

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**

Application No.3 of 2016 (SZ) (Suo Motu)

IN THE MATTER OF:

Application taken up by the
Tribunal *suo motu* based on the
news item published in “Eenadu”
Telugu newspaper Hyderabad
Main Edition dated 29.12.2015

1. The Chief Secretary

Government of Telangana
Hyderabad

2. The Secretary

Environment, Forests, Science & Technology
Government of Telangana,
Hyderabad

3. The Secretary

Industries and Commerce Department
Government of Telangana, Hyderabad

4. The Member Secretary

Telangana State Pollution Control Board
Hyderabad

5. The Director

Mines and Geology
Telangana State, Hyderabad

...Respondents

Counsel appearing for the respondents: Mrs. H. Yasmeen Ali for Respondent Nos 1 to 3 & 5; Mr.T. Sai Krishnan for Respondent No.4.

O R D E R

Coram: Hon'ble Shri Justice Dr. P. Jyothimani, Judicial Member

Hon'ble Shri P.S. Rao, Expert Member

Delivered by Justice Dr.P. Jyothimani, Judicial Member dated 5th July, 2016

Whether the judgment is allowed to be published on the internet Yes/No

Whether the judgment is to be published in the All India NGT Reporter Yes/No

1. Based on a newspaper report published in Hyderabad Main Edition of "Eenadu" Telugu daily dated 29.12.2015 relating to unauthorised stone crusher units existing in the State of Telangana, this Tribunal has taken up the issue on *suo motu* basis. The newspaper report reads as follows:

"About 1000 stone crusher units are existing in the State of Telangana out of which about 700 to 800 units are under operation without taking "consent" from the Telangana State Pollution Control Board, due to which the environment is getting affected and there is an increase in pollution. In spite of the Vigilance Authorities pointing out the irregularities about six months back, the unauthorised operation of the stone crusher units is still going on that no action whatsoever is being initiated against the units.

2. The Tribunal ordered notice to the respondents. Learned counsel appearing for the parties have filed many statements.

3. In the reply filed on behalf of the first and second respondents dated 20.02.2016 it is stated that the fourth respondent Telangana Pollution Control Board (Board) is the appropriate authority for filing reply regarding stone

crushing units in the State. It is stated that the Member Secretary of the Board has submitted that there are totally 666 stone crushing units in the State of Telangana, out of which 204 units are operating with “consent” and 86 units are sick and not in operation and the remaining 376 units did not have “Consent to Operate”. It is stated by the said respondents that the Board has issued show cause notice to those units who have not obtained “Consent” and further the hearing conducted by the External Advisory Committee of the Board constituted at the zonal level at Hyderabad Zone and Ramachandrapuram Zone. During review it was found that 65 stone crushing units, out of 376 units have applied for “Consent to Operate” and the remaining 311 units were not having “consent” and therefore “closure” orders have been issued by the Board on 28.1.2016, 03.02.2016 and 04.02.2016. The annexure containing the list of units have been filed by the said respondents.

4. The Member Secretary of the Board along with the reply has enclosed the details of the stone crushing units including the particulars of location and distance criteria, dust suppression measures taken by the stone crusher units and the details of green belt etc. The Member Secretary has also stated that 311 stone crushing units have been issued with “Closure” orders during January, 2016 and February 2016. Out of 311 stone crushing units, in respect of 13 units “Closure” orders were revoked, as those units have taken adequate measures for control of pollution and also obtained “Consent to Operate”. Closure orders in respect of 298 units are still in force.

5. Learned counsel appearing for the Board has also produced the guidelines framed in respect of certain categories, including the stone crusher units by the Board in the year 1996 which is stated to be still in force in

ZO Hyderabad								
Hyderabad	Hyderabad	0	0	0	0	0	0	0
	Mahabub nagar	57	17	40	0	42	3	39
Rengareddy-I	Rengareddy	47	17	20	10	20	0	20
Rengareddy-II		52	26	16	10	12	0	12
Warangal	Warangal	96	45	36	15	23	1	22
Ramagundam	Karimnagar	137	58	75	4	72	11	61
Kothagundam	Khammam	45	26	8	11	17	6	11
Total		434	189	195	50	186	21	165
ZO-R.C.Puram								
Sangareddy-I	Medak	35	19	14	2	19	3	16
Sangareddy-II		52	13	23	16	23	0	23
One Unit recently commissioned								
Nalgonda	Nalgonda	73	30	35	8	33	12	21
Nizamabad	Nizamabad	48	3	31	14	29	0	29
	Adilabad	25	2	22	1	21	0	21
Total		233	67	125	41	125	15	110
Grand Total		667	256	320	91	311	36	275

7. On a reference to the status report, it is seen that there are totally 667 stone crushers out of which 256 are having valid “Consent to Operate” and 320 have been operating without valid “Consent to Operate”. It is further stated that 91 stone crushers are not in operation, since they are sick. Closure orders have been issued against 311 units out of which revocation of closure orders have been made in respect of 36 units stating that they have complied with various directions issued by the Board and the Board on inspection and after satisfaction has issued “Consent”. Ultimately 275 units are issued with closure order. The Board has also given the name of each and every one of the stone crusher units, having “Consent to Operate”, operating without valid

“Consent”, revocation of closure order and the units against which closure orders have been issued. We have referred to each of the units and we are satisfied about the action taken by the Board in respect of the functioning of the stone crushers.

8. The Hon’ble Supreme Court in **M.C. Mehta Vs. Union of India (1992) 3 SCC 256**, taking note of the degradation of quality of environment within the Municipal Corporation of Delhi has issued various directions. The observations made regarding the status in Delhi and right of citizens to have fresh air and live in pollution free environment as observed by the Apex Court are as follows:

“We are conscious that environmental changes are the inevitable consequence of industrial development in our country, but at the same time the quality of environment cannot be permitted to be damaged by polluting the air, water and land to such an extent that it becomes a health hazard for the residents of the area. We are constrained to record that Delhi Development Authority, Municipal Corporation of Delhi, Central Pollution Control Board and Delhi Pollution Control Committee have been wholly remiss in the performance of their statutory duties and have failed to protect the environments and control air pollution in the Union Territory of Delhi. Utter disregard to environment has placed Delhi in an unenviable position of being the world’s third grubbier, most polluted and unhealthy city as per a study conducted by the World Health Organisation. Needless to say that every citizen has a right to fresh air and to live in pollution free environments.”

9. A Division Bench of Hon’ble High Court of Punjab and Haryana in **Ishwar Singh Vs. State of Haryana 1996 IIR ((P&H) 30** has taken note of the grave situation which arise out of the activities of stone crushers and clearly stated that while license granted or renewed periodically, the licensee has obligation to comply with the directions and conditions. The relevant portion are as follows:

“In view of this grave situation brought to our notice we cannot remain silent spectator particularly when the State has shown inaction in the matter and failed to perform their statutory obligations. The respondents themselves have not taken any step in shifting their business despite issuance of the directions to them by appropriate Authority and non-renewal of licenses in their favour for carrying on the business of stone crushers. The respondent-State appears to have not taken any action against private respondents who have been operating stone crushers, even without the grant of licence. The grant of license in favour of some of the respondents did not confer any absolute right upon them to carry out the business at the places which were declared not safe for the said business. The issuance of a license has been held to be a fresh grant every year. The licensee is under an obligation to comply with such directions and conditions which are imposed at the time of renewal of the license as per provisions of law.”

10. Again while considering about the ecological impact of blasting and crushing of granites in the case of **Mohd. Haroon Ansari Vs. District Collector, Ranga Reddy District, AP (2004) 1 SCC 491**, the Hon'ble Apex Court has also considered the siting criteria regarding quarry lease and observed as follows:

“We may, at once, notice that the High Court was persuaded by public interest involved in the matter in initiating proceedings on the basis of a letter sent to it. The anxiety of the High Court was further exhibited by its concern in the matter in constituting an Expert Committee and although that Expert Committee stated that a distance of 1 km is a safe distance between the site under quarry lease and the residential locality or GLSR, but in order to be safer than what the Expert Committee observed, the High Court increased the distance by another 1 km. Particularly when the assessment made by the Center of Mining Environment, Indian School of Mines, Dhanbad, concluded that there is no impact by the quarry operations carried on by the appellants before us on GLSR or Osmanasagar lake nearby residential locality, it is unnecessary to impose condition that the distance of 1 km for carrying out the quarry activities should be converted to 2 km. The affidavit of the Pollution Control Board indicates that if proper safeguards are adopted as indicated in the said affidavit, it will not cause any air, water or noise pollution, much less dust particles which affect the water supply system in GLSR or Osmanasagar lake. We, therefore, direct that the order made by the High Court is modified by directing that the distance of 1 km is a safe distance between the site of the quarry leases and the residential localities or GLSR or Osmanasagar lake. The guidelines issued by the Andhra Pradesh Pollution Control Board specified 1 km to be a safe guard distance

between crusher and human habitation from 17-1-1997. Prior to that it was only 500 meters away from the national highway and 100 meters away from the State highway, major district roads and other roads. That is why this Court granted an interim order earlier and directed that no mining and stone crushing operations shall be carried on within a distance of 1 km from the lake or reservoir and 500 meters from human habitations. This order will hold good in respect of all such mining leases which have been granted prior to 17-12-1996. It is not necessary to advert to any other details or arguments raised in the petitions filed before the High Court or in appeals before this Court. Suffice it to observe that the impugned order of the High Court shall stand modified only to the extent indicated by us and all other terms set out by the High Court in regard to the safeguards to be adopted in maintenance of the environment shall remain intact. Further, it is certainly necessary that the appellants before carrying on any of the mining and stone-crushing activities obtain necessary clearance from the Pollution Control Board and must comply with such conditions as may be imposed by the Pollution Control Board. It is open to the Pollution Control Board to take such action as may be necessary to enforce the conditions imposed by them under the relevant statutes.”

11. It has been the consistent judicial precedent that courts in India have taken serious note of the pollution caused by stone crushing units which are certainly not environmental friendly. In cases where there are unauthorised and illegal crushing units carried on without obtaining “Consent” from the Board, it is the duty of the Board as well as the State Government to see that those units are closed and appropriate criminal action taken under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981. Unfortunately, large number of illegal stone crushing units and quarry operators throughout India are causing harm not only to the environment and ecology and human health but also preventing the proper utilisation of natural resources in a regulated manner.

12. In fact under the Mines and Minerals (Development and Regulation) Act, 1957, the authorities concerned have duty and responsibility to see that the mining of mineral is legally done and regulated as per the guidelines framed which includes the siting criteria. Therefore, it is the duty of the

official respondents to see that the stone crushing units are regulated directing them to follow the siting criteria apart from proper licensing system with continuous monitoring of functions of these units which is a matter of importance at the present scenario apart from this being a legal obligation of the Government.

13. Even though we are satisfied that the Government of Telangana is following siting criteria in respect of crushing units, however, taking note of the admitted fact that out of 667 total number of stone crushing units in Telangana 275 units against which closure orders have been issued, have been running in a most illegal and unauthorised manner and no concrete steps appear to have been taken and one can visualise the environmental disaster which would have been caused in these years.

14. Therefore, we direct that in respect of those units which have not obtained "Consent to Operate", the Board shall find out the period during which such "Consent" was not obtained from the date of their illegal activity and impose penalty under "Polluter Pays" principle to be utilised for the purpose of environmental development in the State of Telangana. In addition to the same, steps for prosecuting the persons concerned have also to be taken by the Board. The Board shall also take action against the officials who have been irresponsible in allowing the crushers to run without "Consent"

15. Therefore, we dispose of the application with the following directions:

1. The State of Telangana as well as the State Pollution Control Board shall make periodical survey of the stone crushing units in the entire State of Telangana, take list of the stone crushing units and find out as to how many units are running without "Consent" from the Board in respect of whom the Board shall take immediate action of

closure, apart from prosecuting the persons concerned and imposing penalty under “polluter pays” on them

2. Necessary disciplinary action shall be initiated against the officials concerned in allowing the units to come up unauthorisedly and permitting them to run without consent till the irregularities were pointed out by the Vigilance & Enforcement Department.
3. In respect of the units which are granted “Consent” the same shall be monitored by the Board and ensure that the crushing units are functioning in accordance with the guidelines and directions issued by the Board.
4. In respect of the units which are already directed to be closed or the units which are stated to be closed because of sick nature, as and when such units either apply for fresh licence or renewal of licence and the consequential “Consent” the authorities concerned shall consider their applications only after making a spot inspection and find out the correctness of the stand taken by those units and only then such “licence” or “consent” shall be granted subject to various conditions.
5. We direct the State of Telangana to see that no other units having no “Consent” shall be permitted to carry on crushing activities within its territorial limit.
6. The Board shall immediately constitute a Special Task Force to inspect all the stone crusher units permitted to operate in the State and find out whether adequate green belt has been provided in each of the units and if there is any deviation/shortage, the units shall be made to plant more number of broad leaved indigenous tree species which will considerably reduce the effect of dust pollution. The

units shall be made to take all the required measures to protect and regularly water the plants so that an effective green belt is developed.

7. It is always open to either the official respondents or any other person concerning environment to approach this Tribunal for further appropriate direction.

With the above direction, the application stands closed. However, with a view to ensure compliance of our order, we direct the matter be listed in the Tribunal on 19.09.2016 wherein the Member Secretary, Telengana State Pollution Control Board shall file a compliance report on the aforesaid directions given by us.

No order as to cost.

Justice Dr. P. Jyothimani
(Judicial Member)

Shri. P.S. Rao
(Expert Member)

Chennai
Date: 05.07.2016

NGT