

Item No. 06

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

Original Application No.94/2020 (CZ)

Manish Kaurav

Applicant (s)

Versus

State of M.P & Ors.

Respondent(s)

Date of hearing: 25.10.2021

Date of uploading: 12.11.2021

**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. Sachin K.Verma, Adv

Mr. Dharamvir Sharma, Adv

Ms. Nimisha, Adv

Mr. Om Shankar Shrivastava, Adv

ORDER

1. This Original Application has been filed with the prayer that non Applicant No. 1, 2 and 3 be directed to carry out a spot inspection of the sand stockyards of the Non-Applicant No. 4, situated in Sahavan, Banwari and Tumda mining operation of the Non-Applicant No. 4 be stopped and machines used for the mining be seized and the illegal construction be demolished with the necessary remedial and penal action against the violators of law.
2. Grievance in this application is against illegal and in-stream sand mining by Respondent No. 4, M/s. Dhanlakshmi Merchandize Pvt. Ltd. at Narsinghpur, MP in River Dudhi. Heavy machinery is being used in the middle of the river for mining on the both shores of the river, resulting in damage to the riverine ecology. Illegal transportation of mined sand is also taking place causing air pollution in violation of Sustainable Sand Mining Management Guidelines, 2016. Illegal

pathways have also been constructed in the center of the river. Transit passes are being issued also for the areas where no quantity of sand is available.

3. The matter was taken up on 02nd March, 2021 and this Tribunal observed as follows:

“Having regard to the averments in the application, if the facts are found to be true on verification, remedial action may be necessary. The Tribunal has already dealt with the matter by order dated 26.02.2021 in O.A. No. 360/2015, NGT Bar Association v. Virender Singh (State of 2 Gujarat) laying down mechanism for remedial action against such illegality by stopping illegal mining, recovering compensation and seizing the vehicles involved, apart from other steps. Let the State PCB and SEIAA, M.P. look into the allegation and take remedial action in terms of the said judgment following due process of law.

We also constitute a joint Committee comprising CPCB, State PCB and the District Magistrate, Narsinghpur to give an independent report in the matter within one month 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 the report is adverse to Respondent No. 4, copy thereof be also furnished to Respondent No. 4 for its response. The State PCB will be nodal agency for compliance.

A copy of this order be forwarded to the CPCB, State PCB, SEIAA, M.P. and the District Magistrate, Narsinghpur by e-mail for compliance.

The Applicant may serve set of papers on the CPCB, State PCB, SEIAA, M.P. and the District Magistrate, Narsinghpur and file affidavit of service within one week from today.”

4. In compliance thereof the Joint Committee had submitted the report which is as follows:

M/s Dhanlakshmi Merchandize Pvt.Ltd, Ward No. 16, Civil Line, Kalika Nagar, Babai Road, Hoshangabad (M.P) was awarded Narsinghpur

district contract for sand mining as per the Madhya Pradesh Sand Mining Policy, 2019 in the year 2020 as per the tendering process. There are 06 mining leases i.e. Ajanda, Sansar-Kheda, Dhingsara, Panagar, Muaar & Sainkheda of river Dudhi for which Environmental clearance was obtained. Out of 06, Muaar mine lease is not operational now. The details of the operational 06 mine leases is as tabulated w.r.t Khasra no, mine lease Area, Quantity as per mine plan, Environmental Clearance, Consent to Operate & date of statutory permissions:

Sl No	Name of the mines	Mining plan Quantity	Mining plan issue date	Quantity CTO	CTO issue date	Quantity EC	EC Issue
1	Ajanda Khasra No. 39/1 Area-4Ha	103974	07.09.2018	103974	19.03.2020	103974	09.03.2020
2	Sansar Kheda Khasra No. 208/1 & 208/2 Area-13Ha	382200	23.06.2020	382200	04.06.2020	382200	14.09.2020
3	Dhingsara Khasra No. 29/1 Area-5.775 Ha	160000	27.06.2020	160000	12.11.2020	160000	14.10.2020
4	Panagar Khasra No. 305 Area-5Ha	147000	02.09.2020	147000	12.11.2020	147000	14.10.2020
5	Muaar Khasra No. 358 Area-5Ha	67500	10.11.2020	67500	25.02.2021	67500	12.02.2021
6	Sainkheda Khasra No. 634 Area-5 Ha	67500	10.11.2020	67500	25.02.2021	67500	12.02.2021

The geo-positioned demarcation of the 06 sand mine leases on River Dudhi is enclosed Annexure-II. As per the EC, other than the Ajanda mine lease, all other 05 are semi-mechanized bas on the mining plan. Copy of the mining plan, consent to operate & environmental clearance are enclosed as Annexure-III. New Environmental clearance was obtained for mine leases i.e. Muaar & Saikhera whereas Old EC was transferred for others viz. Ajanda, Sansar Kheda, Dhingsara & Panagar. EIA studies under EC for other mine leases on River Dudhi viz. Arjun Gaon, Maheshwar, Tumda, Mehragaon is under process.

M/s Dhanlakshmi Merchandize Pvt.Ltd has obtained Consent to Operate under the Water (Prevention & Control of Pollution) Act, 1974 & the Air (Prevention & Control of Pollution) Act, 1981 for Madhya Pradesh Pollution Control Board and Stock License from mining department for 03 sand stockyards. The details of the statutory permissions and capacity are as tabulated below:

Sr. No	Name of sand stock yard & Geo-location	Stock license granted by Mining department	MPPCB validity	CTO	Capacity of Stock
1	Village Sahawan (22.846791, 78.641470)	Letter No. 1102 dated 27.06.2020	31.05.2021		200000.000 MT ³
2	Village Banwari (22.925807, 78.650332)	Letter No. 1059 dated 25.06.2020	31.05.2021		200000.000 MT ³
3	Village Tumda (22.990281, 78.531687)	Letter No. 1008 dated 20.06.2020	29.06.2021		200000.000 MT ³

As per the report of stockyards siting location and distance, all the 03 sand stockyards are sited more than 5 kms farthest distance from mine lease. Copy of the Stock License & Consent to Operate of stockyards is enclosed as Annexure-IV. On the day of field visit dated 16.03.2021; A minor quantity (about 300 M³) of sand was found stored at Banwari stockyard; whereas sand was stocked at Tumda & Sahawan yards in large quantity viz 41138 M³ & 57226 M³ respectively.

As per the record provided by M/s Dhanlakshmi Merchandize Pvt. Ltd following quantity was stocked in 03 yards during 30.06.2020 to 30.09.2020 as

Stock 30.06.2020 to 30.09.2020			
Quantity in M³			
Stock name	Opening balance	Sale	Closing balance
Stock A- Tumda	91353.21	48382.73	42970.48
Stock B- Banwari	93868.51	93569.36	299.15
Stock C- Sahawan	129008.61	79748.09	49260.52
Total	314230.33	221700.18	92530.15

Field observations of the Committee

To investigate & verify the claims made by the Applicant in his petition regarding distance of stockyard, illegal pathway, mid-stream mining by heavy machineries, issue related to ETP, air pollution etc. committee visited mine lease Sansar Kheda, Maheswar, Arjunaon and stockyards on 16.03.2021. The field observation are as below:

- i. M/s Dhanlakshmi Merchandize Pvt. Ltd has established 03 sand stockyards after obtaining Consent to Operate under the Water (Prevention & Control of Pollution) Act, 1974 & the Air (Prevention & Control of Pollution) Act, 1981 from MPPCB and Stock License from mining department. The aerial distance of stockyards to mine lease is between 03 to 07 kms from mine lease. And as per the report of stockyards siting location and distance of Mining department, Narsinghpur, all the 03 sand stockyards are sited more than 5 kms farthest distance from mine lease.
- ii. The illegal pathway across the river Dudhi from Maheshwar, Narsinghpur district to Baidar sand lease of Hoshangabad district was earlier reported in Joint inspection dated 26.11.2020 of the MPPCB & Revenue department. The Google satellite images since May 2012 showing the illegal pathway constructed across the river way before the M/s Dhanlakshmi Merchandize Pvt. Ltd obtained this mine lease. M/s Dhanlakshmi Merchandize Pvt. Ltd has also informed about this illegal pathway constructed to district administration. On the day of the inspection i.e. 16.03.2021, the pathway was found dismantled. Large size pits were observed in this out of mine lease area and action has been taken by mining department for illegal mining.

- iii. As there was no authentic pictorial evidence with geo-graphical location was supplied by the Applicant regarding the mid-stream sand mining during monsoon, committee is unable to make any comment over the mid-stream mining. Further, district administration may install CCTV cameras at mine area for continuous vigilance of mining during monsoon season.
- iv. The issue related to issuance of the ETPs from stockyards during monsoon when there was no stock of sand at yards was investigated. As committee was not supplied with authentic photographs (with date and time) by Applicant that shows no stock of sand at yards; committee is unable to comment on the same; however the district administration may ask stockiest to install CCTV at stockyards for effective vigilance during monsoon. To committee checked few ETPs generated during July to September, 2020 during monsoon period by randomly selecting vehicle number to get information on stockyards from which ETP was generated.

Vehicle No.	ETPs during 1.7.2020 to 30.9.2020	Stockyards		
		Stock A- Tumda	Stock B Banwari	Stock C Sahawan
MP15G2836	29	3	18	8
MP15G2468	25	2	14	9
MP15G3892	54	17	16	21

The random ETP search of monsoon season shows that ETPs generated from the stockyards Tumda, Banwari & Sahawan. So the claim ETPs generated from mine found incorrect.

- v. Regarding the air pollution due to the transportation of the heavy vehicles dumber, trucks, tractor, etc. the committee observed that the road was damaged in few patches; however to suppress the dust contractor has deputed water sprinkling tankers. The Pollution under Control Certificates were also managed for the vehicles engaged in transportation of the sand.
- vi. The committee on its visit dated 16.03.2021; haven't found pits below the water level during visit to Sansar Kheda mine lease. At 2-3 places small water impounding was observed that was due to upfront reflux of the ground water however the depth was not more than 3 mtrs.
- vii. The demarcation of the lease area was done by the stone-posts (MUNARs). However, the stone-posts were not visible from distance; for that mine department put RED flags on the stone post to make it more visual from distance.

- viii. *As out of the 06 EC granted mine lease at Dudhi river, 05 are permitted for semi-mechanized operation. For this; tractor with loader arrangement are in use by the contractor.*
- ix. *During visit, mining in 2 to 3mtrs depth was observed in village Arjun gaon. However, it was not possible to committee to comment whether the mine was done illegally or by the contractor. District administration may vigil the same through mine department.*
- x. *The mining department has filed 03 cases for illegal mining & 146 case of illegal transportation from the river Dudhi during 2020-21 against the accused. There is NO case reported against M/s Dhanlakshmi Merchandise Private Limited of illegal mining. District administration has to initiate strict action as stipulated in O.A. No. 360/2015 for illegal mining. However, currently penalties are imposed as per the Madhya Pradesh Sand (Mining, Transportation, Storage and Trading) Rules, 2019. Complaints made by contractor & action taken by mining department in illegal mining at Arjun Gaon.*

Recommendations

- i. *District administration ensures the effective vigilance on sand mining w.r.t the mid-stream mining, heavy machineries by installing CCTV at strategic location and on stockyard.*
 - ii. *To suppress the dust pollution during summer and heavy vehicle transportation, contractor may arrange regular water sprinkling and ensure the vehicle engaged in sand transportation and mining has valid PUC certificate. Contractor may also ensure the transportation of the sand in covered vehicles.*
 - iii. *District administration has to initiate strict action as stipulated in O.A. No. 360/2015 for illegal mining & transportation.*
 - iv. *The demarcation of the lease area is to be visible from distance. Mine department may ensure Stone post with Red flag to make the lease area visible from distance.*
5. The Committee has further submitted the Annual Estimation of Sand Replenishment of Ajenda Sand Quarry at Dudhi River was considered by the authorities while issuing the consent order.
6. The consent order includes following special conditions:

1. *If the stream is dry, the excavation must not proceed beyond the lowest undisturbed elevation of the stream bottom, which is a function of local hydraulics, hydrology, and geomorphology.*
2. *The mine management shall ensure the conservation of river ecology & its Natural course. Established water conveyance channels should not be relocated straightened or modified.*
3. *Tree plantation shall be carried out in open area available along the bank of River to conserve its Natural course.*
4. *Mine management shall provide demarcation of the mining lease boundary using pegging.*
5. *The maximum depth of the mine pit shall not exceed 3 .0 meter & mining shall be done above the water level. No in stream mining shall be done*
6. *The mining activity shall be done manually. Mining will be done with the help of spade, basket & shovel by lifting & loading the sand in small trolleys .No dumper/trucks shall be used. Heavy vehicles shall not be allowed on the banks for loading/transporting of sand*
7. *The sand shall be transported by small trolleys up to the Mineral stacking yard of 15x37 meter with 1.0 meter high & 0.5 meter broad wall all around except at two opening towards main service road will be constructed to avoid spreading and any kind of leaching effect on ground. Proper air pollution control arrangements shall be provided at yard to prevent fugitive emission due to loading/unloading activity.*
8. *Transport vehicles will be covered with tarpauline to minimize dust/sand particle emissions. Vehicular emissions should be kept under control and regularly monitored for compliance of emission norms. Vehicles used for transporting the mineral should be covered with tarpaulins and optimally loaded*
9. *After mining is complete, the edge of the pit should be graded to a 2.5:1 slope in the direction of the flow.*
10. *Mine management shall submit the annual replenishment plan. The amount towards reclamation of the land in MLA shall be carried out through the mining department; the appropriate amount as estimated for the activity by mining department has to be deposited with the Collector to take up the activity after the mine is exhausted.*
11. *The mine Management shall submit environmental statement for the previous year ending 31st March on or before 30th September every year to the Board.*
12. *Mine management shall comply with conditions of Environmental clearance.*
13. *The mine Management shall comply with all the relevant Acts/Rules, directions, guide lines issued by NGT MoEF/ CPCB/MPPCB from time to time as required and, if applicable.*
14. *Mine management shall install industrial grade HD IP (Internet Protocol) Pan-Tilt-Zoom (PTZ) Camera with minimum 5X zoom and night vision facility for remote surveillance and*

constant vigil of emission source and effluent discharge points.

15. *Mine management shall establish suitable connectivity of IP-Camera with Environment Surveillance Centre at the HQ of M.P. Pollution Control Board for monitoring and data transmission purpose.*
16. *Mine Management shall comply the Rules of New Sand Policy issued by MP Government dated 30/08/2019 failing which the license/Consent shall be deemed as cancel*

Additional condition:- (if any) :-

Consent/authorization as required under the Water (Prevention & Control of Pollution) Act,1974 , The Air (Prevention & Control of Pollution) Act,1981 is granted to your industry subject to fulfillment of all the conditions mentioned above. For renewal purpose you shall have to make an application to this Board through XGN at least Six months before the date of expiry of this consent/authorisation. The applicant without valid consent (for operation) of the Board shall not bring in to use any outlet for the discharge of effluent and gaseous emission.

7. The Respondent No.4 had submitted the reply as follows:

8. *That, the District Administration the office of the Collector (Mines) vide letter dated 07'10'2020 Communicated the same to the office of managing Director, State Mining Corporation, Bhopal referring the complaint letter by answering respondent on dated 07.10.2020*
9. *That, it is most respectfully submitted before this Hon'ble Tribunal that on the various complaints by the residents of nearby places as well as the replying respondent, a Joint Inspection of MPPCB, Sub Divisional Magistrate and District Mining Officer was carried on 26.11.2020. The said Joint Inspection Team found that, the illegal pathway is constructed by the previous Contractor of Hoshangabad, Bedar Sand-Mine who was using this pathway to move Sand-filled trucks across the River, which is not only illegal but also having greater impact upon the natural flow of River water body. Hence, such path should be dismantled. It was also found that the Contractor from Bedar Sand Mines comes across the river for illegal Mining in Narsinghpur District.*
10. *That, with regard to the allegation of the sand stockyards being situated within the prohibited distance/limit from the sand-Mining sites, the Joint committee Report dated 16.03.2021 as ordered / directed by the Hon'ble Tribunal dated 02.03.2021. It is amply clear that, the allegations made by the applicant are baseless, misleading and far from the truth. As per the Joint Report ordered by this Hon'ble Tribunal, the Stockyards siting location and distance wherein, sand stockyards are situated at relevant distance from the lease mines of replying*

respondent. Even in the said Joint Committee Report, the various letters shown at relevant pages 362, 356, 357 i.e. (i) letters from Patwari to Tehsildar, Mining Inspector; (2) and Panchnama prepared by the Revenue Inspector respectively, confirms that the distance of stockyards from Sand-Mining area is more than 5 Kms. Even the State Government in its Para wise reply at relevant Para 4, the Mining inspector of District Narsinghpur after verifying the siting norms and guidelines has submitted it's report that, all the sand stockyards are sited more than 5 Km farthest distance from the sand mining blocks.

11. That, the answering respondent repeatedly requested to the respondents authorities for previous illegal mining near villages Mehragaon and Maheshwar, near river Dudhi so as caution and taking of shong action which can be initiated against such incidents.

12. That, it's most humbly submitted that, on various representation made by the answering respondent being vigilant law abiding company the respondent authorities has conducted site inspection at Village Mehrngoon and Maheshwar, Narsinghpur opposite to the Bedar village of Hoshangabad from where illegal transportation of the sand was carried much before allotment of the contract to the answering respondent no.4.

8. The matter was again taken up by this Tribunal on 30th July, 2021 and the Tribunal observed as follows:

“The perusal of report reveals certain illegalities / irregularities, as raised by the applicant containing :-

- i. Arial distance has been given while deciding the siting criteria.*
- ii. The Arial distance as narrated is stated to be 3 to 7 Kms. (though it requires exact distance.)*
- iii. Existence of illegal path way constructed across the river bed.*
- iv. Large size pits were observed out of the mine lease area (though it has been stated that action has been taken but nothing has been stated as to what action has been taken and what is the result)*
- v. The Committee observed that road was damaged in few patches. 2*
- vi. 03 cases of illegal mining and 146 cases of illegal transportation of mining have been narrated in the report but the action taken by the Competent Authority has not been reported.*
- vii. The action under the Madhya Pradesh Sand (Mining, Transportation, Storage, Trading) Rules 2019 have been reported but nothing has been expressed about the action taken under the Environmental (Protection) Act, 1986.*

State Pollution Control Board, Bhopal is directed to fulfill its statutory duty and also to do the legal action according to law. The copy of the Annexure-7 filed by the applicant

which is signed by in-charge Officer of the Collector, Mines Branch, Narsinghpur, Sub-Divisional Officer, Revenue Department, Narsinghpur, Representative of Madhya Pradesh Pollution Control Board with regard to the inspection dated 26.11.2020 be send to the Madhya Pradesh Pollution Control Board and also to the Member of the Committee to submit the action taken report on these points. The facts as contained in Annexure-7 signed by the three (3) senior responsible Officers of the Administration should be taken into account and considered seriously.

Put up with the further Action Taken Report and the reply on **25th August, 2021.**”

9. In compliance thereof, the Joint Committee has submitted the Action Taken Report which is as follows:

Madhya Pradesh Gazet Notification Dated Oyar/2021 decided for sanction sand stockyard Details of sand stock are as follows:-

S. No	Name of Sand Stock Yard & Location	Stock license granted by Mining Department	Area	Road distance from sand mines
1	Dhanlaxmi Merchandise Pvt Ltd. Village-Sahawan Tehsil-Gadarwara Distt. Narsinghpur	Letter no. 1102 dated 27.06.2020	0.498 Hect	More than 5 kilo Meter
2	Dhanlaxmi Merchandise Pvt Ltd. Village-Sahawan Tehsil-Gadarwara Distt. Narsinghpur	Letter No. 1059 dated 25.06.2020	0.809 Hect	7 kilometer
3	Dhanlaxmi Merchandise Pvt Ltd. Village-Sahawan Tehsil-Gadarwara Distt. Narsinghpur	Letter No. 1008 dated 20.06.2020	0.202 Hect	More than 5 kilometer

- As per Gazzet notification dated 05.01.2021 of Government of MP for sanctioning of sand stockyard distance should be within 5 to 8 KM from nearest valid sand mine.
- 03 cases of illegal mining and 146 cases of illegal transportation of mining have been narrated in the report.
The following officers in the team visited the pathway across the Dudhi River:
 1. Rajesh Kumar Maravi, Tahsildar Gadarwada Dist- Narsinghpur
 2. Sh. Sumit Gupta, Mining Inspector, District Mining Office, Narsinghpur.
 3. Sh. Rajkumar Jain, Joint Scientist, Regional Office, MPPCB, Jabalpur
- Pathway across the river Dudhi from Maheswer Narsinghpur District to Bedar Sand Lease of Hosangabad District. The pathway was constructed by for contractor of Bedar sand mine of Hosangabad District before the present group contractor of Narsinghpur District M/s M/s Dhanlakshmi Merchandise Private Limited occupying the sand mines of Dudhi river. The District Collector Narsinghpur has informed to State Mining Corporation Bhopal for this pathway. The prior contractor of Bedar sand mine was surrender the sand mine Bedar in Dec-2020 and simultaneously dismantle and destroy the

prior constructed pathway which was constructed from Bedar Hosangabad District to Maheswar Narsinghpur District. It is also stated that the river Dudhi is a non perennial river and generally water flow in rainy season and other time the river is found almost dry. Presently there is no pathway in Dudhi River.

10. The perusal of the report reveals that the District Collector, Narsinghpur has taken action against the person concerned and the pathway which is alleged by the Applicant has been dismantled and at present there is no pathway in Dudhi River. It has further been stated by the Joint Committee that the legal action has been taken against the illegal mining and illegal transportation and the list of the person against whom the action has been taken has been filed as Annexure 2 with the Action Taken Report.
11. Accordingly, we are of the view that the district authorities and Collector has taken the action and the illegalities which have been narrated by the Applicant in the application have been remedied. No further action is required in this matter.
12. In view of the matter and having regard to the application, we direct that the directions issued by the Principal Bench of this Tribunal in O.A No. 360 of 2015, NGT Bar Association Vs. Virender Singh (State of Gujarat) must be taken into account and mechanism for remedial action against such illegality by stopping illegal mining, recovering compensation and seizing the vehicle involved must be taken by the state administration, to control the illegal sand mining and illegal transportation of sand mining.

The Original Application is finally disposed of accordingly.

Sheo Kumar Singh, JM

Arun Kumar Verma, EM

November 12th, 2021
O.A. No. 94/2020(CZ)
PU