproduced below:

“1. Shri Kewal S/o Shri Ramkhelawan- at Gata No. 161, 162 Ka, Area-1.1240 hectare Village-Khebhandha, Tehsil-Obra, District-Sonbhadra.

- a) *As per records available in Mining Department, Sonbhadra, mining permit was issued for mining of sand/morrum for 03 months i.e. (06.01.22- 05.04.2022).*
- b) *At the time of inspection milling was being conducted at the site because the mining validity period was lapsed.*
- c) *No mining tools such as poclairn, J.C.B machines etc. were present at the site.*
- d) *As per records available in the Mining Department, it has been reported that during inspection on dated 21.01.2022, a poclairn machine was being used for mining of sand/morrum and accordingly Rs. 50,000/- penalty was imposed against permit holder and accordingly deposited the penalty by the concerned permit holder.*
- e) *As per record, the mines permit was issued in compliance of Rule-52 of Uttar Pradesh Minor Mineral (Concession) Rule-2021.*
- f) *At the time of inspection of the team, soil overburden of average thickness of 1 meter from top soil was found.*
- g) *Milling pits were left abandoned without reclaiming which may harm living creatures including human, in rainy season.*

As per facts mentioned above, Environmental Compensation should be imposed against mine permit holder for using mechanised tools for mining of sand/morrum.

(All documents related mining lease annexed as Annexure no. 1A & 1B)

2. Shri Ramanth Tiwari S/o Sambhu Nath Tiwari- at Gata No. 15 Yian , Area-2.365 hectares, Village-Bhagwa, Tehsil-Obra, District-Sonbhadra.

- a) As per records available in Mining Department, Sonbhadra, mining permit was issued for mining of sand/morrum for 03 months i.e. (06.01.2022- 05.04.2022).
- b) At the time of inspection mining was not being conducted at the site because the mining validity period was lapsed.
- c) No mining tools such as poclain, J.C.B machines etc. were present at the site.
- d) As per record the mines permit was issued in compliance of Rule-52 of Uttar Pradesh Minor Mineral (Concession) Rule-2021.
- e) Mining pits were left abandoned without reclaiming which may harm living creatures including human, in rainy season.
- f) Abandoned mines pits were partially filled with ground water when inspected, which reflects that mining was done bellow the ground water level.

(All documents related mining lease annexed as Annexure no. 2)

3. Shri Shankar S/o Khannu, Gata No. 302 Ka, 303, 304, 305 Ka, 306 Ka & 307, Village-Aghori Khas, Area-0.8900 hectare, Tehsil-Obra, District- Sonbhadra.

- a) As per records available in Mining Department, Sonbhadra, mining permit was issued for mining of sand/morrum for 03 months i.e. (08.01.2022- 07.04.2022).
- b) At the time of inspection mining was being conducted at the site because the mining validity period was lapsed and mining area was partially reclaimed.
- c) No mining tools such as poclain, J.C.B machines etc. were present at the site.
- d) As per records, available in the Mining Department, Sonbhadra, it has been reported that illegal mining of sand/morrum has been done by permit holder beyond the sanctioned permit area and accordingly on dated 26.02.2022 & 25.03.2022-Rs.17,12,000/- & Rs. 16,58,000/- respectively penalty was imposed against permit holder and also penalty imposed of Rs.17,12,000/- deposited by the concerned permit holder.
- e) Recovery Certificate has been issued by the District Magistrate dated 28.05.2022 for due payment of Rs.16,58,000/- against concerned permit holder but Rs. 1658000.00 has not been deposited yet.

- f) *As per record, the mines permit was issued in compliance of Rule-52 of Uttar Pradesh Minor Mineral (Concession) Rule-2021.*
- g) *Mining pits were left abandoned without reclaiming which may harm living creatures including human, in rainy season*

As per facts mentioned above, Environmental Compensation should be imposed against mine permit holder for using mechanized tools for mining of sand/morrhun and mining beyond sanctioned permit area.

(All documents related mining lease annexed as Annexure no. 3A, 3B & 3C)

4. Shri Somaru S/o Shri Buddha , Gata No. 16, 17 Kha & 17 Ga, Village Bhagawa, Area-0.948 hectare, Tehsil-Obra, District-Sonbhadra.

- a) *As per records available in Mining Department, Sonbhadra, mining permit was issued for mining of sand/morrhun for 03 months i.e. (06.01.2022- 05.04.2022).*
- b) *At the time of inspection mining was not being conducted at the site because the mining validity period was lapsed.*
- c) *No mining tools such as poclain, J.C.B machines etc. were present at the site.*
- d) *As per record the mines permit was issued in compliance of Rule-52 of Uttar Pradesh Minor Mineral (Concession) Rule-2021.*
- e) *Mining pits were left abandoned without reclaiming which may harm living creatures including human, in rainy season.*
- f) *Abandoned mines pits were partially filled with ground water when inspected, which reflects that mining was done bellow the ground water level.*

(All documents related mining lease annexed as Annexure no. 4)

5. Shri Tapeshi S/o Shri Sadan, Gata No. 291, 292 & 294, Village-Aghori Khas, Area-1.2 hectare, Tehsil-Obra, District-Sonbhadra.

- a) *As per records available in Mining Department, Sonbhadra, mining permit was issued for mining of sand/morrhun for 03 months i.e. (08.01.2022- 07.04.2022).*
- b) *At the time of inspection mining was being conducted at the site because the mining validity period was lapsed and mining area was partially reclaimed.*
- c) *No mining tools such as poclain, J.C.B machines etc. were present at the site.*
- d) *As per records available in the Mining Department, Sonbhadra, it has been reported that illegal mining of sand/morrhun has been done by permit holder beyond the sanctioned permit area and accordingly on dated 26.02.2022 & 25.03.2022 Rs.3,68,740/- & Rs.*

- 21,44,000/- respectively penalty was imposed against permit holder and also penalty imposed of Rs.3,68,740/- deposited by the concerned permit holder.
- e) Recovery Certificate is issued by the District Magistrate dated 28.05.2022 for due payment of Rs. 21,44,000/- against concerned permit holder.
 - f) As per record, the mines permit was issued in compliance of Rule-52 of Uttar Pradesh Minor Mineral (Concession) Rule-2021.
 - g) Mining pits were left abandoned without reclaiming which may harm living creatures including human, in rainy season.

As per facts mentioned above, Environmental Compensation should be imposed against mine permit holder for using mechanised tools for mining of sand/morrum and mining beyond the sanctioned permit area.

(All documents related mining lease annexed as Annexure no. 5A, 5B & 5C)

6. Shri Shiv Prasad S/o Shri Dadai, Gata No. 470, 471, 471/1, 472/2, 473, 474 & 475, Village-Redhiya, Area-1.8900 hectare, Tehsil-Obra, District-Sonbhadra.

- a) As per records available in Mining Department, Sonbhadra, mining permit was issued for mining of sand/morrum for 03 months i.e. (08.01.2022-07.04.2022).
- b) At the time of inspection mining was being conducted at the site because the mining validity period was lapsed.
- c) No mining tools such as poclain, J.C.B machines etc. were present at the site.
- d) As per records available in the Mining Department, Sonbhadra, it has been reported that during inspection on dated 19.01.2022, 12 Nos. of poclain machine was being used for mining of sand/morrum and accordingly Rs.6,00,000/- penalty was imposed against the mine permit holder and also penalty Rs.6,00,000/- imposed deposited by the concerned permit holder.
- e) As per records available in the Mining Department, Sonbhadra, it has been reported that illegal mining of sand/morrum has been done by permit holder beyond the sanctioned area and accordingly on dated 31.01.2022, Rs.14,15,000/- penalty was imposed against permit holder and according it Rs.14,15,000/- it was deposited by the permit holder.
- f) As per record, the mining permit was issued in compliance of Rule-52 of Uttar Pradesh Minor Mineral (Concession) Rule-2021.
- g) At the time of inspection of the team, soil overburden of average thickness of 1.5 meter from top soil was found.
- h) Mining pits were left abandoned without reclaiming which may harm living creatures including human, in rainy season.

As per facts mentioned above, Environmental Compensation should be imposed against mine permit holder for using mechanised tools for mining of sand/morrum.

(All documents related mining lease annexed as Annexure no. 6A, 6B & 6C)

7. Shri Soni Devi W/o Shri Raj Kumar, Gata No. 313, Village-Aghori Khas, Area-1.1800 hectare, Tehsil - Obra, District-Sonbhadra.

- a) *As per records available in Mining Department, Sonbhadra, mining permit was issued for mining of sand/morrum for 03 months i.e. (06.01.2022-05.04.2022).*
- b) *At the time of inspection mining was being conducted at the site because the mining validity period was lapsed and mining area was partially reclaimed.*
- c) *No mining tools such as poclain, J.C.B machines etc. were present at the site.*
- d) *As per records available in the Mining Department, it has been reported that during inspection on dated 20.01.2022, 04 Nos. of poclain machine was being used for mining of sand/morrum and accordingly Rs.2,00,000/- penalty was imposed against the mine permit holder and also penalty Rs.2,00,000/- imposed, deposited by the concerned permit holder.*
- e) *As per records available in the Mining Department, Sonbhadra, it has been reported that illegal mining of sand/morrum has been done by permit holder beyond the sanctioned permit area and accordingly on dated 22.02.2022 Rs.7,56,000/- penalty was imposed against permit holder and also penalty Rs.7,56,000/- imposed deposited by the concerned permit holder.*
- f) *As per record the mines permit was issued in compliance of Rule-52 of Uttar Pradesh Minor Mineral (Concession) Rule-2021.*
- g) *Mining pits were left abandoned without reclaiming which may harm living creatures including human, in rainy season.*
- h) *At the time of inspection of the team, soil overburden of average thickness of 1.5 meter from top soil was found.*
- i) *Abandoned mines pits were partially filled with ground water when inspected.*

As per facts mentioned above, Environmental Compensation should be imposed against mine permit holder for using mechanised tools for mining of sand/morrum and mining beyond sanctioned mining area.

(All documents related mining lease annexed as Annexure no. 7A, 7B & 7C)

8. Shri Lal Mani S/o Shri Dangar, Gata No. 370, 371, 374, 375, 376, 377 & 378, Village-Agori Khas, Area-1.479 hectare, Tehsil-Obra, District-Sonbhadra.

- a) As per records available in Mining Department, Sonbhadra, mining permit was issued for mining of sand/morrum for 03 months i.e. (06.01.2022-05.04.2022).
- b) At the time of inspection mining was being conducted at the site because the mining validity period was lapsed and mining area was partially reclaimed.
- c) No mining tools such as poclain, J.C.B machines etc. were present at the site.
- d) As per records available in the Mining Department, Sonbhadra, it has been reported that during inspection on dated 20.01.2022, 04 Nos. of poclain machine was being used for mining of sand/morrum and accordingly Rs.2,00,000/- penalty was imposed against the mine permit holder and also penalty Rs.2,00,000/- imposed deposited by the concerned permit holder.
- e) As per records available in the Mining Department, Sonbhadra, it has been reported that illegal mining of sand/morrum has been done by permit holder beyond the sanctioned permit area and accordingly on dated 26.02.2022 & 21.03.2022 Rs.14,96,000/- & Rs.9,93,800/- respectively penalty was imposed against permit holder and also penalty Rs.14,96,00/- and Rs.9,93,800/- imposed, deposited by the concerned permit holder.
- f) As per record the mines permit was issued in compliance of Rule-52 of Uttar Pradesh Minor Mineral (Concession) Rule-2021.
- g) Mining pits were left abandoned without reclaiming which may harm living creatures including human, in rainy season.

As per facts mentioned above, Environmental Compensation should be imposed against mine permit holder for using mechanised tools for mining of sand/morrum and mining beyond sanctioned mining permit area.

(All documents related mining lease annexed as Annexure no. 8A, 8B, 8C & 8D)

9. Shri Ram Pyare S/o Shri Sarju, Village-Khebandha, Gata No. 164, 169 & 170, Area-0.7720 hectare, Tehsil-Obra, District-Sonbhadra.

- a) As per records available in Mining Department, Sonbhadra, mining permit was issued for mining of sand/morrum for 03 months i.e. (08.01.2022-07.04.2022).
- b) At the time of inspection mining was being conducted at the site because the mining validity period was lapsed.
- c) No mining tools such as poclain, J.C.B machines etc. were present at the site.
- d) As per record, the mines permit was issued in compliance of Rule-52 of Uttar Pradesh Minor Mineral (Concession) Rule-2021.

- e) *Mining pits were left abandoned without reclaiming which may harm living creatures including human, in rainy season.*

(All documents related mining lease annexed as Annexure no. 9)

Recommendations:

Considering the facts mentioned above, the committee recommends the following against the defaulting mines lease holders:-

- I. *Environmental compensation for using mechanised tools for mining of minerals and excess mining as well mining beyond the permitted area, having soil overburden as per scale of compensation for violations on polluter pays principal for responded no. 11 Shri Kewal S/o Shri Ram Khelawan, responded no. 13 Shri Shankar S/o Shri Khannu, responded no. 15 Shri Tapeshi S/o Shri Sadan, responded no. 16 Shri Shiv Prasad S/o Shri Dadai, responded no. 17 Shrimati Soni Devi W/o Shri Raj Kumar, responded no. 18 Shri Lalmani S/o Shri Dangar of the writ petition.*
- II. *Mining Department can be asked to direct the mines lease holder to reclaim the mines pit by using over burden dumped near the lease area.”*

5. We find the report to be incomplete as it does not mention the status of preparation of District Survey Report, EIA/EMP, replenishment study and grant of EC in favour of the Project Proponents. Further, even for violations found and recommendations made, no action has been reported. It is also not clear whether the Project Proponents have been put to notice of these proceedings for their response, if any, in terms of order dated 30.3.2022.

6. The State PCB may accordingly file further action taken report within one month 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. As per directions in the order dated 30.03.2022, the State PCB may now put the Project Proponents to notice of these proceedings for their response, if any, before the next date.

List for further consideration on 14.09.2022.

A copy of this order be forwarded to the State PCB by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

July 13, 2022
Original Application No. 231/2022
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