

Item No. 03(Bhopal Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(Through Video Conferencing)**

Original Application No. 20/2018 (CZ)

Vijay Bajaj

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 09.09.2020

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

For Applicant(s) : Mr. Dharamvir Sharma , Advocate

For Respondent(s): Mr. Om Shankar Shrivastava, Advocate
Ms. Parul Bhadoria, Advocate

ORDER

1. By filing the present application, the applicant has raised the issue of illegal mining and prayed for the relief to direct the respondent to stop illegal sand mining and to cancel mining lease, to impose exemplary fine, direct the respondent authorities that the procedure be followed and to take necessary and appropriate legal action against sand mining being carried out without seeking prior Environmental Clearance or in violation of the conditions prescribed in the EC.
2. Vide order dated 04.08.2020, this Tribunal directed the respondent and constituted the Committee in the following manner:-

“

1. *The issue raised by way of filing this application is illegal mining carried out by the respondents in violation of EIA Notification dated 14.11.2006 and causing damage to the ecology and environment.*
2. *Issue notice to the respondents. Returnable within three weeks.*

3. *Applicant is directed to provide copy of the application and relevant documents to the respondents within three days.*
4. *Applicant is also directed to take necessary steps for service to the respondents by both ways and also on available email.*
5. *Respondents are directed to submit their reply within four weeks by email at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.*
6. *At the time of filing of application or appeal, the applicant, in addition to the hard copy to be filed, will be required to file soft copy of the application or appeal and the accompanying documents. The soft copy is required to be uploaded on e-mail of the NGT and there should be a certificate by the applicant that the soft copy of the application or appeal and the accompanying documents from page no. 1 to last are true and complete copy of the application or appeal and the documents filed in physical form. The Registry is directed to develop this practice and the applicant should be given liberty to submit a Pen Drive which should be kept in an envelope and on the envelope, the details of the application with the application no. should be written. That envelope be tagged with the application in addition to uploading on website so that in case of missing, it may be used in future.*
7. *Service of notices, summons and pleadings etc. have not been possible during the period of lockdown because this involves visits to post offices, courier companies or physical delivery of notices, summons and pleadings. We, therefore, consider it appropriate to direct that such services of all the above may be effected by e-mail, FAX, commonly used instant messaging services, such as WhatsApp, Telegram, Signal etc. However, if a party intends to effect service by means of said instant messaging services, we direct that in addition thereto, the party must also effect service of the same document/documents by e-mail, simultaneously on the same date".*
8. *The applicant is directed to provide the mobile WhatsApp no. and email address of all the respondents, if possible and applicants and respondents are directed that at the time of filing the application or reply, the party concerned has to provide WhatsApp no. and email I.D. so that the summons and notices may be served immediately for compliance and for further disposal and proceeding of the case.*
9. *We deem it just and proper to call a report on the matter in issue in present application, from a Joint Committee consisting of:-*
 - (i) *Collector/ District Magistrate, District Harda, MP*
 - (ii) *SEIAA, MP*
 - (iii) *Madhya Pradesh Pollution Control Board*
10. *The Committee is directed to visit the place and submit the action taken report within four weeks. The State PCB will be the nodal agency for coordination and logistic support.*

11. *The report in the matter be filed by the Committee 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.*
 12. *Applicant is directed to supply the required documents and copy of the application to the members of the Committee within three days.*
 13. *List it on 09.09.2020.*
3. In compliance thereof, the Joint Committee consisting the all three persons submitted a report which has follows:-

“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 5th 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. The photographs are enclosed.*
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 the District Mining Office, Harda*

record. As per record the sand leases mentioned in the petition are allotted to new contractors.

6. In light of 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.”

4. The Committee has further submitted the photographs of the site where it is found that the sand mining is banned in the district from 30/06/2020 to 01/10/2020 due to monsoon season and further sand mine as mentioned in the petition have been surrendered by the owner. It is further submitted that 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.
5. The Collector is reminded and directed to ensure that no illegal mining should be permitted in future.
6. Since as per report submitted by Joint Inspection Committee no illegal mining has been found. Thus, no further action is required on part of this Tribunal and there is nothing which is adversely affecting the environment.
7. Accordingly, the original application is finally disposed of.

Justice Sheo Kumar Singh, JM

Dr. S.S. Garbyal, EM