

ITEM No. 10

Court No. 1

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

Original Application No. 57/2020

(With report dated 03.13.2020)

Bachitter Singh

Applicant

Versus

State of Punjab & Ors.

Respondent(s)

Date of hearing: 10.12.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant: Mr. Manoj Swarup, Senior Advocate with Mr. Rishi Malhotra,
Advocate

ORDER

1. Vide order dated 03.03.2020, the Tribunal sought an action taken report from a Joint Committee comprising of Punjab State Pollution Control Board and Punjab, SEIAA with reference to the allegation of illegal operation of stone crushers in violation of Environmental norms.
2. The matter was thereafter considered on 06.08.2020 in light of the report dated 01.08.2020 filed by the joint Committee showing that there was huge gap in the raw material used and the raw material accounted for by the stone crushers from which it could be inferred that unaccounted raw material was sourced from illegal mining.
3. On consideration of the report dated 1.8.2020, the Tribunal found it necessary to seek a further action taken report in view of acknowledged illegal mining by adding representatives of MoEF&CC and the CPCB to

the joint Committee. Legality of extraction of ground water was also required to be reported. The operative part of the order is as follows:

“2. Accordingly, a report has been filed on 01.08.2020 with the following observations:

“4). The Committee perused and analysed the information/data received from Mining Officer, Roopnagar and Executive Engineer (Mining) Roopnagar, Department of Mines and Geology District Roopnagar and observed as under:

- i. Total 154 stone Crushers are registered with the department, 14 stone crushers are shown closed and remaining 140 are operational. The record of 51 stone crushers shows that the production/processing by these stone crushers is matching with the total electricity consumed indicating no illegality in reference to the procurement of raw material.*
- ii. **In the case of remaining stone crushers (140-51 = 89), there is a gap in the material shown as processed in their returns in comparison to the actually processed as per the power consumption.***
- iii. **70 stone crushers have failed to submit complete data in reference to material procured/processed and power consumed.***
- iv. **All stone crushers have procured approx. 22 lacs tonnes in the year 2019 & 2020. As per information** submitted by Executive Engineer, 56,108 tonnes of sand/gravel has been extracted from the District Roopnagar during the year 2019 & 2020. **There is huge gap between raw material procured by the stone crushers in the District Roopnagar and raw material extracted from District Roopnagar in respect of sand and gravel.** In such situation, two possibilities are there:*
 - a) The stone crushers in the District Roopnagar might have procured the raw material from the neighbouring District within the State or the neighbouring States.*
 - b) The gap in the figures of mined material during the year 2019 upto February, 2020 and the total material procured/ processed by the stone crushers can be attributed to the opening stock maintained by the individual stone crushers, which might have been procured in the preceding years. However, the possibility of procurement of material in an unaccounted manner by the stone crushers cannot be ruled out in view of the illegal mining happened in the***

District in the immediate past (previous 2-3 years).

5). That as per information received from Mining Officer, recovery notices were issued to various stone crushers from January, 2019 to March, 2019 and a sum of Rs. 13, 01, 579/- has been recovered from 72 stone crushers. Notices have also been issued by the concerned authorities to various stone crushers for filling their Returns from time to time.

6). **The issue of illegal mining in the District Roopnagar has also been deliberated in the matter of O.A. No. 767 of 2018 titled as Dinesh Kumar Chadha versus State of Punjab wherein the Hon'ble Tribunal has passed the final orders dated 10.07.2020. Environmental compensation has been worked out by the Committee constituted by this Hon'ble Tribunal in this case.** Hence, the issue of illegal mining in District Roopnagar has already been considered and disposed of separately by the Hon'ble Tribunal.

7). With regard to the requirement of obtaining Environmental Clearance (EC) by stone crushers, **it is stated that stone crushers are not covered under the ambit of EIA notification dated 14.09.2006 and thus not required to obtain Environment Clearance (EC).**

8). However, it is mandatory on the part of the owners of the stone crushers to obtain Consent to Establish (CTE)/ Operate (CTO) under the provisions of the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 and also as per policy guidelines from State Pollution Control Board (PCB). Policy guidelines for the registration and working of the stone crushers in the State of Punjab have been notified vide no. GL6/PB/G-1/1533-3213B dated 19.03.2015 by the Department of Industry and Commerce. As per the Policy Guidelines the owner of the stone crushers after getting consent to operate (CTO) shall submit the application for registration of stone crusher to the Mining Officer of the Department. Thereafter, each stone crusher gets itself registered with the Department of Mines and Geology (Office of Mining Officer, Roopnagar) after obtaining consent to operate from the Punjab Pollution Control Board (PPCB) under the provisions of Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981. Therefore, the consent to operate of the Punjab Pollution Control Board and registration of the Mining Department are inter-related activities. All the stone crushers registered with Mining Department have obtained consent to operate of the Punjab Pollution Control Board. The inspection of the stone crushers is regularly carried out by PPCB from time to time and in the year 2019-20, **29 number of stone crushers were issued show cause notice for violation of the provisions of Environmental Laws and compliance of the Law and Rules as applicable had been ensured."**

3. *The above report shows that there is a huge gap between the raw material procured and extracted from which inference of illegal mining can be drawn. No Environmental Clearance (EC) has been taken. Though, it is stated that EIA Notification dated 14.09.2006 does not cover stone crushers but where mining is involved such stone crushers are covered. Observation that raw material might have procured from the neighboring districts or there may be deficiency in opening stock are without any basis without the facts being verified. Moreover, it is not clear whether any ground water is being extracted after a valid permission.*

4. *In view of the above, we find it necessary to require a further report in the matter by a Joint Committee comprising MoEF&CC, Regional Office, Chandigarh; CPCB and the State PCB. The State PCB will be the nodal agency for coordination and compliance.*

5. *The joint Committee may furnish its further report within three months in respect 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.”*

4. Accordingly, further report has been filed by the joint Committee on 03.12.2020 to the effect that 70 stone crushers failed to submit complete data. Notice was issued to 65 stone crushers and FIRs were registered against 7. A sum of Rs. 13 lakhs approximately was recovered from 72 stone crushers. Information was sought from the Mining Department. Further coercive measures were taken against some of the stone crushers operating without valid consent or processing material more than the consent capacity. Reference was also made to the order of this Tribunal dated 10.07.2020 in O.A. No. 767/2018, *Dinesh Kumar Chadha v. State of Punjab*.

5. In the case of Dinesh Kumar, supra, it was found that there was huge illegal stone mining. The report dated 27.02.2020 by a joint Committee comprising the CPCB and the State PCB furnished to this Tribunal was that compensation of more than Rs. 630 crores had been assessed but not recovered. If deterrent element is added, the compensation had to be of double value. The report gave following statistics:-

“6.0 Discussions:

1. *As informed by the Executive Engineer-cum Distt. Mining Officer, Roopnagar:*
 - A. 91,40,011.90 MT of minor minerals have been illegally mined by the contractor from Swara mining site (within the demarcated as well as outside the mining site) before 18.5.2018.**
 - B. 32,64,266 MT of minor minerals have been illegally mined by the contractor from Baihara mining site (within the demarcated as well as outside the mining site) before 18.5.2018.**
 - C. 40,728 MT of minor minerals have been illegally mined from Harsabella mining site (within the demarcated as well as outside the mining site) before 6.1.2018.**
2. *The Executive Engineer-cum-Distt. Mining Officer, Roopnagar also informed that after assessment of above mentioned illegally mined minor minerals, two flood seasons had passed, in which the area witnessed heavy flood had been recorded having discharge of 83,966 cusec in Swan Rivulet and 2,40,930 cusecs in river Sutlej, disturbing the geographical parameters of the area where minor minerals have been illegally mined at Swara, Bainhara and Harsabella mines.*
3. *No record is available w.r.t illegal mining after 18.05.2018.*
4. *As the assessment of the damages due to illegal mining is being done post-facto that the passing of flood season causing enough replenishment of the minerals, re-assessment of illegally mined material is not possible and the Joint Committee has to rely upon the information/data/record of the Department of Mines and Minerals.”*
6. *The above report mentioned the following about the compensation assessed for illegal mining :-*

“7.0 Assessment of damage to be recovered

- *Market Rate of the material= Rs. 12 per cft*
- *Density of the material=1.89T/m³*
- ***Therefore, market rate of the material per cubic m of the material= 12/0.02831685= Rs. 423 per m³ of material or 423/1.89=223.80 =Rs. 224 per Ton of material as informed by the Executive Engineer-cum-Distt. Mining***

Officer, Roopnagar, the royalty paid= Rs.30 per Ton of material.

➤ **As informed by the Executive Engineer-cum-Distt. Mining Officer, Roopnagar, the royalty paid= Rs.30 per Ton of material.**

Location of site	Quantity of Material mined illegally as per report of the Executive Engineer-cum-Distt. Mining Officer, Roopnagar (MT)	Market value of the mineral (Rs.)	Royalty to be Paid to the Govt. (Rs.)	Total cost (Market value+ Royalty)	Total value the illegal mined material =X (Rs.)	Total compensation with deterrent =2X (Rs.)
Swara	91,40,011.90 MT till 18.5.2018	224	30	254	232,15,63,022.6	464,31,26,045.2
Baihara	32,64,266 MT till 18.5.2018	224	30	254	82,91,23,564	165,82,47,128
Harsabela	40,728 MT till 6.1.2018	224	30	254	1,03,44,912	2,06,89,824

7. There is thus huge amount of illegal mining. Its extent is to the tune of more than one crore MT, of the value of more than 600 crores, as shown by the reports furnished to this Tribunal by statutory authorities. There is no effective action on the ground except paper work of calculating compensation. Can such situation be allowed by authorities if doctrine of public trust and good governance are to be followed. This should be eye opener for the authorities in the State of Punjab but it seems that no attention is being paid to the same. There is clear need for continuous evaluation and remedial action. It appears that stand alone stone crushers have been allowed, without permission for mining, possibly to avoid the requirement of Environmental Clearance but, on the ground, mining is taking place to feed such stone crushers. Establishment of such stone crushers is thus against the spirit of requirement of Environmental Clearance. This is resulting in not only loss of revenue but also damage to the environment. It appears to be necessary in these circumstances that the State/PCB revisits its policy of

the consents under the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 to stand alone stone crushers without credible and effective data to ensure that raw material is not sourced by illegal mining. In absence thereof, it is the State mechanism itself which may be encouraging illegality. Moreover, there does not appear to be any plan to enforce the 'Polluter Pays' principle by recovering the compensation assessed, to prevent operation of illegal stone crushers.

8. We thus find it necessary to direct the State of Punjab to take remedial action of suitably limiting the number of stone crushers as per carrying capacity of legitimate source of raw material and taking stringent action taken against the stone crushers not having accountable sources of raw materials for stone crushing. A suitable mechanism for the purpose may be evolved by the Chief Secretary, Punjab within one month from today and remedial action taken expeditiously, preferably within three months thereafter.

The application is disposed of.

A copy of this order be forwarded to the Chief Secretary, Punjab by e-mail for compliance.

Adarsh Kumar Goel, CP

S.K. Singh, JM

Dr. Nagin Nanda, EM

December 10, 2020
Original Application No. 57/2020
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