

Item No. 15

(Court No. 1)

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

(By Video Conferencing)

Original Application No. 179/2020

Voice of Democracy

Applicant

Versus

State of M.P.

Respondent

Date of hearing: 20.01.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: None

Respondent(s): Ms. Parul Bhadoria, Advocate for MPCB

ORDER

1. Grievance in this application is against illegal operation of stone crushers and illegal stone mining near a School, a Primary Health Centre, an *Anganwadi* and the habitation in Village Bankuaiya, Tehsil Huzoor, District Rewa, Madhya Pradesh, resulting in huge pollution affecting public health.

2. The matter was last considered on 11.08.2021 in the light of report of the Joint Committee dated 24.06.2021 to the effect that no pollution was found. The Tribunal found it difficult to accept the report as the unit in question had no valid consent and were operating without periphery wall and green belt. The Tribunal accordingly directed a fresh report by a

different Joint Committee without the members of the earlier Joint Committee being associated. The Joint Committee was to verify the standards as per consent conditions. Source of water used in sprinkling to suppress the dust, status of air quality in the area. The operative part of the order is reproduced below:

“5. We find it difficult to accept the report for more than one reason. The report is neither complete nor gives the basis for its conclusion. While it is stated that seven stone crushers were compliant, consent is said to be only with three. Learned Counsel tried to explain that they were mentioned as compliant as initially they had consent though the consent has not been renewed. We find it surprising how a unit can be said to be compliant when there is no valid consent. Further, it is difficult to accept that stone crushers were compliant in terms of air quality norms and had valid source of water without there being periphery wall and green belt to mitigate dust and noise naturally generated in the process and without valid source for water sprinkling. Details of such measures are not discussed in the report. Further, while it is stated that the air quality was as per norms, the stone crushers were not inspected when they were operational. In case the stone crushers had been closed, it was necessary to mention action taken for the past violations in accordance with the provisions of the Air (Prevention and Control of Pollution) Act, 1981, Water (Prevention and Control of Pollution) Act, 1974 and the Environment (Protection) Act, 1986 by initiating prosecution and recovering compensation on “Polluter Pays” principle.

6. In view of unsatisfactory report for reasons mentioned above, we have no option but to express disappointment with the conduct of the persons manning the Committee and to direct a fresh report by a joint Committee which may now comprise of representative of CPCB, the Member Secretary, State PCB, the Member Secretary, SEIAA, MP and the representative of District Magistrate, Rewa (an officer of higher rank than the earlier represented). No member of the Committee who was earlier party to the report will now be included in the new Committee. The State PCB will be the nodal agency for coordination and compliance. The Committee may meet within two weeks from today, undertake visit to the site, interact with the stakeholders and conduct other proceedings online, if necessary. The Committee will be free to take the assistance from any other individual/institution. The visit may be undertaken at the time when stone crushers are fully operational. Those stone crushers which are closed may not be allowed to open without remedial measures, including accountability for the past violations and compliance of environmental norms. The operating stone crushers be monitored for verifying standards as per consent conditions (measured between three meters and ten meters from any processes equipment of a stone crushing unit shall not exceed 600 microgrammes per cubic metre), source for water sprinkling to suppress dust and ambient air quality monitoring in down wind

direction. Status of Ambient Air quality monitoring stations in Rewa and adjoining areas may also be ascertained. If the joint Committee finds violations, a copy of the report be furnished to the violating entities for their response, if any, before this Tribunal. In the light of observations of the Committee, the statutory regulators are free to take remedial action in accordance with law. The report may be furnished within three months 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.”

3. In pursuance of above, further report has been filed on 15.11.2021 after site visit on 5th and 6th October, 2021. It is stated that only four stone crushers were currently in operation and they were complying with the norms. Closure notice was issued to four stone crushers out of 14, who have now taken remedial measures. Out of remaining 10, two stone crushers have been dismantled. Eight stone crushers have been directed to stop functions. Criminal cases have been filed against eight stone crushers and their electricity has been disconnected vide letter dated 05.10.2021. Fugitive emission monitoring has been undertaken and compensation assessed for the violations based on the number of days of violations. Recommendations of the Joint Committee are reproduced below:

“4. Recommendations of the Joint Committee:-

1. *In compliance of the directions passed by the Hon'ble Tribunal, "Those stone crushers which are closed may not be allowed to open without remedial measures, including accountability for the past violations and compliance of environmental norms."*
2. *The following 04 stone crushers were found complying the stipulated monitoring norms and implemented the pollution control measure.*
 - i. *M/s Maa Sharda Stone Crusher*
 - ii. *M/s Trivani Stone Crusher*
 - iii. *M/s Smita Stone Crusher*
 - iv. *M/s Shogaura Stone Crusher*

Rest 08 Stone crushers are non-operational out of which 02 stone crushers have been dismantled.

3. Environmental Compensation liable to be paid by the operational 04 stone crushers for the duration of non-compliance of the implementation of the pollution control measures is tabulated as under:-

S. No.	Name of the stone crusher	Total EC in Rs.
1.	M/s Shaaaura Stone Crusher Vill.	3,37,500
2.	M/s Smita Stone Crusher Vill. Bankuiya	3,37,500
3.	M/s Maa Sharda Stone Crusher Vill.	3,37,500
4.	M/s Triveni Stone Crusher Vill.	3,37,500

4. The Environmental Compensation liable to be paid by following stone crushers for their past violation. The amount of Environmental Compensation liable to be paid by these units is as under :-

S. No.	Name of the stone crusher	Total EC in Rs.
1.	M/s Trimurti Stone Crusher	12,31,250
2.	M/s Maa Parvati Stone Crusher	8,43,750
3.	M/s Shiv Shakti Stone Crusher	6,56,250
4.	M/s Tiwari Stone Crusher	41,00,000
5.	M/s Maa Stone Crusher	98,43,750
6.	M/s NP Stone Crusher	11,81,250
7.	M/s Hari Om Stone Crusher	7,56,250
8.	M/s Sai Stone Crusher	10,75,000
9.	M/s Suryauday Stone Crusher (Dismantled)	54,25,000

4. We note that compensation ignores the law that value of the entire mined material is required to be recovered as compensation, as laid down by the Hon'ble Supreme Court in *Common Cause Vs. UoI & Ors.*¹, in view of Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957. In addition to value of such material, compensation has to be recovered for damage to the environment with deterrent element having regard to the financial capacity of the Project

¹ (2017) 9 SCC 499

Proponent as laid down inter-alia in *M. C. Mehta & Anr. v. Union of India*²,
*Sterlite Industries (India) Ltd. v. Union of India*³, and *Goel Ganga
Developers India Pvt. Ltd. v UOI*⁴.

5. Accordingly, we direct the State PCB to take further remedial
action in accordance with law.

The application is disposed of.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Brijesh Sethi, JM

Prof. A. Senthil Vel, EM

Dr. Afroz Ahmad, EM

January 20, 2022
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² (1987) 1 SCC 395

³ (2013) 4 SCC 575

⁴ (2018) 18 SCC 257