

Item No. 05

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

**Original Application No. 151/2024(CZ)  
(O.A.No.617/2024 - PB)**

News item titled "रेत की एक ही वैध खदान इसीलिए हावी हुए बालू माफिया"  
appearing in Kelo Pravah dated 23.04.2024.

Suo Moto...

**Date of Hearing: 01.08.2024**

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

For Applicant(s): None.

For Respondent(s): Mr. Prashant Sthapak, Adv.  
Ms. Parul Bhadoria, Adv.

**ORDER**

1. This Original Application is registered suo-motu on the basis of the news item titled "रेत की एक ही वैध खदान इसीलिए हावी हुए बालू माफिया" appearing in Kelo Pravah dated 23.04.2024.
2. The matter relates to illegal sand mining in Raigarh district of Chhattisgarh. As per the article, despite sufficient availability of sand in the district, the entire business has gone into the hands of mafias. It alleges that Sand ghats were not approved on time due to which illegal mining is taking place. Sand prices have also doubled. Earlier the price of one dumper sand used to be Rs 5000-6000, which has now reached around Rs 10 thousand.

3. The article highlights that Only Usroute Sand Ghat is running with a valid license but it cannot meet the needs of the entire district. The sand mafia has taken advantage of the opportunity and took over the entire business and are involved in illegal sand mining. It further alleges that at various places like Kharsia, Raigarh, Pusaur, Gharghoda, Tamnar, Dharamjaygarh, different people have taken control of the sand business. The Mineral Department takes action only around Raigarh city whereas the mafia has made huge amounts of illegal earnings by increasing the prices of sand in the entire district.
4. The above news item indicates violation of the Sand Mining Guidelines, 2016 and the provisions of The Environment (Protection) Act, 1986.
5. The matter was taken up by this Tribunal on 29.05.2024 and report was called from the State PCB. In compliance thereof the State PCB has filed the report with the facts as follows :-

**1. “Brief about Raigarh District of Chhattisgarh:**

*Raigarh district is situated in the north eastern part of the Chhattisgarh. between Latitudes 21°20'21":22°47'13"N and Longitudes 82°55'36" : 83°42'16"E. Geomorphologically, the area of the district to the north of Mahanadi River exhibits landforms of low-level structural plateaus, structural plain, pediplain/pediment, denudational hills and valleys and the region of middle and high level plateaus. The younger flood plain (including infilled river beds) delineated along the course of the Mahanadi River. The area of the south of Mahanadi River exhibits land forms of structural hills and valleys, older flood plain, denudational slope, pediment/ pediplain and denudational hills and valleys. Physiographically the district forms a part of a Mahanadi basin drained by the Mahanadi and its tributaries viz Mand, Kelo and Kurket. The general slope of the area to the north and south of Mahanadi River is*

towards south and north direction respectively. Kelo river originates from the Gharghoda Tehsil's Ludeg hills of the district. River stretches of 107 km passing through Raigarh district. River Kelo and Mand flows from North to South. Mand River flows 35 km through Raigarh district of Chhattisgarh.

## **2. Submission of the Chhattisgarh State Mining Department:**

District Mining Officers informed that presently approval has been accorded to one sand mine namely M/s Usraut Sand Mine located at village Usraut, Tehsil & District Raigarh, which is in operation. Copy of the Mine lease deed and environment clearance letter is enclosed. The Chhattisgarh State Mining Department has already identified 22 suitable sites in the Raigarh district for sanctioning new sand mining leases and further action in this regard is under progress, which invariably useful to meet the demand of local people. Copy of the above 22 identified suitable sites are enclosed. Reportedly Officers of the Chhattisgarh State Mining Department carryout regular inspection at different locations of the district for prevention of unauthorized sand mining. As per Rule 21(4)(5) of MMDR, Act, 1957, State Mining Department seized the vehicles deployed and imposed penalty of Rs. 1,25,000/- (Rupees one lakh twenty-five thousand only) for the committed illegal mining of sand at Village-Kandagarh, Tehsil-Pussour, District-Raigarh and copy of the same enclosed as Annexure-4. The adjudication process is still under process. The State Mining Department based on the site inspection held on 20.06.2024 seized about 3,000 m<sup>3</sup> of sand at Village- Usraut for storage of sand and the case is under process for imposition of penalty as per Rule 21(4)(5) of MMDR, Act, 1957. Copy of the same is enclosed as Annexure-5. As informed by the Chhattisgarh State Mining Department, though there is regular inspection of the different areas of the district, no other illegal sand mining case is reported yet.

### **3. Status of Statutory requirements:**

*In pursuance to the Order dated the 27th February, 2012 of Hon"ble Supreme Court of India in I.A. No.12-13 of 2011 in Special Leave Petition (C) No.19628- 19629 of 2009, in the matter of Deepak Kumar etc. Vs. State of Haryana and Others etc., prior environmental clearance become mandatory for mining of minor minerals irrespective of the area of mining lease. Ministry of Environment, Forest and Climate Change in consultation with State Governments has prepared Guidelines on Sustainable Sand Mining detailing the provisions on environmental clearance for cluster, creation of District Environment Impact Assessment Authority and proper monitoring of sand mining using information technology and information technology enabled services to track the mined-out material from source to destination. Therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government vide notification S.O.141(E) dated 15th January, 2016 made amendments in the EIA notification, 2006 incorporating District Environment Impact Assessment Authority (DEIAA) for matters falling under Category "B2" for mining of minor minerals in the said Schedule.*

*The term 'minor mineral' is defined in clause (e) of Section 3 of Mines and Minerals (Development and Regulation) Act (MMDR Act) 1957. 3 (e) "minor minerals" means building stones, gravel, ordinary clay, ordinary sand other than sand used for prescribed purposes and any other material which the Central Government may, by Notification in the Gazette of India declare to be a minor mineral. The term `ordinary sand' used in clause (e) of Section 3 of the MMDR Act, 1957 has been further clarified in rule 70 of the MCR, 1960.*

*Accordingly, the Central Government had constituted the District Level Environment Impact Assessment Authority (DEIAA), for grant of environmental clearance for Category 'B2' Projects for mining of minor minerals, for all the districts in the country. However, in compliance with the order dated 13.09.2018 of NGT-PB in O.A. No. 186 of 2016 titled Satendra Pandey Vs MoEF&CC & Ors., DEIAAs are not functioning, since October, 2018 and such projects are being dealt by the respective State Environment Impact Assessment Authority (SEIAA). As part of Post environmental clearance monitoring, MoEF&CC vide its notification S.O. 637(E) dated 28.02.2014 has delegated the powers to State/Union Territory Environmental Impact Assessment Authority to issue show cause notice to project proponent in case of violation of Conditions of Environmental Clearance issued by the said authority and to issue direction for keeping the said EC in abeyance or withdrawing it. Thus, for category „B“ projects SEIAAs are responsible for EC monitoring. Based on the information made available to the Committee, it has been observed that in the present case one environmental clearance has been accorded for sand mining in the alleged area under dispute.*

*Illegal Mining: In accordance with the Judgment dated 02.08.2017 of Hon'ble Supreme Court of India in W.P. No. 114 of 2014 in the matter of Common Cause Vs Union of India &Ors. any mining activities which are not governed under the provision of Environment (Protection) Act, 1986, The Water (Prevention & Control of Pollution Act, 1974, The Air (Prevention & Control of Pollution) Act, 1981, Forest Conservation Act, 1980, Wildlife Protection Act, 1972, shall be considered as illegal mining within the provision of section 21(5) of Mines and Minerals (Development & Regulation) Act, 1957 (MMDR Act) and the concerned authority shall take necessary action within the provision of MMDR Act. As per the provision of 23(C) of MMDR Act, the State Government is empowered to make rules for*

*preventing illegal mining, and transportation & storage of illegal minerals.*

**4. Observation of the Joint Committee on the ToR to the Committee:**

- (i) *The Joint Committee visited Village–Usraut and other five places where sand availability has been reported by the State Mining Department namely Village-Tarapur, Bokramuda, Raniguda, Lebda and Kanchanpur and observed considerable river flow in most of the stretches of River Mand due to prevailing monsoon season.*
- (ii) *Committee also visited the village Kandagarh, where Mining Department already took action against the illegal sand mining. However, due to the prevailing monsoon season approach road was not in portable condition, so the Committee has not been able to visit the exact location of the illegal sand mining area.*
- (iii) *On the date of inspection, no tractors, dumpers, trollies and sand excavation activity were observed at the Mand River bank at Villages - Tarapur, Bokramuda, Raniguda, Lebda and Kanchanpur. No transportation of sand was observed by the Committee at the time of visit.*
- (iv) *The google image of the M/s Usraut Sand Mine and photographs taken during the inspection are enclosed herewith. The geographical coordinates of the M/s Usraut Sand Mine site are Latitude 21053"54.13"N to 21053"54.59"N and Longitude 83016"29.18"E to 83016"33.58"E During the visit no mining activity was in progress. Reportedly the mining activity of the project has been temporarily halted from 10th June, 2024 to 15thOctober, 2024 as mandated during the monsoon season. However, Committee could see existence of few stacks of sand outside the lease area of the Project. In this*

*regard, the State Mining Department has informed that action has been initiated against the Project Authority under the provisions of as per Rule 21(4)(5) of MMDR, Act, 1957.*

*(v) The lease holder of M/s Usraut Sand Mine has not obtained „Consent to Operate“ (CTO) under Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981. In this regard, the Regional Officer, Chhattisgarh Environment Conservation Board, Raigarh has issued notice under section 33 „A“ of Water (Prevention and Control of Pollution) Act 1974 and u/s 31 „A“ Air (Prevention and Control of Pollution) Act 1981 to lease holder seeking clarification for the sand mining operation without obtaining requisite Consent to Operate "prior to the commencement of the mining operation." Copy of the Notice dated 24.07.2024 of CECEB is enclosed.*

*(vi) Mining Department has already initiated the process for sanctioning of new mining leases. Accordingly, State Mining Department has already identified 22 sites for granting sand mine leases to meet the sand demand in the district.*

*(vii) No substantial information was found regarding the News Paper clipping claiming that price of sand in District - Raigarh have increased due to only one valid sand mine. Part of the areas of the Raigarh District are scheduled area, in those area as per Rule (3) of Chhattisgarh Minor Mineral Ordinary Sand Quarrying and Trade (for scheduled areas) Rules, 2023, quarrying and transportation of sand may be carried out in accordance with and subject to the conditions prescribed in these rules by Gram Panchayat/Urban body in the Scheduled areas of the State. As per Rule (4) for obtaining any sand quarry lease, the concerned Gram panchayat needs to submit an application in Form-1 to the Mining section of the concerned District. In accordance with sub-rule (4) of rule (8) of Chhattisgarh Minor Mineral*

*Ordinary Sand Quarrying and Trade (for scheduled areas) Rules, 2023, based on fulfilment of the conditions specified in sub-rule (3) of rule (8), the Sanctioning Authority may grant quarry lease to the concerning Gram Panchayat/Urban body. Rule 14 stipulates to form flying squads at district and directorate level for effective control on illegal Quarrying/transportation/ storage of ordinary sand and other minerals. However, as informed by the State Mining Department so far no sand quarry lease has been accorded to any Gram panchayat, since there is no any application received in this regard.*

### **5. Environmental compensation:**

*As per Rule 21 (4)(5) of MMDR, Act 1957 State Mining Department seized the vehicles deployed and imposed penalty of Rs. 1,25,000/- for illegal mining of sand at Village-Kandagarh, Tehsil-Pussour, District-Raigarh. As per information provided by mining department total 100m<sup>3</sup> sand had been excavated.*

*As per O.A. No. 360/2015 in the matter of National Green Tribunal Bar Association Vs. Virendra Singh (State of Gujarat) at Hon<sup>ble</sup> NGT (PB) New Delhi, a report was prepared by a Committee to recommend a scale of compensation to Hon<sup>ble</sup> NGT (PB) to deal with cases of illegal sand mining in whole of country. The Committee considered two approaches: Approach 1: Direct Compensation based on the market value of extraction, adjusted for ecological damages and Approach 2: Computing a Simplified Net Present Value (NPV) for ecological damages.*

*Based on the above report, NGT vide order dated 26.02.2021 directed that the scale of operation of compensation as per report dated 30.01.2020 (Approach - 2)*



*was to be adopted by all States/UTs and Environment Secretary to evolve an appropriate mechanism for assessment of compensation in all Districts of the State and for utilisation of recovered compensation for restoration of environment by preparing appropriate action plan.*

*Further, in compliance of NGT order dated 26.02.2021, CPCB vide letter dated 11.06.2021 issued directions to Environment Secretaries of States/UTs to evolve an appropriate mechanism for assessment of compensation in all Districts of the State and for utilization of recovered compensation for restoration of environment by preparing appropriate action plan. Chhattisgarh State yet to formulate State specific Environment Compensation (EC) formula and thus Approach-2 as mentioned above has been used for imposing EC, the formula calculation as given below:*

*“Compensation Charge (Scenario II-explicit accounting of NPV). In situations where the risk categorization is unavailable or pending calculation, the following Discount Rates may be considered:*

<b>Severity</b>	<b>Mild</b>	<b>Moderate</b>	<b>Significant</b>	<b>Severe</b>
<i>Risk Level</i>	1	2	3	4
<i>Risk Factor (RF)</i>	0.25	0.50	0.75	1.0
<i>Discount (r)</i>	8%	7%	6%	5%

*Market Value# of Illegally Mined Material (D) 1089\*100 = Rs. 108900/-  
Annual Value of Foregone Ecological Values (D\*RF) 108900\*1 = Rs. 108900/-*

- The market value of material (Sand) as per PWD CG 2022 NH Zone it is Rs. 1089/- per m<sup>3</sup>, hence committee decided to take latest and higher side market rate for EC calculation.*

- 100 m<sup>3</sup> sand seized during raid of mining department.
- RF=1 as severe risk factor taken for calculation.

Formula for Present Value of Foregone Ecological Values @ 5% discount rate and over 5 years (*t*) is:

$$PV = \sum_{t=1}^5 \left( \frac{D*RF}{(1+r)^t} \right)$$

Therefore, Present value as calculated will be:

$$PV = \left( \frac{108900}{(1+0.05)^1} \right) + \left( \frac{108900}{(1+0.05)^2} \right) + \left( \frac{108900}{(1+0.05)^3} \right) + \left( \frac{108900}{(1+0.05)^4} \right) + \left( \frac{108900}{(1+0.05)^5} \right)$$

$$PV = 103714.29 + 98775.51 + 94071.91 + 89592.29 + 85325.99$$

$$PV = \text{Rs. } 471479.99/-$$

$$PV \sim \text{Rs. } 471480/-$$

$$\text{Net Present Value (NPV)} = PV - D$$

$$NPV = 471480 - 108900 = \text{Rs. } 362580/-$$

*In view of the above Environmental compensation of Rs 362580/- (Rupees Three Lakh Sixty Two Thousand Five Hundred Eighty only) may be imposed on the violators who are committed / associated in the illegal mining and transportation of sand. The District Collector, Raigarh may recover the same from the violators.*

## **6. Conclusion and Recommendations: -**

*The Committee noted that District administration has taken action against the violators under MMDR Act, 1957 and seized the vehicles deployed for illegal mining. The District administration also imposed penalty of Rs 1,25,000/- under as per Rule 21 (4)(5) of MMDR, Act 1957 State Mining Department seized the vehicles deployed and imposed penalty of Rs. 1,25,000/- for illegal mining of sand at Village-Kandagarh, Tehsil-Pussour, District-Raigarh and the case is under process.*

*For the violation that took place upto 12/06/2024, the Committee recommends to levy an Environmental compensation of Rs.362580/- on the violators who committed the illegal sand mining and transportation. The District Collector, Raigarh may recover the same from the violators. Regional Officer, Chhattisgarh Environment Conservation Board, Raigarh shall take action against the lease holder of sand mine at Village-Usraut for violation of Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 after taking clarification.*

*Further, the Committee suggests the following recommendations to adopt the authorities concerned.*

**7. Recommendations for preventing illegal sand mining:**

- (i). District mining department shall complete the process of providing sand mining leases at different identified locations as soon as possible.*
- (ii). District authorities shall strengthen the site inspections mechanism by the Revenue Department and Mining Department of the State Government at regular intervals. Permanent police Booth with adequate manpower may be setup on the vulnerable areas.*
- (iii). The State Government should provide adequate manpower, police security and vehicles etc. to the authorities concerned for regular monitoring of illegal sand mining, if any.*
- (iv). Warning boards intimating the penalty for illegal mining and transportation of sand should be placed by the Mining Department at different villages where sand availability is recorded, along with contact details/phone/mobile of the official to whom the information/complaint can be made, if any one who notices illegal mining.*

## **8. Other recommendations:**

*(i). DSRs needs to be prepared very carefully, based on physical surveys and replenishment studies. DSR needs to be regularly updated, since sand deposition is in dynamic nature. While awarding sand mining leases. important factors viz. deposition and replenishment of sand, areas of erosion distance from infrastructural structures need to be considered.*

*(ii). The mining department should ensure compliance of provisions of EIA Notification, 2006, Sustainable Sand Mining Guidelines, 2016; Enforcement and Monitoring guidelines for sand mining 2020; The Environment (Protection) Act, 1986; The Water (Prevention and Control of Pollution) Act 1974; The Air (Prevention and Control of Pollution) Act, 1981 and the Regulations of Central Ground Water Authority.*

*(iii). Chhattisgarh Environment Conservation Board (CECB) shall ensure that all the sand mining projects accorded EC are being operated only after obtaining requisite CTE/CTO under Water (Prevention and Control of Pollution) Act 1974, the Air (Prevention and Control of Pollution) Act, 1981.*

*(iv). Geo-fencing of sites, their physical demarcation, allotment of geo coordinate to all the pillars and its constant physical inspection and electroni surveillance is a must to ensure that the mining activity is as per the approve mining plan and no illegal mining and detrimental to the environment.*

*(v). Awareness shall be created to the villagers about utilisation of sand from scheduled area by obtaining proper permissions from the authorities concerned.”*

6. The perusal of the report reveals that in two cases and notices have been issued and realization of penalty in the form environmental compensation to the tune of Rs. 1.25 Lakhs and Rule 21(4)(5) of Mine and Minerals (Development and Regulation) Act, 1957 and in another case a notice was

also issued against the violators for illegal mining for recovery of environmental compensation to the tune of Rs. 3,62,580/- and Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981.

7. Accordingly, we direct the State PCB to finalize the matter of environmental compensation and to realize it and to deposit it in State Treasury in accordance with the rules.
8. We further direct that the recommendations submitted by the Joint Committee must be strictly complied with and further direct that CECB has to ensure that all the sand mining projects accorded EC and will be permitted to operate only after obtaining requisite Consent to Establish/Consent to Operate from the competent authority.
9. With these observations **Original Application No. 151/2024** stands **disposed of.**

**Sheo Kumar Singh, JM**

**Dr. A Senthil Vel, EM**

01<sup>st</sup> August, 2024  
O.A No. 151/2024(CZ)  
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