

Item No. 01

Court No. 1

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

(By Video Conferencing)

Original Application No. 140/2019

(With report dated 31.07.2020)

Mahendra Saini, President, Moda Pahad
Sangharsh Samiti

Applicant(s)

Versus

State of Rajasthan

Respondent(s)

Date of hearing: 06.08.2020

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

ORDER

1. A report was sought from the Rajasthan State Pollution Control Board (RSPCB) and the SDM, Jhunjhunu with reference to the allegation that 35 stone crushers were being illegally operated in *Moda Pahad* area within the municipal limits of Jhunjhunu Municipal Council, within 1.5 Km of the habitation and within the prohibited range from a National Highway and a State Highway. Their operation was causing lot of pollution to the environment and the inhabitants.

2. The matter was last considered on 04.05.2020 in the light of earlier proceedings and further report dated 29.01.2020 and it was found that apart from other violations, illegal extraction of ground water was taking

place. In some cases, distance from houses was 200 mtrs, though prescribed distance required to be maintained was 1.5 mtrs from a habitation, no carrying capacity study was conducted to determine the number of stone crushers which could be sustained in the area and status of recovery of compensation was not mentioned. The observations of the Tribunal are:-

“4. It is clear from the above that **groundwater extraction is illegally taking place merely on the pretext of permission having been sought from CGWA.** Admittedly, there is no such permission. Further, though the report of the SDM, Jhunjhunu in conclusion mentions that the siting criteria is met, the **distance mentioned in the report is nearly within the prohibited distance of 1.5 km whereas in enclosed annexure-R/4 of the report, distance in the table has been stated to be 200 meters in some cases.** No **carrying capacity study has been conducted for the area to determine the optimal number of stone crushers which the area can sustain.** While it is mentioned that some compensation has been assessed, the **status of realization is not mentioned.** The report also does not mention the period of default for which the compensation has been calculated. Learned Counsel for the State PCB states that as per his information, a sum of Rs. 50 lakhs has been recovered. The statement is not firm nor supported by any material. It is not clear as to what is the status of remaining compensation.

5. In view of above, it is necessary for the State PCB to perform its statutory duty in coordination with the SDM, Jhunjhunu so as to ensure that illegal operation of the stone crushers is stopped, apart from recovery of compensation on ‘Polluter Pays’ principle and initiation of prosecution for enforcement of law of the land. Let further necessary action be taken in accordance with law expeditiously and action taken report filed on or before 31.07.2020 by e-mail at judicial-ngt@gov.in.”

3. Accordingly, a further report has been filed by the State PCB on 31.07.2020 mentioning the amount of compensation assessed. However, even after mentioning that illegal bore-wells were operating, neither the bore-wells have been stopped nor compensation assessed and recovered on that account. The report is as follows:-

- “A) That the State Board has imposed Environment Compensation on 26 stone crusher out of which 22 stone crushers have deposited Environment Compensation (EC) of Rs. 1,47,63,750/- Remaining 04 stone crushers have not deposited Environment Compensation till date' However, the State Board has issued closure directions against all the 04 non-compliant units and electric connections have also been disconnected. The List of 26 stone crushers i.e. 22 which have deposited EC and 04 which have not deposited EC is annexed herewith and marked as **Annexure R/ 1**.
- B) That out of the total 34 stone crushers at Moda Pahar, Jhunjhunu, 20 stone crushers are having valid consent to operate; 08 stone crushers are found closed/dismantled/ Non operative and 06 stone crushers have been issued closure directions out of which consent application of 02 stone crushers is pending before State Board for consideration & 04 stone crushers have not applied for consent. List of 34 stone crushers is annexed herewith and marked as **Annexure-R/2**.
- C) That out of the total 34 stone crushers 08 is lying closed/dismantled/ non-operative. **Out of the remaining 26 stone crushers 18 have borewell and 08 does not have borewell. Out of the 18 stone crushers 14 have applied and 4 have not applied for CGWA permission'** The List of 34 stone crushers with respect to borewell is annexed herewith and marked as **Annexure-R/3**.
- D) That the SDM, Jhunjhunu vide letter dated 28.07.2020 has clarified that in their letter dated 20.11.2019 (Annexure-R/4 of the earlier compliance report) distance of some of the stone crushers from residential area (Rehwas Se Duri) has been mentioned. Further, it has been clarified that the term used 'Rehwas se Duri' means distance from **individual residential houses constructed on agricultural/khatedari land and it is not meant for distance from the converted Residential Area/Abadi bhoomi**. The photo copy of the SDM letter dated 28.07.2020 is annexed herewith and marked as **Annexure-R/4**.”

4. Since illegal extraction of groundwater is acknowledged but remedial action not taken, we direct the Member Secretary, State PCB to look into the matter and take further action for enforcement of siting criteria as well as for stopping extraction of ground water and recovering compensation for illegal extraction of ground water in the light of judgement of this Tribunal dated 20.07.2020 in O.A No. 176/2015, *Shailesh Singh v. Hotel Holiday Regency, Moradabad & Ors.*

The application is disposed of.

A copy of this order be sent to the Member Secretary, State PCB by email.

Adarsh Kumar Goel, CP

S. P. Wangdi, JM

Dr. Nagin Nanda, EM

August 06, 2020
Original Application No. 140/2019
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