

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

Execution Application No. 32/2016

IN

O.A. No. 295/2016

WITH

Original Application No. 295/2016

(M.A. No. 539/2016)

Amresh Singh

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 12.02.2019

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

For Applicant(s):

For Respondent (s):

Mr. G.M. Kawoosa, Advocate for State of J&K
and SPCB

Mr. Rajesh K. Singh, Mr. Rovins Verma,
Advocates for MoEF&CC

Mr. Raghav Pandey, Aanchal Mallick, Advocate
for HCC

Mr. Rajkumar, Advocate for CPCB

ORDER

1. The matter involves control of pollution caused in the course of four-lanning of National Highway from Udhampur to Banihal in Jammu and Kashmir by the Gammon India Limited and the Hindustan Construction Co. Ltd.
2. Vide order dated 24.08.2018, the matter was considered in the light of photographs and averments and the report of the Committee headed by the Chairman, Jammu and Kashmir State Pollution Control Board (J&K SPCB) constituted under the earlier order of this Tribunal. The Committee suggested several measures on the subject of muck disposal as well as construction of Plain Concrete Cement (PCC) grids and precautions in setting up of grid structures. The

said Report dated 23.04.2018 was accepted but in view of potential of serious adverse impact on environment, a monitoring Committee headed by Justice J.R. Kotwal, former Judge of Jammu and Kashmir High Court was constituted. The Committee was to prepare an action plan to deal with the challenge to the protection of environment.

3. The Committee has given its preliminary report dated 18.01.2019 after visiting the site and deliberations.
4. Relevant observations with regard to Banihal to Ramsoo/Digdol are as follows:

“The Committee on a thorough survey of these dumping sites has noticed as under :

- a) *None of these sites can be said to have been selected suitably or could have been adequately developed as dumping sites, given the small horizontal and vertical distance between the bed of the stream and the existing/proposed level of the road in that segment.*
- b) *It can be safely said that all these sites have been put to use without proper preparation. The representative of the project proponent, nonetheless, pointed out, what he called, the gabion walls constructed at the foot of these sites, which, however, to a layman's understanding are too inadequate to meet the requisite purpose. There namesake gabion walls have been constructed on the bed of the stream ranging between 4 feet to 5 feet in height. The spilling over of the muck/dumped soil into the stream is evident and inference that much of it has already been washed away can be safely drawn.*
- c) *All these sites have already attained their full capacity inasmuch as the angle of repose seems not less than 70° to 75°. No more dumping at these sites is possible.*
- d) *None of the sites, which have attained their full capacity, have been stabilised and rehabilitated by making engineering and botanical intervention. (See Photographs P-I2 to P-I 7).”*

5. Observations with regard to Digdol to Ramban are as follows:

“The Committee on a thorough survey of these dumping sites has noticed as under:

- a) *It can be safely said that all these sites, like those in Banihal-Ramsoo/Digdol segment, have been put to use without proper preparation, though the*

representative of the project proponent pointed out the gabion walls having been constructed deep in the gorge at some of these sites. The said gabion walls to a layman's understanding, however, are too inadequate to meet the requisite purpose and have already breached and given way to the muck/dumped material thrown at these sites. (See Photographs P-18 to P-34).

- b) One of these sites located at a place called 'Battery Cheshma' comprises of the bed of a Nallah (seasonal water course) which has huge catchment area, but no scope for flow of water has been left and the Nallah has been virtually choked. (See Photograph P-35).
- c) Some of these sites have already attained their full capacity and no further dumping is possible, whereas in the rest further dumping is possible only after strong and methodical engineering intervention like construction of concrete holding walls and terracing etc.
- d) None of the sites, which already have attained their full capacity, have been stabilised and rehabilitated by making engineering and botanical intervention though nominal plantation was visible at one such site. (See Photographs P-36 and P-37).
- e) A big dumping site in use at village, 'Seri' depicts the height of the lack of concern shown by the project implementing authority and the project proponent in setting up and maintenance of the dumping sites. This dumping site has been set up along a considerable length of river Chenab right at its bank with a nominal gabion wall constructed almost on the bed of the river. Huge spilling over of the muck/dumped soil into the river is visible. (See Photographs P-38 & P-39)."

6. Finally, the Committee issued following advisory:

"The Monitoring Committee, thus issues following advisory :

- 1) The project proponent shall immediately discontinue with the use of dumping sites, which have already attained full capacity, as pointed out above and shall take immediate steps to strengthen, stabilise and rehabilitate them by planting local grass, shrubs and trees and by adopting all other scientific methods as directed by the Hon'ble NGT vide order dated 24.08.2018 supra.
- 2) The project proponent shall immediately take steps for adequate preparation of the dumping sites, which are in use and where further dumping is possible, by raising/repairing the gabion walls, raising concrete retaining walls wherever necessary and adopting all other scientific methods as directed by the Hon'ble NGT vide order dated 24.08.2018 and suggested by the experts in their comments supra.
- 3) The State Government, Department of Forest, Ecology and Environment, shall show serious

concern in providing suitable and adequate number of new dumping sites to the project proponent within shortest possible time.

- 4) The project implementing authority (NHAI) in general and the Regional Officer, NHAI, J&K and Project Director of the project implementing unit (PRJ) in particular shall ensure that the dumping sites are adequately and systematically developed before putting them to use and are adequately rehabilitated in the due course after they attain their full capacity.
- 5) The NHAI in general and the Regional Officer, NHAI, J&K and Project Director of the project implementing unit (PIU) in particular shall ensure visible improvement on the ground by the next inspection of the area, which shall be held in first week of March, 2019.
- 6) The NHAI in general and the Regional Officer, NHAI, J&K and Project Director of the project implementing unit (PIU) in particular shall be responsible for strict compliance of all the conditions of environmental clearance obtained by them for execution of the project and the directions issued by the Hon'ble NGT from time to time and shall be liable for the failure/lapses in this regard. The State Government and the J&K SPCB shall be responsible for keeping strict vigil to ensure strict compliance and shall take necessary legal action, whenever there is any failure or lapse.
- 7) All the concerned shall ensure that the directions issued by the Hon'ble NGT vide order dated 24.08.2018 are strictly complied with."

7. The suggestions of the Committee are well formed and necessary for protection of environment. We accept the report of the Monitoring Committee and direct that the advisory issued be strictly complied with by the project proponent.
8. Having regard to the entirety of the fact situation and the observations of the Committee to which there is no challenge, we direct the Gammon India Limited and the Hindustan Construction Co. Ltd. to pay interim compensation for the damage to the environment to the extent of Rs. 1 Crore each and also furnish Performance Guarantee for improving the situation in the manner suggested within next three months in the sum of Rs. 1 Crore each.
9. We request the Committee to examine the actual extent of damage and the amount required for restoration.

10. The deposit of compensation be made with the Central Pollution Control Board (CPCB) within one month and the Performance Guarantee may also be furnished to the satisfaction of the CPCB within one month.
11. Let further report of the Committee be furnished after three months but before June 30, 2019.

List for further consideration of the report on 11.07.2019. The scheduled date already fixed i.e. 21.02.2019 is accordingly deferred.

Adarsh Kumar Goel, CP

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

February 12, 2019
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DV

