

Item No. 01

(Court No. 1)

BEFORE THE NATIONAL GREEN TRIBUNAL

(By Video Conferencing)

Original Application No. 995/2019

(With report dated 21.10.2021)

Chander Singh

Applicant

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 26.10.2021

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE MR. JUSTICE BRIJESH SETHI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Respondent: Mr. Mukesh Kumar, Advocate for CPCB
Mr. Sandeep Mishra, Advocate for M/s N.B Minerals Corporation

ORDER

1. A joint report was sought from the SEIAA, Dehradun, District Magistrate, Pithoragarh, Uttarakhand State PCB and representative of the Indian Bureau of Mines and Ministry of Mines, Government of India, with reference to the allegation that mine of dolomite was illegally being operated by N.B Minerals Corporation Ltd., Haldwani, District Nainital at Village Dundu, Tehsil Didihat, Distt. Pithoragarh, Uttarakhand.

2. The matter was considered on 24.02.2020 in the light of report dated 27.01.2020 to the effect that there was violation of environmental norms, including in disposal of the muck. The Tribunal observed:

"3. In view of the above acknowledged violations, remedial action needs to be taken to recover compensation by following due process of law. Apart from recovering compensation, remediation of the area is also necessary for

restoration of the environment. It is necessary to prepare a remediation plan for the purpose.

4. In order to carry out remediation as well as to assess compensation, we constitute a joint Committee comprising the CPCB, Indian School of Mines, Dhanbad, Bihar, Indian Bureau of Mines, Ministry of Mines, Government of India, New Delhi and SEIAA, Uttarakhand, Dehradun. The CPCB will be the nodal agency for coordination and compliance. The report may be filed before the next date by email at judicial-ngt@gov.in. Further action may be completed within three months.

5. A copy of this order be sent to the CPCB, Indian School of Mines, Dhanbad, Bihar, Indian Bureau of Mines, Ministry of Mines, Government of India, New Delhi and SEIAA, Uttarakhand, Dehradun by email for compliance."

3. The matter was then considered on 16.09.2020 in the light of further report filed by the joint Committee dated 10.09.2020 recommending stopping of mining till compliance and taking other steps mentioned therein to address the impact of waste lying outside the leased area which report was accepted and the Committee was directed to complete its task of preparing and getting executed the remedial plan in terms of order dated 24.02.2020. The operative part of the order is as follows:

"3. Accordingly, report dated 10.09.2020 has been filed by the CPCB to the effect that further detailed examination is necessary for determining the quantum of damage. It is also recommended that some immediate measures be taken to prevent further damage as follows:

"5.5.1. Not to allow mining operations till complying prescribed environmental Norms/ guidelines/ recommendations of the committee hereunder.

5.5.2. To carry out geo-referenced drone survey of the lease area and its surrounding affected area due to spillage of material from mine and submit the output in appropriate format for further analysis and preparation of remedial plans.

5.5.3. Take all appropriate immediate actions to arrest/trap the material from rolling down/flowing away outside lease area by gravity or rain or otherwise.

5.5.4. Give undertaking that waste material/muck will not be dumped outside the mining lease area in future.

5.5.5. Prepare a time bound action plan to take all appropriate actions to address the impact of waste lying outside the lease;

- i) shift the outside dumped/ rolled/ flown/ washed material/ muck to a suitable safe and secure place within mining lease area and stabilize it.**
- ii) in case of area where such material is not safe to handle such portion shall be appropriately terraced, compacted, reclaimed by plantation of local species and ensure its watch and ward till the plantation achieved self-sustained age and height.**
- iii) Any other appropriate method for restoration /reclamation etc.**

5.5.6. To construct robust obstruction structures (such as toe walls, parapet walls) silting ponds etc. under the guidance of district administration, ensure that muck mixed slurry water of rain does not enter into the Dundu stream.

5.5.7. To develop a natural obstruction and/or construct retaining walls at the end of lowest/bottom most bench of the mine so that waste material/muck does not roll down/spillover downwards along the hillock to outside mining lease.

5.5.8. To submit the action plan for repairing the irrigation water channels and village roads blocked by spillover of muck, if any.

4. We see no reason why the above recommendations be not followed. Accordingly, the above recommendations be acted upon. We grant the time sought by the Committee for completing its task and the report may now be submitted within three months 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. The Committee may also ensure that EC conditions are duly complied with."

4. The matter was last considered on 05.04.2021 in light of report of the Committee filed through CPCB on 20.01.2021 mentioning the steps taken in the matter and suggesting that a geo-referenced drone survey be carried out for further analysis and based thereon further action be taken. Noticing the continuing violations, the Tribunal directed remedial action in light thereof. The Tribunal also considered the application of

the Project Proponent, seeking modification of orders of this Tribunal and rejected the same. The Tribunal further directed the joint Committee to verify the status of compliance as claimed by the Project Proponent and have a restoration plan prepared and executed.

5. The operative part of the order is reproduced below:

"4. Accordingly, the Committee has filed its report through CPCB on 20.01.2021 mentioning the steps taken in the matter and suggesting that a geo-referenced drone survey be carried out for further analysis and based thereon further action be taken. The recommendations are as follows:

"xxx.....xxx.....xxx....."

*6.2. The proponent has submitted compliance status to CPCB vide its letter dated 03.12.2020. Copy of the letter is attached for the reference at Annexure-3. **As per the status submitted by the proponent, none of the recommendation of the committee has been denied and given the action plan for compliance and most of the actions suggested are yet to be completed. Further it was informed by IBM that on date no mining plan is under approval stage with them.***

*6.3. The Committee requires technical inputs prior to field visit like georeferenced drone survey of the lease area and its surrounding affected area due to spillage of material from mine for analysis and preparation of remedial plans. The same was recommended in interim report at 5.5.2. **As these inputs have not been received thus the field visit, as proposed, in interim report couldn't be undertaken. Wherein, as per the proponent they are in process of finding the suitable agency for conducting the desired survey.***

*6.4. **The Committee recommends that the proponent shall carry-out and submit the geo-referenced drone survey of the lease area and its surrounding affected area due to spillage of material from mine and submit the output in appropriate format for further analysis and preparation of remedial plans at the earliest. On receipt of the data/survey details field visit and inspection will be finalized and report will be submitted in two months' time.***

*7. **The Committee recommends Hon'ble NGT to issue appropriate directions to proponent for providing required geo-referenced drone survey of the lease area and its surrounding affected area due to spillage of material from mine for analysis and preparation of remedial plans.***"

5. Annexure-III referred to in para 6.2 above is reproduced below:

Sr. No.	Conditions	Reply
5.5.1	Not to allow mining operations till complying prescribed environmental Norms/ guidelines/ recommendations of the committee hereunder.	Operation of mining activities is not under process from 22.03.2020 and will be started after the recommendation the committee as started i.e. 5.5.1
5.5.2	To carry out geo-referenced drone survey of the lease area and its surroundings affected area due to spillage of material from rolling down/flowing away outside lease area by gravity or rain or otherwise.	The geo reference drone survey will be carried out by suitable/capable surveyor. We are in process of finding the suitable consultants who is capable to carry out survey.
5.5.3	Take all appropriate immediate actions to arrest/trap the material from rolling down/flowing away outside lease area by gravity or rain or otherwise.	We have taken all the precautionary measure like retaining wall/toe wall to arrest/trap the material from rolling down/flowing away outside lease area by gravity or rain or otherwise.
5.5.4	Give undertaking that waste material/muck will not be dumped outside the mining lease area in future.	The undertaken is attached as Annexure-I. The waste material/muck is not to be dumped in area which is not controlled in mine owner.
5.5.5	Prepare a time bound action plan to take all appropriate actions to address the impact of waste lying outside the lease.	At present the mining operation has been stopped from March 22, 2020. The mine plan is under approval process from IBM. The details of appropriate action on waste lining outside the lease are given below.
	i) Shift the outside dumped/rolled/ flown/washed material/muck to a suitable safe and secure place within mining lease area and stabilize it.	The material was fall through monsoon period during heavy rain. Approx. 30.0 Nalli land has already been purchase by N.B. Minerals and our Transporter Mr. Kishan Bhandari, who has no objection. Other land in which waste material

		<p>flow down due to natural calamities i.e. rains, we have already compensate those land owners. In our land, we will stabilize the material through spreading and develop green belt and removing the waste material from other land when the mining work starts.</p>
	<p>ii) In case of area where such portion shall be appropriately terraced, compacted, reclaimed by plantation of local species and ensure its watch and ward till the plantation achieved self sustained age and height</p>	<p>Due to terraced with slope land, we will stabilize the material through spreading and develop green belt. We will construct a retaining wall during mining operation around the periphery of the mine for controlling flow down of waste material.</p>
	<p>iii) Any other appropriate method for restoration/ reclamation etc.</p>	<p>No any other method for restoration except construct a retaining wall during mining operation around the periphery of the mine for controlling flow down of waste material</p>
5.5.6	<p>To construct robust obstruction structures (such as toe walls, parapet walls) silting ponds etc. under the guidance of district administration, ensure that muck mixed slurry water of rain does not enter into the Dundu Stream.</p>	<p>We will construct toe walls/parapet walls around waste material side for controlling slurry water is not enter into Dundu stream during rains with the discussion of district administration.</p>
5.5.7	<p>To develop a natural obstruction and/or construct retaining walls at the end of lowest/bottom most bench of the mine so that waste material/muck does not roll down/spillover downwards along the hillock to outside mining lease.</p>	<p>We will construct retaining wall around lowest bench before monsoon season for material/muck does not roll down /spillover downwards along the hillock to outside mining.</p>
5.5.8	<p>To submit the action plan for repairing the irrigation water channels and village roads by spillover of muck, if any.</p>	<p>Irrigation water channels is already repaired and muck removed from the village roads. Letter from village panchayat is attached as Annexure-2.</p>

6. While the situation emerging from the Expert Committee report is that the violation of law continues and remedial action is still required, the applicant has sought permission to withdraw the application. The application having been filed for protection of the environment cannot be withdrawn at the will of the applicant. Under the circumstances, we proceed with the matter of requiring further remedial action to be taken. While we accept the recommendations that a geo-referenced drone survey is required, we do not appreciate the suggestion that it should be got done by the project proponent itself. It should be got done by the Committee through an appropriate official mechanism. Needless to say that the Committee can take assistance of such other expert or institution as may be necessary.

7. IA 390-391/2020 have been filed by M/s. N.B. Minerals Corporation on 23.11.2020, the project proponent for modification of the order of this Tribunal of not permitting mining till compliance of violations noticed and praying that no coercive steps be taken for non compliance. It is stated that EC was granted on 09.10.2019 which was received by the mining company on 26.10.2019. Present application was filed on 11.10.2019. Mining was allowed by the Joint Secretary, Department of Mines, vide letter dated 15.01.2020, as a result of an order of the Uttarakhand High Court in W.P. No. 11/2019, which was later stopped on account of lockdown. All norms have been duly followed. The company is giving employment and generating income. Still, closure order was passed which is not called for. Vide letter dated 19.10.2020, the State Government required the project proponent to stop mining to which the project proponent gave response. The report of the Committee, based on satellite image, is not factually correct. Closure of mine is against public interest. Similar stand has been taken by the applicant by filing an affidavit on 04.04.2021.

8. Prayer of the project proponent and the applicant, who is also supporting it, cannot be accepted in view of finding in a credible report of the Expert Committee comprising CPCB, Indian School of Mines, Dhanbad, Indian Bureau of Mines, GoI, and SEIAA, Uttarakhand, dated 27.01.2020 as follows:

"During inspection it was found that muck extracted during mining was being dumped outside the leased area on the agricultural lands and no safeguards are being adopted by the lessee. This information was sent to the District Magistrate who had already suspended the mining work but there were no scientific steps taken as a result of stopping of the mining activity which were necessary."

9. The stand of the project proponent that the report is not factually correct cannot be straightaway accepted and can at best be required to be verified by the joint Committee. The mining been suspended till compliance which, even according to the latest report, has not happened so far. The project proponent has to ensure compliance of environmental norms and restoration of the area. In particular, sliding/disposal of

muck in water course must be stopped. The joint Committee may verify the stand of the applicant and the project proponent with the assistance of the District Administration to take further remedial action. The Committee will be free to have the restoration plan executed from the project proponent or from any other agency and till such execution mining may not be allowed to be resumed. IA Nos. 390-391/2020 stand disposed of accordingly.

10. The Committee may furnish its action taken report within two months 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."

6. The Project Proponent filed Civil Appeal No. 2232/2021, M/s N.B. Minerals Corporation v. Chander Singh & Ors. before the Hon'ble Supreme Court. It has been dismissed by the order dated 02.07.2021. The said order is reproduced below:-

"The Court is convened through Video Conferencing.

Having heard learned counsel for the appellant and carefully perusing the material placed on record, we are not inclined to interfere with the impugned order passed by the National Green Tribunal, Principal Bench, New Delhi in I.A. No. 390/2020 in O.A. No. 995 of 2019, which is interim in nature.

The appeal is, accordingly, dismissed.

As a sequel to the above, pending interlocutory applications also stand disposed of."

7. In pursuance of order of this Tribunal, the joint Committee has filed its report dated 21.10.2021 through CPCB *inter-alia* stating:

"

6. The joint Committee convened meeting through video conferencing (VC) on 20.07.2021 to discuss the further course of action in the matter. The two members of the committee also visited the mining site in question on 18.08.2021.

7. Based on the observations made by the committee during visit of M/s N B Minerals Corporation located at Village — Dundu, Tehsil — Didihat, District — Pithoragarh the following is submitted with respect to the environmental damage assessment.

7.1. The NB Minerals Magnesite mine is located at village Dunda Chaden dee, Tehsil Didihat/ Kanarioheena District Pithoragarh in Kumaon region of Uttarakhand State. **It has an area of 4.241 hectares which comprises of 2.291 hectares of forest (Banap) land and 1.950 hectares of private land.**

7.2. The detail regarding environmental clearance is as given

7.2.1. Initially, the mine lease was granted to the proponent on July 09, 1980 for mining of Magnesite & Dolomite minerals for 20 years. Thereafter, the renewal was granted for a period of 20 years vide Government of Uttarakhand G.O No. 917/SAAT/103-KHA/2004 dated 14.09.2004 with validity up to July 08, 2020.

7.2.2 In 2015, the Mining Department, Directorate of Industry, Uttarakhand directed the project proponent to obtain the Environment Clearance of the mine on the basis of EIA notification 2006. The reminder letter was also been issued by the department in 2017.

7.2.3. The project proponent applied for Environment Clearance to DEIAA, Pithoragarh, and was accorded by DEIAA vide letter No I-E.C-I (DEIAA)/2017 dated 03.10.2017 with certain specific and general conditions.

7.2.4. The District Magistrate, Pithoragarh, vide letter dated April 02, 2019, informed the proponent that Environmental Clearance (EC) for this mine doesn't fall under the jurisdiction of DEIAA and directed for closure. They had been asked to obtain the Environmental Clearance from State Level Environment Impact Assessment Authority (SEIAA).

7.2.5. The project proponent approached the Hon'ble High Court of Uttarakhand, Nanital to provide relief on the said order of District Magistrate, Pithoragarh. In line with the above petition, Hon'ble High Court on 24.04.2019 directed the project proponent to submit a fresh application for obtaining EC before SEIAA.

7.2.6. Accordingly, the proponent had applied to SEIAA and after following due procedure, the environmental clearance has been issued on 09.10.2019 by State Level Environment Impact Assessment Authority.

7.2.7 The latest Consolidated Consent to operate, and Authorisation (CCA) issued by Uttarakhand SPCB on 27.04.2018 is valid up to 31.03.2023. **The consent has been issued only for the production of Raw Magnesite (50,000 MT/Year).**

7.3. It was informed by the proponent that the mining operations were closed on date 02.04.2019 by District Magistrate. However, it was restarted in January 2020

and continued till March 2020. Thereafter, the mining operations have not been started as the approval on the mining plan accorded by the Indian Bureau of Mine was expired on 31.03.2020. As per the lease agreement the lease was valid upto 08.07.2020 and the extension of lease period is still pending with State Govt.

- 7.4. The details of the mining lease area and coordinates of 20 pillars to define the lease area boundary certified by the State Government are plotted in KML file format. The same has been plotted on the Google earth application. A copy of the image is attached as Annexure.
- 7.5. The operational mining pit is located towards the east side of the allotted mining lease area between pillars C, D, E, F, S, G and T.
- 7.6. **Steep valley is located on the north side of the lease area. During the visit it was observed that mining lease holder has constructed the gravity retaining wall on the bottom of the steep side in North of the lease to arrest the movement of waste. However, during field visit, it was found that the retaining walls were filled with material upto its brim and has overflowed, thus causing environmental damage.**
- 7.7. **Also, it was noticed that adequate measures have not been taken by the proponent to avoid the spillages from the active mine pit area towards the slope/valley.**
- 7.8. **Large quantity of the muck (overburdened waste material) is spread into the environment beyond the allotted area mainly on the north side of the mining pit.**
- 7.9. **It has been informed by the proponent, that the overflowed material is the waste/ reject that was supposed to be stacked at the dumping site. However, due to incorrect dumping, it had been left behind in the mining pit, which has been spilled out towards the slopy area along with surface runoff water during the rainy seasons.**
- 7.10. **Estimation of Environmental Damage**
 - 7.10.1. To estimate the damage caused by the lenient approach of the project proponent, the amount of waste material spilled outside the mine area and the area of the land on which this waste material spilled out has been considered.
 - 7.10.2. The google earth images show that the substantial impact on the said area is mainly visible after 2010. Hence, data of the mine production carried out since 2010-11 is captured from the mine proponent. The quantity of reject generated during this period has also been obtained.

7.10.2.1. **The mine has been operated for 2,687 days during the period 2010-11 to 2019-20.**

7.10.2.2. **During the above-mentioned period, a total of 1,73,134 T Magnesite has been produced as per the returns provided by lessee.**

7.10.2.3. **It has been found from the returns that 5,17,012 MT of overburden / waste is reported in the returns. generated during the period 2010-11 onwards. But no major dump except for few stacks of mineral reject and a small stabilized dump on the top of pit could be seen during inspection.**

7.10.2.4. **It has been verified from the returns that 5,17,012 MT of overburden / waste generation is reported in the returns. But this reply too could not be accepted, as the same is neither reflected in the plans nor submitted by lessee in the returns submitted.**

7.11. **The proponent has also submitted a survey report prepared by M/s Maa Bhagawati Engg & Cons. As per this report, around 16,757.28 MT muck/waste generated is either stored at the muck dumping yard or reused.**

7.12. **As suggested by the committee, the physical survey of the impacted land has also been carried out through the private firm, and the data generated has been cross verified by the Assistant Engineer of PWD.**

7.12.1. **As per report provided in the form of map, the impacted area is 18,263.56 Sq. meter.**

7.12.2. **The coordinates generated through the said physical survey have been obtained from the firm in the KML file format. Based on the provided information the polygon of the impacted area has been drawn on Google Earth. As per this data, the damaged area is around 18,269 Square meters**

7.13. **The land on which this waste material has overflowed is mainly the agricultural land on which 'Urad Dal' was been cultivated. However, due to this overflowing material, farmers have not been able to use this land for agricultural purposes since 2010-11.**

8. **Restoration Plan — Based on present scenario assessed during the field visit, the committee has chalked out the restoration plan that needs to be implemented. The table containing required restoration activities and responsible agency is as given below,**

Sr No	Identified activities	Responsible Agency
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a)	Only such mining operations be allowed which are required to restore mining activities.	IBM, SPCB & District Administration
b)	For material lying outside the lease area, appropriate reclamation and stabilization be done by plantation of local species and ensure its watch and ward till the plantation achieved self-sustained age and height.	Project Proponent under the supervision of district administration
c)	To develop a natural obstruction and construct or increase the height of retaining walls at the bottom of the cliff in North side outside lease area so that waste material/muck does not roll down/spillover downwards along the hillock too outside mining lease.	Project Proponent under the supervision of district administration
d)	To construct, outside the lease area, robust settling tank under the guidance of district administration, to ensure that muck mixed slurry water of rain does not enter into the Dundu stream. Obtain the certification regarding the same from district administration.	Project Proponent under the supervision of district administration
e)	To submit time-bound action plan for the execution activities defined at b-d above along with surface plan showing the details as per rule 32(1) of MCDR' 2017. And action plan to avoid such incidents in future.	Project Proponent in consultation with Designated joint committee
f)	Verification for the completion of the defined restoration activities and review of the measure taken for avoiding such spillages of muck in future.	Designated joint committee
g)	Before issuing permission for mining operation, following activities need to be taken care of: Obstruction mechanism to stop the flow of material into the slope side of the cliff need to be maintained.	IBM, CPCB and Mining department
h)	To take adequate measures to ensure that the material is not washed off due to the rainfall.	Project proponent

i)	To verify the quantity of waste material moved out of the lease area (if any) and to recover the applicable charges from the lessee as per the law.	State Mining Department
j)	To comply with all the conditions prescribed in the environmental clearance issued by SEIAA during its operations.	Project proponent and verification by SEIAA.
k)	To provide alternative equivalent agricultural land or the equivalent cost of the land to the farmers whose land has been impacted.	Project proponent and verification by District Administration.

9. Environmental Compensation

9.1. For calculation of environmental compensation, the Committee referred the various document including the policy framed by CPCB and the World Bank 'Methodology for calculating environmental damage' which is available on their website at '<http://documents.worldbank.org>'.

9.2. The project proponent is liable to pay

9.2.1. The actual cost required for the restoration activities,

9.2.2. Cost equivalent to the loss of agricultural production caused since 2010-11.

9.3. The proponent has to undertake the above-mentioned restoration activities in a time-bound manner under the supervision of district administration. The incurred cost towards these restoration activities shall be borne by the project proponent.

9.4. As per the information provided by the 'Patwari', the 'Urad Dal' is the main crop been cultivated in the area. Hence, the statement showing minimum support prices (MSP) fixed by the Government of India, that is available at <https://farmer.gov.in> is referred by the Committee. The MSP of Urad during 2010-11 was Rs. 2900/- per quintal which is increased on yearly basis and it is Rs. 6300/- per quintal for the year 2021-22. The detail of the MSP referred for calculating the compensation is attached at Annexure.

9.5. The success report published by the Crop Division, Ministry of Agriculture & Farmers welfare which is available at <https://farmer.gov.in/SucessReport2018-19.pdf> is referred to assess the per hectare production of the 'Urad'. As per this document the reported yield level of Urad is 352 kg/ha (i.e., 3.52 Quintal/year).

Whereas, as per the details given by the 'Patwari', the production of the Urad in the area is 4.00 Quintal/year.

The committee has considered the undertaking of the Patwari for calculation of loss of production.

- 9.6. As reported above in the environmental damage assessment portion, the damaged area is around 18200 hectares. And hence, the loss of production of Urad is $(4 \times 18200) 73070$ Quintal/year.
- 9.7. The yearly loss of production of Urad is multiplied by the year wise MSP declared by the Govt. of India.
- 9.8. **Thus, total loss of production of Urad during 2010-11 to 2021-22 is Rs. 4,22,196.59/-.**
- 9.9. Thus, the project proponent is liable to pay Rs. 4,22,196.59/- as an environmental compensation in addition to the actual cost involved in the restoration activities.

Recommendations

The nominated joint committee visited the site to verify the present scenario and based on the field observations the restoration plan has been drawn. **The project proponent is liable to complete defined restoration activities at his cost. In addition, to the cost involved in restoration activities, he is liable to pay environmental compensation of Rs. 4,22,196.59/- towards the loss of crops in the affected area since 2010-11."**

8. We have heard learned Counsel for the Project Proponent and CPCB. From the report of the joint Committee, it is seen that the Project Proponent caused environmental damage by dumping material which was overflowing into the river. It failed to take preventive measures to avoid spillage from the pit area towards the valley. Muck was spread into the environment beyond the allotted area. Overflow material was not properly stacked which resulted in further damage. Compensation has been assessed only on the aspect of loss to the agricultural production, without considering the cost of restoration and without assessing damage to the environment as per settled principles, including the principle laid down by the Hon'ble Supreme Court in *Samaj Parivartana Samudaya & Ors. vs. State of Karnataka & Ors.*, (2013) 8 SCC 154 that the compensation has to be equal to 10% of sale price of the mined material.

9. As per report quoted above, the Magnesite produced, as per returns of the Project Proponent is 1,73,134 T. Overburden reported in the returns is 5,17,012 MT. The total comes to 6,90,146 MT. Though, mining permitted was 50,000 MT per annum, the mining done is about 7 Lakh MT in ten years, which is in excess of the permitted mining. The value of the mined material comes to Rs. 140 crores, at the rate of Rs.2000 per MT which is stated to be the minimum price according to learned Counsel for the PP. Thus, on the principle laid down by the Hon'ble Supreme Court, the compensation liable to be paid may be not less than Rs. 14 crore. By way of interim compensation, we direct the Project Proponent to deposit a sum of Rs. 2 crore within one month, which will be condition precedent for allowing resumption of mining, apart from other compliances as already directed. This amount will be in addition to the compensation already assessed for loss to the agriculture and such compensation may be disbursed through District Magistrate. The Project Proponent may be required to secure the tentative cost of restoration and will be liable to bear the cost of executing the restoration plan, which will be prepared and execution overseen by the joint Committee with addition of nominees of Soil and Water Conservation Research Centre, Dehradun, G.B. Pant National Institute of Himalayan Environment, Almora, Uttarakhand, Forest Department, Uttarakhand, Department of Forest, Uttarakhand and Department of Mines, Uttarakhand through appropriate mechanism, including through the concerned Departments. The State PCB will be the nodal agency for coordination and compliance. Considering that the Himalayan region is eco sensitive and fragile, State Government may review mining operations in the State. If the cost of restoration exceeds the amount of tentative compensation, the Project Proponent will be liable to pay the

same in due course. The Mining activities may not be permitted till entire area in question is restored and victims are compensated

The application stands disposed of accordingly.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Brijesh Sethi, JM

Dr. Nagin Nanda, EM

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SN