

Item No.01

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

**Original Application No. 91/2020 (CZ)**

Abhishek Beniwal

Applicant (s)

Versus

State of Madhya Pradesh & Ors

Respondent(s)

Date of hearing: 21.12.2021

**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

Ms. Parul Bhadoria, Adv

**ORDER**

1. The issue of illegal sand mining has been raised in this application and it has been argued that on 31<sup>st</sup> of August 2019 the Madhya Pradesh Sand Policy of 2019 was notified by the State of Madhya Pradesh according to which every District was required to have their contractor/successful tenderer or a group of contractor. Subsequently after participation in the auction process, and acceptance of bid, the Sand Quarries for the district of Harda were allotted in favor of Non-Applicant No. 4.
2. After completion of the due formalities such as obtaining consent and EC and other permissions, the sand mining excavation in the district of Harda started in the month of June 2020. It becomes pertinent to point out here that it is a settled proposition of law that no mining activity is

permissible during the monsoon period in the state of Madhya Pradesh which ranges between 1<sup>st</sup> July till 30<sup>th</sup> September.

3. During this monsoon ban the sand which was accumulated in the sand stockyards before the start of the ban is sold per se through these stockyards. It becomes relevant to highlight here that the Non-Applicant No. 4 was permitted to sell sand which has been only legally excavated from the sand quarries and stored at its legal sand stockyards and despite imposition of mining ban, the Non-Applicant No. 4 did not stop the sand excavation activities in the district of Harda and thereby illegal excavation of sand from the river bed of River Narmada took place under the garb of Non-Applicant No. 1, 2 and 3 who are entrusted with the responsibility to ensure smooth administration of its district and further to ensure prevention of any illegal mining activities.
4. Since the sand mining activities started only in the month of June 2020 and thereby the Non-Applicant No. 4 could have excavated limited quantity sand before the imposition of monsoon ban, but the applicant had captured some photographs whereby the Non-Applicant No. 4 is seen dumping sand through trolleys to its stockyards. This goes to show that the Non-Applicant No. 4 was certainly carrying out sand excavation during the monsoon ban in order to refill its sand stockyards.
5. Another issue raised is the usage of boats by the non-Applicant no.4 whereby in stream mining is being done at the river bed of River Narmada.
6. The matter was taken up by this Tribunal and a Joint Committee consisting (i) District Mining Officer, District Harda, (ii) Regional Officer, representative of Madhya Pradesh Pollution Control Board was directed to submit a factual and action taken report. The inspection report dated 20.11.2020 has been submitted by the Committee, which is as follows:

*“With reference to above order dated 20.10.2020 of Hon’ble NGT a Joint Committee consisting District Mining Officer, Harda and Regional Officer, M.P. Pollution Control Board carried out an inspection on the*

*matter in issue raised in application. As per order Committee has visited the sites of sand mines located on bank of River Narmada and sand Stocks in district Harda which are mentioned in application. The Committee made following observation and verified facts from various government department-*

- 1. In District Harda there are total 16 sanctioned sand mines.*
- 2. The contract of sand mining in whole Harda District has been granted by Mining Department to Shri Ujjwal Singh Chouhan for 03 year periods.*
- 3. Only 09 sand mines are operational at present with valid EC and CTO.*
- 4. Sand mines mentioned in application named Uchan, Segon, Golamalgujari and Handia were found non operational. These sand mines were seen submerged in water (back water of Indira Sagar Dam) at the time of inspection. So no mining activity was seen at these mine sites.*
- 5. Sand stock yard of contractor situated in village Mangrol was also found non operational. Only about 10-12 cubic meter of sand was found stored in this stock site. The stock yard has valid CTO.*
- 6. Manohapura sand mine was seen operational. Most part of mine was seen submerged in water. From open river bed sand was collected manually and also manually loaded in dumpers. No mechanical mining and loading etc was seen at mine site. Some boats were seen in river neat this sand mine but mine representative denied that the boats belong to them. But circumstantial evidence reflected the probability of in stream sand excavation through boats. A notice in this regard has been issued by Mining department to mine contractor on dated 25.11.2020.*
- 7. As per District Collector Harda order dated 19.06.2020, the sand mining was banned in the district from midnight of 30.06.2020 to 01.10.2020 due to monsoon season. As per district mining officer record no sand mine was open for operation in this period.*
- 8. Mining office had strict vigil over illegal mining of sand during monsoon period and no case of illegal sand mining was observed.*

9. *A joint committee formed by Hon'ble NGT in case No. O.A. 20 of 2018 (CZ) Vijay Bajaj vs. Union of India and Ors was also carried out inspection on 05.09.2020. No sand mining was seen on bank of river Narmada at that time and flood condition in river was seen.*
10. *A report of Police station Handia is also called upon during inspection. As per report 12 cases of illegal sand transportation were registered in period from 01.07.2020 to 31.10.2020.*
11. *The above factual report is submitted in compliance of Hon'ble NGT order dated 20.10.2020”*
7. The Joint Committee has also submitted the copy of the report in O.A. No. 20 of 2018 titled as **Vijay Bajaj vs. Union of India and Ors** which is quoted below:

*“With reference to above order dated 04.08.2020 of Hon'ble NGT, a team of officials of Office of District Collector, District- Harda and M.P. Pollution Control Board conducted an inspection of the matter on dated 05<sup>th</sup> September, 2020. As per order, team has visited the site of sand mines located on the river Narmada in district Harda. The observations are mentioned as under:*

- 1. The team has visited the sand mines located at different sites on the stretch of river Narmada in distt Harda as mentioned in the petition.*
- 2. Due to sever rain in the area there is a flood like situation in the river Narmada and all the sand leases are submerged in the water. Approx 10 feet water is flowing above the lease ground level.*
- 3. The status of sand leases cannot be visualized as leases are submerged in the river water.*
- 4. As per the District Collector, Harda order No. 292 dated 19.06.2020, the sand mining is banned in the district from 30.06.2020 to 01.10.2020 due to monsoon season. As per District Mining Office record no mine is open for operation.*
- 5. The sand mine as mentioned in the petition have been surrendered by the owner/lease expired as per District Mining Office, Harda record. As per record the same leases mentioned in the petition are allotted to new contractors.*
- 6. In light of the above due to flood like situation no sand mining is found operational in the area. Due to submergence of the sand mine leases situated on the bank of river Narmada, the points mentioned in the petition could not be verified in the prevailing conditions. ”*

8. Learned counsel for the applicant has submitted that leases might have been terminated & surrendered and at present there is no cause of action. We have gone through the report submitted by the Joint Committee and found that no sand mining was seen on the bank of river Narmada and mining department has been directed to have strict vigil on

illegal mining of sand during monsoon period. During the course of inspection, no case of illegal sand mining was observed.

9. Accordingly, no further action is required to be taken by this Tribunal.

**The Original Application No. 91 of 2020 is disposed of finally.**

**Sheo Kumar Singh, JM**

**Arun Kumar Verma, EM**

21<sup>st</sup> December, 2021  
O.A. No. 91/2020 (CZ)  
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