

Item No. 02

Court No. 1

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

(By Video Conferencing)

Original Application No. 150/2021

Anish

Applicant

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 18.11.2022

**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**

Applicant: Mr. Vanshdeep Dalmia & Mr. Yashvardhan Bisht, Advocates

Respondents: Mr. Rahul Khurana, Advocate for HSPCB
Mr. Ajit Sharma, Advocate for R - 11 to 13

ORDER

1. Grievance in this application is against violation of environmental norms by Respondent No. 11 to 13 - M/s Development Strategies India Pvt. Ltd., M/s Delhi Royalty Company and M/s Mubarakpur Royalty Company at Yamuna Nagar, Haryana in conducting sand mining at village Pobari, Tehsil Radaur, District Yamuna Nagar. Project site is at Khasra Number Pobari Block/YNR B-11 over area of 23.05 Ha. vide EC dated 27.06.2021 for Respondent No. 11, village - Kohliwala, Tehsil Chhachhrauli District Yamuna Nagar, project site at Khasra No. Block /YNR B-21 and 22 over area of 13.59 Ha vide EC dated 27.06.2016 for Respondent No. 12 and village Bailgarh, Tehsil Chhachhrauli, District Yamuna Nagar, project site

at Khasra No. South Block / YNR B-2 over area of 28 Ha. vide EC dated 27.06.2016.

2. The applicant has annexed photographs showing the diversion of the river flow, in stream mining and use of heavy machinery in violation of the EC conditions, the Sustainable Sand Mining Guidelines, 2020 and recent order of this Tribunal dated 26.02.2021 in O.A. No. 360/2015, *NGT Bar Association v. Virender Singh (State of Gujarat) and other connected matters* directing 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.”

3. The matter was earlier considered in the light of factual report filed by the Committee constituted by this Tribunal. Since the report was inadequate, vide order dated 08.03.2022, the Tribunal requested the Monitoring Committee headed by Justice Pritam Pal, former Judge of Punjab and Haryana High Court, which has been appointed by this Tribunal to monitor compliance of certain orders of this Tribunal, in the State of Haryana, to cross-check the factual position by undertaking visit to the site, with the assistance of such of the authorities as may be considered necessary.

4. The matter was last considered on 19.07.2022 in the light of report of the Monitoring Committee dated 7.5.2022 finding violations against each of the PPs. The violations include failure to implement progressive mine closure plan, undertaking mining beyond the permitted depth, not taking measures for rehabilitation/restoration/ rejuvenation of the land of the area where mining was undertaken. Not developing green belt, not erecting necessary boundary pillars, not installing CCTV cameras, not maintaining road for transportation of the material, not showing GPS system on the vehicles used for transportation of the material. Illegal screening plant was found within the premises. Safety measures for the workers were not adopted. Mining was illegally done by use of JCB

machine. There was diversion of the river flow. Observations of the Committee are by and large identical, with minor variations, with respect to the three PPs. Considering the violations found in the report of the Committee, the Tribunal called upon the PPs to file their response in the matter. To see precise violations, observations of the Committee are quoted below:

“3.1 Mining site for mining of boulder, gravel and sand in non forest and non-river area at Village Kohliwala, Block YNR/B 21 & 22, Tehsil Chhachhrauli, District Yamunanagar

The mining lease area has been allotted to M/S Delhi Royalty Company, Model town, Yamunanagar. The said mining lease holder was issued letter of intent by the Department of Mines & Geology, Haryana on 19.6.2015, Environment Clearance under EIA notification dated 14.9.2006 was granted by SEIAA, Haryana on 27.6.2016 and consent to operate under the provision of Air Act, 1981 was granted by HSPCB on 9.8.2016. The mining was started by the mining lease holder on 11.8.2016. As per the record maintained by Department of Mining and Geology and Mining Plan submitted by the Mining lease holder (M/s Delhi Royalty Company, 112, Santpura Gurudwara Road, Model Town, Yamunanagar), boulder, gravel and sand mining site in non forest area and non river area having total lease area of 13.59 hectare, exists in village Kohliwala, Block YNR/B 21 & 22, Tehsil Chhachhrauli, District Yamunanagar.

As per the record submitted by Department of Mining and Geology vide letter no. Mining/Admin/Ynr/1914 dated 29.04.2022, the mining lease order started its production at the site on 11.08.2016 and the production of boulder, gravel and sand during the period 11.08.2016 to 10.08.2017 has been mentioned as 222549 MT, for the period 11.08.2017 to 10.08.2018, the production of the said products has been mentioned as 248288 MT, during the period 11.08.2018 to 10.08.2019, the production of said products has been mentioned 248236 MT, for the period 11.08.2019 to 10.08.2020, the production of said products has been mentioned as 252887 MT, for the period 11.08.2020 to 10.8.2021, the production of said products has been mentioned as 246550 MT and during the period 11.8.2021 to 10.12.2021, the production was mentioned as 82267 MT. Thereafter, the mining operation was suspended on 10.12.2021. The average production of boulder, gravel and sand has been calculated as 244048 MT/Year, whereas, the mining lease holder has been allowed the production capacity as 250000 MT. As such, the mining lease holder has produced the quantity of minor minerals within the permissible production capacity. The total lease period of the mining site is 8 years.

During the visit, the Monitoring Committee has made the following observations:

3.1.1 Observations of the Monitoring Committee

1. *No mining was being carried out at the mining lease area. The Mining officer informed that due to non payment of royalty by the mining lease holder, mining activity in the said area has been stopped on the directions of the mining department and mining operation was suspended on 10.12.2021. However, the site condition indicated that slight mining was being carried out in the area. Even, the fresh material screened by the nearby screening plant was seen by the Monitoring Committee. On the next visit of the Technical Expert of the Monitoring Committee on 23.04.2022, it was observed that the said screening Plant was in operation and it was apprehended that the raw material used for screening, had been mined from the said mining site.*
2. *It was informed that depth upto 9 m has been allowed for extraction of boulder, gravel and sand and in some part of the mining lease area, the depth of 9 m has been exhausted but no progressive mining closure plan has been implemented in the part of the mining lease area, where the mining upto depth of 9m has been completed. No steps have been taken for rehabilitation / restoration / rejuvenation of the land of the area.*
3. *Few plants were found planted in the mined area and on the next visit made on 23.04.2022, some more plants have been found planted in the mining site area.*
4. *As per Mining Plan, 25 boundary pillars were to be erected at the boundary of the mining lease area, whereas, during the visit, the mining lease holder could not show all the boundary pillars erected at the site. The coordinates of one of the boundary pillar i.e BP-3 were found with the help of mobile phone as latitude as N30° 15' and longitude as E 77° 30' against the actual coordinate of the boundary pillar, as latitude: N30° 15' 40.43" and longitude: E 77° 30'19".*
5. *Weigh bridge has been set up outside the mining lease area.*
6. *No CCTV cameras have been installed at all the vulnerable points.*
7. *The condition of the road through which the mined material is transported is not good and non-stabilized. Also, the width of the road constructed for transportation of the mine material through vehicles is less and it has not been widened and fully stabilized.*
8. *The plants have been planted recently, whereas, these plants should have been planted about 5 years ago, when the mining activity in the year 2016 was started at the site so that these would have grown fully.*
9. *The Committee could not check as to whether GPS system have been provided on the vehicles carrying mined material as no vehicles were found standing at the site. Also, the details of the vehicles deployed for transportation of mined material by the mining lease holder and registration of vehicles and status of GPS on these vehicles have not been provided by the Department of Mines and Geology as requested by the Monitoring Committee while conveying the requirements of the*

Monitoring Committee from the Departments vide letter no. CMC/2022/836 dated 02.04.2022.

10. As per the Mining Plan submitted by the mining lease holder, it has mentioned that 3750 saplings were planted in the area for development of green belt of 7.5 m wide around the mining lease area. The Monitoring Committee during its visit to the mining site on 01.04.2022 and 23.04.2022, it has been observed that no green belt of 7.5 (1.36 ha) m has been maintained by the mining lease holder around the mining lease area and only few plants in two patches have been planted.
11. As per the Mining Plan, it has been mentioned that no screening / sizing facility has been installed at site, whereas, during the both the visits of the Monitoring Committee made on 01.04.2022 and 23.04.2022, one screening Plant has been found set up within the premises of mining lease area and it was found in operation on both the visits.
12. The roads maintained for transportation of production, have not been fully stabilized and no arrangements have been made for sprinkling of water on the road to suppress the dust emissions.
13. As per the Mining Plan, water tanker of capacity 4000 liter has been deployed for carrying ground water for use in activities likes drinking purposes, suppress of dust and watering to the plants etc. It is mentioned there that in compliance to order of Hon'ble Nation Green Tribunal, in one of the case, the mining lease holder has to make arrangements to use the treated sewage of nearby STP for sprinkling of water for suppression of dust.
14. As safety measures, the mining lease holder has not provided protective equipments for like dust masks, ear plugs / muffs and other equipments to the laborer working in the mining lease area.
15. No danger signs have been displayed near the mining lease area.
16. Mining lease holder has not made efforts to make plantation in 33 % of the mining lease area under the social forestry on the land available from Panchayats, which is to be completed at the end of mining lease.
17. No plants have been developed along the road adjoining to the mining lease area to prevent the speeding of dust and attenuate air pollution in the area.

The Photograph showing the mining lease area from which minor mineral has been extracted, few plants planted at site, boundary pillar erected at one corner of the site and mining lease site are mentioned as Plates 1 to 4.

3.1.2 Specific recommendations of the Monitoring Committee w.r.t non river mining site at village Kohliwala, Tehsil Chhachhrauli, District Yamunanagar.

- 1. The mining lease holder shall erect all the 25 boundary pillars around the mining lease site and coordinates on all the boundary pillars may be marked within 01 month.**
- 2. As per the Mining Plan submitted by the mining lease holder, 7.5 m wide barrier was to be left all around the**

mining lease area for development of green belt / plantation but the same has not been left by the mining lease holder. Therefore, the Monitoring Committee recommends that the mining lease holder shall leave 7.5 m barrier all around the mining lease site for development of green belt / plantation within 02 months.

- 3. As per the record submitted by Department of Mines and Geology, Yamunanagar, the average production of boulder, gravel and sand has been calculated as 244048 MT/Year, whereas, the mining lease holder has been allowed the production capacity as 250000 MT/year. As such, as per the record, mining lease holder has produced the quantity of minor minerals within permissible production capacity. However, the Monitoring Committee during its both the visits made on 1.4.2022 and 23.4.2022, observed that one screening plant set up within the premises of the mining lease area was in operation and there is quite possibility that it is using the raw material from the said mining lease area. Therefore, the mining lease holder might be doing illegal mining in the mining lease area. Therefore, it is recommended that the Department of Mines and Geology shall impose compensation for extracting more quantity of minor mineral in the form of illegal mining as compared to the permitted quantity to be extracted as per the Methodology mentioned in order dated 26.02.2021 in OA no. 360 of 2015 in the matter of National Green Tribunal bar association V/s Virender Singh (State of Gujarat).*
- 4. The mining lease holder shall implement progressive mining closure plan in the part of mining lease area where the mining upto depth of 9 m has been completed and steps may be taken for rehabilitation / restoration / rejuvenation of the mined area.*
- 5. The mining lease holder shall plant maximum number trees on both sides of road used for transportation of mined material within 03 months.*
- 6. The mining lease holder shall ensure that the screening plant, installed within the premises of the mining lease area, may not be allowed to operate till the suspension of the mining lease is restored by Department of Mines and Geology. The quantity of raw material used in the screening plant may be in the record to be submitted to Department of Mines & Geology.*
- 7. Appropriate number of boards mentioning danger sign may be erected at suitable places of the mining lease area.*
- 8. The mining lease holder shall start making plantation under the social forestry on the land available from Panchayat to ensure plantation in 33% area may be completed at the end of the mining lease.*

3.2 River mining site for mining of boulder, gravel and sand at village Bailgarh, Block YNR/B-2, Tehsil Chhachhrauli, District Yamunanagar by M/s Mubarikpur Royalty Company, VPO Mubarikpur, District Mohali, Punjab

The mining lease area of 28 hectares (non forest) has been allotted by the Department of Mines and Geology and issued letter of intent on 19.06.2015 to M/s Mubarikpur Royalty Company, VPO Mubarikpur, District Mohali, Punjab with lease period of 9 years. The Environment Clearance under EIA Notification dated 14.09.2006 was granted by SEIAA, Haryana on 27.06.2016 for production capacity of 1.3 Million T/Year and consent to operate under Air Act, 1981 was granted HSPCB on 31.08.2016. As per the record maintained by Department of Mines and Geology and Mining Plan submitted by the mining lease holder (M/s Mubarikpur Royalty Company, VPO Mubarikpur, District Mohali, Punjab), boulder, gravel and sand in mining site river area having total lease area of 28 hectares, exists in Village Bailgarh, South Block (YNR B-2), Village Bailgarh, Tehsil Chhachhroli, District Yamunanagar.

As per the record submitted by Department of Mining and Geology vide letter no. Mining/Admin/Ynr/1914 dated 29.04.2022, the mining lease order started its production at the site on 09.12.2016 and the production of boulder, gravel and sand during the period 09.12.2016 to 08.12.2017 has been mentioned as 1183289 MT, for the period 09.12.2017 to 08.12.2018, the production of the said products has been mentioned as 1220882 MT, during the period 09.12.2018 to 08.12.2019, the production of said product has been mentioned 1239120 MT, for the period 09.12.2019 to 08.12.2020, the production of said product has been mentioned as 1174817 MT and for the period 09.12.2020 to 08.12.2021, the production of said products has been mentioned as 1190973 MT and for the period 9.1.2.2021 to 31.03.2022, the production of said production has been mentioned as 366280 MTD. The average production of boulder, gravel and sand has been calculated as 1200633 MT/Year, whereas, the mining lease holder has been allowed the production capacity as 1.3 Million T/Year (1300000 MT/year). As such, the mining lease holdet has produced the quantity of minor minerals within permissible production capacity. The total lease period of the mining site is 9 years.

3.2.1 Observations of the Monitoring Committee

The Monitoring Committee visited the mining lease area in river area on 01.04.2022 and 23.04.2022 and the following observations were made.

- 1. On the day of visit on 1.4.2022; no mining activity was in operation. It was informed that due to regular flow of water from the last 02 months, the mining in the river bed area could not be made operational and the mining from the river bed shall be started after the drying of water in the area. It is mentioned here that as per the record submitted by Department of Mines and Geology, Yamunanagar vide its letter no. 1914 dated 29.04.2022, the mining lease holder has done mining in the mining lease area upto 31.03.2022, whereas, the Monitoring Committee has visited the site on 01.04.2022 and the mining*

lease holder submitted the statement that the mining site in river area was not in operation from the last 02 months due to regular flow in the river, which is wrong statement. It indicates that the mining lease holder had deliberately stopped the operation of the mining site on the day of visit of the Monitoring Committee on 01.04.2022. The mining lease area was again visited by the Technical Expert of the Monitoring Committee on 23.04.2022 and though the mining in the mining lease area was in operation but the same was kept deliberately in slow pace. The photographs showing mining site in operation during the visit on 23.4.2022 is mentioned as per **Plate-5**

2. As per mining plan, 03 boundary pillar have been mentioned, whose latitude and longitude are as under:

Sl. No.	Latitude	Longitude
1	N30°13'29.01"	E077°33'34.59"
2	N30°13'10.29"	E077°30'24.22"
3	N30°12'41.01"	E077°30'17.97"

The Monitoring Committee in the presence of the officers of mining department and HSPCB checked the GPS coordinates of 1 boundary pillar with mobile phone and the same were found as latitude: N30°13'32" and longitude: E077°31'37". The number of boundary pillars setup by the mining lease holder are very less and adequate no. of such boundary pillars may be erected at mining lease area. During the next visit of the Technical Expert of the Monitoring Committee on 23.04.2022, the GPS coordinates of the boundary pillar were checked and the photograph showing the pillar mentioning the coordinates as latitude: 30°13'35.22" and longitude: 77°30'33.72" is mentioned as per **Plate no. 6**.

3. **No CCTV cameras have been installed at the vulnerable points.**
4. The site conditions indicated that no distance of mining lease site has been maintained from the embankment of river and mining has been started just at the embankment of river and the same facts were verified during the last visit of the Technical Expert of the Monitoring Committee on 23.04.2022. The photograph showing mining done just at the start of the embankment of river Yamuna is mentioned as per **plate 7**.
5. Weigh bridge has been setup outside the mining lease area.
6. On the day of visit on 23.04.2022, it was observed that mining upto depth of more than 3 m has been done in the mining lease area against the permissible depth of 3 m. The photograph showing the illegal mining done beyond 3 m depth is also mentioned in **Plate 7**.
7. The condition of the road from where the mined material is transported is not good and is not fully stabilized. No plantation has been made along the roads (on both sides) provided for transportation of mined material to attenuate air pollution. The photograph showing non stabilized road without plantation is mentioned as per

8. *The Committee could not check as to whether GPS system have been provided on the vehicles carrying mined material as no vehicle was found standing at the site. Even during the last visit made on 23.04.2022, no transportation vehicles were available at the site.*
9. *The mining lease holder has developed plantation in small area outside mining lease area and within mining lease area, which are mentioned as per **Plates 9 and 10.***
10. *As per the Mining Plan submitted by the mining lease holder, it has been mentioned that saplings have been planted in the area for development of green belt of 7.5 m wide. The Monitoring Committee during its visit to the mining site on 01.04.2022 and 23.04.2022, it has been observed that no green belt of 7.5 m wide has been maintained by the mining lease holder and only few plants in two patches have been planted. Also, green belt margin having width of 7.5 m (2.80 ha) all around the mining site has not been left by the mining lease holder.*
11. *The roads maintained for transportation of mined material, have not been fully stabilized and no arrangements have been made for sprinkling of water on the roads to suppress the dust emissions. It is mentioned there that in compliance to order of Hon'ble National Green Tribunal, in one of the case, the mining lease holder has to make arrangements to use the treated sewage of nearby STP for sprinkling of water on the roads for suppression of dust.*
12. *The mining lease holder has not maintained un-mined block of 50 m length left after 1000 m length of mining lease area and as' such, has not complied with the conditions mentioned in the Mining Plan.*
13. *In the Mining Plan, it has been mentioned that in case of river Yamuna, no mining shall be permissible in an area upto width of 500 m from the active edges of embankment of the river. The mining lease holder has not maintained a distance of 500 m from the active edge of the embankment of river as noted during the last visit made on 23.04.2022, as the mining has been done just near the embankment of the river. As such, the mining lease holder has not followed the guidelines mentioned as Sustainable Sand Mining Guidelines, 2016, violated the conditions mentioned in the Mining Plan and Haryana Minor Mineral Concession, Stocking, Transportation of Minerals and Prevention of Illegal Mining Rules, 2012.*

3.2.2 Specific recommendations of the Monitoring Committee w.r.t river mining site at village Bailgarh, Tehsil Chhachhrauli, District Yamunanagar

- 1. The mining lease holder shall erect adequate number of boundary pillars all around the mining lease site and coordinates on all the boundary pillars may be marked within 01 month.**
- 2. The mining lease holder shall maintain a barrier of 7.5 m wide from the embankment of the river and shall develop plantation in the said 7.5 m wide barrier within 02 months.**

- 3. As per the record submitted by Department of Mines and Geology, Yamunanagar, the average production of boulder, gravel and sand has been calculated as 1200633 MT/Year, whereas, the mining lease holder has been allowed the production capacity as 1300000 MT/Year, which is within the capacity allowed by Department of Mines and Geology. It is mentioned here that the mining lease holder is doing illegal mining beyond 3 m depth, as such, the mining lease holder is extracting mined material more than capacity allowed to it. Thus, the mining lease holder is doing illegal mining. Therefore, it is recommended that the Department of Mines and Geology shall impose compensation for extracting more quantity of minor mineral as compared to the permitted quantity to be extracted as per the Methodology mentioned in order dated 26.02.2021 in OA no. 360 of 2015 in the matter of National Green Tribunal Bar Association V/s Virender Singh (State of Gujarat).**
- 4. The mining lease holder shall implement progressive mining closure plan in the part of mining lease area where the mining upto depth of 3m has been completed and steps may be taken for rehabilitation / restoration / rejuvenation of the mined area.**
- 5. The mining lease holder shall plant maximum number trees on both sides of road used for transportation of mined material within 03 months.**
- 6. The mining lease holder shall start making plantation under the social forestry on the land available from Panchayat to ensure plantation in 7 hectares as mentioned in the Mining Plan, may be completed at the end of the mining lease.**
- 7. The Department of Mines and Geology shall take action against the mining lease holder for violating the rules mentioned in the Haryana Minor Mineral Concession, Stocking, Transportation of Minerals and Prevention of Illegal Mining Rules, 2012 for not maintaining 500 m distance of mining lease area from the active edge of the river Yamuna.**
- 8. The mining lease holder shall provide protective equipment like dust masks, ear plugs / muffs and other equipments to the laborer working in the mining lease area.**

3.3 River mining site for mining of boulders, gravel, sand at village Pobari, Block YNR-B-11, Tehsil Radaur, District Yamunanagar by M/s Development Strategies India Pvt. Ltd., Sarojini colony, Yamunanagar.

The mining lease area of 23.05 hectares (non forest) has been allotted by the Department of Mines and Geology and issued letter of intent on 19.06.2015 to M/s Development Strategies India Pvt. Ltd., Sarojini colony, Yamunanagar with lease period of 9 years. The Environment Clearance under EIA Notification dated 14.09.2006 was granted by SEIAA, Haryana on 27.06.2016 for production capacity of 1.1 Million T/Year and

consent to operate under Air Act, 1981 was granted HSPCB 31.08.2016. As per the record maintained by Department of Mines and Geology and Mining Plan submitted by the mining lease holder (M/s Development Strategies India Pvt. Ltd., Sarojini colony, Yamunanagar), boulder, gravel and sand mining site in river area, having total lease area of 23.05 hectares, exists in Village Pobari, Block YNR-B-11, Teh Radaur, District Yamunanagar.

As per the record submitted by Department of Mining and Geology vide letter no. Mining/Admin/Ynr/1914 dated 29.04.2022, the mining lease order started its production at the site on 09.12.2016 and the production of boulder, gravel and sand during the period 09.12.2016 to 08.12.2017 has been mentioned as 726006 MT, for the period 09.12.2017 to 08.12.2018, the production of the said products has been mentioned as 576576 MT, during the period 09.12.2018 to 08.12.2019, the production of said products has been mentioned 1056615 MT, for the period 09.12.2019 to 08.12.2020, the production of said products has been mentioned as 943786 MT and for the period 09.12.2020 to 08.12.2021, the production of said products has been mentioned as 1088637 MT and for the period 9.12.2021 to 31.03.2022, the production of said products has been mentioned as 460230 MTD. The average production of boulder, gravel and sand has been calculated as 885374 MT/Year, whereas, the mining lease holder has been allowed the production capacity as 1.1 Million T/Year. As such, the mining lease holder has produced the quantity of minor minerals within permissible production capacity. The total lease period of the mining site is 9 years. The production record submitted by the Department of Mines & Geology, Yamunanagar vide letter No. Mining/Admin/Ynr/1914 dated 29.4.2022 is annexed as per **Annexure-3**

3.3.1 Observations of the Monitoring Committee

1. At the time of visit, the mining activity was in operation with ordinary JCB. The sand already extracted from the mining lease area was being loaded in the tippers. During the next visit made on 23.04.2022 by the Technical Expert of the Monitoring Committee, the mining operation in the mining lease area was found stopped. It was informed that the Department of Mines and Geology vide its office letter no. 1178 dated 20.04.2022 has suspended the mining operations alongwith dispatch of minerals from the contract area due to non payment of contract money / royalty.
2. As per the Mining Plan, the mining lease holder has to erect 27 boundary pillars around the mining lease area, whereas, the mining lease holder has provided 12 boundary pillars which are not adequate.
3. As per Mining Plan, the mining lease holder has to leave a barrier of 7.5 m wide (4.95 ha) from the boundary of the mining area, however, the mining lease holder has not left a barrier of 7.5 m wide from the boundary of the mining lease area.
4. The Monitoring Committee noted the coordinates of the one of the boundary pillar erected at boundary of mining lease

site with mobile phone, which were found as latitude : N30°00" and longitude : E077°15'.

5. No CCTV cameras have been installed at the vulnerable points.
6. During the last visit made on 23.04.2022 by the Technical Expert of the Monitoring Committee, it was observed that the distance of mining lease area from the embankment of river was about 250 m, which is less than distance of 500 m to be maintained from the embankment of the river Yamuna. As such, the mining lease holder has violated the provisions of Haryana Minor Mineral Concession, Stocking, Transportation of Minerals and Prevention of Illegal Mining Rules, 2012.
7. Weigh bridge has not been provided at the entry of mining lease area.
8. The condition of the road through, which the mined material is transported is not good, fully stabilized and compacted.
9. The Committee could not check as to whether GPS system have been provided on the vehicles carrying mined material as no vehicles were found present at the site.
10. During the visit of the Monitoring Committee on 01.04.2022, it was observed that the mining lease holder had diverted the flow of River Yamuna by laying of layer of sand in the lease area to extract the more quantity of sand from the lease area.
11. The condition of the flow of River water in between the patches of the sand / gravel heaps indicate that the mining lease holder might be doing in-stream mining using heavy machinery during the odd hours. The photograph taken on 01.04.2022 and 23.04.2022 showing the patches of sand / gravel heaps in between flow of river are mentioned as **Plates 11 and 12**, respectively.

3.3.2 Specific recommendations of the Monitoring Committee w.r.t river mining site at village Pobari, Tehsil Radaur, District Yamunanagar

1. **The mining lease holder shall erect adequate number of boundary pillars around the mining lease site and coordinates on all the boundary pillars may be marked within 01 month.**
2. **As per the Mining Plan, the mining lease holder has to leave a barrier of 7.5 m wide from the boundary of mining lease area. The mining lease holder has not left a barrier of 7.5 m wide from the mining area boundary. Therefore, it is recommended that mining lease holder shall maintain a barrier of 7.5 wide from the mining area boundary and a green belt may be develop in the said 7.5 wide barrier within 02 months.**
3. **As per the record submitted by Department of Mines and Geology, Yamunanagar, the average production of boulder, gravel and sand has been calculated as 885374 MT/Year, whereas, the mining lease holder has been allowed the production capacity as 1100000 MT/Year, which is within the capacity allowed by Department of Mines and Geology. It is mentioned here**

that the condition of the flow of River water in between the patches of the sand / gravel heaps indicate that the mining lease holder might be doing in-stream mining using heavy machinery during the odd hours. Therefore, it is apprehended that the mining lease holder might be extracting more quantity of mined material than the permissible capacity 1100000 MT/Year.

- 4. The mining lease holder shall plant maximum number trees on both sides of road used for transportation of mined material within 03 months.*
- 5. The mining lease holder shall start making plantation under the social forestry on the land available from Panchayat to ensure plantation in 4.0 hectares as mentioned in the Mining Plan, may be completed at the end of the mining lease.*
- 6. The Department of Mines and Geology shall take action against the mining lease holder for violating the provisions of Haryana Minor Mineral Concession, Stocking, Transportation of Minerals and Prevention of Illegal Mining Rules, 2012 for not keeping 500 m distance of mining lease area from the active edge of the river Yamuna.*

4.0 General recommendations of the Monitoring Committee with regards to each mining site (non river mining site at village Kohliwala, Tehsil Chhachhrauli, District Yamunanagar; river mining site at village Bailgarh, Tehsil Chhachhrauli, District Yamunanagar and river mining site at village Pobari, Tehsil Radaur, District Yamunanagar):

- 1. There should be a mechanism at district level to generate the system which may enable the authorities to develop periodic report on different parameters like daily lifting report, vehicle log or history, lifting against allocation and total lifting. The system can be used to generate auto mails or SMS. This will enable the Deputy Commissioner, Yamunanagar to get all the relevant details and shall enable the authority to block the scanning facility of any site found to be indulged in irregularity.*
- 2. Strict vigilance, surveillance and frequent raids are required to control the illegal mining. In other case, it would have been appropriate to recommend constitution of enforcement wing comprising of officers from Department of Police, Department of Geology and District Administration. However, keeping in view the given situation, pulls and pressure at District Level, this enforcement wing may not be succeeded in achieving the object of its creation.*

It is learnt that previously there was enforcement committee reporting directly to the Director of Mines and Geology, which was functioning very

effectively in the past. The said committee did surveillance/ raids from time to time and was able to control illegal mining and created terror to the law breakers. It seems that the said enforcement committee is now not in existence. However, to curb illegal mining in the mining sites, the Deputy Commissioner, Yamunanagar has deployed the officers like BDPO of concerned area, SDO, HSPCB, RFO of concerned area, SDO, Water Services Division, SDO, B& R, SHO of concerned area and mining inspector of the area etc. The prevailing situation at the mining sites indicates that the designated officers have not been effective for proper enforcement to control illegal mining.

It is therefore, recommended that the earlier enforcement committee, which was directly reporting to the Director of Mines & Geology, may be revived.

- 3. As per the provisions of section 22 of the Mines and Minerals (Development & Regulation) Act, 1957 [(MMDR Act, 1957)], there is provision that no court shall take cognizance of any offence punishable under this Act or any rules made there under except upon complaint in writing made by a person authorized in this behalf by the Central Govt. or State Govt. As such, the police cannot register an FIR against the violator on the complaint of any citizen/individual. There is need to amend the said section of MMDR, Act, 1957 to the extent that police department should have powers to register FIR against the violators.*
- 4. The Mining Department may create an online app which can be used by all officers authorized for compounding so that an alert can be generated for vehicle numbers in case of repeated violations are occurred. In all such cases, FIR should be registered and the case should be sent to Court for trial & conviction.*
- 5. District level Task Force shall check the compliance of Mining Plan submitted by each mining lease holder operating their mining activities in non-river area and in river area within 02 months and report be submitted to Mining department as well as Deputy Commissioner, Yamunanagar for further action.*
- 6. The department of Transport and Police shall jointly check the overloaded trucks / vehicles carrying minor mineral/sand and heavy fine may be imposed on these vehicles/trucks. The trucks/vehicles and driving License of the driver may be seized and put into safe custody for 01 month and these trucks/vehicles shall be released following the procedure and methodology as mentioned in para 8 of order dated 26.2.2021 in OA No 360 of 2015 in the matter of National Green*

Tribunal Bar Association V/s Virender Singh (State of Gujarat).

- 7. The Department of Irrigation may continue to make survey along river Yamuna four times in a year to ensure that no sand and gravel is allowed to be extracted, where, erosion may occur and especially at the concave banks of the river.***
- 8. The Department of Mines and Geology shall provide Geo-fencing on the mining lease area within 03 months.***
- 9. The mining lease holder shall provide advanced technological GPS on all the vehicles deployed for transportation of mined material so that their movement can be tracked and be monitored by the Department of Mining and Police and Prompt action may be taken against the illegal mining operator.***
- 10. In no case, mining of minor mineral may be allowed to be mined in night hours.***
- 11. For monitoring illegal sand / gravel mining in the mining lease area, there shall be a provisions of checking transport permit, printing of transport permit on security papers, invisible ink marks, fugitive ink background and unique barcode system. The Department of Mines and Geology shall provide said documents to the Monitoring teams or District Level Task Force at district level. The Monitoring team deployed for checking of vehicles / trucks carrying mined material should be in a position to check the validity of transport permit or receipt of scanning them using website, mobile phone application and SMS.***
- 12. The mining lease holder shall ensure that the vehicles used for transportation of sand / mined material are to be permitted only the with the fitness and PUC certificate and it shall be ensured that road may not be damaged due to transportation of mined material.***
- 13. Mining Officer should be the Competent Authority to specify the transport route which shall be used by the vehicles used by the mining lease holder so that it may be route through at least one of the mining check post established by the Department. There should be complete restriction on loading and transportation of mined material during night hours (7.00 PM to 6.00 AM). The mining lease holder should give a list of vehicles to the Mining Officer which should be entered into the portal and which will get auto populated in the software in the mining lease holder login. The list of the permitted vehicles should be shared with the Police Department and with the mining check post. Any vehicles, which is not in the list given by the mining lease holder should be impounded. Only GPS enabled vehicles may be deployed for transportation of mined material and their movement should be accessible to the Mining Department.***

14. ***The roads used for transportation of mined material and movement of the vehicles may be fully stabilized and compacted so that no dust emission are generated and treated sewage of nearby STP may be utilized for sprinkling of water to suppress the dust emissions generated during movement of the vehicles.***
15. ***CCTV cameras may be installed at all the vulnerable points in the mining lease area.***
16. ***The Department of Mines and Geology shall provide advance technological drones to take prompt against the illegal mining.***
17. ***The Monitoring mechanism for seize and release of vehicles used for illegal mining / scale of compensation for violation on "Polluter pays" principle as mentioned in para no. 8 to 11 of order dated 26.02.2021 in OA no. 360 of 2015 in the matter of National Green Tribunal Bar Association versus Virender Singh (State of Gujarat) may be implemented by the concern departments.***
18. ***The Department of Mines and Geology and District Level Task Force shall strictly follow the Sustainable Sand Mining Guidelines, 2016 and Enforcement and Monitoring Guidelines for Sand Mining, 2020 to check the illegal mining by the mining lease holder.***

5.0 Other observations and recommendations w.r.t. stone crushers / screening plants operating in the area

5.1 Observations

The Monitoring Committee during its visit to the mining sites in village Kohliwala and village Bailgarh of District Yamunanagar observed that there are number of stone crushers/ screening plants adjoining to the mining lease areas near villages Kohliwala and Bailgarh. During the visit of the Monitoring Committee made on 01.04.2022, all these stone crushers were found not in operation due to non-availability of electricity. However, during the last visit of the Technical Expert of the Monitoring Committee made on 23.04.2022, all these stone crushers/ screening plants were found in operation, but most of the these stone crushers have not adopted the following code of practices for control of air pollution:

- i) The stone crushers have not covered all the dust emitting points namely Jaw crusher / roller / crusher / screener etc.***
- ii) The conveyor belts of most of the stone crushers were not covered with suitable material and no water sprinkling systems have been provided on the conveyor belts.***
- iii) No telescoping chutes of suitable height have been provided at the end of the conveyor belts.***

- iv) All the material transfer points have not been properly covered.**
- v) The ramp and approach road have not been properly stabilized / metalled. Water sprinkling system along the boundary of the stone crushers / screeners have not provided to suppress the dust emissions generated during movement of vehicles.**
- vi) No green belt / plantation have been provided along the boundary of the stone crushers / screeners.
Wind breaking walls around the stone crushers have not been provided.**

5.2 Recommendations:

Haryana State Pollution Control Board may be directed to check all the stone crushers/ screening plants of the area within 02 months and shall get provide all the pollution control systems/ code of practice as mentioned above within next 02 months. Haryana State Pollution Control Board shall monitor the ambient air quality within the premises of each stone crusher/ screening plant and overall ambient air quality in nearby village/habitation area within 04 months and legal action under the provisions of Air Act, 1981 may be taken against the violating stone crushers/ screening plants.”

5. Response of the PPs is by and large identical. Apart from questioning bonafides and identity of the applicant, the PPs have also attempted to scandalize the Chairperson of the Committee but during the hearing, learned Counsel for the PPs withdrew the uncalled for allegations. On merits, there is no dispute about violation of condition for plantation. Defence is that plantation was not viable. There is no specific response to other violations mentioned above. Further, it is undisputed that replenishment status was never monitored by the PPs in terms of EC condition, the mandate under the judgment of the Hon’ble Supreme Court in *Deepak Kumar v. State of Haryana & Ors.*¹ and under the ‘Sustainable Sand Mining Management Guidelines, 2016’ and ‘Enforcement & Monitoring Guidelines for Sand Mining-2020’ issued by the MoEF&CC.

¹ (2012) 4 SCC 629

6. We find it appropriate to accept the report as there is no meaningful objection against the same. Thus, it is clear that as far as Respondent No. 11 is concerned, apart from violating the requirement of undertaking replenishment study, not developing green belt, not implementing progressive mine closure plan, not installing CCTV cameras and not having GPS system, diversion of river flow, illegal instream mining, not providing weigh bridge at the entry of the mining lease area are clear violations. With regard to Respondent No. 12, apart from violations found in the case of Respondent No. 11, further violations are not installing boundary pillars, continuing mining even after termination of the lease, using groundwater transported through tankers instead of using treated sewage water. With regard to Respondent No. 13, apart from other violations which are common with Respondent No. 11, the said PP was found crossing the prescribed depth for mining.

7. In view of above serious violations, accountability has to be determined for such violations on polluter pays principle for restoring the damage to the environment. Compensation has to be fixed having regard to the nature of violations, period of violation, cost of restoration and financial capacity of the PPs in view of principles laid down inter alia in MC Mehta, (1987) 1 SCC 395, Sterlite (2013) 4 SCC 575, Goel Ganga (2018) 18 SCC 257, MC Mehta (2018) 18 SCC 397, Common Cause (2017) 9 SCC 499 and Goa Foundation (2014) 6 SCC 590. We find from the record that in case of Respondent No. 11, the bid for mining lease was Rs. 3.83 crore p.a. to be increased to Rs. 4.78 crore in fourth year and Rs. 5.98 crore in seventh year. In case of Respondent No. 12, the said figure is Rs. 7.37 crore p.a. with increase in fourth and seventh years. In case of Respondent No. 13 (Annexure 5), as per letter dated 19.6.2015 of the Mining Department addressed to the PP, the bid given by said PP is Rs. 19.63 crore p.a. which

was to increase to Rs. 24.54 crore in fourth year and Rs. 30.67 crore in seventh year. Mining has continued for six years and the lease amount paid by the Respondents No. 11 to 13 respectively is more than Rs. 25 crore, Rs. 42 crore and Rs. 120 crore.

8. Though as per Common Cause, compensation in case of illegal mining can be equal to the value to the mined material, apart from compensation for violation of environmental norms, we fix the same @ 10% of the lease money i.e. Rs. 2.5 crore, Rs. 4.2 crore and Rs. 12 crore in respect of Respondents No. 11 to 13 respectively. The amount may be deposited within one month with the State PCB which is to be utilized for restoration of the environment by preparing and executing an action plan, in consultation with the District Magistrate. The action plan needs to cover restoration of degraded areas, post-mining remedial measures, restoring natural flow of river and taking other restitution activities, as required. District Environment Plan may also be taken into account. The utilization may be ensured as far as possible within six months. If the PPs fail to pay the amount, it will be open to the authorities to take coercive measures including blacklisting, recovery from deposits of the PPs, if any available with the State, or otherwise. The PPs may not be allowed to undertake further mining in view of serious violations already committed.

The application is disposed of.

A copy of this order be forwarded to the Chief Secretary, Haryana, Additional Chief Secretaries of Mining and Environment, Haryana, State PCB and District Magistrate, Yamuna Nagar by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

November 18, 2022
Original Application No. 150/2021
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