

Item No.1

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL**

(Through Video Conferencing)

Original Application No. 19/2021 (CZ)

Prabhat Mohan Pandey

Applicant(s)

Versus

State of Madhya Pradesh
Through District Collector

Respondent(s)

Date of completion of hearing and reserving of order: 29.03.2022

Date of uploading of order on the website: 01.04.2022

**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. Sanjay Upadhyay Adv.
Mr. Sachin K. Verma, Adv.
Ms. Parul Bhadoria, Adv.
Mr. Salik Shafiqe, Adv.
Ms. Mansi Bachani, Adv.
Mr. Shubhendu Anand, Adv.
Mr. Ajay Dhawle, Adv.

ORDER

1. The present original application has been filed raising a substantial question relating to environment under Section 14 and 15 of the National Green Tribunal, Act 2010. It is stated that in the year 2019, in the state of Madhya Pradesh, Madhya Pradesh Sand (Mining, Transportation, Storage and Trading) Rules, 2019 were introduced wherein every district was awarded a single contractor or a group of contractors and accordingly, the notice inviting tender (hereinafter referred to as "NIT") was floated by the State of Madhya Pradesh in the month of October 2019. After acceptance of the technical and financial bid, the contract for District of Chhindwara was awarded in favour of Mr. Shishir Khandar. The Present application highlights various anomalies occurred in the tender granted for the district of Chhindwara

of Madhya Pradesh whereby the contract for excavation of sand from 58 number of sand quarries in the district of Chhindwara was accorded in favour of Mr. Shishir Khandar and out of the total 58 sand quarries, 24 sand quarries are operational.

2. The issues involving substantial question relating to environment are as under:

- I. There is a huge quantity mismatch in the sand for which tender was floated and the sand for which Environment Clearance was accorded thereby stimulating illegal and additional excavation of Sand.
- II. Some of the sand quarries are not mentioned in the tender documents but despite of that EC has been given over the same and the contractor is carrying out mining activities over the same.
- III. No District Survey Report has been prepared before starting the operations of the sand quarries in the district of Chhindwara.
- IV. The scientific annual replenishment study which is mandatory as per the MOEF Guidelines as well as various judgements of the Hon'ble NGT and Apex Court, has not been conducted by the Non-Applicant officials before starting the excavation of sand.
- V. No response to the complaints filed by Applicant from the Non-Applicant officials, which establishes the fact that various anomalies have been done as a result of which the environmental loss is occurring tremendously on daily basis and the environmental norms are being violated at the threshold.

3. The applicant had attached the list of matters where discrepancies in sand mining which was found in excess of EC granted as compared to Notice Inviting Tender (NIT) has been attached, which is as follows :

LIST OF ANS EC GRANTED OF DISTRICT CHHINDWARA SHOWING DISCRIPENCY													
A	B	C	D	E	F	G	H	I	j	K	L	M	N
N.	S.N. SEIAA Minutes n.	Date	Meeting No.	Case No.	Panchayat Name	Tehsil	Khasra No. in EC	Khasra No. in Tender NIT	Area as per EC	Area as per Tender NIT	Cubic Meters as Per EC	Cubic Meters as per Tender NIT/Abhisuchna dt. 30.07.2019	Discipency Remark
1	6	26.06.2020	624	7159/20	Wadegaon	Pandurna	426/2-3-4	Not mention in NIT	1.73	Not mention in NIT	7000	Not mention in NIT	Not mention in NIT
2	63	06.10.2020	643	7826/2020	Chaumau	Junnardo	85	Not mention in NIT	2	Not mention in NIT	5000	Not mention in NIT	Not mention in NIT
3	36	08.06.2020	615	5246/2016	Rohna	Sausar	141.145	141.145	9.8	9.8	65051	33000	Excess granted as compared to NIT
4	37	08.06.2020	615	5255/2016	Rajhari Borgaon	Sausar	6	6	6	6	110000	22000	Excess granted as compared to NIT
5	13	12.06.2020	619	7111/2020	Badosa	Bichhua	288	288	1.32	4.989	19800	42180	Difference in Area as compared to NIT

6	60	12.06.2020	619	7075/2020	Mehndi-03	Sausar	92	92	3.5	4.5	31000	40000	Difference in Area as compared to NIT
7	65	12.06.2020	619	7080/2020	Bichua Baggu	Sausar	172/1	172/1	3.905	4	58575	40000	Difference in Area excess EC granted to NIT
8	66	12.06.2020	619	7081/2020	Mehndi-02	Sausar	92	92	3.5	4.5	24200	40000	Difference in Area as compared to NIT
9	61	06.10.2020	643	7822/2020	Pareghat-1	Sausar	180	180	3.5	3.5	23100	23000	Excess EC granted as compared to NIT
10	38	07.10.2020	644	7842/2020	Rampur	Junnardeo	114	114	2	2	5000	3800	Excess EC granted as compared to NIT
							Total				348736	243980	

4. The matter was taken up on 25.05.2021 and a joint committee consisting of (i) District Collector, Chhindwara (ii) Madhya Pradesh State Environment Impact Assessment Authority and (iii) Madhya Pradesh State Pollution Control Board was constituted to submit factual and action taken report.

5. In compliance thereof the committee has submitted the report and while discussing point no. 1 disclosed the fact that MPSEIAA, considered the quantity of sand mentioned in the approved Mining Plan and Replenishment Plan approved by the Competent Authority and not the **Notice Inviting Tender (NIT)** so there may be mismatch in the production capacity in the issued/transferred EC with the quantity of sand mentioned in NIT. The further observations and suggestions are as follows :

Observations/findings :

Committee took up random visits to some of the mining to evaluate the environmental issues from the river sand mining. Committee visited following sand mining sites and sand stock yards :

1. Rohna Sand Mine on river Kanhan, Sausar.
2. Mehandi -1,2,3 Sand Mines on river Kanhan, Sausar.
3. Imlikheda Sand Mine on River Kulbehra, Chhindwara.
4. Khutamba Sand stock.

Sand mining has been stopped in the district from 30th June (mid night), thus no mining operations were observed at any of the sites. Other general observations are as follows :

- No damages were observed on the banks of the sites visited.
- River flow was found to be normal.
- River water quality of major river mining sites (R. Kanhan & R. Pench) as per the MPPCB Monitoring falls under category “B”.

- The evacuation roads in the visited mines are not maintained appropriately.
- Proponent has not carried out plantation as per the condition of EC.
- Proponent could not show any CSR/CER activity being implemented in the region.
- PP could not furnish copy six-monthly compliance report of the EC conditions; PP has committed to submit the same at the earliest.
- Khutamba Sand stock visited was found uncovered which is likely to cause loss of mineral during heavy rains.

Suggestions

1. PP is required to construct WBM evacuation roads and maintain them, at all the mining sites.
 2. PP is required to identify the suitable land parcels in the catchment of all the mining sites in consultation with forest department and District Administration for tree plantation immediately.]
 3. PP is required to plan and take up the need based CSR /CER activities for all the mining sites in consultation with District Administration and Local Body immediately.
 4. PP has to submit the six-monthly compliance report of the EC conditions on priority.
 5. Sand stock should be covered appropriately to prevent mineral loss.
6. Respondent Nos. 1 , 2 & 3 have filed the reply. Respondent No. 4/Project Proponent has also filed the reply.
7. We have heard the Learned Counsel for the parties and perused the record.
8. Learned Counsel for the applicant has submitted that the mismatch as given with the application has not been controverted by any of the parties and at Sl. No. 1 the mining was not mentioned in NIT though it was subject matter of mining activities. Similarly, in item no. 3, 4, 5 to 10 there are grant of EC in excess to the quantity compared to NIT or there is difference in area as compared to NIT. This fact has been

admitted by the Joint Committee in its report that there are mismatch which has not been considered by the MPSEIAA.

9. All these matters and issues has been raised , heard and decided in Appeal No. 25/2021 (CZ) (other connected matters) and has been finally disposed of. Directions issued in those appeals are reproduced as under :

I. We direct the State to follow the guidelines issued in Sustainable Sand Mining Guidelines 2016 (SSMG-2016) as well as Enforcement and Monitoring Guidelines for Sand Mining, 2020 (EMGSM-2020) and also enforce the mechanism for the preparation of DSR, Environment Management Plan, 66 Replenishment Studies, Mine Closure Plan, grant of EC, assessment and recovery of compensation, seizure and release of vehicles involved in illegal mining and other safeguards against violation, grievance redressal, accountability of the designated officers and periodical review at higher level of the State.

II. A mechanism should be developed for periodic inspection by a five-members Committee, headed and coordinated by the SEIAA and comprising CPCB, State PCB and two expert members of SEAC dealing with the subject as directed by this Tribunal in O.A. No. 360/2015.

III. The Authority constituted/nominated under Section 3(3) of the Environment (Protection) Act, 1986 as envisaged by Hon'ble the Supreme Court in Goa Foundation Vs. Union of India & Ors. and in the matter of T.N. Godavarman Thirumulpad Vs. Union of India & Ors. (2014) 4 SSC 61 may take further action. The monitoring must be ensured through the Chief Secretary by holding a meeting and issue the necessary guidelines and actions in

accordance with the order passed by this Tribunal in O.A. No. 360/2015.

- IV. 31 appeals relating to 19 districts (Para-18) and the cases as contained in the letter dtd.07.01.2022 (Para-16) issued from the Madhya Pradesh State Mining Corporation Limited whose mining lease have been cancelled or surrendered became infructuous.
- V. The matter relating to 08 cases given in Table-1 (F) & discrepancies and variations as shown in Para 4 and 5, where there is a mismatch of khasra number, area, period or quantity of lease shall be reconsidered by the SEIAA and to take necessary action according to law.
- VI. E-auction/auction/tender should be done in accordance with Sustainable Sand Mining Guidelines 2016 as well as Enforcement and Monitoring Guidelines for Sand Mining 2020 and only where details of approved DSR and Annual Replenishment Study are available.
- VII. EC should be accorded only to the limit of auctioned and sustainably permissible quantity.
- VIII. In cases where ECs are transferred, present status of mining areas should be ascertained through ARS and DSR. ECs which have been transferred without the assessments of present environmental status, damages must be revisited by MPSEIAA before any mining is taken up on the basis of transferred ECs.
- IX. The orders and directions passed by Hon'ble Supreme Court of India vide order dated 10th November, 2021 in Civil Appeal No. 3661-3662 of 2020 in State of Bihar Vs Pawan Kumar must be complied with and to be effected in the State of Madhya Pradesh also.

10. The details of discussions and issues decided are not required to be repeated. The present Original Application **stands disposed** of in the terms of order passed in Appeal No. 25/2021 (and connected matters) and MPSEIAA is directed to go through the list at sl. No. 1 to 10 which has been attached with the application and reproduced in para 3 and if there is any difference or mismatch or in excess, the MPSEIAA may decide the matter afresh in accordance with the directions issued by this Tribunal in Appeal No. 25/2021 (CZ).

Original Application No. 19/2021 (CZ) is decided accordingly.

Sheo Kumar Singh, JM

Dr. Arun Kumar Verma, EM

1st April, 2022
O.A. No.19/2021 (CZ)
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