

Item No. 01

(Court No. 1)

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

(By Video Conferencing)

Appeal No. 16/2021  
(I.A. No. 126/2021)

Dheerendra

Appellant

Versus

State of U.P. & Ors.

Respondent(s)

Date of hearing: 28.06.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE M. SATHYANARAYANAN, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Appellant: Mr. Vanshdeep Dalmia, Advocate

**ORDER**

1. This appeal questions four Environmental Clearances (EC) dated 16.03.2018, 26.12.2018, 15.10.2020 and 15.10.2020 with respect to the four mines situated at Gata No. 2558 in village Bandhauli, Tehsil – Urai, District Jalaun, UP on the ground that such clearances have been granted in violation of EIA Notification dated 14.09.2006 and Sustainable Sand Mining Guidelines (SSMG), 2016 in favour of Respondent Nos. 7 to 9, Rupesh Kumar Chauhan, R/o 2/588, Tulsinagar Pollusheet Post Kathgodam, Haldwani, District Nainital, Uttarakhand, M/s Khajuraho Motors Pvt. Ltd., through its Director, Yashpal Singh Parmar, District Chatarpur, MP and M/s ASVP Construction, through its Partner, Sumit Saxena, District Gonda, UP, respectively.

2. The appeal is barred by limitation and is not even otherwise a composite appeal is not maintainable under Section 16 of the NGT Act against four separate ECs. Accordingly, the appeals as such are dismissed.

3. In spite of above position, with a view to do substantial justice, waiving procedural requirements, this Tribunal finds that there are *prima facie* violations of environmental norms which can be directed to be remedied under sections 14 and 15 of the NGT Act. The appeal may be registered as Application.

4. The averments in the application show that mining permitted is in violation of environmental norms prohibiting instream mining, mining without the replenishment studies, environmental management plans, mine closure plans and other requisite safeguards. This position is reiterated *inter alia* in orders of this Tribunal dated 21.05.2021 in O.A. No. 103/2021, *Shyam Babu v. State of Uttar Pradesh & Ors.*, wherein this Tribunal referred to earlier orders dated 30.05.2017 in O.A. No. 78/2015 (CZ) reported in 2017 SCC Online NGT 1097 and 26.02.2021 in O.A. No. 360/2015, *NGT Bar Association v. Virender Singh (State of Gujarat) and other connected matters*. Relevant extracts are reproduced below:-

**order dated 30.05.2017 in O.A. No. 78/2015 (CZ) reported in 2017 SCC Online NGT 1097:**

*“20. In the light of the above, we answer the question that has been referred to us that no river sand mining is permitted in the submerged area in accordance with the Sustainable Sand Mining Guidelines 2016 alternatively in so far as the issue whether it can be permitted in the submergence areas is concerned our answer to the same is that in submergence area which may be a wider area than the one actually submerged as a submergence area would encompass the full reservoir level of the river or the high flood level of the river recorded by in any case where the mineral is exposed and not in stream such sand mining in accordance with the Sand*

*Mining Guidelines 2016 and the conditions imposed in the environmental clearance may be carried out.”*

**order dated 26.02.2021 in O.A. No. 360/2015, NGT Bar Association v. Virender Singh (State of Gujarat) etc.**

“1to26..xxx.....xxx.....xxx

**27. We direct all the States/UTs to strictly follow the SSMG-2016 read with EMGSM-2020 reinforced by mechanism for preparation of DSRs (in terms of directions of this Tribunal dated 14.10.2020 in Pawan Kumar, supra and 04.11.2020 in Rupesh Pethe, supra), Environment Management Plans, replenishment studies, mine closure plans, grant of EC (in terms of direction dated 13.09.2018 in Satendra Pandey, supra), assessment and recovery of compensation (as per discussion in Para 25), seizure and release of vehicles involved in illegal mining (in terms of order dated 19.02.2020 in Mushtakeem, supra), other safeguards against violations, grievance redressal, accountability of the designated officers and periodical review at higher levels. As already noted, EMGSM-2020 contemplates extensive use of digital technology, including remote sensing.**

**28. We further direct that periodic inspection be conducted by a five-members Committee, headed and coordinated by the SEIAA and comprising CPCB (wherever it has regional office), State PCB and two expert members of SEAC dealing with the subject. Where CPCB regional office is not available, if MoEF&CC regional office is available, its Regional Officer will be included in the Committee. Where neither CPCB nor MoEF&CC regional office exists, Chairman, SEIAA will tie up with the nearest institution of repute such as IIT to nominate an expert for being included in the Committee. Such inspection must be conducted at least thrice for each lease i.e. after expiry of 25% the lease period, then after 50% of the period and finally six months before expiry of the lease period for midway correction and assessment of damage, if any. The reports of such inspections be acted upon and placed on website of the SEIAA. Every lessee, undertaking mining, must have an environment professional to facilitate sustainable mining in terms of the mining plan and environmental norms. This be overseen by the SEIAA. Environment Departments may also develop an appropriate mobile App for receiving and redressing the grievances against the sand mining, including connivance of the authorities and also a mechanism to fix accountability of the concerned officers. Recommendations of the Oversight Committee for the State of UP quoted earlier may be duly taken into account.**

**The mechanism must provide for review at the level of the Chief Secretary at least once in every quarter, in a meeting with all concerned Departments in the State. The**

**Chief Secretary UP may ensure further action in the light of the report of the Oversight Committee.**

**Similarly, at National level, such review needs to be conducted atleast once in a year by the Secretary, Environment in coordination with the Secretaries Mining and Jalshakti Ministries the CPCB.”**

5. In view of the above, let a four-member joint Committee of CPCB, SEIAA, UP, State PCB and District Magistrate, Jalaun ascertain the compliance status and concerned statutory authority take remedial action following due process and furnish an action taken report to this Tribunal within two months by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. SEIAA, UP will be the Nodal Agency for coordination and compliance. The report may mention about the DSR and replenishment study for the Jalaun District and whether mining being done is consistent with the same. Further, the report may indicate functioning of Monitoring mechanism in terms of order of this Tribunal dated 26.2.2021 in OA No. 360/2015, quoted above.

List for further consideration on 08.11.2021.

A copy of this order be forwarded to the CPCB, SEIAA, UP, State PCB and District Magistrate, Jalaun by e-mail.

The applicant may serve set of papers on the CPCB, SEIAA, UP, State PCB and District Magistrate, Jalaun and file affidavit of service within one week.

In view of the above order, no order is necessary on I.A. No. 126/2021 which stands disposed of.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

M. Sathyanarayanan, JM

Brijesh Sethi, JM

Dr. Nagin Nanda, EM

June 28, 2021  
Appeal No. 16/2021  
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