

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

(BY HYBRID MODE)

Original Application No. 97/2023

In re : News item published in Google News dated 07.02.2023 titled
**“Mining in Border : In 250 meter distance, mafia are digging
‘tunnel’ everyday mining of 150 Trucks of Gypsum**

Date of hearing: 24.02.2023

**CORAM: HON’BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON’BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON’BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON’BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Respondent(s): Mr. Nishant Awana, Advocate for RSPCB
Mr. J.K. Gurubaxani, Additional Director with Ms. Prachi Mishra,
Advocate for Director, Mines & Geology and DC, Bikaner

ORDER

1. Proceedings in this matter have been initiated *suo-motu* in light of captioned media report about illegal mining of Gypsum on Indo-Pak border in Bikaner District of Rajasthan.

2. In pursuance of advance notice issued by the Registry on 09.02.2023, Rajasthan State PCB has filed its response along with reports of the Mining Department to the effect that no mining is permissible within 1 km of the border. It was found that illegal mining took place within 250 mtrs. of the border to the extent of 172.5 tonnes of Gypsum for which penalty of Rs. 296000/- has been collected.

3. We have heard learned appearing Counsel and perused the available record. It was submitted that penalty assessed is 10 times of royalty. Illegal

excavation was by an individual owner of the land. No outsider is permitted in the area as per order issued under Section 144 of CrPC.

4. There is however, no response about the allegation of 150 trucks being engaged in illegal mining. Though it is stated that removal of Gypsum for improvement of land is outside the definition of mine, Rule 52 of Rajasthan Minor Mineral Concession, as amended in 2022 shows that such removal has to be only with permission and for improvement of land and not for commercial purpose. However, it appears that mining in question has taken place not merely for improvement of land but for commercial purpose. Whether or not the activity is covered by definition of mining, it is difficult to deny that the excavation has adverse impact on environment which needs to be safeguarded under the Environment (Protection) Act, 1986, Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981. Compensation for violation has to be as per laid down norms including those in *Goa Foundation 2014 6 SSC 590 and Common Cause 2017 9 SCC 499*. In absence thereof, apart from the issue of damage to environment, loss of Revenue of the State remains unaddressed. This may call for intervention at higher level.

5. Accordingly, we direct ACS, Mines and Geology, Rajasthan to look into the matter and take remedial action in coordination with other concerned authorities in respect of the incident in question as well as any other such incidents.

The application is accordingly disposed of.

A copy of this order be forwarded to Chief Secretary, Rajasthan, SSP and District Magistrate, Bikaner and ACS, Mines and Geology Rajasthan by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

February 24, 2023
Original Application No. 97/2023
AB