

Item No. 05

(Court No. 1)

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

(By Video Conferencing)

Original Application No. 284/2021

Rohit Kumar

Applicant

Versus

State of Bihar

Respondent

Date of hearing: 11.02.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

ORDER

1. Grievance in this application is against illegal sand mining on the bank of Dakhner river near Paraiya (Gaya), Gaya-Rafiganj Road, Bihar, adversely affecting the environment. The applicant has filed photographs and mentioned coordinates of the location of illegal mining.
2. Vide order dated 08.11.2021, the Tribunal sought a factual and action taken from a joint Committee comprising SEIAA, Bihar, State PCB and District Magistrate, Gaya. The Tribunal referred to earlier order of the Tribunal dated 26.02.2021 in OA No. 360/2015, *NGT Bar Association v. Virender Singh (State of Gujarat)* and other connected matters directed 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 atleast once in a year by the Secretary, Environment in coordination with the Secretaries Mining and Jalshakti Ministries the CPCB.

29. We further direct all the States/UTs to publish their annual reports on the subject and such annual reports may be furnished to MoEF&CC by 30th April every year giving status till 31st March. First such report as on 31.03.2022 may be filed with the MoEF&CC by all the States/UTs on or

before 30.04.2022. The report may also be simultaneously posted on the website of the Environment Department of the States/UTs. Based on such reports, MoEF&CC may consider supplementing its Guidelines from time to time. The MoEF&CC may prepare a consolidated report considering the reports from the States/UTs and publish its own report on the subject, preferably by 31st May every year.

30. We direct the Secretary MoEF&CC to convene a meeting in coordination with the CPCB and Mining and Jalshakti Ministries of Central Government and such other experts/individuals at National level and representatives of States within three months for inter-action on the subject which may be followed by such meetings being convened by the Chief Secretaries in all States in next three months. Holding of such meetings will provide clarity on enforcement strategies and help protection of environment.

All the applications are disposed of. Individual issues may be gone into in accordance with the mechanism to be involved as above.”

3. In view of the above, a report has been filed by the State PCB on behalf of the joint Committee after undertaking visit to the site on 05.12.2021 as follows:-

“1to6...xxx.....xxxx.....xxx

7. *That on inspection following observations were made:-*

- i. No sand mining was being done at the said location;*
- ii. One tractor loaded with sand mined illegally was found near the village Manjhar;*
- iii. No other vehicle loaded with sand was found in the area;*
- iv. Near Sun Temple, sadhuchak, a small sand heap was found (approximately 500 cft.) which appeared to have been mined earlier;*
- v. No sand was found at Lalganj; However, it appeared that sand was stocked at that point earlier, as remains of sand was observed;*
- vi. On interaction with local people, it was found that tractors carrying sand is not passing through Udabhigha Road Bridge from last 5-6 months;*

8. *That in light of observations, of the committee under reference it is humbly submitted that no illegal sand mining is taking place in Gaya District on the bank of Dakhner river near Paraiya at present. However, earlier (4-5 months) illegal sand mining was carried out.*

9. *That it is humbly submitted that action taken by the district administration against the person involved in illegal sand mining trade are as follows:-*

- i. *From 01.01.2021 to 30.11.2021, total 1431 raids were conducted; 420 F.I.R were lodged; 124 persons have been arrested; 1060 vehicles were seized; and Four Crores Thirty four lacs and Eighty Eight thousand (Rs 434.88 lacs) was realized as penalty from persons involved in illegal sand mining.*
- ii. *The District Magistrate, Gaya, and Superintendent of Police, Gaya, convenes weekly review meeting to review the action taken against illegal sand mining;*
- iii. *Concerned Sub-Divisional Magistrate, Circle Officer, land Revenue department and SHO have been delegated powers to check illegal sand mining;*
- iv. *District Level mining task Force has been constituted to check illegal sand mining.*

4. In view of the above, we reiterate our direction dated 26.02.2021 in O.A. No. 360/2015, *National Green Tribunal Bar Association v. Virender Singh (State of Gujarat)* to continuously monitor compliance of Sustainable Sand Mining Guidelines, 2016 read with EMGSM-2020, reinforced by mechanism for preparation of DSRs, Environment Management Plans, replenishment studies, mine closure plans, grant of EC, assessment and recovery of compensation, seizure and release of vehicles involved in illegal mining, other safeguards against violations, grievance redressal, accountability of the designated officers and periodical review at higher levels in the manner already directed.

The application is disposed of.

A copy of this order be forwarded to SEIAA, Bihar, State PCB and District Magistrate, Gaya by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Dr. Nagin Nanda, EM

Prof. A. Senthil Vel, EM

Dr. Afroz Ahmad, EM

February 11, 2022
Original Application No. 284/2021
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