

Item No. 05

Court No. 1

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

M.A. No. 14/2023

IN

Original Application No. 363/2021

Kalu Ram Yadav

Applicant

Versus

State of Rajasthan

Respondent

Date of hearing: 12.04.2023

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

ORDER

1. Grievance in this application is against illegal operation of saw mills in Tehsil Shri Madhopur, District Sikar, Rajasthan. It is stated that the saw mills are fed by illegally cut trees. There are about 20 sawmills which are non-compliant with the environmental norms. They do not have requisite consents.

2. Vide order dated 22.12.2021, the Tribunal required a joint Committee comprising of the State PCB, District Magistrate, Sikar and the Divisional Forest Officer, Sikar to verify the facts and furnish a factual and action taken report.

3. The matter was further considered on 17.02.2022 in the light of report dated 08.02.2022 based on joint inspection dated 04.02.2022 to the effect that requisite consents had not been taken. The Tribunal accordingly directed further verification of facts and necessary action against illegal

operation of saw mills, in accordance with law. Operative part of the said order is reproduced below:

“3. In pursuance of above, report has been filed on 08.02.2022 which incorporates reports furnished by the Deputy Conservator of Forest, Sikar dated 18.01.2022, report of the State PCB about the consent status of the saw mills in question and report of joint inspection conducted on 04.02.2022, after due notice to the saw mills. The report of the Forest Department merely gives details of the action taken against illegal saw mills by lodging different FIRs in the last two years. The report of the Forest Department further says that no illegal saw mills have been found at the time of inspection on 05.07.2020 to 07.07.2020, 28.07.2021, 02.11.2021 and 17.12.2021. Consent status note shows that consents have been either applied or notice issued but consents have not been granted to the 23 applicants mentioned in the list. Site inspection reports mention that the machines were not found at the site even though the photographs show enclosures of the places where machines were working.

4. From the above, it is seen that no consent has so far been given to the saw mills. The status of action taken for determining liability for the past violations and to prevent future illegal operations is not clear beyond issuance of notice against functioning of the saw mills without consent. The notice issued by the State PCB may appear to be in conflict with the report of the Forest Department that no machines were working.

5. We are of the view that correct facts need to be verified and remedial action taken against illegal operation of saw mills without requisite consents and without compliance with the laid down environmental norms, in accordance with law. Action taken report as on 31.03.2022 may be filed with the Registrar General of this Tribunal by 15.04.2022 by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. If any further direction appears to be necessary, the R.G. may place the matter before the Bench.”

4. In pursuance of above, further action taken report has been filed by the State PCB to the effect that 23 saw mills are registered with the Forest Department. Five out of them are closed. 18 are operating. Two have consent to operate. Process to levy environmental compensation against remaining 16 saw mills is in process. Out of said 16, 14 have now applied for consent to operate but two saw mills have still not applied.

5. We have considered the matter and find that in the face of acknowledged violations, there is no proportionate action to enforce the

rule of law in breach of constitutional obligation of the State authorities to enforce the environmental rule of law. As admitted, 18 saw mills have been operating without requisite consents. Neither, their illegal operation has been stopped nor their accountability fixed for past violations. Thus, apart from erring saw mills, accountability of officers colluding with illegal activities has to be determined.

6. We accordingly constitute a joint Committee of Member Secretary, State PCB and DFO to finalise the pending action, including closing illegally operating saw mills and fixing their accountability for past violations, alongwith accountability of officers who have colluded with the illegality. The Member Secretary, State PCB will be the nodal agency for coordination and compliance. The assessed compensation be recovered having regard to laid down norms including extent of damage, cost of remediation and the financial capacity. The amount recovered may be utilized for restoration of the environment in accordance with the District Environment Plan. An action taken report may be filed within two months with the Registrar General of this Tribunal by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF. If found necessary, the Registrar General may place the matter before Bench for further dictions.

Subject to above, the application is disposed of.

A copy of this order be forwarded to Member Secretary, State PCB and DFO by e-mail for compliance.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

Dr. Afroz Ahmad, EM

April 12, 2023
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