

Item No. 09

Court No. 2

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

Original Application No. 902/2024

Ram Saran Gusain Son of
Radhey Shyam Gusain

Applicant(s)

Versus

State of Uttarakhand

Respondent(s)

Date of hearing: 16.10.2024

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: None

Respondents: Ms. Anjali Rajput, Advocate for State of Uttrakhand
Mr. Mukesh Verma and Ms. Vatsala Tripathi, Advocates for UKPCB
(through VC)

ORDER

1. Ram Saran Gusain Son of Radhey Shyam Gusain has forwarded a letter petition received in Tribunal on 01.12.2023 whereupon this Original Application (hereinafter referred to as '**OA**') has been registered in exercise of *suo-moto* jurisdiction under Section 14 & 15 of National Green Tribunal Act, 2010 (hereinafter referred to as '**NGT Act, 2010**') jurisdiction in view of law laid down in **(2022) 13 SCC 401, Municipal Corporation of Greater Mumbai v. Ankita Singha & Ors.**

2. Complainant has said that for removal of muck/silt deposited due to flood at Triveni Ghat platform, authorities executed a contract with Akash Jain for removal of such muck/silt but in the garb of muck/silt removal, contractor has entered into illegal mining activity and excavating sand, bajri from river bed of River Ganga at Trivenighat, Naavghat, Duttatray Ghat, Suryaghat and Mayakund in Rishikesh, District

Dehradun. Mining activities are being carried out by using heavy machines like JCB and on account of said illegal mining, river ecology is being adversely affected causing damage to environment in a large scale.

3. Tribunal after being *prima facie* satisfied that substantial question relating to environment had arisen due to implementation of Scheduled enactments under NGT Act, 2010, constituted a Joint Committee comprising District Magistrate, Dehradun, Uttarakhand State Pollution Control Board (hereinafter referred to as '**UK SPCB**') and a representative of National Mission for Clean Ganga (hereinafter referred to as '**NMCG**') to submit a factual report to verify facts.

4. Pursuant thereto, District Magistrate Dehradun has submitted reply dated 14.10.2024 annexing therewith a copy of alleged Joint Committee report which shows that Joint Committee constituted by this Tribunal was altered by District Magistrate at its own level without even having any such authority in as much as instead of District Magistrate, Dehradun, it is Deputy Collector, Dehradun who has been made member of Committee to visit site and submit report. This action on the part of District Magistrate is absolutely illegal, unauthorized and beyond his authority. It amounts to violation of Tribunal's order and constitute an offense under Section 26 of NGT Act, 2010 for which appropriate criminal action may be taken against District Magistrate concerned.

5. Further, we find from report that mining activity was allowed to Akash Jain, S/o Mukesh Kumar Jain R/o 344, Shyampur, Rishikesh District Dehradun for removal of sand near Triveni Ghat area of river Ganga at Rishikesh but it does not appear from record that any environmental clearance and consent was obtained before carrying out mining.

6. Learned counsel appearing for State of Uttarakhand submitted that only permission of transportation was granted but could not dispute that it is removal, transportation and disposal of sand which has been allowed to Akash Jain and thus element of winnability of mineral is present and this satisfy definition of mining operation under Mines and Minerals (Development And Regulation) Act, 1957 which reads is as under:-

“3. In this Act, unless the context otherwise requires:-

(d) “mining operations” means any operations undertaken for the purpose of winning any mineral;

7. Supreme Court in ***Deepak Kumar vs. State of Haryana, (2012) 4 SCC 629*** has said that whenever there is mining, same cannot be allowed without obtaining Environmental Clearance which has not been done in the present case and it shows that District Magistrate has allowed mining activities in a wholly illegal manner.

8. In these facts and circumstances, we find it appropriate to implead following as respondents:-

- i. State of Uttarakhand through Principal Secretary, Forest, Environment and Climate Change.
- ii. District Magistrate, Dehradun.
- iii. District Mining Officer, Dehradun.
- iv. Director, Geology and Mines, State of Uttarakhand, Dehradun.
- v. Uttarakhand Pollution Control Board through its Member Secretary at Gaura Devi Prayavaran Bhawan 468, I.T. Park, Sahastradhara Road, Dehradun

vi. Akash Jain, S/o Mukesh Kumar Jain R/o 344, Shyampur,
Rishikesh District Dehradun

9. Sh. Mukesh Verma, Advocate has accepted notice on behalf of
respondent 5.

10. Office is directed to issue notices to respondents 1 to 4 and 6.

11. In addition to the normal mode of service provided in the Rules,
respondent 6, Akash Jain shall also be served notice through District
Magistrate, Dehradun within 10 days and District Magistrate shall
submit a service report within one week thereafter.

12. Respondents may file response within two weeks after receipt of
notice.

13. Considering the facts and circumstances and also report that
shows that still some mining activities are yet to be completed by
respondent 6 which is being carried out *prima facie* illegally and in
violation of Environment Impact Assessment Notification dated
14.09.2006 as amended from time to time read with Environment
Protection Act, 1986, we restrain respondent 6 from carrying out any
mining activities at Triveni Ghat or nearby area.

14. List on 21.11.2024.

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

October 16, 2024
Original Application No. 902/2024
AB

