

Item Nos. 01&02

(Court No.1)

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

(By Video Conferencing)

Original Application No. 140/2021  
(I.A. No. 127/2021)

Raj Kumar

Applicant

Versus

State of U.P. & Ors.

Respondent(s)

**With**

Original Application No. 141/2021  
(I.A. No. 128/2021)

Ramkaran Karn

Applicant

Versus

State of U.P. & Ors.

Respondent(s)

Date of hearing: 02.07.2021

**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**

Applicant: Mr. Vanshdeep Dalmia, Advocate

**ORDER**

1. Grievance in these two identical applications is against illegal mining. In O.A. No. 140/2021, mining is in the submerged water area at Gata No. 28 (Part) and 29, Khand No. 1, village Kanwara, District Banda, UP by M/s Durge Trading Company and in O.A. No. 141/2021 it is in the submerged water area at Gata No. 2/4, 2/23, 2/24 and 2/28, Khand No. -4, village-Bendakhadar, District Banda, UP by Ashish Kumar Gautam, S/o Suresh Kumar Gautam. Common stand in both the matters is that

the mining is in violation of Sustainable Sand Mining Management Guidelines (SSMMG), 2016 and Enforcement and Monitoring Guidelines for Sand Mining (EMGSM), 2020 and binding orders of this Tribunal, including order dated 30.05.2017 in O.A. No. 78/2015 (CZ) reported in 2017 SCC OnLine NGT 1097, holding as follows: -

***“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.”***

2. Further order of this Tribunal relied upon by the applicants is order dated 26.02.2021 in O.A. No. 360/2015, *NGT Bar Association v. Virender Singh (State of Gujarat) and other connected matters*. Therein, on exhaustive review of the issues relating to sand mining, this Tribunal has issued directions, including the mechanism for enforcement of environmental norms, inter-alia as follows:-

“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 at least once in a year by the Secretary, Environment in coordination with the Secretaries Mining and Jalshakti Ministries the CPCB.”**

3. It is submitted that no steps are being taken by the State of UP for compliance of directions of this Tribunal.
4. In view of the above, the Additional Chief Secretary, Mining, UP may furnish report about the compliance status within three 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. Report may provide the status of DSR and Replenishment studies for Banda district, status

of in-stream mining in submerged water and monitoring mechanism in place.

List for further consideration on 11.11.2021.

A copy of this order be forwarded to the Additional Chief Secretary, Mining, UP by e-mail for compliance.

The applicant may serve a set of papers on the Additional Chief Secretary, Mining, UP.

In view of above order in the main matter, we are not inclined to entertain, at this stage, prayer for ex parte interim orders. I.A. Nos. 127/2021 and 128/2021 for interim relief stand disposed of.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

M. Sathyanarayanan, JM

Brijesh Sethi, JM

Dr. Nagin Nanda, EM

July 2, 2021  
Original Application Nos. 140/2021 & 141/2021  
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