

Item No.9

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

Original Application No. 88/2021

Braj Raj Singh

Applicant (s)

Versus

Department of Housing and Environment

Respondent(s)

Date of hearing: **04.04. 2022**

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER
HON'BLE DR. AFROZ AHMAD EXPERT MEMBER**

For Applicant (s):

Mr. Dharamvir Sharma, Adv.

For Respondent(s):

Mr. Abhijeet Singh, Adv.

ORDER

1. Issue raised in this application is illegal mining around Sonchiraiya Sanctuary situated in Ghatigaon in District Gwalior wherein using heavy machinery, sand mafia and persons, who are involved in mining are not only destroying the environment but also damaging the revenue of the State and involved in cutting of the trees.
2. The Applicant has referred to the report of the Forest Officer dated 08.01.2021, wherein the matter was reported to Superintendent of Police for taking legal action to stop the illegal transportation and mining of marble and further to establish police chokies in Lakhanpura Village so that the illegal mining could be stopped. The matter as alleged and argued in the Tribunal is serious in nature.

3. The matter was taken up by this Tribunal on 10.12.2021 and a committee consisting of (i) District Collector, Gwalior (ii) Divisional Forest Officer Gwalior (iii) Superintendent of Police (City) Gwalior (iv) one representative of Pollution Control Board was constituted with a direction to submit factual and action taken report. The committee visited the site and submitted the report with the observations, which are as follows :

- “1. It is submitted that no mining / quarry lease has been granted to any person or firm by Collector (Mining) Gwalior in and adjoin to Sonchiraiya sanctuary area.
2. Village Jakhoda is situated adjoin to Sonchiraiya sanctuary. In previous time flag stone quarries were in operation in Village Jakhoda, Tehsil Ghatigaon, District Gwalior since year 2020 with due leases from Collector (Mining) Gwalior. At present all these quarries are non operational since quarry leases are not renewed by Collector Gwalior.
3. The Joint Committee has visited the Village Jakhoda, Tehsil Ghatigaon, District Gwalior. It was observed that no mining activity was carried out in the old mines area of Jakhoda Village on the day of inspection dated 10.01.2022.
4. Photographs taken during inspection of Jakhoda Village non operational mines area are enclosed.
5. The Joint Committee also visited the Villages Londupura, Tilawali (Kalatoda), Dandakhidak (Khandi Nala) situated inside and adjoin to Sonchiraiya sanctuary but within forest area. It was observed that :-
 - Whole area is rocky terrain where flag stone is available in abundance on surface.
 - Mine pits were seen at these villages. No live mining activity was seen there but presence of these pits revealed that some illegal mining activities has been carried out there.
 - In Village Londupura & Dandakhidak some finished pieces of flag stone were seen inside illegal pits created there by some persons. Which indicate that mining would have been carried out there. Forest Department staff available with the team destroyed the finished flag stone pieces by hammering operation.
 - Forest department officials available with team informed that number of illegal mining pits are created by local villagers supported by mafia for illegal flag stone mining. Flag stone mining is carried out manually by using hand tools only. No heavy machinery is required in flag stone mining. Only to remove over burden heavy machinery could be used occasionally. Forest department regularly have vigil over such activities and take

action as and when such illegal mining and transportation activities found within forest/sanctuary area.

- The Mining Department Gwalior and Police Department also take action against illegal mining and transportation when found to them.
- Photographs taken during inspection of quarry pits situated in villages Londupura, Tilawali (Kalatoda), Dandakhidak (Khandi Nala) are enclosed.

B) **FACTUAL STATUS OF THE MAJOR ISSUES RAISED IN PETITION ON WHICH STATUS REPORT SOUGHT BY HON'BLE NGT THROUGH ORDER DATED 10.12.2021**

On the basis of observation made by Joint Committee, the factual status against the issues raised in petition on which status report sought by Hon'ble NGT through order dated 10.12.2021 is summarized as below:-

S.N.	Details of Issues	Factual Status
1	Illegal mining is carried out around Sonchiraiys Sanctuary situated in Ghatigaon in District Gwalior wherein using heavy machineries, sand mafia and persons who are involved in mining are not only destroying the environment but also damaging the revenue of the state and involved in cutting of trees.	No mine is sanctioned in and around Sonchiraiysa Sanctuary by Collector (Mining) Gwalior. Flag stone is abundantly available on surface in the area. Episodes of illegal mining are happened there which is reflected from presence of illegal pits in and around the sanctuary area in and around the sanctuary area. As per Forest Department official at present 32 villages are situated within sanctuary area and 23 villages situated in adjoining area. Due to this the whole sanctuary area is sensitive for illegal mining since decades. Forest Department, Police Department and Mining Department of Gwalior continuously keep vigil on such activities and taking – action against persons involved in illegal mining and transportation. No signage of use of heavy machinery was seen during visit by committee. On inspection of illegal mining pits of area it was observed that flag stone is carried out manually by using hand tools only.

2	As per Forest Officer report dated 08.01.2021 the matter was reported to the Superintendent of Police for taking legal action to stop the illegal transportation and mining of marble and further to establish Police Chokies in Lakhanpura Village so that the illegal mining could be stopped.	Police choukey is not established at Lakhanpura as yet. As per Police official there are three Police stations namely Ghatigaon, Bhawarpura and Tighra already established around Sonchiraiya sanctuary area and whole sanctuary area falls under the jurisdiction of these three Police stations. So there is no need of establishing any additional Police Choukey in Lakhanpura. Police force is provided to Forest Department and Mining Department on their demand time to time.
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(C) ACTION TAKEN REPORT:-

1. There is no mining activity seen at old flag stone mine area in Village Jakhoda situated around the sanctuary. Mining activities have been stopped here completely in year 2020 and no mining lease renewal has been granted to any quarry of the area by Collector (Mining) Gwalior for further period. Old over Burdon dumps, storage of broken stones and number of excavated pits were seen there on old mines area.
2. Joint Committee called upon the action taken report from Police Station Ghatigaon, Forest Department and Mining Department regarding the action taken to stop illegal mining and transportation of flag stone from Sonchiraiya sanctuary and adjoining area. Reports received from these departments are enclosed.
4. Respondent No. 1, 2 & 4 have filed the reply with the fact that Sonchiraiya is one of the 25th Sanctuary of Madhya Pradesh having two forest ranges within the periphery of sanctuary viz Game Range Ghatigaon & Game Range Tighra. The Eco Sensitive Zone (ESZ) of the sanctuary is already notified by Government of India, MoEF & CC vide notification dated 13.12.2016. In the said notification, the commercial mining, stone quarrying and crushing units are prohibited. The illegal mining done by the person by utilizing heavy earth moving machineries to remove the overburden for winning the mineral which was reported to the answering respondent no. 4 and the forest officials immediately carried out inspection within the sanctuary and seized the JCB

machines. The report submitted by the Superintendent reveals as follows :

1	Reported cases of Offences under Forest Act	384
2	Reported cases of stone crushing	384 sq. mt.
3	Seizer of instrument	2124
4	Seizer of vehicles	24
5	Known cases for illegal mining	80
6	Unknown cases of illegal mining	316

5. It has further been submitted by the department that the matter with regard to the illegal mining, stone crushing was filed before the Hon'ble High Court at Gwalior Bench vide Writ Petition No. 9122/2012 which was decided on 21.07.2015 and in compliance of the order passed by the Hon'ble High Court the authorities are regularly monitoring and monitoring report with the action taken against the illegal mining are being regularly sent to the Hon'ble High Court. Learned Counsel appearing for the applicant has submitted that the Progressive Mining Closure Plan under section 45 of the MMRC, 1996 has not been implemented and the report submitted by the department of Forest with regard to establishment of Police Chokies in the area to control the illegal operation and transportation of the mineral from sanctuary is need of the time and should be implemented.
6. In accordance with the above submissions, we are of the view that there should be total control on the illegal mining within the area. Since the matter is monitored by the Hon'ble High Court thus the periodical report should be submitted according to the direction of the Hon'ble High Court and shall be strictly complied with. We leave it to the authorities concerned of the State Government to consider the recommendations of the Forest Department for creation of the Police Chowkey in the area for

proper vigil towards the activities of the illegal operation and transportation of Minor Mineral from the Sanctuary.

Original Application No. 88 of 2021 (CZ) stands **disposed of** accordingly.

Sheo Kumar Singh, JM

Arun Kumar Tyagi, JM

Dr. Arun Kumar Verma, EM

Dr. Afroz Ahmad, EM

04th April 2022
O.A. No. 88/2021 (CZ)
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