Item No. 12 Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 269/2023

Munish Applicant

Versus

Haryana State Pollution Control Board & Ors. Respondent(s)

Date of hearing: 21.07.2023

CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, CHAIRPERSON
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER

Applicant: Mr. Narender Pal Singh & Mr. Ram Naresh Yadav, Advs. for Applicant

Respondent: Mr. Rahul Khurana, Adv. for HSPCB

ORDER

1. Issue raised in this application is illegal mining by M/s Ultimate Group, Tehsil Gannaur, District Sonipat, Haryana. It is further contended that the unit is extracting sand from Yamuna beyond permissible quantity and without consent to operate in violation of section 33 (A) of the Water (Prevention and Control of Pollution) Act, 1974 and in violation of EC conditions.

2. The report submitted by the Pollution Control Board reveals that

(i) Unit was operating without valid CTO under Water Act, 1974 and Air Act, 1981 from the Board, thus violating the condition of environmental clearance.

(ii) Not submitted six monthly compliance report of the environmental clearance conditions.

(iii) Not submitted the report of Replenishment study of the mining in the River bed as per environmental clearance condition.

(iv) Not submitted copy of reports of regularly Monitoring of Ground Water level and quality have to be carried out in and around the mine lease by establishing a network of existing wells and constructing new piezometers during the mining operation. The monitoring have to be carried out four times in a year: Premonsoon (April-May), Monsoon (August), Post monsoon (November) and winter (January) and the data collected may be sent regularly to the ministry of Environment, Forest & Climate Change, its Regional Office Chandigarh, Central Ground water authority Regional Director, Ground Central Water Board, State Pollution Control Board and Central Pollution Control Board, but unit has not submitted the reports to HSPCB Sonepat.

(v) Not submitted copy of data on ambient air quality which will be regularly submitted to the ministry including its Regional Office located at Chandigarh and the State Pollution Control Board/ Central Pollution Control Board once in six months but date wise data along with Analysis reports has not been submitted for PM10, PM2.5, S02 & NOx.

(vi) Not submitted copy of the Environment statement for the preceding year."

3. Annexure A-10 attached with the application discloses that the unit was inspected by Regional Officer and in its inspection report the letter has

been addressed to Chairman, Haryana State Pollution Control Board (Panchkula) with the facts that unit was operating without obtaining CTO from the board and no reply have been submitted in response to the notice. The Regional Officer has further submitted the report with the facts that:

The unit was inspected on 23.11.2022, during inspection unit was found operational without valid CTO from the Board. CTO was refused vide No. 29649884 dated 17.11.2022 and vide No. 30999360 dated 26.12.2022. CTO Were refused due to certain shortcomings including the following:

(i) Not submitted compliance of refusal of previous CTO.

(ii) Neither submitted sampling fees, nor submitted latest analysis reports of ground water monitoring as well as Ambient Air Monitoring for PM10, PM2.5, SO2 & NOx from the Board lab (not more than 3 months old).

(iii) Not submitted six monthly compliance report of the E.C conditions.

(iv) Not submitted copy of reports of regularly Monitoring of Ground Water level and quality have to be carried out in and around the mine lease by establishing a network of existing wells and constructing new piezometers during the mining operation. The monitoring have to be carried out four times in a year: Pre-monsoon (April-May). Monsoon (August), Post monsoon (November) and winter (January) and the data collected may be sent regularly to the ministry of Environment, Forest & Climate Change, its Regional Office Chandigarh, Central Ground water authority Regional Director, Ground Central Water Board, State Pollution Control Board and Central Pollution Control Board, but unit has not submitted the reports to HSPCB Sonepat.

(v) Not submitted copy of data on ambient air quality which will be regularly submitted to the ministry including its Regional Office

located at Chandigarh and the State pollution Control Board Central Pollution Control Board once in six months but date wise data along With Analysis reports has not been submitted for PM10, PM2.5, SO2& NOx.

(vi) Not submitted copy of the Environment statement for the preceding year.

(vii) Show Cause Notice was issued to the unit vide letter no. HSPCB/SR/2023/5226 dated 16.01.2023 but no reply has been received from the unit. Hence, recommendation to issue directions for closure and disconnection of services against the unit has been sent to Head Office and closure order has been issued against the unit on 16.03.2023. Letter dated 17.03.2023 was served to Mining Officer, Sonipat to stop mining activity and issuance of E-ravaana (ANNEXURE-RI2). Thereafter, mining is not in operation. Moreover, recommendation of proposed Environmental Compensation of Rs. 33,60,000/- and sanction of prosecution has been sent by Regional Office, HSPCB, Sonipat to Head Office, HSPCB.

Recommendations:

(a) The unit should not start mining activities without obtaining Consent to Operate under Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981 from Haryana State Pollution Control Board.

(b) The unit should comply the terms and conditions of Environmental Clearance granted to the unit for mining activities.

(c) The Mines and Geology Department should submit its survey report separately ascertaining extent of illegal mining.

Present report is being filed by the Joint Committee through Haryana SPCB, for the consideration of Hon'ble National Green

Tribunal. Further report shall be submitted through Joint Committee within 06 weeks on all issue after receiving survey report from the Mines & Geology Department.

4. The perusal of the report reveals that the matter was within the knowledge of the Regional Officer, HSPCB and inspite of the knowledge that the unit has no valid CTO it was indirectly permitted to operate without any valid CTO in violation of environmental rules. No further action has been taken to recover the environmental compensation which was assessed to the tune of Rs. 35,66,000/-. Inaction on the part of Regional Officer concerned reveals that the Regional Officer is supposed to do his duty sincerely, fairly, and honestly but he failed to exercise his duty sincerely, fairly, and honestly, and thus causing loss to the state exchequer by his inaction and indirectly permitting the unit to operate without obtaining CTO. The Member Secretary, HSPCB is directed to take disciplinary action against the concerned Regional Officer for negligence in performing his duties and indirectly permitting for illegal mining causing loss to state exchequer.

5. It is undisputed that there is huge degradation of environment on account of unregulated sand mining remains which is otherwise lucrative activity. It poses threat to bio-diversity, could destroy riverine vegetation, cause erosion, pollute water sources, badly affecting riparian ecology, damaging ecosystem of rivers, safety of bridges, weakening of riverbeds, destruction of natural habitats of organisms living on the riverbeds, affects fish breeding and migration, spell disaster for the conservation bird species, increase saline water in the rivers. It has direct impact on the physical habitat characteristics of the rivers such as bed elevation, substrate composition and stability, in-

stream roughness elements, depth, velocity, turbidity, sediment transport, stream discharge and temperature. Increase in demand of sand has placed immense pressure in the supply of sand resource and mining activities were going on illegally as well as legally without requisite restrictions. Lack of proper planning and sand management disturbs marine ecosystem and upset the ability of natural marine processes to replenish the sand. The Hon'ble Supreme Court (in Deepak Kumar, supra) noted that core group was constituted by the MoEF&CC to examine the impact of minor minerals on riverbeds and ground waters. A draft report was prepared recommending mandatory preparation of mining plan on the pattern of mining plans for major minerals. Further recommendations are reclamation and rehabilitation of abandoned mines, proportion of hydro geo-logical balance for minerals below ground water table limiting depth of mining to 3 meter and identification on locations where mining should be permitted was required. There is need for identifying safety zones in the proximity of intendments. Thus, strict regulatory parameters were required for regulating mining of minor minerals. It was noted that in-stream mining lowers the stream bottom of rivers which may lead to bank erosion. Depletion of sand in the stream bed causes deepening of rivers which may result in destruction of aquatic and riparian habitats. It has impact on stream's physical habitat characteristics.

6. In *State (NCT of Delhi) v. Sanjay, (2014) 9 SCC 772, at page 790*, it was observed :

> *"32. The policy and object of the Mines and Minerals Act and Rules have a long history and are the result of an increasing awareness of the compelling need to restore the serious ecological imbalance and to stop the damages being caused to the nature. The Court cannot lose sight of the fact that adverse and destructive environmental impact of sand mining has been discussed in the UNEP Global Environmental Alert Service Report. As per the contents of*

the Report, lack of proper scientific methodology for river sand mining has led to indiscriminate sand mining, while weak governance and corruption have led to widespread illegal mining. While referring to the proposition in India, it was stated that sand trading is a lucrative business, and there is evidence of illegal trading such as the case of the influential mafias in our country."

"33. The mining of aggregates in rivers has led to severe damage to rivers, including pollution and changes in levels of pH. Removing sediment from rivers causes the river to cut its channel through the bed of the valley floor, or channel incision, both upstream and downstream of the extraction site. This leads to coarsening of bed material and lateral channel instability. It can change the riverbed itself. The removal of more than 12 million tonnes of sand a year from Vembanad Lake catchment in India has led to the lowering of the riverbed by 7 to 15 cm a year. Incision can also cause the alluvial aquifer to drain to a lower level, resulting in a loss of aquifer storage. It can also increase flood frequency and intensity by reducing flood regulation capacity. However, lowering the water table is most threatening to water supply exacerbating drought occurrence and severity as tributaries of major rivers dry up when sand mining reaches certain thresholds. Illegal sand mining also causes erosion. Damming and mining have reduced sediment delivery from rivers to many coastal areas, leading to accelerated beach erosion.

34. The Report also dealt with the astonishing impact of sand mining on the economy. It states that tourism may be affected through beach erosion. Fishing, both traditional and commercial, can be affected through destruction of benthic fauna. Agriculture could be affected through loss of agricultural land from river erosion and the lowering of the water table. The insurance sector is affected through exacerbation of the impact of extreme events such as floods, droughts and storm surges through decreased protection of beach fronts. The erosion of coastal areas and beaches affects houses and infrastructure. A decrease in bed load or channel shortening can cause downstream erosion including bank erosion and the undercutting or undermining of engineering structures such as bridges, side protection walls and structures for water supply.

35. Sand is often removed from beaches to build hotels, roads and other tourism-related infrastructure. In some locations, continued construction is likely to lead to an unsustainable situation and destruction of the main natural attraction for visitors—beaches themselves. Mining from, within or near a riverbed has a direct impact on the stream's physical characteristics, such as channel geometry, bed elevation, substratum composition and stability, instream roughness of the bed, flow velocity, discharge capacity, sediment transportation capacity, turbidity, temperature, etc. Alteration or modification of the above attributes may cause hazardous impact on ecological equilibrium of riverine

regime. This may also cause adverse impact on instream biota and riparian habitats. This disturbance may also cause changes in channel configuration and flow paths.

.....Today, demand for sand and gravel continues to increase. Mining operators, instead of working in conjunction with cognizant resource agencies to ensure that sand mining is conducted in a responsible manner, are engaged in full-time profiteering. Excessive in-stream sand and gravel mining from riverbeds and like resources causes the degradation of rivers. In-stream mining lowers the stream bottom, which leads to bank erosion. Depletion of sand in the stream-bed and along coastal areas causes the deepening of rivers and estuaries and enlargement of river mouths and coastal inlets. It also leads to saline water intrusion from the nearby sea. The effect of mining is compounded by the effect of sea level rise. Any volume of sand exported from stream-beds and coastal areas is a loss to the system. Excessive in-stream sand mining is a threat to bridges, river banks and nearby structures. Sand mining also affects the adjoining groundwater system and the uses that local people make of the river. Further, according to researches, in-stream sand mining results in the destruction of aquatic and riparian habitat through wholesale changes in the channel morphology. The ill effects include bed degradation, bed coarsening, lowered water tables near the streambed and channel instability. These physical impacts cause degradation of riparian and aquatic biota and may lead to the undermining of bridges and other structures. Continued extraction of sand from riverbeds may also cause the entire stream-bed to degrade to the depth of excavation."

7. Haryana State Pollution Control Board is directed to immediate take remedial action and to stop mining activity and to realize the environmental compensation according to rules and to submit the report within four weeks.

List it on 01st November, 2023

Sheo Kumar Singh, CP

Arun Kumar Tyagi, JM

Dr. A. Senthil Vel, EM

July 21, 2023
O.A No. 269/2023
PU