

Item No.1

(Court No. 2)

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH**

(Through Physical Hearing with Hybrid VC Option)
Original Application No.160/2022

Om Pal & Ors.

Applicants

Versus

State of U.P & Anr.

Respondent

Date of hearing: 16.11.2022

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: None.

Respondent: Mr. Pradeep Mishra, Advocates for UPPCB (through VC).

ORDER

1. Grievance of the applicants is regarding illegal sand mining at Khasra no. 8, 9, 10, 11, 12, 13, 37 and 38 in village Pachayarha Khand1, District Ghaziabad, Uttar Pradesh by contractor Mr. Mumtaz Ali up to the depth of 15-20 feet in river bed of River Yamuna in violation of environmental norms.

2. Vide order dated 10.03.2022, this Tribunal constituted a Joint Committee comprising of State PCB, and District Magistrate-Ghaziabad (Uttar Pradesh) and directed the same to submit factual and action taken report within three months.

3. In compliance thereof, the Joint Committee inspected the area on 04.04.2022 in the presence of applicant- Om Pal and submitted report vide email dated 25.05.2022.

4. Vide order dated 12.07.2022 the Joint Committee was directed to look into the aspects mentioned therein and submit further Factual and Action Taken Report within two months.

5. Pursuant thereto, the Joint Committee inspected the area on 03.11.2022 and has submitted report vide email dated 11.11.2022.

6. In its report, the Joint Committee has mentioned that the mining had been stopped due to inundation of the mining site by the river and has not recommenced and that environmental compensation of Rs. 69,07,160/- had been imposed on the project proponent and the proceedings for recovery thereof are pending. In its report the joint committee has also mentioned that no documents have been furnished by the applicant regarding the death of a person in the mining pit and non-compliance with the orders passed by Hon'ble High Court of Judicature at Allahabad.

7. None has appeared for the applicant today. Notice to the applicant be issued for filing of the objections, if any, to the report of the Joint Committee and producing the relevant documents in support of the averments made in the application.

8. In view of the averments made in the application and observations made in the report of the Joint Committee, we also consider it appropriate to have response of (1) State of Uttar Pradesh through the Chief Secretary, Government of Uttar Pradesh, (2) the Director, Directorate of Mining and Geology, Uttar Pradesh (3) Uttar Pradesh State Pollution Control Board, (4) the District Magistrate, Ghaziabad and (5) the Project Proponent- Mr. Mumtaz Ali S/o Mr. Fakir Mohammad, resident of Mohammadabad, District Jyotiba Phule Nagar, Uttar Pradesh, who stand impleaded as respondents No. 1 to 5. The Registry is directed to prepare and attach memo of parties to the application and issue notices to respondents No. 1 2, 4 and 5.

9. Notices on the project proponent be served through the District Magistrate, Ghaziabad and for this purpose notice issued to the project proponent be sent to the District Magistrate, Ghaziabad by email who shall get the same served on the project proponent and send his report to this Tribunal in this regard.

10. List the matter for further consideration on 08.12.2022.

11. In view of the facts and circumstances of the case particularly the fact that the project proponent is alleged to have previously indulged in illegal mining for which environmental compensation has been imposed regarding which recovery proceeding are pending and the mandate of Section 20 of the National Green Tribunal Act, 2010 to apply *inter alia* precautionary and polluter pays principles, the project proponent is restrained from carrying out any further mining from the mining site in question till further orders to the contrary.

12. The District Magistrate and Senior Superintendent of Police, Ghaziabad are directed to take all requisite steps for ensuring that no illegal mining take place in the mining site in question.

13. A copy of this order be sent to the Uttar Pradesh State Pollution Control Board, Director, Mining and Geology, State of Uttar Pradesh, the District Magistrate and Senior Superintendent of Police, Ghaziabad and the project proponent by email for information and requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

November 16, 2022
AG