

Item No.2

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

Original Application No. 78/2021 (CZ)

Rajesh Kumar Singh.

Applicant(s)

Versus

Union of India & Ors

Respondent(s)

Date of Hearing: 10.05.2022

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

For Applicant(s):

None

For Respondent(s):

Dr. Sapna Aggarwal, Adv
Ms. Parul Bhadoria, Adv
Mr. Yadvendra Yadav, Adv
Mr. Sachin K. Verma, Adv

ORDER

1. Issues raised in this application are illegal mining, loading and storage of sand by some private contractors and sand mafias by deploying heavy machines for sand mining from the sanctioned quarries in the river Narmada causing environmental and ecological imbalance in violation of Madhya Pradesh Sand (Mining, Transportation, Storage and Trading) Rules.
2. The matter was taken up on 29th October, 2021, and a Committee was constituted with direction to submit the Factual and Action Taken Report. The members of the Committee visited the site and submitted the report as follows:

"The Joint committee has visited the Sand Mines dated 30.11.2021 located at River Narmada. The committee first visit the sand mine at Village-Sagda Jhapni located at Khasra No. 1/1 Area 2.023 Hect & Village-Saliwada located at Khasra No. 464 Area 4.0 Hect to verify the claims made by the applicant in the petition regarding the illegal Mining & use of heavy machineries' The day of inspection

mine was found closed and no heavy machineries such as poelain, or any other heavy machinery were being used.

The current status of 09 sand mines located at River Narmada is as follows:

Sr. no	Name of the mines	Quantity CTO (M³)	Quantity EC (M³)	Consent validity	Status driving filed visit
1	Dhartikachhar Sand Mine Khasra No. 01 Area 4.0 Hect	40000	40000	25.10.2021	Not in operation
2	Belkhedi Sand Mine Khasra No. 339, Area 13.450 hect	60000	60000	31.01.2022	Not in operation
3	Dharampura Sand Mine Khasra No. 415, Area 3.0 hect	45000	45000	31.08.2022	Not in operation
4	Kushali Sand Mine Khasra No. 481, Area 10.890 hect	42862	42862	31.08.2022	Not in operation
5	Malkachar Sand Mine Khasra No. 152, Area 2.0 hect	57000	57000	31.05.2022	Not in operation
6	Neemkheda Sand Mine Khasra No. 326, Area 22.070 hect	60000	60000	30.04.2022	Not in operation
7	New Chargawa Sand Mine Khasra No. 414, Area 22.070 hect	25000	25000	31.05.2022	Not in operation
8	Sagda Jhapni Sand Mine Khasra No. 415, Area 3.0 hect	23000	23000	31.05.2022	Not in operation
9	Saliwada Sand Mine Khasra No. 464, Area 4.0 hect	60000	60000	31.05.2022	Not in operation

A brief on the mining lease in River Narmada

M/s Aaradhya Logistic Solution Pvt. Ltd., 1967 Right Town Jabalpur District- Jabalpur was awarded Jabalpur district

contract for sand mining as per the Madhya Pradesh Sand Mining Policy, 2019 in the year 2020 as per the tendering process. There are 16 mining leases is allotted out of 16 sand mine 09 sand mine located at River Narmada, remanding sand mine is located at River Hiran.

Field observations of the Committee

1. M/s Aaradhya Logistic solution Pvt. Ltd. has granted EC at river Narmada out of 16 Sand Mine for manual operation.
2. The Joint committee has visited the Sand Mines dated 30.11.2021 located at River Narmada. The committee first visit the sand mine at Village Sagda Jhapni located at Khasra No. 1/1 Area 2.023 Hect & Village- Saliwada located at Khasra No. 464 Area 4.0 Hect to verify the claims made by the applicant in the petition regarding the illegal Mining & use of heavy machineries. The day of inspection mine was found closed and no heavy machineries such as poclain, or any other heavy machinery were being used.
3. The Joint committee has visited the Sand Mines dated 04.12.2021 located at River Narmada. The committee first visit the sand mine at Village- Dhartikachar located at Khasra No. 01 Area 4.0 Hect & Village- Neemkheda located at Khasra No. 326 Area 22.070 Hect to verify the claims made by the applicant in the petition regarding the illegal Mining & use of heavy machineries. The day of inspection mine was found closed and no heavy machineries such as poclain, or any other heavy machinery were being used.
4. The committee has also visited the sand mine located at River Nannada Bhadpura Khasra No. Area 13.240. The mine has not granted EC and Consent for the same. During inspection mine was found not in operation.
5. On the day of field visit i.e.061121?021, the sand mine Belkhedi located at Khasra No. 339 Area 13.450 Hect, Village- Kushli Khasra No. 481 Area 10.890 Hect & Village-New chargawa Khasra No. 414 Area 13.730 Hect. of Narmada river. The day of inspection mines was found closed and no heavy machineries such as poclain, or any other heavy machinery were being used.
6. No illegal pathway was found during the field visit in above sand mines.

7. *The Plantation on the river bank was found poor for protection from soil erosion.*
8. *During inspection mining in two meter depth was observed in the village Sagda Jhapni and Saliwada Sand Mine. However it was not possible to committee to comments whether mine was done illegally are by the contractor.*
9. *The demarcation mining lease area was done in some places by the stone ports (Munare)*

The Mining Department has filed 04 Cases for illegal mining, 20 Cases for illegal stock and 149 cases for illegal transportation from the river Narmada during 2020-21 against the accused. There is no case reported against M/s. Aaradhya Logistic Solution Pvt. Ltd for illegal mining.

Recommendations:

- i. *District administration needs to ensure the effective vigilance on sand mining with respect to the mid-stream mining, use of heavy machineries by installing CCTV cameras at strategic location.*
- ii. *To suppress the dust pollution during summer, and heavy vehicle transportation, contractor shall arrange regular water sprinkling, and ensure that the vehicle engaged in sand transportation and mining has valid PUC certificate. Contractor may also ensure that the transportation of the sand be done in covered vehicles.*
- iii. *District administration has to initiate strict action as stipulated in O.A. 360/2015 against illegal mining & transportation, if any.*
- iv. *The plantation on the river bank is to be done as per environmental management plan.*
- v. *The demarcation of lease area should be visible from distance. Mining department should ensure Stone post with Red flag, to make the lease area visible from distance.*
- vi. *As per claims made by applicant in &e petition regarding the illegal Mining & use of heavy machineries along with photographs it is clear that the photographs & claims made by applicant which is mainly involved other than Jabalpur district. However some Sand Mine located at Narmada River*

Inspected by committee in compliance of NGT order dated 29.10.2021.”

3. The matter was again taken up on **07th February, 2022**, and this Tribunal observed the deficiencies as follows:

“

- i. On the day of inspection mine was found not in operation.*
- ii. The committee submitted the status of 09 sand mines, which were found on the date of inspection as not in operation.*
- iii. All above 09 units have environment clearance with Consent to Operate (CTO) and quantity of sand as envisaged in environment clearance has been mentioned in the report.*
- iv. During inspection, mining in 2 meter depth was observed in the village. However, it was not possible for committee to comments whether mine was done illegally or by the contractor.*
- v. The demarcation of mining lease area by the stone ports (Munare) was done in some places.*
- vi. The mining department has filed 04 cases for illegal mining, 20 cases for illegal stock and 149 cases for illegal transportation from the River Narmada.*

2. The perusal of report reveals the contradictory views on the point that on the day of inspection, there was no mining or there was no use of machinery or units were not in operation, in spite of that there were mining in 02 meters depth and there were cases registered for illegal mining and transportation. We further observe that the concerned department, State Pollution Control Board failed to perform the duties sincerely, fairly and honestly by non-issue of show-cause notice or calculation and realisation of environmental compensation according to the parameters laid-down by the CPCB or the NGT in the matter of O.A. No. 360/2015 and there are continuous loss to the exchequer.

3. Learned counsel appearing for the State and the Pollution Control Board suggested the method of surveillance by CCTV camera. There are provisions in the MoEF&CC Guidelines i.e. Sustainable Sand Mining Management Guidelines, 2016 & The Enforcement and Monitoring Guidelines for Sand Mining issued in 2020 and there are specific directions from the Courts and this Tribunal for monitoring mechanism but the authorities for the reasons best known to them are not enforcing the guidelines and also are not making any surveillance and control on the illegal

sand mining or illegal transportation of sand mining. The guidelines issued by the MoEF&CC and the Rules framed thereunder in the Environment (Protection) Act, 1986 are required to be enforced strictly in letter and spirit by the authorities who are responsible to implement it. For the negligence of those to whom public duties have been entrusted, can never be allowed to cause public mischief. The report on the one hand that there is no mining and on the other hand there is a first information report for illegal mining and illegal transportation and mining up to the depth of 02 meters are the examples of gross violation of rules and failure of mechanism or enforcement agencies to enforce it, causing loss to the State revenue and promoting illegal sand mining.

4. Accordingly, we are of the view to hear personally the Regional Officer and Mining Officer concerned with regard to the contradictory report, on the point of loss of revenue, non-enforcement of the Rules and Guidelines issued by the MoEF&CC and also on the point that if there is no mining then what is use of Environment Clearance.

4. In view of the order dated 07.02.2022, the Regional Officer, State Pollution Control Board and Mining Officer were present during the course of hearing on 09.03.2022 and after hearing, this Tribunal observed as follows:

“The Regional Officer, State Pollution Control Board and Mining Officer are present and attended the proceeding on video conference. During the course of hearing nothing was replied by both the officers with regard to control of illegal mining and how to save the state revenue. There are more than 149 cases for illegal transportation from the River Narmada and there are 04 cases for illegal mining and 20 cases for illegal stock. In spite of that the report says that there is no mining on the date of inspection. Both the reports are self-contradictory. There are issues of environmental clearance but the officers posted there are of the view that there is no mining at all. On the one hand they say there is no mining and on the other hand they say that there is illegal transportation. Permitting the illegal transportation and illegal mining are directly causing loss to state revenue and thus both the officers are working against the State interest and helping the persons who are involved in illegal mining. Not a single case has been reported by the Regional Officer, Pollution Control Board in which environmental compensation has been realised or assessed.

The concept of rule of law is that the State is governed by the law not by the man. The Constitution of India intended for India to be a country governed by the rule of law. It provides that the constitution shall be the supreme power in the land and the legislative and the executive derive their authority from the Constitution. **For the negligence of those to whom public duties have been entrusted, can never be allowed to cause public mischief.**

Through the perusal of the report it reveals that there are guidelines issued by the CPCB and the guidelines under rule framed and issued by State Government but inspite of all these things due to inaction on the part of the officers concerned in the district of Jabalpur, the illegal mining are continued, causing great loss to the state exchequer. The authorities at the district headquarter have permitted the illegal mining to be continued and not taken adequate action. The officers are the part and parcel of State machinery and the persons responsible to execute the law and ensure the existence of rule of law. The Mining Officer and the Regional Officer, Pollution Control Board have simply submitted the report and not taken any action.

When the law protector becomes the law violators, how law will be protected. The basic principle of rule of law is to follow rule/ law and not to break or violate it. For the negligence of those to whom public duties have been entrusted can never be allowed to cause public mischief. Public servants if committing wrong in discharge of statutory functions and later on if it was found not be in accordance with law within the knowledge of the officer concerned then it cannot be said to be the work and duty within the definition of State Act.

No action on illegal mining, transportation and storage is not only disregard to the law, but it is negation of the authority of the State by the public official doing the act and expending the budget in accordance with their wishes. An action specifically punitive action does lie for doing what the legislature has authorized if it is done negligently, carelessly and in violation of the law. Under our Constitution sovereignty vests in the people. Every limb of the constitutional machinery is obliged to be people oriented. No functionary in exercise of statutory power can claim immunity, except to the extent protected by the statute itself. Public authorities acting in violation of constitutional or statutory provisions are accountable for their behaviour before authorities created under the statute like the commission or the courts entrusted with responsibility of maintaining the rule of law. Each hierarchy in the Act is empowered to entertain a complaint by the consumer for value of the goods or services and compensation. Any act by any officer in violation of the rules is abuse of power, deliberate maladministration, and perhaps also other unlawful acts causing injury. The servants of the

government are also the servants of the people and the use of their power must always be subordinate to their duty of service. A public functionary if he acts maliciously or oppressively and the exercise of power results in harassment and agony then it is not an exercise of power but its abuse. No law provides protection against it. He who is responsible for it must suffer it. Compensation or damage as explained earlier may arise even when the officer discharges his duty mala-fidely and not in accordance with the guidelines, when it arises due to arbitrary or capricious behaviour then it loses its individual character and assumes social significance. Crime and corruption thrive and prosper in the society due to lack of public resistance. Nothing is more damaging than the feeling of helplessness. An ordinary citizen instead of complaining and fighting succumbs to the pressure of undesirable functioning in offices instead of standing against it. Therefore the award of compensation for harassment by public authorities not only compensates the individual, satisfies him personally but helps in curing social evil. It may result in improving the work culture and help in changing the outlook.

Absence of arbitrary power is the first essential of the rule of law upon which our whole constitutional system is based. In a system governed by rule of law, discretion, when conferred upon executive authorities, must be confined within clearly defined limits. The Rule of Law means that the decisions should be made by the application of known principles and rules, such decisions should be predictable and the citizens should know where he is. If decision is taken without any principle or without any rule, it is unpredictable and such decision is the anti-thesis of a decision taken in accordance with the Rule of Law. Even where there is no ministerial duty as above, and even where no recognised tort such as trespass, nuisance, or negligence is committed, public authorities or officers may be liable in damages for malicious, deliberate or injurious wrong-doing. There is thus a tort which has been called misfeasance in public office, and which includes malicious abuse of power, deliberate maladministration, and perhaps also other unlawful acts causing injury.

An ordinary citizen or a common man is hardly equipped to match the might of the State or its instrumentalities. That is provided by the rule of law. It acts as a check on arbitrary and capricious exercise of power.

The perusal of the report submitted by the Committee reveals total violation of Sustainable Sand Mining Management Guidelines, 2016 and the Enforcement and Monitoring Guidelines for Sand Mining, 2020 and there is no scientific and sustainable sand mining.

In view of the above, we direct the Collector concerned to monitor personally and to direct the mining department and State Pollution Control Board to submit the report on the following points:

- (a) The status of 09 sand mines located at river Narmada which is contained in the Joint Committee Report from Sr. no. 1 to 9 with regard to the quantity of EC permitted and the quantity of sand mines excavated and the revenue which has been deposited to the State Treasury.***
- (b) Total number of mining cases filed before the Court for prosecution.***
- (c) Total numbers with details of the mines permitted.***
- (d) List of the cases in which Show Cause Notice has been issued and the environmental compensation has been assessed and realised with details in the districts.***
- (e) Total number of cases and amount in which the penalty has been realised by the Mining Department and the amount has been deposited in the State Treasury with the Challan number.***
- (f) Total quantity excavated by the illegal mining, who have deposited the fund and the value of the illegal mining.***
- (g) Action taken by the State Pollution Control Board for illegal transportation and the seizure of the vehicle involved in the illegal transportation and the penalty of release in accordance with the parameter laid down by the CPCB as mentioned in the case of O.A. No. 360 of 2015 decided by the Principal Bench of this Tribunal.***
- (h) Suggestions by the department to control the illegal mining.***

The further Action Taken by the State Pollution Control Board and the Mining Department must be submitted before the next date of hearing.

5. In compliance thereof, Action taken Report has been filed by the Respondents.

We have heard learned counsel for the parties and perused the record.

6. Sh. Sachin K. Verma had submitted the reply on behalf of most of the respondents starting from R-2 to R-27 and R-11 and R-12 which are similar in nature as follows:

“The State Government of Madhya Pradesh had imposed a complete ban on sand mining in Narmada river vide order dated 22/05/2017 thereafter, after imposing certain regulations has again allowed sand mining in Narmada

River by manual method and practice of sand mining in River Narmada and whenever any incident of using or utilizing heavy machineries for excavation of sand in River Narmada is reported penal actions is initiated against the culprits/violators.

Under rule 3(6) of the Rules of 2019 the Government of Madhya Pradesh has imposed complete ban on sand mining particularly for River Narmada The relevant rule is quoted below:-

"There shall be complete ban on mining, loading and storage of sand by machines from the sanctioned quarries in river Narmada. Sand mining, loading and storage from quarries having area upto 5.00 hectare situated on other rivers shall be done by the committee of local labourers and quarries having area more than 5,000 hectare, local labourers shall be given priority for sand mining, loading and storage. The use of machines for sand mining in other rivers may be given depending upon the requirement and approval in mining plan and environmental clearance."

7. It has further been submitted that the State has complied the guidelines issued by the MoEF & CC which is as follows:

IMPACT CATEGORY	S.NO.	ENVIRONMENTAL CONDITIONS	PRESENT STATUS IN THE STATE OF MADHYA PRADESH
Stakeholder Engagement	1.	In the case of private land not owned by the lease holder an affidavit Engagement should be obtained regarding consent of the concerned land owner (s) for carrying out the mining operation.	Compliant
	2.	Stakeholder awareness and ability to raise concerns and getting it to be addressed.	Compliant
	3.	Implementation of Action Plan on the issues raised during the Public Hearing. The Proponent shall complete all the tasks as per the Action Plan submitted with the budgetary provisions during the Public Hearing.	Compliant
	4.	Having valid lease and all the permits is very	Compliant

		much needed.	
	5.	To establish a Monitoring Committee including Local Panchayat, to check on traffic due to transportation and submit an annual report on the same.	
	6.	The directions given by the Hon'ble Supreme Court of India vide order dated 27.02.2012 in Deepak Kumar case [SLP(C) Nos. 19628-19629 of 2009] and order dated 05.08.2013 of the Hon'ble National Green Tribunal in application No. 171/2013 may be strictly followed.	Compliant
	7.	All the provisions made and restrictions imposed as covered in the Minor Mineral Rule, shall be complied with, particularly regarding Environment Management Practices and its fund management and Payment of compensation to the land owners.	Compliant
Sustainable Mining Practices	8.	District level Survey Report should be prepared and area suitable for Mining and area prohibited for mining be identified.	Compliant
	9.	The depth of mining in Riverbed shall not exceed one meter or water level whichever is less, provided that where the Joint Inspection Committee certifies about excessive deposit or over accumulation of mineral in certain reaches requiring channelization, it can go up to 3 meters on defined reaches of the River.	Compliant
	10	No River sand mining be allowed in rainy season.	Compliant
	11	To submit annual replenishment report certified by an authorized agency. In case the replenishment is lower than the approved rate of production then the mining activity / production levels shall be decreased / stopped accordingly till the replenishment is completed.	Compliant
	12	Ultimate working depth shall be up to 3.0 m from Riverbed level and not less than one meter from the water level of the River channel whichever is reached earlier. In hilly terrain this depth be preferably restricted to one meter	Compliant
	13	In River flood plain mining a buffer of 3 meter to be left from the River bank for mining.	Under Consideration
	14.	In mining from agricultural field a buffer of 3 meter to be left from the adjacent field.	Under Consideration
	15.	Mining shall be done in layers of 1 meter depth to avoid ponding effect and after first layer is excavated, the process will be repeated for the next layers.	Under Consideration

	16.	To maintain safety and stability of Riverbanks i.e. 3 meter or 10% of the width of the River whichever is more will be left intact as no mining zone.	Under Consideration
	17.	No stream should be diverted for the purpose of sand mining. No natural water course and/ or water resources are obstructed due to mining operations.	Compliant
	18.	No blasting shall be resorted to in River mining and without permission at any other place.	Compliant
	19.	Depending upon the location, thickness of sand, deposition, agricultural land/Riverbed, the method of mining may be manual, semi-mechanized or mechanized; however, manual method of mining shall be preferred over any other method.	Compliant
Identification and Preparation of Mining site	20.	Mining should be done only in area / stretch identified in the District Level Survey Report suitable for mining and so certified by the Sub Divisional Level Committee after site visit	Compliant
	21.	Mining should begin only after pucca pillar marking the boundary of lease area is erected at the cost of the lease holder after certification by the mining official and its geo coordinates are made available to the District Level Committee.	Compliant
	22.	The top soil in case of surface land mining shall be stored temporarily in an earmarked site and concurrently used for land reclamation	Compliant
Monitoring the Mining of Mineral and its Transportation	23.	The EC holder shall keep a correct account of quantity of mineral mined out, dispatched from the mine, mode of transport, registration number of vehicle, person in-charge of vehicle and mine plan. This should be produced before officers of Central Government and State for inspection	Compliant
	24.	For each mining lease site the access should be controlled in a way that vehicles carrying mineral from that area are tracked and accounted for.	Compliant
	25.	The State / District Level Environment Committee should use technology like Bar Coding, Information and Communications Technology (ICT), Web based and ICT enabled services, mobile SMS App etc. to account for weight of mineral being taken out of the lease area and the number of trucks moving out with the mineral.	Compliant

	26.	There should be regular monitoring of the mining activities in the State to ensure effective compliance of stipulated EC conditions and of the provisions under the Minor Mineral Concessions Rules framed by the State Government.	Compliant
Noise Management	27.	Noise arising out of mining and processing shall be abated and controlled at source to keep within permissible limit.	Compliant
	28.	Restricted working hours. Sand mining operation has to be carried out between 6 am to 7 pm.	Under Consideration
Air Pollution and Dust Management	29.	The pollution due to transportation load on the environment will be effectively controlled and water sprinkling will also be done regularly.	Compliant
	30.	Air Pollution due to dust, exhaust emission or fumes during mining and processing phase should be controlled and kept in permissible limits specified under environmental laws.	Compliant
	31.	The mineral transportation shall be carried out through covered trucks only and the vehicles carrying the mineral shall not be overloaded. Wheel washing facility should be installed and used.	Under Consideration
Management of Visual Impact	32.	The mining operations are to be done in a systematic manner so that the operations shall create a major visual impact on the site.	Under Consideration
Bio-Diversity Protection	33	Restoration of flora affected by mining should be done immediately. Twice the number of trees destroyed by mining to be planted preferably of indigenous species. Each EC holder should plant and maintain for lease period at least 5 trees per hectare in area near lease.	Under Consideration
	34.	No mining lease shall be granted in the forest area without forest clearance in accordance with the provisions of the Forest Conservation Act, 1980 and the rules made thereunder.	Compliant
	35.	Protection of turtle and bird habitats shall be ensured.	Compliant
	36.	No felling of tree near quarry is allowed. For mining lease within 10km of the National Park / Sanctuary or in Eco-Sensitive Zone of the Protected Area, recommendation of Standing Committee of National Board of Wild Life (NBWL) have to be obtained as per the Hon'ble Supreme Court order in I.A. No. 460 of 2004.	Compliant
	37.	Spring sources should not be affected due to mining activities. Necessary Protection	Compliant

		measures are to be incorporated	
Management of Instability and Erosion	38.	8 Removal, stacking and utilization of top soil in mining are should be ensured. Where top soil cannot be used concurrently, it shall be stored Erosion separately for future use keeping in view that the bacterial organism should not die and should be spread nearby area.	Under Consideration
	39.	The EC should stipulate conditions for adequate steps to check soil erosion and control debris flow etc. by constructing engineering structures	Compliant
	40.	Use of oversize material to control erosion and movement of sediments	Compliant
	41.	No overhangs shall be allowed to be formed due to mining and mining shall not be allowed in area where subsidence of rocks is likely to occur due to steep angle of slope.	Compliant
	42.	No extraction of stone / boulder / sand in landslide prone areas.	
	43.	Controlled clearance of riparian vegetation to be undertaken	Compliant
Waste Management	44.	Site clearance and tidiness is very much needed to have less visual impact of mining.	Compliant
	45.	Dumping of waste shall be done in earmarked places as approved in Mining Plan	Compliant
	46.	Rubbish burial shall not be done in the Rivers.	Compliant
Pollution Prevention	47.	The EC holder shall take all possible precautions for the protection of environment and control of pollution.	Compliant
	48.	Effluent discharge should be kept to the minimum and it should meet the standards prescribed.	Compliant
Protection of Infrastructure	49.	Mining shall not be undertaken in a mining lease located in 200-500 meter of bridge, 200 meter upstream and downstream of water supply / irrigation scheme, 100 meters from the edge of National Highway and railway line, 50 meters from a reservoir, canal or building, 25 meter from the edge of State Highway and 10 meters from the edge of other roads except on special exemption by the Sub-Divisional level Joint Inspection Committee.	Compliant
	50	For carrying out mining in proximity to any bridge or embankment, appropriate safety zone (not less than 200 meters) should be worked out on case to case basis, taking into account the structural parameters, location aspects and flow rate, and no mining should be carried out in the safety zone so worked out.	Compliant

	51	Mining activities shall not be done for mine lease where mining can cause danger to site of flood protection works, places of cultural, religious, historical, and archeological importance.	Compliant
Enhancement Road Safety	52	Vehicles used for transportation of sand are to be permitted only with of fitness and PUC Certificates.	Compliant
	53	Junction at takeoff point of approach road with main road be properly developed with proper width and geometry required for safe movement of traffic by concession holder at his own cost.	Compliant
	54	Project Proponent shall ensure that the road may not be damaged due to transportation of the mineral; and transport of minerals will be as per IRC Guidelines with respect to complying with traffic congestion and density.	Compliant
	55	No stacking allowed on road side along National Highways.	Compliant
Closure and Reclamation of Mined Out Area	56	The Project Proponent shall undertake phased restoration, reclamation and rehabilitation of land affected by mining and completes this work before abandonment of mine.	Not required
	57	Restoration, reclamation and rehabilitation in cluster should be done systematically and jointly by each EC holder in that cluster. This should be appropriately reflected as EC condition in each EC in cluster.	Compliant
	58	Site specific plan with eco-restoration should be in place and implemented	Compliant
Health and Safety	59	Health and safety of workers should be taken care of.	Compliant
	60	Transport of mineral will not be done through villages / habitations.	Compliant
	61	The Project Proponent shall make arrangement for drinking water, first aid facility (along with species specific anti-venom provisioning) in case of emergency for the workers.	Compliant
	62	Project Proponent shall implement the Disaster Management Plan if the mine lease area is located in Seismic Zone-IV. Project Proponent shall appoint a Committee to have a check over any disaster to warn workers well before for the safety of the workers. Emergency helpline number will be displayed at all levels.	N.A.
	63	Project Proponent shall appoint an Occupational Health Specialist for Regular and Periodical medical examination of the workers engaged in the Project and records maintained; also, Occupational health checkups for workers	Under Consideration

		having some ailments like BP, diabetes, habitual smokers, etc. shall be undertaken once in six months and necessary remedial/preventive measures taken accordingly. Recommendations of National Institute for Labour for ensuring good occupational environment for mine workers would also be adopted.	
Monitoring the Impact of Mining	64	The Project Proponent shall report monitoring data on replenishment, traffic management, levels of production, River Bank erosion and maintenance of Road etc.	Compliant
Mineral Conservation	65	Use of alternate material such as M-sand in place of natural River sand shall be encouraged in order to reduce stress on natural eco-system.	Partly implemented in Govt. projects

8. It is further submitted that in the financial year 2021-22, the District Mining Branch Raisen has registered 28 cases for illegal mining and the penalty of Rs 24,27,439/- is recovered. Further, in the financial year 2021-22 for illegal transportation 102 cases are registered against the vehicle owner/driver and the penalty of Rs 29, 60,000/- within the provisions of Rule 20 of the Madhya Pradesh Sand (Mining, Transportation, Storage and Trading) Rule 2019 is recovered and 130 cases were registered by the District Mining Branch in District Raisen against the violators wherein the total amount of penalty of Rs 53,67,439/- is recovered from the violators.
9. The reply on the same facts has been filed by the Respondent No. 28. Learned counsel appearing for the CPCB has submitted that implementations of the laws are with the statutory authorities of the State Government and they are enforcing the rules.
10. The Action Taken Report submitted by the R-6 and R-7 reveals that the sand mining lease granted has been terminated and fresh process has been initiated. It is further submitted that District Mining Branch Jabalpur has initiated prosecution lodged First Information Report against 168 persons engaged in illegal escalations, transportation or stocking of sand and minerals, details of which has been attached with the reply. The State Government, Department of Mineral and Resources has introduced a new rule to initiate stringent panel action against illegal mining activity to protect the environment by recovery of penalty for the damage to the environment. The details of

environmental compensation for the illegal mining as provided by the Department are quoted below:

कार्यालय कलेक्टर खनिज शाखा जिला जबलपुर (म.प्र)								
प्र. क्र.	चालान क्र.	दिनांक	खनिज का नाम	अवैध खनिज मात्रा	अर्थशास्ति	पर्यावरणीय क्षतिपूर्ति	प्रशमन	अर्थशास्ति एवं पर्यावरणीय क्षतिपूर्ति तथा प्रकरण प्रशमन राशि
1	MPTURN200420220011894	20/04/2022	रेत	4.घ.मी	7200	80000	1000	88200
2	MPTURN200420220002372	20/04/2022	रेत	5.घ.मी	9375	71429	1000	81804
3	MPTURN260420220005587	26/04/2022	डोलोमाईट	5.घ.मी	7500	30625	1000	39125
4	MPTURN250420220005361	25/04/2022	गिट्टी	2.घ.मी	3600	28571	1000	33171
5	MPTURN250420220012411	25/04/2022	रेत	3.घ.मी	5625	25000	1000	31625
6	MPTURN3004202220003999	30/04/2022	मुरुम	14.घ.मी	10500	200000	1000	211500
7	MPTURN270420220007208	27/04/2022	मुरुम	3.घ.मी	2250	54545	1000	57795
8	MPTURN270420220007208	27/04/2022	मुरुम	14.घ.मी	10500	200000	1000	211500
9	MPTURN3004202220004081	30/04/2022	रेत	3.घ.मी	5625	25000	1000	31625
10	MPTURN280420220007080	28/04/2022	मुरुम	14.घ.मी	10500	200000	1000	211500
11	MPTURN3004202220003082	30/04/2022	मुरुम	14.घ.मी	10500	200000	1000	211500
12	MPTURN300420220002342	30/04/2022	रेत	4.घ.मी	7500	80000	1000	88500
13	MPTURN200420220011898	20/04/2022	रेत	3.घ.मी	5625	50000	1000	56625
					96300	1245170	13000	1354470
मध्यप्रदेश खनिज (अवैध खनन,परिवहन तथा मण्डारण का निवारण) नियम 2022 का संशोधन राजपत्र में संशोधन दिनांक 08/04/2022 के बाद से क्षतिपूर्ति राशि जमा कराई जा रही है।								

11. It is further submitted that for steps to curb and control the illegal sand mining activities the District Mining Jabalpur has sanctioned permission for sand stone crushing units which is the best available substitute to the river sand so as to cater and shift the river sand supply load for the construction activities, the district mining branch Jabalpur has accorded 4 such permission for sand stone crushing units. The District Mining Branch, District Jabalpur has decided to install solar CCTV cameras in the sand mining blocks so as to monitor and regulate the sand mining activities, the contractor will be solely responsible for the maintenance, management and installation of the CCTV cameras to be installed at sand mining blocks and further will also ensure the safety of CCTV cameras. The contractor will provide direct real time footage/link to the District Mining Branch Jabalpur of all CCTV cameras and has been directed to report the State Government District Collector (Mines) in case of any damage or failure of CCTV cameras.

12. In light of the facts, necessary compliance has been taken by the State and Environmental Compensation has been assessed and realized. The perusal of the report reveals that the SPCB has not taken any action for calculation and realization for environmental compensation from the date of violation of the law till the date of continuance as directed in Original Application No. 360/2015 (PB of this Tribunal) or in accordance with CPCB guidelines.
13. Accordingly, we direct the State Pollution Control Board to see the matter and ensure that the environmental compensation must be assessed from the date of violation of the law till its continuance and ensure that the environmental compensation must be realized and credited to the relevant account.
14. Directions issued in ***Appeal No. 25 of 2011 titled as Prabhat Mohan Pandey Vs. MP SEIAA*** must also be strictly observed. In view of the above, **Original Application No. 78 of 2021 stands disposed off accordingly.**

Sheo Kumar Singh, JM

Dr. Arun Kumar Verma, EM

10th May, 2022
O.A. No.78/2021(CZ)
PU