

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

Original Application No. 135/2024
And
Original Application No. 267/2024

Khusbu Singh

Applicant(s)

Versus

State of U.P. & Ors.

Respondent(s)

Date of hearing: 24.10.2024

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

Applicant: None

Respondents: Mr. Ankit Verma, Advocate for State of U.P.
Mr. Mukesh Verma, Advocate for Mining Department, State of U.P.
Mr. Pradeep Misra, Advocate for UPPCB (through VC)
Ms. Suhasini Sen and Ms. Surbhi, Advocates for Respondent no. 6

ORDER

1. The issue involved in both these Original Application is similar therefore, both are taken together.
2. Both Original Applications were registered in exercise of suo-moto jurisdiction received from Khusbu Singh, the same applicant.
3. Complainant has alleged about damage to breeding ground of Turtle Wildlife Sanctuary and aquatic life at Pyayagraj, Mirzapur and Sant Ravidas Nagar (Bhadhoi) by large scale illegal mining i.e. sand mining, using heavy pokland machines, dumper, tractor and motor boats causing noise pollution and damage to ecology.
4. Turtle Wildlife Sanctuary was earlier located at Ramnagar Kashi, Varansai till 2020. With increase in concretized river bank, religious,

tourism, commercial activities and increase in number of boats, Turtle Sanctuary was de-notified by State Government and shifted by demarcating 30 km area of River Ganga at Prayagraj, Mirzapur and Sant Ravidas Nagar (Bhadhoi) where maximum habitat of turtles was observed. In this regard 60 Officers were trained and survey was carried out by Experts of Turtle Survival Alliances, Lucknow. Survey team observed breeding grounds of turtle beyond 30 km on both banks within 10 km distance by observing their eggs on the sand.

5. O.A. 135/2024 took notice of the complaint on 18.04.2024 and found it appropriate to obtain a factual report, hence, constituted a Joint Committee comprising Integrated Regional Office, MoEF&CC, Lucknow, NMCG, CPCB, UPPCB, and District Magistrates, Bhadhoi and Mirzapur.

6. Committee was required to submit report at least one week before the next date fixed.

7. Pursuant to order dated 18.04.2024 passed in O.A. 135/2024, Joint Committee submitted its report dated 20.07.2024 through Regional Officer, Sonbhadra.

8. Observations and recommendations made by Joint Committee in the said report reads as under:

C. Observation of Joint committee during the site inspection:

Government of Uttar Pradesh (UP) through its Gazette Notification no.1485/14-4-2008-823/2008 dated 21.05.2009 notified the Kachhua Wildlife Sanctuary in district Varanasi (7.00 KM area of Mid-stream of river Ganga from both the banks, in upstream-Ramnagar Fort; downstream-Malviya Rail/road bridge; East-Eastern bank of river Ganga; West-Western bank of river Ganga (Varanasi City).

Above notification was rescind by the Government of Uttar Pradesh (UP) through its Gazette notification no. 336/81-4-2020-823-2008 T.C. dated 17 March, 2020. (Annexure A)

Further, Government of Uttar Pradesh (UP) through its gazette notification 346/81-4-2020-823-2008 T.C. Dated 17 March 2020 declared to constitute the area in the stretch of 30 km along both sides of the Ganga River falling in the districts of Bhadohi, Prayagraj and Mirzapur as Kachhua Wildlife Sanctuary (Bhadohi, Prayagraj and Mirzapur- Ganga- Area bounded by both banks of river Ganga in the stretch of 30 km. along main stream of River Ganga; Boundaries- East (downstream of the River - Latitude 25.273769, Longitude-82.287486 falling in Revenue boundary of village Baripur uparwar, Gyanpur of District Bhadohi; West (upstream of the River- Latitude 25.215000, Longitude-82.194814, falling in revenue boundary of village Kotahri, Meja of District Prayagraj; North-Left Bank of River Ganga; South- Right Bank of River Ganga) **(Annexure B)**

Ministry Of Environment, Forest and Climate Change (MOEF&CC) vide letter no. 1-9/2007-WL-I(pt) dated 09.02.2011 issued the guideline for the declaration of Eco-sensitive zone around National Park and Wildlife Sanctuaries, compliance of the above which has not been comply by the state government in the above sanctuary **(Annexure C)**

As per available record two ECs has been granted for sand mining in the district Bhadohi and one EC in district Mirzapur, which are as follows:

i) EC to M/s Lalira Buildcon Pvt. Limited, Smt Rupa Mishra, W/o Shri Vishnu Kumar Mishra, R.O.-69, Anand Lok near Kamla Nehru College, Andrewsganj, Defense Colony, South Delhi, Delhi vide EC no. 516/Parya/DEAC/DEIAA/2018 dated 02.07.2018, for a period of 5 years was cancelled vide DM, Bhadohi order no.289/khananlipik/2021 dated 28.04.2021 and another LOI was issued to Shri Rana Pratap Singh S/O/ Shri Gajra Singh, Ram Balanpur, Jangi Ganj, Gyanpur Bhadohi. U.P. vide letter no. 419/khanij/balu/E-nivida/she-enilami dated 15.09.2021 for 1, 21,410 m³ capacity per annum. Which was transferred to Shri Rana Pratap Singh, S/O Shri Gajra Singh, Ram Balanpur, Jangi Ganj, Gyanpur Bhadohi. U.P. vide letter no. 259/Parya/SEIAA/DEIAA-EC/2021 dated 19.10.2021 for extraction of the sand of 1, 21,410 cubic meter/year from lease area of 4.047 hectare for one year. Transfer of DEIAA EC dated 02.07.2018 was also in question. **(Annexure D)**

ii) Consent to operate (CTO) has not been issued by Uttar Pradesh Pollution Control Board (UPPCB).

iii) Environmental Clearance (EC) of Shri Girdhari Prasad Patahk has been granted by SEIAA-UP vide letter no. 23B001UP122625 (file no. 8402-7893) dated 08.12.2023, for extraction of the sand of 1, 21,410 cubic meter/year from lease area of 4.047 hectare. **(Annexure E)**

iv) Consent to operate (CTO) has been granted by Uttar Pradesh Pollution Control Board (UPPCB) vide letter no. 198330/UPPCB/Varanasi(UPPCBRO)/CTO/both/Bhadohi/202

3 dated 29.12.2023, which is valid from 12.12.2023 to 31.12.2025 for extraction of the sand of 1,21,410 cubic meter/year from lease area of 4.047 hectare. (**Annexure F**)

v) Regional Officer, UPPCB, Varanasi is recommended to revoke the CTO dated 29.12.2023 vide letter no 372/NGT OA No 135/2024/24-25 Dated 18.07.2024. (**Annexure G**)

vi) District magistrate (DM), Bhadohi has cancelled all active / advertised / sanctioned mining leases vide letter no. 303/Kanan lipik/2024 dated 03.01.2024 (**Annexure H**).

vii) EC of Shri Girdhari Prasad Patahk has been granted by SEIAA-UP vide letter no.EC22B00125833 dated 05.12.2022, for extraction of the sand of 1, 00,000 cubic meter/year from lease area of 5.0 hectare. (**Annexure I**)

viii) The mining lease namely M/s Prashant Maurya, Gata No-03 Mi, Khand-03, Village-Gogaon, Tehsil-Sadar, District-Mirzapur has obtained consent to operate 'CTO' from UPPCB vide reference no. 172278/UPPCB/Sonebhadra (UPPCBRO)/CTO/both/MIRZAPUR/2022 dated 29.12.2022 (**Annexure-J**).

ix) Regional Officer, UPPCB, Sonbhadra is recommended to revoke the CTO dated 29.12.2022 vide letter no G 0720/OA No.-135/2024/24-25 Dated 16.07.2024.

x) District magistrate (DM), Mirzapur has cancelled all active / advertised /sanctioned mining leases vide letter no. 7467/MMC-30/Khanij/2023-24 Dated 01.01.2024. (**Annexure-K**)

xi) District magistrate (DM), Mirzapur has cancelled 01 active and sanctioned mining lease namely M/s Prashant Maurya, Gata No-03 Mi, Khand-03, Village- Gogaon, Tehsil-Sadar, District-Mirzapur vide letter no. 993/MMC-30/Khanij/2023-24 Dated 29.05.2024. (**Annexure-L**)

xii) District magistrate (DM), Mirzapur has cancelled 01 'Letter of Intent' issued to mining lease namely M/s Vijay Kumar Singh, Gata No-03 Mi, Khand-04, Village-Gogaon, Tehsil-Sadar, District-Mirzapur vide letter no. 7846/MMC-30/Khanij/2023-24 Dated 20.01.2024. (**Annexure-M**)

- Joint committee was not found any active mining pit on above two leases.
- Joint committee has not found any illegal mining activity during on the river bed site of the Kachhua Wildlife sanctuary area falls in the district Bhadohi and Mirzapur.
- Joint committee has also observed the storage of the significant amount of sand near the office site of above two leases, it seems that it has been stored for a long time.

- *Joint committee has also observed various faunal diversity including: two dolphins, five species of native fish and One species of exotic fish etc.*
- *Joint committee has not found Kacchua (Turtle) within (near about area) of the Kacchua wild life Sanctuary.*
- *DM, Mirzapur, citing the request of DFO Prayagraj about the Kachhua Wildlife Sanctuary. Through her order 7846/ MMC-30/ Khanij/ 2023-24 Dated 20/01/2024 dated January 01, 2024 cancelled the active lease in the Protected Area (PA). **Annexure N***
- *DM, Prayagraj citing the request of DFO Prayagraj about the turtle sanctuary. ordered that no mining lease should be sanctioned in 10 km area considering the same as Eco-Sensitive Zone of the turtle sanctuary though letter number 4484 Dated June 20, 2024. This order further advised to stop any illegal sand mining within the sanctuary' ESZ. **Annexure O***
- *Photographs taken during joint inspection is attached in Annexure P*

D. Recommendation:

- *As evident that the demarcation of the Eco-sensitive zone has not been done by the state government so far. It is utmost important to demarcate the eco- sensitive zone in line of Ministry order etc. at earliest.*
- *Competent authority can address and notify the prohibited activity, permissible activity in the Eco-sensitive zone (ESZ) and published in local newspaper, hording etc for wide publicity among the local people.*
- *Local administration through mining department may dismantle established Office and way-bridge near mining area of Project Proponent and check storage of minerals near village brahimpur (Bhadohi).*
- *Local administration immediately sized the stored sand found during joint inspection in district Bhadohi.*
- *Local administration should place hoarding etc in various approached road going towards turtle wildlife sanctuary address the issue of Turtle Wildlife Notification, prohibited activity, permissible activity etc.*

- *Community awareness campaign needs to be conducted in all identified villages about the sanctuary declaration and rights of local communities in and around the PA. The objections from the communities against the announcements/publications of turtle sanctuary submitted to the concerned DMs and DFO/Controlling Officer need to be addressed at the earliest.*
- *Alternate livelihood options need to be scoped and implemented in the fishing community villages on the fringe with active assistance of regional station of CIFRI, Wildlife Institute of India and TSA Foundation India.*
- *Regular patrolling of the turtle sanctuary should be conducted at appropriate level (with active assistance of Ganga Task Force and Prayagraj, Badhoi and Mirazpur Forest Divisions). Turtle Survival Alliance (TSA) Foundation India can provide the patrolling framework and train GTF regarding the same.*
- *Proper consideration of Kacchua Wildlife Sanctuary before/during appraisal/allotment of all project including sand mining of district Mirzapur, Bhadihi, Prayagraj by Mining Department, Local Administration and SEIAA/SEAC-UP can also be ensured.*
- *Proper due diligence is required for transfer of the DEIAA-EC by SEIAA/SEAC-UP.*
- *State Wild life department shall also take suitable measure for conservation of the Gangetic Dolphin and other species found near the Kacchua Wild life sanctuary.*

9. Similar complaint was received in O.A 267 of 2024 which was noticed by Tribunal on 21.05.2024 and in absence of any information given to Tribunal that similar matter is already pending, have also Tribunal found it appropriate to obtain a factual report and thus constituted a Joint Committee comprising Divisional Forest Officer, Sant Ravidas Nagar (Bhadhoi), District Magistrate, Sant Ravidas Nagar

(Bhadhoi), Central Pollution Control Board, Regional Officer, MoEF&CC and UPPCB.

10. Committee was required to submit its report within two months.

11. Here also pursuant to Tribunal's order dated 21.05.2024 report of Joint Committee was submitted vide letter dated 02.08.2024 sent by District Magistrate, Bhadhoi. Observations and recommendations of Joint Committee to some extents similar to earlier report and reads as under:

C. Observation of Joint committee during the site inspection:

- *Government of Uttar Pradesh (UP) through its Gazette Notification no. 1485/14-4-2008-823/2008 dated 21.05.2009 notified the Kachhua Wildlife Sanctuary in district Varanasi (7.00 KM area of Mid-stream of river Ganga from both the banks, in upstream-Ramnagar Fort; downstream-Malviya Rail/road bridge; East-Eastern bank of river Ganga; West-Western bank of river Ganga (Varanasi City).*
- *Above notification was rescind by the Government of Uttar Pradesh (UP) through its Gazette notification no. 336/81-4-2020-823-2008 T.C. dated 17 March, 2020 (**Annexure A**).*
- *Further, Government of Uttar Pradesh (UP) through its gazette notification 346/81-4-2020-823-2008 T.C. Dated 17 March 2020 declared to constitute the area in the stretch of 30 km along both sides of the Ganga River falling in the districts of Bhadohi, Prayagraj and Mirzapur as Kachhua Wildlife Sanctuary (Bhadohi, Prayagraj and Mirzapur- Ganga- Area bounded by both banks of river Ganga in the stretch of 30 km. along main stream of River Ganga; Boundaries- East (downstream of the River - Latitude 25.273769, Longitude-82.287486 falling in Revenue boundary of village Baripur uparwar, Gyanpur of District Bhadohi; West (upstream of the River- Latitude 25.215000, Longitude-82.194814, falling in revenue boundary of village Kotahri, Meja of District Prayagraj; North-Left Bank of River Ganga; South- Right Bank of River Ganga) (**Annexure B**)*
- *Ministry Of Environment, Forest and Climate Change (MOEF&CC) vide letter no. 1-9/2007-WL-I (pt) dated*

09.02.2011 issued the guideline for the declaration of Eco-sensitive zone around National Park and Wildlife Sanctuaries, compliance of the above which has not been comply by the state government in the above sanctuary (**Annexure-C**)

As per available record two ECs has been granted for sand mining in the district Bhadohi, which are as follows:

i) EC to M/s Lalira Buildcon Pvt. Limited, Smt Rupa Mishra, W/o Shri Vishnu Kumar Mishra, R.O.-69, Anand Lok near Kamla Nehru College, Andrewsganj, Defense Colony, South Delhi, Delhi vide EC no.516/Parya/DEAC/DEIAA/2018 dated 02.07.2018, for a period of 5 years was cancelled vide DM, Bhadohi order no.289/khananlipik/2021 dated 28.04.2021 and another LOI was issued to Shri Rana Pratap Singh S/O Shri Gajra Singh, Ram Balanpur, Jangi Ganj, Gyanpur Bhadohi. U.P. vide letter no. 419/khanij/balu/E-nivida/she-enilami dated 15.09.2021 for 1, 21,410 m³ capacity per annum. Which was transferred to Shri Rana Pratap Singh, S/O Shri Gajra Singh, Ram Balanpur, Jangi Ganj, Gyanpur Bhadohi. U.P. vide letter no. 259/Parya/SEIAA/DEIAA-EC/2021 ated19.10.2021 for extraction of the sand of 1, 21,410 cubic meter/year from lease area of 4.047 hectare for one year. Transfer of DEIAA EC dated 02.07.2018 was also in question. (**Annexure D**)

ii) Consent to operate (CTO) has not been issued by Uttar Pradesh Pollution Control Board (UPPCB).

iii) Environmental Clearance (EC) of Shri Girdhari Prasad Patahk has been granted by SEIAA-UP vide letter no. 23B001UP122625 (file no. 8402-7893) dated 08.12.2023, for extraction of the sand of 1, 21,410 cubic meter/year from lease area of 4.047 hectare. (**Annexure E**)

- iv) Consent to operate (CTO) has been granted by Uttar Pradesh Pollution Control Board (UPPCB) vide letter no.198330/UPPCB/Varanasi PPCBRO)/CTO/both/Bhadohi/2023 dated 29.12.2023, which is valid from 12.12.2023 to 31.12.2025 for extraction of the sand of 1,21,410 cubic meter/year from lease area of 4.047 hectare. (**Annexure F**)

v) Regional Officer, UPPCB, Varanasi is recommended to revoke the CTO dated 29.12.2023 vide letter no 372/NGT OA No 135/2024/24-25 Dated 18.07.2024. (Annexure G)

District magistrate (DM), Bhadohi has cancelled all active / advertised / sanctioned mining leases vide letter no. 303/ Kanan lipik/2024 dated 03.01.2024 (Annexure H).

- *Joint committee was not found any active mining pit on above two leases.*
- *Joint committee was found pathway for transportation from mining area in Eco- sensitive area near Villge-Ibrahimpur (Bhadohi).*

Joint committee has not found any illegal mining activity during on the river bed site of the Kachhua Wildlife sanctuary area falls in the district Bhadohi and Mirzapur.

- *Joint committee has also observed the storage of the significant amount of sand near the office site of above two leases, it seems that it has been stored for a long time.*
- *Joint committee has also observed various faunal diversity including: two dolphins, five species of native fish and One species of exotic fish etc.*
- *Joint committee has not found Kacchua (Turtle) within (near about area) of the Kacchua wild life Sanctuary.*
- *DM, Prayagraj citing the request of DFO Prayagraj about the turtle sanctuary. Ordered that no mining lease should be sanctioned in 10 km area considering the same as Eco-Sensitive Zone of the turtle sanctuary though letter number 4484 Dated June 20, 2024. This order further advised to stop any illegal sand mining within the sanctuary' ESZ. Annexure I*
- *Photographs taken during joint inspection is attached in Annexure J*

D. Recommendation:

- *As evident that the demarcation of the Eco-sensitive zone has not been done by the state government so far.*

It is utmost important to demarcate the eco- sensitive zone in line of Ministry order etc. at earliest.

- *Competent authority can address and notify the prohibited activity, permissible activity in the Eco-sensitive zone (ESZ) and published in local newspaper, hording etc for wide publicity among the local people.*
- *Local administration through mining department may dismantle established Office and way-bridge near mining area of Project Proponent and check storage of minerals near village Ibrahimpur (Bhadohi).*
- *Local administration immediately sized the stored sand found during joint inspection in district Bhadohi.*
- *Local administration should place hoarding etc in various approached road going towards turtle wildlife sanctuary address the issue of Turtle Wildlife Notification, prohibited activity, permissible activity etc.*
- *Community awareness campaign needs to be conducted in all identified villages about the sanctuary declaration and rights of local communities in and around the PA. The objections from the communities against the announcements/ publications of turtle sanctuary submitted to the concerned DMs and DFO/Controlling Officer need to be addressed at the earliest.*
- *Alternate livelihood options need to be scoped and implemented in the fishing community villages on the fringe with active assistance of regional station of CIFRI, Wildlife Institute of India and TSA Foundation India.*
- *Regular patrolling of the turtle sanctuary should be conducted at appropriate level (with active assistance of Ganga Task Force and Prayagraj, Badhohi and Mirzapur Forest Divisions). Turtle Survival Alliance (TSA) Foundation India can provide the patrolling framework and train GTF regarding the same.*
- *Proper consideration of Kacchua Wildlife Sanctuary before/during appraisal/allotment of all project including sand mining of district Mirzapur, Bhadihi, Prayagraj by Mining Department, Local Administration and SEIAA/SEAC-UP can also be ensured.*
- *Proper due diligence is required for transfer of the DEIAA-EC by SEIAA/SEAC-UP.*

- *State Wild life department shall also take suitable measure for conservation of the Gangetic Dolphin and other species found near the Kacchua Wild life sanctuary.*

12. Considering Joint Committee Report in O.A. 135 of 2024 Tribunal vide order dated 23.07.2024 impleaded following as respondents 1 to 8:

- i. State of U.P. through Secretary, Ministry of Environment, Forest & Climate Change, Lucknow, Indira Bhawan, Gomti Nagar, Lucknow, Uttar Pradesh 226010
- ii. Uttar Pradesh Pollution Control Board, Through Member Secretary, PICUP Bhawan, B-Block, 3rd Floor, Vibhuti Khand, Gomti Nagar, Lucknow, Uttar Pradesh 226010
- iii. District Magistrate, Prayagraj (Allahabad), Collectorate Building, Civil Lines, Prayagraj, Uttar Pradesh 211001
- iv. District Magistrate, Bhadohi (Sant Ravidas Nagar), Collectorate Building, Bhadohi, Sant Ravidas Nagar, Uttar Pradesh 221401
- v. District Magistrate, Mirzapur, Collectorate Building, Mirzapur, Uttar Pradesh 231001
- vi. Ministry of Environment, Forest & Climate Change, New Delhi through its Secretary, Indira Paryavaran Bhawan, Jor Bagh Road, New Delhi 110003
- vii. Principal Chief Conservator of Forests (Wildlife), Lucknow, Uttar Pradesh, 17 Rana Pratap Marg, Lucknow, Uttar Pradesh 226001 and
- viii. Director of Mines and Geology, Shram Shakti Bhawan, Rafi Marg, New Delhi 110001.

13. In O.A. 267 of 2024 vide order dated 05.08.2024 following were impleaded as respondents:

I. State of Uttar Pradesh thorough Secretary, Environment and Forest, Lucknow

II. District Magistrate, Bhadhoi; (District Sant Ravidas Nagar)

III. Uttar Pradesh State Pollution Control Board through its Member Secretary, Building. No. TC-12V Vibhuti Khand, Gomti Nagar Lucknow-226010

IV. Principal Chief Conservator Forest, U.P., Lucknow

V. Divisional Forest Officer, Bhadhohi (District Sant Ravidas Nagar)

VI. Rana Pratap Singh S/o Shri Gajraj Singh, Ram Balanpur, Jangi Ganj, Gyanpur Bhadhohi (Sant Ravidas Nagar).

VII. M/s Lalira Buildocn Pvt Ltd., Smt. Rupa Mishra, W/o Shri Vishnu Kumar Mishra, R/o-69, Anand Lok near Kmla Nehru College, Andresganj, Defence Colony, South Delhi, Delhi

VIII. Girdhari Prasad Pathak Village Mahera, Tehsil Bara, District Prayagraj.

14. Subsequently Tribunal considering the matter on 11.09.2024 in both the O.As and finding that there are some more individual lease holders who had carried out mining pursuant to mining permissions granted illegally, and are necessary to be impleaded passed order to implead them as respondents 9 to 17 in both the matters.

I. Rana Pratap Singh son of Gajraj Singh, resident of village Balanpur, Jangi Ganj, Tehsil Gyanpur, District Bhadhoi

II. Girdhari Prasad Pathak resident of village Mahera, Tehsil Bara, District Prayagra

III. Vijay Kumar Singh resident of Dubar Kalan Lalgang District Mirzapur

IV. M/s Prakash through his proprietor Prakash Chandra Shukla son of Lal Chandra Shukla resident of village Permanandpur, Tehsil Handiya, District Prayagraj

V. M/s Mahip Construction through his proprietor Shri Mahip Singh son of late Shesh Pratap Singh resident of Bisenkapura, Post Dahariya Urva, Tehsil Meja, District Prayagraj

VI. Shrimati Shakuntala W/o of Shri Punjab Singh resident of Village Bisenpur, Post Dahariya, Police Station Meja, District Prayagraj

VII. M/s Gyatri Construction through its proprietor Shrimati Gyatri Singh resident of Phase-2, Soyepur, Pandeypur District Varansi

VII. Arun Kumar Singh son of Dharmender Pratap Singh resident of village Mandakhas, Police Station Tappa Manda, Tehsil Meja, District Prayagraj

VIII. M/s Singh Construction through his proprietor Shri Dheeraj Singh son of Shri Kamlakar Singh resident of Village and Post Ghurpur, Tehsil Bara District Prayagraj

IX. Arun Kumar Singh son of Dharmender Pratap Singh resident of village Mandakhas, Police Station Tappa Manda, Tehsil Meja, District Prayagraj.

15. Office Report shows that notice sent to respondent 12 has been received back undelivered and status of service in respect of respondents 11 and 14 is yet to be received.

16. In O.A. 267/2024 respondent 7 M/s Lalira Buildocn Pvt Ltd., is undelivered. None has appeared on behalf of private respondents who have been served notices.

17. We have heard Mr. Ankit Verma, Advocate for State of U.P., Mr. Mukesh Verma, Advocate for Mining Department, State of U.P., Mr. Pradeep Misra, Advocate for UPPCB (through VC), Ms. Suhasini Sen and Ms. Surbhi, Advocates for Respondent no. 6.

18. From record we find that though admittedly area of mining leases granted to private individuals, impleaded as respondents in these matters, comprised of prohibited area where mining leases could not have been allowed within the notified sanctuary area or prohibited area outside the said sanctuaries in view of Supreme Court Judgment in ***IN RE: T.N. Godavarman Thirumulpad Vs. Union of India*** 03.06.2022 as modified by order dated 26.04.2023 W.P. (C) No.202 of 1995 yet that not only District Magistrate concerned granted permission in prohibited area for mining that too violating environmental laws and in violation of Supreme Court's order also but even the Statutory Regulators of environmental laws i.e. SEIAA, UP and UPPCB did not examine as to whether any EC or consent could have been issued for such mining activities in prohibited areas and in a mechanical manner issued such Clearances/Consents.

19. This is flagrant violation of environmental laws, non application of mind, and exercise of illegal power vested in authorities which includes concerned District Magistrates as also SEIAA, UP and UPPCB.

20. Since SEIAA, UP, is not a party, it is impleaded as respondent 18, in O.A. 135/2024. Registry shall issue notice to it.

21. We do not find any explanation from record from responses submitted by concerned District Magistrates and UPPCB as to how in what circumstances mining permissions were granted or consent/clearances were issued for carrying out mining activities in such prohibited areas.

22. In these circumstances, we direct Member Secretary, UPPCB and SEIAA, UP to explain as to how and in what circumstances, consent and clearances were issued for permitting mining activities in prohibited areas and that too in violation of directions issued by Supreme Court. Similar reply shall also be submitted by concerned District Magistrates, Sant Ravidas Nagar (Bhadhoi), Mirzapur and Prayagraj.

23. If no valid justification is submitted, Member Secretary, UPPCB, Member Secretary, SEIAA, District Magistrate, Sant Ravidas Nagar (Bhadhoi), District Magistrate, Mirzapur and District Magistrate, Prayagraj shall remain present before Tribunal on the next date.

24. List for further consideration on 20.11.2024.

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

October 24, 2024
Original Application No.135/2024 and 267/2024
M