

Item No. 02

Court No. 1

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

(By Video Conferencing)

Execution Application No. 29/2022

IN

Original Application No. 249/2021

(I.A. No. 234/2022)

Daljeet Singh & Anr.

Applicant(s)

Versus

Uttar Pradesh Pollution Control Board & Ors.

Respondent(s)

Date of hearing: 28.09.2022

**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
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: Mr. Chaitanya, Advocate in E.A 29/2022

ORDER

1. Grievance in this application is that inspite of order of this Tribunal dated 11.05.2022 directing stopping of illegal mining and recovering compensation, illegal mining is continuing and compensation is not being recovered.

2. Order of this Tribunal dated 11.05.2022 shows that grievance dealt with was against illegal mining by Sanjay Bhatia, Satendra Kumar, Rajesh Kumar, Aadesh Pandey, M/s. Shakumbari Mines, M/s. Star Mines, M/s. Balaji Trading Company, Prime Vision Industries P. Ltd., Saharanpur and M/s. Shakumbari Mines, Shamli. The matter was

considered by this Tribunal in light of stand of the State PCB that illegal mining was found. The Tribunal accordingly directed remedial action.

3. Operative part of the order is reproduced below:-

“5. In pursuance of above, a reply has been filed by the State PCB in O.A No. 251/2021 as follows:-

“As per the order dated 01.11.2021, on behalf of respondent No. 1, pointwise action taken report are as follows:

- 1. Regarding the directions issued by N.G.T. notice against M/s. Shakumbri Mines Gata No. 228, Vill. Bidoli, District Shamli has been issued vide office letter no. 733/C/S-249/Shamli/2021 Dated 23.11.2021 (Annexure-1) for compliance that no mining activity will be carried on without having consent to operate. A copy of notice is being forwarded to District Magistrate Shamli, Member Secretary UPPCB for intimation and Mining Inspector Shamli for ensuring the compliance of above said order.*
- 2. As per the complaint received against the illegal mining by M/s. Shakumbri Mines, a letter regarding the violation days has been sent to District Mining Officer Shamli vide office letter no. 506/C/249/Shamli /2021 dated 27.09.2021 (Annexure-2), in continuation information regarding violation of days 112 Nos. and mining quantity 1,17,561 Cum. till dated 30.06.2021 is received via letter no. 4643/Kh.Vi.-2021- 22 dated 30.09.2021 (Annexure-3). Further, no mining activities is being carried on by the said unit as per the latest information dated 02.12.2021 (Annexure-4) till dated 02.12.2021.*
- 3. Due to the past violation of Environmental Acts unit online consent application dated 05.09.2021 (Annexure-5) is being refused by the State Pollution Control Board on dated 11.10.2021 (Annexure-6).*
- 4. Due to the past violation regarding illegal mining, recommendation for imposing Environmental Compensation of Rs. 11,20,000/- has been sent to Head Office Lucknow vide office letter no. 790/C/S249/Shamli/2021 dated 04.12.2021 (Annexure-7). In continuation Environmental Compensation of Rs. 11,20,000/- has been imposed vide H.O. Letter No. H69300/C-3/Jal-434/M.Nagar/2021 dated 13.12.2021 (Annexure-8).*
- 5. Unit has not submitted the Environmental Compensation yet. If unit deny to pay E.C., recommendation against the unit for recovery of E.C. as per land revenue will be sent to Head Office, U.P. Pollution Control Board, Lucknow and District Magistrate Shamli.”*

6. *From the above, it is seen that violations have been found and mining activity have been stopped. Recommendation has also been made for levy of compensation for conducting mining without requisite consents.*

7. *In O.A No. 249/2021, even though no reply has been filed, learned counsel for the State PCB has made a statement that illegal mining has been stopped and further action will be taken in accordance with law.*

8. *In view of above, the State PCB and the District Magistrate may take further action of not permitting mining without requisite Consents and assessing and recovering compensation as per law. It is made clear that compensation for illegal mining has to be equal to the value of mined material in view of Section 21 (5) of the MMDR Act, 1957 and orders of the Hon'ble Supreme Court in Common Cause vs. Union of India & Ors., (2017) 9 SCC 499. Apart from recovering value of the mined material as compensation, for violation of the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981, compensation has to be in addition having regard to the cost of restoration of damage and the paying capacity of the project proponent (PP). Compensation be also to be assessed for illegal extraction of ground water. This exercise may be completed by the State PCB within three months. Recovered compensation be utilised for restoration of environment by preparing an action plan to be approved by CPCB.*

4. In view of the allegation that the steps are not being taken in pursuance of above order of this Tribunal, we consider it necessary to require the District Magistrates, Shamli and Saharanpur and State PCB to take further action if not taken so far and file an action taken report within two 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.

List for further consideration on 13.01.2023.

On the next date, the District Magistrates, Shamli and Saharanpur and RO, State PCB, Saharanpur may remain present in person by Video Conferencing for interaction with the Tribunal on the issue.

A copy of this order be forwarded to District Magistrates, Shamli and Saharanpur and RO, State PCB, Saharanpur by e-mail for compliance.

I.A. No. 234/2022 for exemption from filing certified copy is disposed of in view of order passed on merit.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

Dr. Afroz Ahmad, EM

September 28, 2022
Execution Application No. 29/2022
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(I.A. No. 234/2022)
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