

' IN THE SUPREME COURT OF INDIA CIVIL APPELLATE JURISDICTION

I.A. NOS. 12-13, 14-15, 16-17 & 18-19

IN

SLP (C) NOS. 19628-19629 / 2009

Deepak Kumar etc. ... Petitioner(s)

Vs.

State of Haryana & Ors. Etc. ... Respondent(s)

O R D E R

This Court on 25.11.2011 passed an order directing the Central Empowered Committee (CEC) to submit a report after carrying out site inspections, under intimation to the MoEF, concerned State Governments and the applicant, regarding the alleged illegal mining going on in some parts of States of U.P. and Rajasthan and also to submit a report regarding the areas identified for mining in the State of Haryana.

CEC, in pursuance of our order, submitted a detailed report on 4.1.2012 with enclosures. We have gone through the report in extenso and heard Mr. P. S.Narsimha, learned senior counsel, who is appearing as amicus curiae, Shri Kamendra Mishra, appearing for the State of U.P. and Shri Manish Singhvi, Additional Advocate General appearing for the State of Rajasthan.

CEC conducted site inspections in the notified areas of the District of Saharanpur, U.P., District Alwar, Rajasthan and the areas identified for mining in Districts Yamuna Nagar, Panchkula and Ambala in the State of Haryana.

Uttar Pradesh

First, we will deal with the details furnished in the report pertaining to District Saharanpur, U.P. CEC referred to five mining leases for sand, bajri and boulders presently operating in the District Saharanpur. Report says that in Lot Nos. 7, 16, 22 and 23, the area given for mining leases is less than 5 hectares and hence permission was granted by the State of U.P. for mining operations without obtaining any environmental clearance.

With regard to Lot Nos. 7, 8, 13, 26, 27, 28 & 29 relating to mining lease of an area of 686.693 acres, it was stated that the lease was, though originally sanctioned for a period of three years w.e.f. 6.1.2003, later it was cancelled and the lease operated only up to 9.2.2004. However, by virtue of the order passed by the Allahabad High Court in CMWP No. 29797/2009, the lease was allowed to operate for the balance period of one year, ten months and twenty seven days w.e.f. 27.2.2010 and up to 24.1.2012 but without environment clearance on the ground that the lease was originally granted prior to 14.9.2006 the date of the notification of MOEF. Prima facie, we are of the view that

the stand taken by the State of U.P. is in clear violation of the provisions of EIA Notification dated 14.9.2006 and the notification is seen mis-interpreted and misapplied, especially when the report says that there has been an increase in annual production, compared to earlier years.

Report says that in addition to the above mentioned mining leases, there are about 30 sanctioned mining leases for the collection of sand, bajri and boulders from river Yamuna bed/canal beds in District of Saharanpur. But they are found to be operational without obtaining environment clearance. Report also says that the Environmental Appraisal Committee (EAC) had recommended grant of environment clearance in favour of the above 30 mining leases but the environment clearance was granted by the MoEF only in respect of two of such leases, Lot No. 25 in Village Abdullapur and Lot No. 9 in village Thapal Ismailpur, on specific condition that the prior clearance from the Standing Committee of the National Board for Wildlife (NBWL) be obtained, since the area fell within the sanctuary. No such permission has been obtained so far. The stand of the State of U.P. before the CEC was that the above 30 mining leases stood closed w.e.f. 30.6.2011. CEC, however, noticed, in reality, they are functioning and large scale illegal mining is going on in the River Yamuna bed and in nearby areas. Further, it was also pointed out that large numbers of screening plants and stone crushers are seen fully operational on both sides of the River bed of Yamuna. Ramps/Roads are seen constructed for to and fro movement of the vehicles from/to such screening plants/crushers.

CEC has also produced the Quarterly Returns, transit passes issued by the officers and the quantity of mines and minerals transported. Report says that a total of 60,176 transit permits have been issued by the Saharanpur Mining Department for transportation of 2,40,704 cubic meter of illegally mined materials. Some of transit passes made available by CEC shows that seal of the Mining Department is affixed but there is official no signature, no details of vehicle numbers etc. Prima facie, it is seen that the Government machinery has failed in the District of Saharanpur in controlling the mining mafia. Such large-scale illegal mining operations could not have happened without the knowledge and blessings of the concerned officials.

Report has highlighted the sorry state of affairs as follows:

"The entire illegal mining has been legalized and facilitated by the concerned officers of the State of U.P., mainly by providing a disproportionately large number of transit permits to sanctioned leaseholders and which have been misused and by allowing the illegally established screening plants and crushers to continue operating. There is no effective system in place for checking illegal mining. The CEC is also of the view that the illegal mining has continued not because of lack of effective Rules and procedure but in spite of them. This has been mainly possible because of the active connivance of the officers."

Learned counsel, Mr. Kamalendra Mishra, who appeared for the State of U.P., submitted that the State has taken strong measures to close down Lot Nos. 7, 8, 13, 26, 27,28 and 29, covering an area of 686.6 acres and adequate number of police forces are deployed to ensure that illegal mining do not take place in those areas and now mining in those areas is virtually stopped with effect from 22.12.2011.

We fail to see, what the officers were doing all these years and they woke up only when CEC came for inspection. Prima facie, we are of the view that such large scale mining operations would not have taken place without the tacit permission and knowledge of some of the officials in-charge, which calls for detailed enquiry.

In view of the above mentioned circumstances, we are inclined to pass the following order:

(1) The District Collector, District Superintendent of Police, and the Additional Director (Mining Division) of Sharanpur, would see that no illegal mining be carried on in the District.

(2) They are directed to take immediate steps to close down all illegally operating screening plants/crushers etc on both sides of the River Yamuna forthwith and the illegally mined sand, bajri and boulders and the vehicles be seized forthwith;

(3) Screening plants/crushers located on either side of the River Yamuna, within the prohibited zone and operating in violation of guidelines issued by the U.P. Pollution Control Board and/or within the prohibited zone, shall be immediately dismantled;

(4) State of U.P. would make available the details of the current mining leases granted District wise, the duration, area, with or without clearance from the State Pollution Control Board, MoEF and National Board for Wildlife.

(5) Compliance report to that effect be filed before this Court within two weeks. The Chief Secretary of the State of U.P. shall ensure compliance of this order.

RAJASTHAN:

Report also deals in detail the illegal mining going on in the District of Alwar, Rajasthan and the nearby places, which also depicts the failure of the Government machinery. Report says that as on 1.10.11, there are seven mining leases for major minerals and 314 leases for minor minerals which are in operation in the District Alwar, out of which, 34 mining leases fell in Tehsil Tizara. 19 of the 34 leases, have obtained environment clearance in terms of Aravialli Notification dated 7.5.1992 issued by MoEF and the remaining 15 leases which are located in areas outside the above categories of land and it is stated, do not require environment clearance in terms of the above notification. Report also states that there are no sanctioned mining leases in village Udhanwas. CEC, on site inspection, has, however, noticed massive illegal mining is going on in the reserved forest area falling in Village Udhanwas and adjoining villages. At certain places, hillock has been completely blasted out for illegal mining and split into two distinct parts. Further, it is also stated that there are large number of crusher plants located in and around the Village Udhanwas.

We fail to see that how mining in large scale has been allowed in Udhanwas. Report says that obstruction was created to prevent the CEC to visit certain areas where crushers are located by blocking the road, which also calls for explanation from the

officials concerned. Report says that the Forest Survey of India has prima facie assessed the illegal mining going on in those areas.

Report further states as follows: "The area under illegal mining has been assessed by the Forest Survey of India to be 51.72 ha in 2010 whereas the area under mining in 2005 was 12.94 ha. At present, the area under illegal mining is bound to be much more as the satellite imageries used by the FSI are of the year 2010."

Details of the illegal mining going on in the Villages of the District of Mewat has also been elaborately dealt with by the CEC. CEC visited the three mining areas namely, Chopanki, Gawalada and Hasanpur and pointed out how illegal mining is going on in those areas as well. CEC has pointed out four mining leases have been granted in Chopanki block and Report indicates that environment clearance was granted to those mining leases subject to certain conditions. But, none of those conditions is seen complied with. Same is the situation with regard to the other five mining leases in Gawalada block. In Hasanpur block, eighteen mining leases have been granted and was given environment clearance subject to certain conditions, but none of those conditions have been complied with.

We find that there is total inaction on the part of the officials in permitting those mining leases to operate and the officials have completely failed to control the illegal mining going on in those areas.

CEC in its report has specifically referred to 1,537 mining leases of major minerals, 10,868 lease of minor minerals and 16,239 quarry licenses of minor minerals each having an area less than 5 hectares prevailing in the State of Rajasthan. Majority of the mining leases have been granted in the "clusters". It was pointed out that production of more than 60 million MT of bajri is taking place without obtaining environment clearance. Further, it was pointed out that instead of granting individual leases/mineral concessions, the State of Rajasthan grants Royalty Collection Contract/excess Royalty Collection contract for bajri excavated and removed from the specified areas. The State of Rajasthan is directed to explain the legality and propriety of granting such Royalty Collection Contracts.

In such circumstances, we are inclined to issue the following order:

- (1) The District Collector, Superintendent of Police, Mining Officer, Alwar will take immediate steps to stop all illegal mining activities going on in the village Udhanwas and to seal all crusher plants, screening plants etc. operating illegally in Udhanwas and the nearby areas;
- (2) Mining operations going on at Chopanki, Gawalada and Hasanpur blocks without complying with the conditions imposed for environment clearance and proper sanction, be immediately stopped;
- (3) Screening plants/crushers illegally functioning there be seized so also the illegally mined materials and also the vehicles used for illegal transportation of those material.

(4) State of Rajasthan would make available the details of the number of current mining leases granted District-wise, its duration, area with or without clearance from the State Pollution Control Board, MoEF, National Board for Wildlife etc.

(5) Compliance report to this respect be filed within two weeks.

The Chief Secretary to the State of Rajasthan shall personally ensure compliance of this order.

.....J.
(K.S. Radhakrishnan)

.....J.
(Chandramauli Kr. Prasad)
New Delhi
January 16, 2012

ITEM NO.301 + 325 COURT NO.12 SECTION IVB
PH

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

IA NOS. 12-13, 14-15, 16-17 & 18-19 IN
Petition(s) for Special Leave to Appeal (Civil) No(s).19628-
19629/2009

(From the judgement and order dated 15/05/2009 in CWP
No.20134/2004,CWP No.4758/2008 of The HIGH COURT OF PUNJAB &
HARYANA AT CHANDIGARH)

DEEPAK KUMAR ETC. Petitioner(s)

VERSUS

STATE OF HARYANA & ORS.ETC. Respondent(s)
(With appln(s) for directions, stay and impleadment and office
report)

[FOR ORDERS]

WITH SLP(C) NO. ...CC 16157/2011
(With appln. for permission to file SLP and with prayer for interim
relief and office report)
SLP(C) NO. ..CC 18235/2011
(With appln. for c/d in filing SLP and office report)

325. SLP (C) 729-731/2011

(With appln. (s) for exemption from filing C/C of the impugned judgment and office report)

Date: 16/01/2012 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN

HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD

For appearing parties:

MR. P.S.NARASIMHA,SR ADV (AC)

MR. GAURAV AGRAWAL,ADV.

MR. K. PARAMESHWAR,ADV.

MR. HARIS BEERAN,ADV.

MR. P.K. MANOHAR,ADV.

...2/-

: 2 :

301. Mr. A.Venayagam Balan,Adv.

Mr. PS Patwalia,Sr.Adv.

Mr. Jitendra Mohan Sharma,Adv.

Mr. Sandeep Singh,Adv.

Mr. Vibha Verdhan,Adv.

Ms. Anjali Bhargava,Adv.

Mr. Sarvesh Singh,Adv.

Mr. Balbir Singh Gupta,Adv.

Mr. Shreekant N. Terdal,Adv.

Mr. Manjit Singh,Adv.

Mr. Tarjit Singh,Adv.

Mr. Kamal Mohan Gupta,Adv.

Mr. Shree Pal Singh,Adv.

Mr. Gopal Subramaniam,Sr.ADV.

Mr. Raju Ramchandran,Sr.Adv.

Mr.Alok Sangwan,ADV.

Mr. Chinmoy P Sharma,Adv.
Mr. Narender Hooda,AAG Haryana

Mr. PN Misra, Sr.Adv.
Mr. TN Singh,Adv.
Mr. Rajeev Dubey,Adv.
Mr. Kamendra Mishra,Adv.

Mohd. Fuzail Khan,Adv.
Ms. Shefali Jain,Adv.
Mr. R.P. Singh, Adv.

Mr. Tapesh Kumar Singh,Adv.

Mr. Samir Ali Khan,Adv.

Mr. Devashish Bharuka,Adv.

Mr. Mohan Jain,ASG.
Mr. D.K.Thakur,Adv.
Mr. Karthik Ashok,Adv.
Mr. B.K.Prasad,Adv.

...3/-

: 3 :

325. Mr. Radha Shyam Jena,Adv.

Mr. Shree Pal Singh, Adv.

UPON hearing counsel the Court made the following
O R D E R

Hon'ble Court passed certain directions in the matters
in terms of the signed order.

List on 23/01/2012.

(N.K. Goel) (S.S.R. KRISHNA)
Court Master Court Master
(Signed order is placed on the file)