

Item No.01

(Court No. 1)

**BEFORE THE NATIONAL GREEN TRIBUNAL  
SPECIAL BENCH**

(By Video Conferencing)

Original Application No. 34/2020(CZ)  
(I.A No. 45 and 71/2021)

J.R. Narayan

Applicant

Versus

State of Madhya Pradesh &Ors.

Respondent(s)

Date of hearing: 13.12.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER  
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

Applicant: Mr. Dharamveer Sharma, Advocate

Respondent(s): Ms. Parul Bhadoria, Advocate for MPPCB  
Mr. Om Shankar Shrivastava, Advocate  
Ms. Nimisha, Advocate

**ORDER**

1. The issue for consideration is the remedial action for violation of environmental norms by stone crushers in question, in District Rewa in MP, mentioned in the reports of the joint Committee of CPCB, State PCB and Collector after inspection conducted on 26-27.8.2020, followed by reports dated 15.7.2021 and 13.9.2021 to which reference will be made in the later part of this order.

2. This application sought remedial action against illegal operation of stone crushers near village Bajnath, Tehsil Huzur, Distt Rewa, MP, in close proximity of National Highway, State Highway, water bodies, age old temple and the habitation, without requisite consents and compliance

of environmental norms. It was stated that they were operating in a cluster, flouting the guidelines issued by the State Pollution Control Board. Uncontrolled air emission and dust was generated, affecting the local residents of the area. Statutory authorities failed to take required measures against such violations. The stone crushers impleaded as Respondent Nos. 7 to 25 are as follows:

- “7. *M/s Sahara Stone Crusher Prop – Mr. Vijender Singh  
Village- Baijnath, Post Bholagarh,  
Teh. Huzur, Distt. Rewa (MP)*
8. *M/s New Sahara Stone Crusher through Proprietor-  
Mr. Akram Siddiqui  
Village- Baijnath, Post Bholagarh,  
Teh. Huzur, Distt. Rewa (MP)*
9. *M/s Kasar Stone Crusher through Proprietor-  
Mr. Amit Singh Yadav  
Village- Baijnath, Post Bholagarh,  
Teh. Huzur, Distt. Rewa (MP)*
10. *M/s Ram Prem Stone Crusher through Proprietor-  
Mr. Ambuj Pandey Village- Baijnath, Post Bholagarh,  
Teh. Huzur, Distt. Rewa (MP)*
11. *M/s Maa Sharda Stone Crusher through Proprietor-  
Mr. Virender Singh Village- Baijnath, Post Bholagarh,  
Teh. Huzur, Distt. Rewa (MP)*
12. *M/s Shukla Stone Crusher through Proprietor-  
Mr. Siddharth Shukla Village- Baijnath, Post Bholagarh,  
Teh. Huzur, Distt. Rewa (MP)*
13. *M/s Singh Tiwari Stone Crusher through Proprietor-  
Mr. Punit Tiwari Village- Baijnath, Post Bholagarh,  
Teh. Huzur, Distt. Rewa (MP)*
14. *M/s Punit Tiwari Stone Crusher through Proprietor-  
Mr. Punit Tiwari Village- Baijnath, Post Bholagarh,  
Teh. Huzur, Distt. Rewa (MP)*
15. *M/s Sonal Stone Crusher through Proprietor-  
Ms. Sonal Sharma S/o K.S. Sharma Village- Baijnath,  
Post Bholagarh,  
Teh. Huzur, Distt. Rewa (MP)*
16. *M/s YN Stone Crusher through Proprietor-  
Mr. Prabhat Shukla Village- Baijnath, Post Bholagarh,  
Teh. Huzur, Distt. Rewa (MP)*

17. *M/s Vrindavan Stone Crusher through Proprietor-  
Mr. Shivendra Singh Patel, Village- Baijnath, Post  
Bholagarh, Teh. Huzur, Distt. Rewa (MP)*
18. *M/s Kabya Stone Crusher through Proprietor-  
Mr. Vinod Pandey Village- Baijnath, Post Bholagarh,  
Teh. Huzur, Distt. Rewa (MP)*
19. *M/s Samrat Stone Crusher through Proprietor-  
Mr. through Proprietor-Mr. Umesh Kushwah  
Village- Baijnath, Post Bholagarh,  
Teh. Huzur, Distt. Rewa (MP)*
20. *M/s Siddharth Shukla Stone Crusher through Proprietor-  
Mr. Siddharth Shukla Village- Baijnath, Post Bholagarh,  
Teh. Huzur, Distt. Rewa (MP)*
21. *M/s Ambuj Tripathi Stone Crusher through Proprietor-  
Mr. Ambuj Tripathi Village- Baijnath, Post Bholagarh,  
Teh. Huzur, Distt. Rewa (MP)*
22. *M/s Pawan Pathak Stone Crusher through Proprietor-  
Mr. Pawan Pathak S/o Shri Ramesh Pathak  
Village- Baijnath, Post Bholagarh,  
Teh. Huzur, Distt. Rewa (MP)*
23. *M/s AK Stone Crusher Proprietor,  
Narender Singh R/o Khamharita  
Tehsil: Huzur,  
Rewa*
24. *M/s. Shiv Shakti Stone Crusher Proprietor  
Unknown Village – Hinauti, Post- Bholagarh, The- Huzur,  
Distt. Rewa (MP)*
25. *Mr. Bhaskar Mishra Village-Hinauti,  
Post- Bholagarh, The-Huzur, Distt. Rewa (MP)”*

3. Vide order dated 30.06.2020, the Tribunal sought a factual and action taken report from a joint Committee of CPCB, Madhya Pradesh State PCB and the Collector Mines, Rewa.

4. Accordingly, report was submitted by the joint Committee after inspection on 26.08.2020. The report pointed out violations as follows:

“5. *The inspection team has visited every Stone Crusher which are listed in the petition. The team has also taken photographs, GPS co-ordinates nearby site. Also checked the compliance measures, the distance from Stone Crusher to Abadi area, Roads, Temples & water Bodies. **The details are enclosed at table no.1** (Page No. 15- 16)*

6. As per the above order total 22 Stone Crushers has been mentioned but petitioner has appealed for 18 nos. of stone crushers instead of 22 nos. physically verified 14 nos. of stone crusher were established and 03 nos. of stone crushers has been shifted to another place and 01 no of stone crusher is proposed land establishment. **All 14 nos. of stone crushers are found illegally established which were rejected by MPPCB please refer Annexure-III (page17-34)**

7. **The stone crushers have established near the residential (Abadi) & sensitive area without obtaining the Consent to establish / Consent to Operate from MP pollution control Board and operating without any air pollution control measures.** As per the establish consent to operate application for all the 14 stone crushers.

8. **The MPPCB, Regional Officer Rewa has taken action against the establishment of illegal stone crushers located at village Baijnath. Tehsil Huzur, district Rewa M.P. and issued closure notice to all illegal established stone crushers under Section 31A of Air (Prevention and Control of Pollution) Act 1981. The copies of closer notices is enclosed as Annexure-iv (page No.35-57)**

9. Photographs taken during the visit and Google view map of stone crusher area at Village Baijnath Th. Hujur Distt. Rewa (M.P.) is enclosed as **Annexure-V. (Page No. 58-67).**”

5. Table No. 1 giving particulars of violations is reproduced below:

**“Table: Status Report of Stone Crushers Gram Panchayat Baijnath Th. Huzur Distt. Rewa  
Date of Inspection 26-27.08.2020**

S. No.	Name and Address of Industry	Coordinates Longitude Latitude	Land owner name and address	Status of Consent	Distance form village/ Abadi area/ Temple	Remark
1.	M/s Sahara Stone Crusher Prop. Shri Vijendra Singh Vill. Baijnath Post Bholgarh Th. Huzur Distt. Rewa	81.185493 24.504565	Mo Akarm Siddhki Baijnath Rewa	C.T.E./CTO/Rejected	70 meter approx.	During the visit the Unit was not operational
2.	M/s New Sahara Stone Crusher Prop. Shri Vijay Kumar Tripathi partner Vill. Baijnath Post Bholgarh Th. HuzurDistt. Rewa	81.186977 24.503511	Mo Akarm Siddhki Baijnath Rewa	Application Rejected	225 meter approx.	Unit was non operational
3.	M/s Kashar Stone Crusher Prop. Shri Amit Singh Yadav Vill. Baijnath Post Bholgarh Th. Huzur Distt. Rewa	81.186721 24.505217	Shri Bhaskar Mishra S/o Shri Samaylal Mishra Vill. Baijnath	Application Rejected	190 meter approx.	Unit was non operational
4.	M/s Ram Prem Stone Crusher Prop. Shri Ambuj Panday Vill. Baijnath Post Bholgarh Th. HuzurDistt. Rewa	81.187963 24.504829	Shri Bhaskar Mishra S/o Shri Samaylal Mishra Vill. Baijnath	Application Rejected	300 meter approx.	Unit was non operational
5.	Maa Sharda Stone Crusher Prop. Shri Virendra Bhadur Singh Vill. Baijnath Post Bholgarh Th. HuzurDistt. Rewa	81.188111 24.504976	Shri Bhaskar Mishra & Mo Akarm Siddhki Vill Baijnath	Rejected	350 meter approx.	Unit was non operational Established in Cluster zone area.
6.	M/s Shukla Stone Crusher	81.187244 24.503914	Shri Gulab Pandey vill. Baijnath	Shifted	320 meter approx.	Unit was non operational, under shifting process.

	<i>Prop. Shri Sidharath Shukla Vill. Baijnath Post Bholgarh Th. Huzur Distt. Rewa</i>					
7.	<i>M/s Singh Tiwari Stone Crusher Prop. Shri Kamal Singh Tiwari Vill. Baijnath Post Bholgarh Th. Huzur Distt. Rewa</i>	<i>81.187244 24.503386</i>	<i>_____</i>	<i>Shifted</i>	<i>Proposed dismantle and shifting</i>	<i>Unit was non operational, under shifting process.</i>
8.	<i>M/s Puneet Tiwari Stone Crusher Prop. Shri Puneet Tiwari Vill. Baijnath Post Bholgarh Th. Huzur Distt. Rewa</i>	<i>81.186814 24.505454</i>	<i>Shri Bhaskar pd. Mishra S/o Shri Samaylal Mishra</i>	<i>Not started</i>	<i>200 meter approx.</i>	<i>Unit was not established in the propose area and site not clear for process, inspecting team was observed the proposed land planted in (Rice agricultural crop)</i>
9.	<i>M/s Kiran Krupa Stone Crusher Prop. Shrimati Sangeeta Sharma Vill. Baijnath Post Bholgarh Th. Huzur Distt. Rewa</i>	<i>81.185458 24.508007</i>	<i>Shri dal pratap singh Tiwari S/o Shri Gulab Singh Tiwari vill. Baijnath</i>	<i>Closed/ Shifted</i>	<i>Presently shifting and dismantle</i>	<i>Not operational &amp; not established</i>
10.	<i>M/s Y.N. Stone Crusher Prop. Shri Prabhat Shukla Vill. Baijnath Post Bholgarh Th. Huzur Distt. Rewa</i>	<i>81.185541 24.508779</i>	<i>Late shri Rajendra Prasad Vill Baijnath</i>	<i>Reject</i>	<i>200 meter approx. and Gov. School approx. 330 meter</i>	<i>Unit was non operational, under Cluster Zone area</i>
11.	<i>M/s Vrindawan Stone Crusher Prop. Shri Shivendra Singh Patel Vill. Baijnath Post Bholgarh Th. Huzur Distt. Rewa</i>	<i>81.186132 24.508567</i>	<i>Shri Rajesh Prasad Vill Baijnath</i>	<i>Reject</i>	<i>220 meter approx and Gov. School approx. 330 meter</i>	<i>Unit was non operational, under Cluster Zone area</i>
12.	<i>M/s Kabaya Stone Crusher Prop. Shri Vinod Pandey Vill. Baijnath Post Bholgarh Th. Huzur Distt.</i>	<i>81.186607 24.508104</i>	<i>Shri Raja Ram Tiwari Vill Baijnath</i>	<i>Reject</i>	<i>250 meter approx Near Old Temple</i>	<i>Unit was non operational</i>

	<i>Rewa</i>					
13.	<i>M/s. Samarat Stone Crusher Prop. Shri Umesh Kuswaha Vill. Baijnath Post Bholgarh Th. HuzurDistt. Rewa</i>	<i>81.172635 24.508326</i>	<i>Shri Umesh Kuswaha Vill Baijnath</i>	<i>C.T.E. issued</i>	<i>Distance from 57 meter app.</i>	<i>Unit was non operational, near rural road 57 M. app. Operating through D.G. Set.</i>
14.	<i>M/s Sidharth Shukla Stone Crusher Prop. Shri SidharthShulka Vill. Hinouti Post Bholgarh Th. HuzurDistt. Rewa</i>	<i>81.160644 24.501920</i>	<i>Shri Amit Kumar and Pramod Kumar Vill Hinouti</i>	<i>Reject</i>	<i>Distance from 50 meter app.</i>	<i>Unit was non operational</i>
15.	<i>M/s Ambuj Stone Cursher Prop. Shri Ambuj Tripathi Vill. Hinouti Post Bholgarh Th. HuzurDistt. Rewa</i>	<i>81.161053 24.503110</i>	<i>-----</i>	<i>Closed/ shifted</i>	<i>Distance from 150 meter app.</i>	<i>Unit was non operational, not established</i>
16.	<i>M/s Pawan Pathak Stone Crusher Prop. Shri Pawan Pathak Vill. Hinouti Post Bholgarh Th. HuzurDistt. Rewa</i>	<i>81.162955 24.501866</i>	<i>Shri Manesh Panday Vill Hinouti</i>	<i>Reject</i>	<i>Distance from 450 meter app.</i>	<i>Unit was non operational</i>
17.	<i>M/s Rama Asosiate Stone Crusher Prop. Shri Mukes Tripathi Vill. Hinouti Post Bholgarh Th. HuzurDistt. Rewa</i>	<i>81.163558 24.501567</i>	<i>Shri Ram Ruchi Mishra Vill Hinouti</i>	<i>Reject</i>	<i>Distance from 450 meter app.</i>	<i>Unit was non operational</i>
18.	<i>M/s Shilpi Stone Crusher Prop. Shri Narendra Singh Vill. Khamariya Post Bholgarh Th. HuzurDistt. Rewa</i>	<i>81.190498 24.521974</i>	<i>Shri Narendra Singh Vill. Khamhriya</i>	<i>C.T.O. 01.10.2019</i>	<i>Distance from 800 meter app.</i>	<i>Unit was non operational, under lease area of M/s. UTCW, Bela Stock Permission rejected.</i>

6. The report mentioned that 18 stone crushers were operating earlier out of which 11 stone crushers were still operating without any permission. 20 units were doing illegal sand mining without requisite consent. The authorities had failed to check violation of law. Accordingly, the Tribunal vide order dated 22.09.2020 directed remedial action and filing of compliance report.

7. Accordingly, the Committee filed compliance report to the effect that 13 stone crushers were found operating in violation of law for which compensation was assessed on the formula adopted for pollution, based on the number of days on which pollution is caused, starting from the date of first inspection taking the said date as first violation. Recommendations have been made for preventing such violations by not granting electricity connection and checking violations on regular basis. The Tribunal considered the report as well as submissions of the Project Proponents (PPs) that having applied for consents, they could not be held liable. Delay was on the part of the State PCB. The joint Committee has given report without giving opportunity of being heard. The Tribunal observed that if violations are found against the stone crushers, including those not impleaded, in exercise of statutory powers the State Board could take coercive and remedial measures. Accordingly, vide further order dated 18.06.2021, the Tribunal directed the State PCB to proceed further and file compliance report. The State PCB has filed action taken reports dated 15.07.2021 and 13.09.2021. The same are for consideration. Some stone crushers/PPs have filed their objections.

8. We have heard learned Counsel for the parties and considered the reports filed and objections thereto.

9. The reports of the State PCB state that after orders of this Tribunal dated 22.09.2020 and 18.06.2021, show cause notices were been given to 13 stone crushers which were found to be operating illegally with proposal to levy compensation mentioned therein. After considering replies by 8 units and failure of 5 units to give any response, final compensation was assessed against the 13 units as follows:

<b>SN</b>	<b>Name of the Stone Crusher</b>	<b>Reply to Show Cause Notice</b>	<b>Amount of Environmental being imposed in Rs.</b>
1.	<i>M/s Sahara Stone Crusher of Shri Vijendra Singh. Village- Baijnath, Bholgarh</i>	Yes <i>(But not satisfactory)</i>	32,75,000/-
2.	<i>M/s New Sahara Stone Crusher of Shri Vijay Kumar Tripathi, Village- Baijnath, Bholgarh</i>	Village- Baijnath, Bholgarh	32,62,500/-
3.	<i>M/s Kasha Stone Crusher of Shri Amit Singh Yadav, Village- Baijnath, Bholgarh</i>	Yes <i>(But not satisfactory)</i>	32,62,500/-
4.	<i>M/s Ram Prem Stone Crusher of Ambuj Pandey, Village- Baijnath, Bholgarh</i>	Yes <i>(But not satisfactory)</i>	32,62,500/-
5.	<i>M/s Maa Shara Stone Crusher of Shri Virendra Bhadr Singh Village- Baijnath, Bholgarh</i>	Yes <i>(But not satisfactory)</i>	32,62,500/-
6.	<i>M/s Y.N. Stone Crusher of Shri Prabhat Shukla, Village- Baijnath, Bholgarh Huzur, Reva</i>	Yes <i>(But not satisfactory)</i>	32,62,500/-
7.	<i>M/s Vrindawan Stone Crusher of Shri Shivenra Singh Patel, Village- Baijnath, Bholgarh Huzur, Reva</i>	Yes <i>(But not satisfactory)</i>	32,62,500/-
8.	<i>Kabya Stone Crusher of Shri Vinod Pandey Village- Baijnath, Bholgarh</i>	Yes <i>(But not satisfactory)</i>	32,75,500/-
9.	<i>M/s Samrat Stone Crusher of Shri Umesh Kushwaha, Yes Village- Baijnath, Bholgarh Huzur, Reva</i>	NO	32,75,500/-
10.	<i>M/s Shilpi Stone Crusher of Shri Narendra Singh. Village- Khaamriya, Bholgarh</i>	NO	16,25,500/-
11.	<i>M/s Pawan Pathak Stone Crusher of Shri Pawan Pathak, Village- Hinouti, Bholgarh</i>	NO	6,68,750/-
12.	<i>M/s Rama Associate Stone Crusher of Shri Mukesh</i>	NO	6,62,500/-

	<i>Tripathi, Village- Hinouti, Bholgarh</i>		
13.	<i>M/s Sidharth Shukla, Village- Hinouti, Bholgarh</i>	<i>NO</i>	<i>6,68,750/-</i>

”

It is further stated that the above units were closed and process to recover compensation was initiated.

10. As will be shown by referring to different objections to the report, by and large they are identical but violations shown in table 1 in para 5 above are undisputed. Stand of Respondent No. 16, M/s.YN Stone Crusher is that there are other stone crushers also operating in the area. The said stone crusher has taken NOC from the Panchayat. The stone crusher is more than 100 meters away from the habitation and 330 meters away from the school. However, it is not disputed that the said unit was operating without requisite consent, as required under the Water (Prevention and Control of Pollution) Act, 1974 (Water Act) and the Air (Prevention and Control of Pollution) Act, 1981 (Air Act) for which action has been taken. There is, thus, no merit in the objection of the said stone crusher.

11. Objection of Respondent No. 7, M/s. Sahara Stone Crusher is that *consent to establish* stands granted to the said stone crusher on 01.06.2018. However, it is not shown that *consent to operate* was ever granted, which is the basis of the action. Accordingly, there is no merit in the objection.

12. Objection of Respondent No. 8, M/s. New Sahara Stone Crusher is also untenable as it is not shown that it had requisite consent.

13. I.A. No. 45/2021 has been filed by M/s. Shilpi Stone Crusher, who is not original respondent against levy of compensation on the ground

that it was operating in the mining lease of M/s. UTCW Bela. This violation is not disputed. The objection is untenable.

14. Objections filed by Respondent No. 10, M/s. Ram Prem Stone Crusher is that the Appellate Authority vide order dated 28.06.2021 has granted consent which was refused by the State PCB. However, for period prior to the said order, the stone crusher could not have operated and was illegally operating. The objection is, thus, rejected.

15. Objection filed by Respondent No. 18 M/s. Kabya Stone Crusher is that consent was wrongly rejected. The fact remains that the operation of stone crusher was without consent. It could not itself decide about illegality of such rejection unless it is so held by a competent authority.

16. Objection filed by Respondent No. 11, M/s. Maa Sharda Sharda Stone Crusher is also that consent has been wrongly rejected which cannot be a ground to operate the stone crusher.

17. There is further objection jointly by Respondent Nos. 9 to 11 and 17, 18 and 22 that all the stone crushers were closed in September 2020 and there was lock down since 24.03.2020 and therefore, quantum of compensation is not justified taking violation upto 05.11.2020.

18. There is a further objection by Respondent No. 19 that consent was never rejected within 30 days of the application. The plea of deemed consent cannot be accepted till there is declaration to that effect by any competent authority in appropriate proceedings and cannot be gone into as incidental plea. The stone crusher was thus operating without consent.

19. Thus, on due consideration, we find that reasons given by the joint Committee for taking action against the stone crushers are duly substantiated. Thus, the State PCB needs to take further remedial action to recover compensation. Since we feel that prima facie assessed compensation, far from being excessive, is inadequate on the parameters laid down by the Hon'ble Supreme Court inter alia in *M. C. Mehta & Anr. v. Union of India*<sup>1</sup>, *Sterlite Industries (India) Ltd. v. Union of India*<sup>2</sup> and *Goel Ganga Developers India Pvt. Ltd. v UOI*<sup>3</sup>, the same needs to be tentative and interim till the issue is revisited preferably within three months by the joint Committee in the light of principles for such assessment laid down in the said judgements. The assessment has to consider value of loss of ecological services as a result of violations and deterrent aspect, considering financial capacity of the violators. Mechanical application of any adopted formula may at best be floor level compensation in absence of any data of violation but where data of financial capacity and other factors is available, the same must be considered when violation is large scale and continuous. Even days have also not been correctly calculated in applying the formula. Day of inspection is taken as starting point of violations while violations existed even earlier. There is no assessment since when violations existed. Data of profit earned by illegal activities, cost to the environment and financial capacity may be duly considered, along with actual period of violation, following due process.

The application is disposed of.

All I.As also stand disposed of.

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<sup>1</sup>(1987) 1 SCC 395

<sup>2</sup>(2013) 4 SCC 575

<sup>3</sup>(2018) 18 SCC 257

A copy of this order be forwarded to CPCB and State PCB by e-mail for compliance.

Adarsh Kumar Goel, CP

Sheo Kumar Singh, JM

Sudhir Agarwal, JM

Dr. Nagin Nanda, EM

Dr. Arun Kumar Verma, EM

December 13, 2021  
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DV