

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

(By Video Conferencing)

Original Application No. 140/2019
(With report dated 29.01.2020)

Mahendra Saini, President, Moda Pahad
Sangharsh Samiti

Applicant(s)

Versus

State of Rajasthan

Respondent(s)

Date of hearing: 04.05.2020

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

For Applicant(s): None

For Respondent(s): Mr. Adhiraj Singh, Advocate for RSPCB

ORDER

1. A report was sought from Rajasthan State Pollution Control Board (RSPCB) and SDM, Jhunjhunu with reference to the allegation that 35 stone crushers were being illegally operated in Moda Pahad area within the municipal limits of Jhunjhunu Municipal Council, within 1.5 Km of the habitation and within the prohibited range from a National Highway and a State Highway. Their operation was causing lot of pollution to the environment and the inhabitants.
2. The matter was last considered on 25.11.2019 in the light of report filed by the State PCB on 22.11.2019 acknowledging the deficiencies and mentioning the action initiated. The report was found to be inadequate as no tangible action had been taken inspite of

undisputed violation of environmental norms. The Tribunal observed:

*“Report filed on 22.11.2019 is that inspection was carried out in respect of the stone crushers and show cause notices were issued to 32 stone crushers with reference to the deficiencies found. **The deficiencies referred to are prevention of air pollution, not providing source of raw material, not maintaining log-book of water consumption, not having water spray arrangement, inadequacy of wind breaking walls, not having mechanical chute/hopper, not having boundary-wall at the back side of the plant and not having sign board.***

*We find the report to be inadequate. Mere issuance show cause notice is not ensuring compliance. **Report was required to furnish status and adequacy of pollution control devices, validity of source of ground water, status of ambient air quality and compliance of siting criteria and recovery of compensation for violation of environmental norms and other meaningful action for preventing and remedying violation of law.***

We also find that though the order was passed on 27.03.2019, the action has been initiated only in October, 2019 which shows apathy of the State PCB in complying with the directions of this Tribunal. There is no explanation for inaction for more than six months.

Let a proper report be now furnished giving comprehensive information as above before the next date by email at judicialnqt@gov.in.”

(emphasis supplied)

3. Accordingly, further report dated 29.01.2020 has been filed by the State PCB as follows:

“2) That in compliance of the directions passed by this Hon'ble Tribunal the officials of the State Board have inspected all the 34 disputed stone crushers on 01.01.2020 to verify the compliances of show cause notice dated 21.11.2019. During the course of inspection observations made are as follow:-

a) Status of stone crushers:-

S. No.	Particulars	Details of inspection dated 01.01.2020
01.	Total number of stone crushers.	34

02.	Stone crushers having operational status	26 Out of the total operative 26 stone crushers, 10 crushers have rectified the non-compliances and 16 failed to comply. The State Board has issued closure directions under section 31 A of Air Act against all these 16 stone crushers. As per the report dated 29.01.2020 submitted by AVVNL the electricity connection of all the 16 stone crushers has been disconnected.
03.	Found non-operational during the course of inspection (Closed / dismantled).	08

The photo copy the inspection reports regarding verification of the deficiencies in the show cause notice, of the disputed stone crushers are annexed herewith and marked as Annexure-R/ 1 (Collectively) and photo copy of closure direction to 16 non-compliant stone crushers are annexed herewith and marked as Annexure-R/ 2 (Collectively).

b) Status of ground water:-

Out of the total operative 26 stone crushers 16 have applied for CGWA permission.

c) Status of ambient Air Quality:-

During the course of Ambient Air Monitoring from 05.12.2019 to 07.12.2019, the State Board officials found 24 stone crushers operative; none of the stone crushers was having Ambient Air Quality results within the prescribed limit. On the basis of said inspection, the state Board has issued show cause notices for deposition of environment compensation to all the disputed 24 stone crushers. The photo copy of the sample show cause notice along with list of all the stone crushers and amount of environment compensation proposed to be imposed on each unit which has been duly communicated, is annexed herewith and marked as Annexure-R/ 3 (Collectively).

d) Distance criteria of Stone crushers:-

The Sub-Divisional magistrate, Jhunjhunu vide letter dated 20.11.2019 has informed that all 34 stone crushers are located at a distance of 1.5 km from the abadi area. The photo copy of the SDM, Jhunjunu letter dated 20.11.2019 is annexed herewith and marked as Annexure-R/ 4. It is also submitted that all the disputed stone crushers are located on land duly converted for stone crusher by the competent authority and 01 stone crusher out of the total crushers is located on a mining lease.”

4. It is clear from the above that groundwater extraction is illegally taking place merely on the pretext of permission having been sought from CGWA. Admittedly, there is no such permission. Further, though the report of the SDM, Jhunjhunu in conclusion mentions that the siting criteria is met, the distance mentioned in the report is nearly within the prohibited distance of 1.5 km whereas in enclosed annexure-R/4 of the report, distance in the table has been stated to be 200 meters in some cases. No carrying capacity study has been conducted for the area to determine the optimal number of stone crushers which the area can sustain. While it is mentioned that some compensation has been assessed, the status of realization is not mentioned. The report also does not mention the period of default for which the compensation has been calculated. Learned Counsel for the State PCB states that as per his information, a sum of Rs. 50 lakhs has been recovered. The statement is not firm nor supported by any material. It is not clear as to what is the status of remaining compensation.
5. In view of above, it is necessary for the State PCB to perform its statutory duty in coordination with the SDM, Jhunjhunu so as to ensure that illegal operation of the stone crushers is stopped, apart from recovery of compensation on 'Polluter Pays' principle and initiation of prosecution for enforcement of law of the land. Let

further necessary action be taken in accordance with law expeditiously and action taken report filed on or before 31.07.2020 by e-mail at judicial-ngt@gov.in.

List for further consideration on 06.08.2020.

Adarsh Kumar Goel, CP

Dr. Nagin Nanda, EM

May 04, 2020
O.A. No. 140/2019
DV

