

Item No. 01

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL
(Through Video Conferencing)**

Original Application No. 59/2021

Dileep Pathak

Applicant (s)

Versus

State of Madhya Pradesh & Ors

Respondent(s)

Date of hearing: **06.10.2021**

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s):

Mr. Rohit Sharma, Adv

For Respondent(s):

Mr. Shreyas Dharmadhikari, Adv

Mr. Sachin K.Verma, Adv

Ms. Parul Bhadoria, Adv

ORDER

1. Issues raised in this application are illegal mining activities carried out by Power Mech Projects Limited in Bhind District of Madhya Pradesh, in the region other than the area which was awarded to the contractor in the mining lease, with the use of heavy machinery and causing degradation of environmental rules. The other major issues which have been raised are as under:

- (i) Use of Boats (Pandubbis) to extract sand from the bottom of the bed of River sindh which has resulted in disruption of the river course.
- (ii) Deep pits of upto 40-50 feet are caused to be created by the Non-Applicant no. 6 during the illegal mining by excessive instream mining which has also resulted in depletion of water level and groundwater.
- (iii) Cutting of trees to ease the illegal mining activities by the bank of river Sindh.

- (iv) Use of heavy machinery such as Poclain machines, Dumpers which have been deployed by the Non-Applicant no. 6 for maximizing the excavation of sand and transportation of the same under the garb of a Machine Order issued by the District Collector which is wrong per se. Similarly, transportation of illegally excavated sand by trucks through the kaccha road and by causing the adjoining plantation on land to be destroyed because of the heavy load is substantially a matter of concern.
 - (v) Carrying out mining activities in the area other than the area allotted under the mining lease for over one km along the course of River Sindh with the use of heavy poclain machines and boats.
 - (vi) The use of Heavy machinery to excavate sand from the river as resulted in diversion of the course of the river and erosion of the natural flow of the River.
 - (vii) The Mining activity is being carried out within a close proximity to the river bridge which is in violation of the settled principles of law.
2. The matter was taken up on 09th August, 2021 and the Joint Committee consisting members of MPPCB, CPCB and Collector, Bhind, M.P was constituted with the direction to submit factual and action taken report.
3. In response thereby, the Joint Committee has submitted the report which is as follows:
- (A) *Observations: -*
- 1. *It is submitted that contract of sand mining in district Bhind was allotted to M/s Power Mech Projects Limited by The Madhya pradesh State Mining Corporation Limited (MPSMCL) on dated 01.02.2020.*
 - 2. *An agreement signed between MPSMCL and Contractor Company for sand mining in Bhind district for a period from 29.02.2020 to 30.06.2022.*
 - 3. *Contractor Company carried out mining till 30.06.2021 | and thereafter Contractor Company surrendered the contract with due permission of M.P. Mineral Resources Department Bhopal granted through order dated 04.08.2021 and 01.09.2021 with effect from 30.06.2021.*

4. The team has visited the sand mines situated in Village-Dhaur, Tehsil- Mihona, District- Bhind. It was observed that there are only 03 numbers sand mines situated on the right bank of river Sindh in village Dhaur.
5. There is no sand mine in village Paryach. All 03 sand mines were seen non operational on the day of inspection dated 15.09.2021.
6. Photographs taken during inspection
7. Villagers also reported that these mines are non operational since 30.06.2021
8. Copy of Panchnama prepared during inspection
9. Mining activity has also prohibited by Collector Bhind by order dated 30.06.2021 for rainy period from 01.07.2021 to 30.09.2021
10. During inspection of the team, one sand stock yard in out skirt of village Paryach was observed. Photographs taken during inspection are enclosed as Annexure C-23. Villagers reported that this stock yard was operated by the sand contractor company M/s power Mech projects Limited. As per Patwari present during inspection the stock yard is situated on a piece of land belongs to Shri Ramdas Badai and land bearing survey no. 87 and 362, total area 0.59 hectare. This stock yard was found illegal since it is not permitted by mining department as well as M.P. Pollution Control Board. Collector Bhind ordered the Mining Department Bhind to enquire the illegal sand stock yards of the district and submit proposal of action against illegal sand stock yards on dated 10.09.2021.
11. The Brief description and legal status of all above 03 sand mines is summarized as under as per record available in Mining Department Bhind:-
Dhaur-1 Sand Mine

Title of details	Description	Supporting enclosure (Annexure)
Village	Dhaur	
Survey number	1,2,12,45,67	
Lease area (Hc)	18.230	
GPS co-ordinates	26°15',11.08"N to 26°15'29.76"N & 78°48'32.00" E to 78°49'09.84"E	
Sanctioned mining method as per approved mining plan	Manual (before issuance of EC) Semi Mechanized (after issuance of EC)	
Mining plan approved on	27.05.2020	c-8
Sanctioned production capacity (M3/year)	54690	
Old EC transferred by MPSEIAA on	22.02.2020	c-9
New EC transferred by	29.06.2020	c-10

MPSEIAA on		
Consent granted by MPPCB	05.06.2020 (valid till 13.05.2021) & 02.02.2021 (valid till 31.05.2022)	c-11 C-12
Dhaur-2 Sand Mining		
Village	Dhaur	
Survey number	245, 246, 251	
Lease area (Hc)	11,680	
GPS co-ordinates	26°14',56.31"N to 26°15'15.39"N & 78°48',28.05" E to 78°48'44.28"E	
Sanctioned mining method as per approved mining plan	Manual (before issuance of EC) Semi Mechanized (after issuance of EC)	
Mining plan approved on	27.05.2020	C-13
Sanctioned production capacity (M3/year)	35040	
Old EC transferred by MPSEIAA on	18.02.2020	C-14
New EC transferred by MPSEIAA on	23.06.2020	C-15
Consent granted by MPPCB	24.02.2020 (valid till 31.01.2021) & 02.02.2021 (valid till 31.01.2022)	C-16 C-17
Dhaur-3 Sand Mine		
Village	Dhaur	
Survey number	247, 290	
Lease area (Hc)	15,850	
GPS co-ordinates	26°14'39.70" N to 26°15'06.99" N & 78°48'17.47" E to 78°48'36.94" E	
Sanctioned mining method as per approved mining plan	Manual (before issuance of EC) Semi Mechanized (after issuance of EC)	C-18
Mining plan approved on	27.05.2020	
Sanctioned production capacity (M3/year)	47550	
Old EC transferred by	18.02.2020	C-19

<i>MPSEIAA on</i>		
<i>New EC transferred by MPSEIAA on</i>	<i>29.06.2020</i>	<i>C-20</i>
<i>Consent granted by MPPCB</i>	<i>24.02.2020 (valid till 31.01.2021 & 02.02.2021 (valid till 31.12.2021)</i>	<i>C-21 C-22</i>

(B) Factual status of the major issues raised in petition on which status report sought by Hon'ble NGT through order dated 09.08.2021

On the basis of observation made by Joint Committee and statement of villagers recorded in Panchnama (Annexure C-6), the factual status against the issues raised in petition on which status report sought by Hon'ble NGT through order dated 09.08"202L is summarized as below:-

<i>S. No</i>	<i>Details of issues</i>	<i>Factual status</i>
<i>1</i>	<i>Use of boats (pandubbis) to extract sand from the bottom of the bed of river Sindh which has resulted in disruption of the river course.</i>	<i>All 03 sand mines of village Dhaur were found non operational during inspection. No mining activity, pandubbi, mining machines, sand transportation etc, were seen there on inspection date 15.09.2021</i>
<i>2</i>	<i>Deep pits of upto 40-50 feet are caused to be created by the Non-Applicant no. 6 during the illegal mining by excessive in-stream mining which has also resulted in depletion of water level and ground water.</i>	<i>No deep pits were seen at the mine sites. River Sindh was observed in flood condition and mines are mostly submerged in water. As reported by villagers and panchnama made during inspection there was no depletion of ground water level in the area.</i>
<i>3</i>	<i>Cutting of trees to ease the illegal mining activities by the bank of river Sindh.</i>	<i>On mine sites no sign of tree cutting was observed. Villagers also denied the cutting of trees by sand contractor company (as per panchnama).</i>
<i>4</i>	<i>Use of heavy machinery such as poclain machines, dumpers which have been</i>	<i>Since mines were not in operation during inspection so no excavation machineries and dumpers</i>

	<p>deployed by the Non-Applicant no. 6 for maximizing the excavation of sand and transportation of the same under the garb of a Machine Order issued by the District Collector which is wrong per se. Similarly, transportation of illegally excavated sand by trucks through the kaccha road and by causing the adjoining plantation on land to be destroyed because of the heavy load is substantially a matter of concern.</p>	<p>were seen on the mines site. As per new EC granted to mines by MPSEIAA in June 2020 mining should out as per approved revised Mining plans. As per approved revised Mining plans semi mechanize mining is permitted after grant of new EC using machineries like light weight excavators, dumpers / trucks, tractor trolleys and other light vehicles. There is a kachcha road passing from out skirt of village which was used by sand contractor for transportation of panchname). No sign of tree cutting along that transportation road was observed on inspection. Villagers also reported no cutting of trees along the transportation road by sand contractor.</p>
5	<p>Carrying out mining activities in the area other than the area allotted under the mining lease for over one km along the course of River Sindh with the use of heavy poclain machines and boats.</p>	<p>The cumulative length of all 03 sand mines along the course of river Sindh is about 2.10 km as per google map/GPS co-ordinates. Google site location map showing sand mines is enclosed as Annexure C-2S. Mining outside the allotted lease area could not be verified due to submergence of mines in the flood water.</p>
6	<p>The use of Heavy machinery to excavated sand from the river as resulted in diversion of the course of the river and</p>	<p>No diversion of river course and erosion of natural flow of river was observed on inspection since river was in flood condition and almost whole</p>

	<i>erosion of the natural flow of the River.</i>	<i>width of river was occupied by water.</i>
7	<i>The Mining activity is being carried out within a close proximity to the river bridge which is in violation of the settled principles of law.</i>	<i>Dhaur-1 mine is nearest to the road bridge and nearest point of mine is estimated about 650 meters away from the road bridge as per google map and GPS co-ordinates. At the time of inspection no mining activity was seen neither in mines nor near close proximity of road bridge.</i>

(c) Action Taken Report:

1. There is no mining activity seen at all 03 sand mines of Dhaur village and also in close proximity of Road Bridge during inspection. On inspection date due to rainy season River Sindh was under flood condition.

2. The sand contractor company of Bhind District M/s power Mech projects Limited has surrendered the contract which has been approved by M.p. Mineral Resources Department Bhopal with effect from 30.06.2021 through orders dated 04.08.2021 and 01.09.2021.

3. On the day of inspection one illegal sand stock yard at village paryach was found and lot of sand was dumped there. As per villagers and panchnama this stock yard belongs to sand contractor company but no person of company was available there. Collector Bhind ordered Mining Department Bhind to enquire the illegal sand stock yards of district and submit proposal of action against the illegal stock yards through order 10.09.2021

4. Joint Committee called upon the action from police Station Lahar and Mining Department Bhind regarding the complains of petitioner submitted to them time to time. Reports received from both departments are enclosed as Annexure C-26 & C-27. Both reports revealed that on inspection of sand mine sites in village Dhaur no excavation of sand near bridge by machines and no sand excavation from river water course by boats (pandubby) was found.

4. Learned counsel for the Applicant, Sh. Rohit Sharma has argued that though the facts as contained in the Joint Committee report reveals that there is no illegal mining but factually the illegal mining are continued without any check or any control by the authorities concerned. The oral information cannot be relied on and if we examine the statement made by the learned counsel for the Applicant along

with the report submitted by the Joint Committee, we find the fact that the Committee found non operation of any mining by use of Pandubby or heavy machinery due to flood conditions, there was no sign of tree cutting, since mines are not in operation thus no excavations, machinery and dumpers were seen on the mines site, there was no transportation reported by the authorities/Joint Committee and there is no diversion of river course reported. The consent which was issued in favour of M/s. Power Mech Projects Limited was reported to have been surrendered. Since nothing has been reported with regard to the violation of environmental norms by the Joint Committee, no further action is required by this Tribunal.

- 5.** Accordingly, the Original Application No. 59/2021 is finally **disposed of.**

Sheo Kumar Singh, JM

Arun Kumar Verma, EM

October, 06th 2021
O.A. No. 59/2021(CZ)
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