

Item No. 05

Court No. 1

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

Original Application No. 670/2018

(With report dated 15.03.2021)

Atul Singh Chauhan

Applicant

Versus

Ministry of Environment and Forests &
Climate Change & Ors.

Respondent(s)

Date of hearing: 18.03.2021

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

Respondent: Mr. Ankit Verma, Advocate for the State of UP
Mr. Pradeep Misra, Advocate for UPPCB

ORDER

1. The issue for consideration is the remedial action against illegal sand mining in Prayagraj District in Uttar Pradesh. The Tribunal earlier issued directions and also constituted an Oversight Committee, headed by a former Judge of the Allahabad High Court. The composition thereof changed by a subsequent order.¹

2. The matter was considered on 07.07.2020, in light of the report of the Oversight Committee dated 04.07.2020, indicating the current status and the recommendations of the Committee for further action. The Committee formulated 11 points of discussion and indicated compliance status with regard to each of the said points. The Tribunal directed further action in the light of the recommendations of the Oversight Committee and a further report filed.

¹ Under order dated 16.03.2020 in the present matter, Justice SVS Rathore, former Judge of the Allahabad High Court at Lucknow is now heading the said Committee.

3. The matter was last considered on 18.09.2020 in the light of the further report dated 17.09.2020 filed by the Oversight Committee. Since the grievance survived with regard to the certain violations and also with regard to finalization of environmental compensation, the Tribunal directed District Magistrate, Prayagraj to take further steps and to maintain vigilance. Direction was also issued for finalizing the assessment of compensation and filing of a status report. The operative part of the said order is as follows:-

“1to5.....xxx.....xxx.....xxx

6. *Let the District Magistrate, Prayagraj take further steps in the matter and maintain surveillance. The issue of compensation, if not already finalized, may be finalized with the assistance of the CPCB and report furnished to the Oversight Committee. The Oversight Committee may give its further report of status as on 28.02.2021, before the next date by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.”*

4. Accordingly, the Oversight Committee has filed its further report on 15.03.2021. The report mentions steps taken by the District Administration and the monitoring by the Oversight Committee. The compliance status has been given in a tabular as follows:-

S. No.	Issues/points of discussion	Compliance Status
1.	Report regarding District Prayagraj. Recovery of damages for illegal mining and coercive measures against the vehicle involved in illegal sand mining.	Mr. Anjani Kumar Singh, Regional Officer, Prayagraj informed that the above penalty regime would be applicable for the offence committed for the first time but in case of repetition, penalty regime as provided in the order of Hon’ble NGT dated 10.11.2019 would be applicable. In the said order of Hon’ble NGT, it was directed that the State Government has to amend the rules and the confiscating officer is to be designated in consonance with amendments made and the amount so collected is to be remitted to State PCB/PCCs for being utilized for restoration of environment. The Hon’ble NGT had further directed that the above compensation regime will be over and above any existing rules or provisions. Let the State Government issue an appropriate Office Order/Rule to this effect in accordance with the spirit of orders of Hon’ble NGT referred to herein above by incorporating State Amendment.

		<p>The implementation has been initiated in district Prayagraj. As per the information, approx. 235 vehicles have been released by the Lower Court. In this regard, Mining department filed a revision in the District Judge Court. The Mandate has been issued. As per information given by Mr. Mithilesh Kumar Pandey, Mining Officer, Prayagraj that the Mining Department sent a letter dated 22.09.2020 to Environment Department regarding the amendment in the Rule along with the compensation. The work is in progress. The Committee directed the Regional Officer to submit the copy of the action plan in this matter. It was clearly observed that there is no amendment in the Rule by the Mining Department till date. It was also directed by the Committee that the Chief Secretary should look after this matter.</p>																								
2.	Status of Pattas	<p>The Committee was informed by Mr. Mithilesh Kumar Pandey, Mining Officer, Prayagraj that there are 51 areas identified as per DSR in Prayagraj. Out of 51 pattas, 19 are submerged and breakup of all 51 areas is annexed as Annexure- XXII. Moreover, 21 sand Blocks are in Yamuna River. Out of 21 Sand Blocks, 11 blocks are marked as water-logged area. The Working Lease Area- 02 (Balu Khand No. 5 & 6) and one sand blocks will be finalized today. The Status of Sand Blocks (Yamuna River) in District Prayagraj are as follow (Refer Annexure- XXII):</p> <table border="1" data-bbox="716 1325 1382 2005"> <thead> <tr> <th>S. No.</th> <th>Details</th> <th>Number of blocks</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>Total No. of Sand Blocks in Yamuna River</td> <td>21</td> </tr> <tr> <td>2</td> <td>Water Logged Area <i>(Mining Lease cannot be granted by the directions of Hon'ble NGT and Hon'ble Supreme Court Orders)</i></td> <td>11</td> </tr> <tr> <td>3</td> <td>Number of Re-advertised Sand Area</td> <td>01</td> </tr> <tr> <td>4</td> <td>Pending in SEIAA (For Environmental Clearance)</td> <td>04</td> </tr> <tr> <td>5</td> <td>Lease Deed Execution is in progress</td> <td>02</td> </tr> <tr> <td>6</td> <td>Working Lease Area</td> <td>02</td> </tr> <tr> <td>7</td> <td>Number of areas affected by Kumbh Mela</td> <td>01</td> </tr> </tbody> </table> <p>It was also informed by Mr. Mithilesh Kumar Pandey, Mining Officer, Prayagraj that there are 06 running leases (pattas) in Ganga (Operational) and 04 running leases (pattas) in Yamuna. Presently, only 10 pattas are operational and 07 blocks are pending in SEIAA for Environment Clearance since last one year.</p> <p>In this regard, the Committee had directed Mr. Ashish Tiwari, Member Secretary, UPPCB as well as Director, Environment, was to provide/clear the status of 07 pattas which are pending in SEIAA since last one year. Further, the Committee</p>	S. No.	Details	Number of blocks	1.	Total No. of Sand Blocks in Yamuna River	21	2	Water Logged Area <i>(Mining Lease cannot be granted by the directions of Hon'ble NGT and Hon'ble Supreme Court Orders)</i>	11	3	Number of Re-advertised Sand Area	01	4	Pending in SEIAA (For Environmental Clearance)	04	5	Lease Deed Execution is in progress	02	6	Working Lease Area	02	7	Number of areas affected by Kumbh Mela	01
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		directed to check illegal mining by all means and submit the breakup of all 51 areas (Refer Annexure- XXII). Shri Ashish Tiwari, Member Secretary, UPPCB suggested for issuing direction to CPCB to make standard formula for compensation instead of different compensation regimes presently in vogue.																																										
3.	Status of Action Plan regarding Illegal sand mining	<p>The Status of Action Plan regarding Illegal sand mining are as follows-</p> <ul style="list-style-type: none"> The enforcement figures in illegal mining/ transportation of Minerals as given by district administration are as follows (Refer Annexure- XIX): <table border="1"> <thead> <tr> <th>S. No.</th> <th>Illegal mining</th> <th>Illegal storage</th> <th>Lodged FIRs</th> <th>Illegal transport cases</th> <th>Cases lodged in Hon'ble Civil Court</th> </tr> </thead> <tbody> <tr> <td colspan="6" style="text-align: center;">FY : 2018-19</td> </tr> <tr> <td>1.</td> <td>56</td> <td>06</td> <td>196</td> <td>194</td> <td>06</td> </tr> <tr> <td colspan="6" style="text-align: center;">FY : 2019-20</td> </tr> <tr> <td>2.</td> <td>32</td> <td>04</td> <td>132</td> <td>537</td> <td>80</td> </tr> <tr> <td colspan="6" style="text-align: center;">FY : 2020-21 (Upto Jan 2021)</td> </tr> <tr> <td>3.</td> <td>36</td> <td>09</td> <td>166</td> <td>449</td> <td>370</td> </tr> </tbody> </table> <ul style="list-style-type: none"> Regarding the above, it was informed that for preventing the illegal mining/transportation/storage transfer, task force has been constituted at Tehsil level. There are 02 mining areas on the Yamuna river bed in the district with installed CCTV Camera and Weigh-bridge on the mining exit route. The area of sub-mineralization is marked with geo-coordinate. The vacant mining areas through e-tender cum e-auction has been advertised by the DM vide office letter no. 1958 dated 22.12.2020, in which the process of e-tender cum e-auction is under process. Online form of E-form MM-11 is popular. A Portal has been created for verification of deposition of E-form MM-11 relative to the quantity of sub-stations used by the working organization. There is provision in the rules for installation of CCTV cameras and weighing machines in sand mining areas. Accordingly, CCTV cameras and weighing machines have been installed in sand mining areas. <p>Important Enforcement Work in Financial Year 2020-21 are given below:</p> <ol style="list-style-type: none"> FIR was lodged on 12.01.2020 in Thana- Karchana against illegal storage of Sand which was stored at Village- Diha, Tehsil- Karchana. FIR was lodged on 12.01.2020 in Thana- Naini against illegal storage of Sand which was stored at Village- Diha, Tehsil- Karchana. FIR was lodged on 02.03.2020 in Thana- Ghoorpur against illegal storage of Sand which was stored at Village- Baswar, Tehsil- Karchana. FIR was lodged on 07.03.2020 against illegal storage of Sand which was stored at Tehsil- Sadar thana area Civil Lines FIR was lodged on 17.04.2020 against illegal storage of Sand which was stored at Village Kasondhan @Lakshagrih Tehsil Handiya. FIR was lodged on 25.04.2020 at Police Station Ghoorpur against illegal sand excavated from river 	S. No.	Illegal mining	Illegal storage	Lodged FIRs	Illegal transport cases	Cases lodged in Hon'ble Civil Court	FY : 2018-19						1.	56	06	196	194	06	FY : 2019-20						2.	32	04	132	537	80	FY : 2020-21 (Upto Jan 2021)						3.	36	09	166	449	370
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		<p>Yamuna and stored in Village Palpur and Amiliya, Tehsil- Karchana.</p> <p>7. FIR was lodged on 25.04.2020 at Police Station Ghoorpur against illegal sand excavated from river Yamuna and stored in Village Baswar Tehsil Karchana.</p> <p>8. FIR was lodged on 03.05.2020 at Police Station Lalapur against illegal sand excavated from river Yamuna and stored in Village Majhiyari Amad Tehsil- Bara.</p> <p>9. FIR was lodged on 11.05.2020 at Police Station Lalapur against illegal sand excavated from river Yamuna in district boundary, Prayagraj and Kaushambi in Village- Semri & Nodiha, Tehsil- Bara.</p> <p>10. FIR was lodged on 27.05.2020 at Police Station- Karchana against illegal sand excavated and stored in Village Diha, Tehsil Karchana.</p> <p>11. FIR was lodged on 01.06.2020 at Police Station Kondhiyara against illegal sand excavated and stored in Village Benipur, Tehsil Karchana.</p> <p>12. FIR was lodged on 04.06.2020 at Police Station Saraynayat against illegal sand excavated and stored in Village Lilapur Kala & Lilapur Khurd, Tehsil Phoolpur.</p> <p>13. FIR was lodged on 13.06.2020 at Police Station Industrial area Naini against illegal sand excavated and stored near UPSIDC Tehsil Karchhana.</p> <p>14. FIR was lodged on 23.06.2020 at Police Station Dhoomanganj against illegal sand excavated and stored in ADA Colony Tehsil Sadar.</p> <p>15. FIR was lodged on 27.06.2020 at Police Station Kareli against illegal sand excavated and stored in Village Sadiya, Imillytola Tehsil Sadar.</p> <p>16. FIR was lodged on 18.08.2020 at Police Station Naini against illegal sand excavated and stored in Village Chak Babura alimabad (ADA Colony) Tehsil Karchhana.</p> <p>17. FIR was lodged on 21.08.2020 at Police Station Handiya against illegal sand excavated and stored in Village Girdhacot Tehsil Handiya.</p> <p>18. FIR was lodged on 05.10.2020 at Police Station Lalapur against illegal sand excavated and stored in Village- Semri & Nodiha, Tehsil- Bara.</p> <p>19. FIR was lodged on 09.10.2020 at Police Station- Meja against illegal sand mining of stone excavated and stored in Village- Bhatauti, Tehsil Meja</p> <p>20. FIR was lodged on 18.10.2020 at Police Station- Shankargarh against Shri Prabhakar Singh Village- Garha Tehsil- Bara regarding illegal storage of silica sand after illegal mining transportation.</p> <p>21. FIR was lodged on 18.10.2020 at Police Station- Shankargarh against Shri Bhanu Pratap Singh resident of Tehsil- Bara, Prayagraj regarding illegal storage of silica sand after illegal mining transportation.</p> <p>22. FIR was lodged on 18.10.2020 at Police Station- Shankargarh Village- Garwa Tehsil- Bara against Shri Neeraj Gupta resident of Tehsil- Sadar regarding illegal storage of silica sand after illegal mining transportation.</p> <p>23. FIR was lodged on 18.10.2020 at Police Station- Shankargarh against Shri Nathu Prajapati resident of Village- Janwa, Tehsil- Bara regarding illegal storage of silica sand after illegal mining transportation.</p> <p>24. FIR was lodged on 22.10.2020 at Police Station- Naini against unknown persons for illegal storage and transportation of sand in Village- Makauda and Mohabbatganj under Tehsil- Karchana.</p> <p>25. FIR was lodged on 24.10.2020 at Police Station- Ghoorpur against unknown persons for illegal storage and transportation of sand in Village- Baswar under</p>
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		<p>Tehsil- Karchana.</p> <p>26. FIR was lodged on 24.10.2020 at Police Station-Naini against unknown persons for illegal storage and transportation of sand in Village- Makauda and Mohabbatganj under Tehsil- Karchana.</p> <p>27. FIR was lodged on 26.10.2020 at Police Station-Kareli against unknown persons for illegal storage and transportation of sand in Village- Saidpur and Kareda under Tehsil- Sadar.</p> <p>28. FIR was lodged on 28.12.2020 at Police Station-Handiya against unknown persons for illegal storage and transportation of sand in Village- Usmapur Uparhar under Tehsil- Handiya.</p> <p>29. FIR was lodged at Police Station- Ghoorpur against unknown persons for illegal storage and transportation of sand in Village- Baswar under Tehsil- Karchana.</p> <p>30. FIR was lodged at Police Station- Naini against unknown persons for illegal storage and transportation of sand in Village- Mohabbatganj under Tehsil- Karchana.</p> <p>31. FIR was lodged on 06.02.2021 at Police Station-Naini against unknown persons for illegal storage and transportation of sand in Village- Makauda, Mohabbatganj and Baswar under Tehsil- Karchana. (Refer Annexure- XIX)</p>
4.	<p>Status of 21 common area of Yamuna River located in Prayagraj District</p>	<p>The direction given by Hon'ble NGT dated 18.09.2020 was as follows:</p> <p>"Let the District Magistrate, Prayagraj take further steps in the matter and maintain surveillance. The issue of compensation, if not already finalized, may be finalized with the assistance of CPCB and report furnished to the Oversight Committee. The Oversight Committee may give its further report of status as on 28.02.2021, before the next date."</p> <p>Status of 21 common area of Yamuna River located in Prayagraj District</p> <ol style="list-style-type: none"> 1. Water Logged Area (Mining Lease cannot be granted by the directions of Hon'ble NGT and Hon'ble Supreme Court Orders)- 11 (Balu Khand No. 1,2,10,11,12,13,14,15,18,19,20) 2. Number of Re-advertised Sand Area- 01 (Balu Khand No. 8) 3. Number of Pending areas in SEIAA For Environmental Clearance- 04 (Balu Khand No. 7, 9, 16 21) Environmental Clearance Certificate is not obtained from the SEIAA for the said area. 4. Lease Deed Execution is in progress- 02 (Balu Khand No. 3 & 4) 5. Working Lease Area- 02 (Balu Khand No. 5 & 6) 6. Number of areas affected by Kumbh Mela- 01 (Balu Khand No. 17)

5.	Details of Enforcement of actions taken in financial year 2020-21 (near Yamuna River)	<p>The Details of Enforcement of action taken in FY 2020-21 are as follows-</p> <table border="1" data-bbox="719 370 1385 666"> <thead> <tr> <th data-bbox="719 370 808 438">S. No.</th> <th data-bbox="808 370 1011 438">Month</th> <th colspan="2" data-bbox="1011 370 1385 438">Number of Vehicle Caught</th> </tr> <tr> <td colspan="2"></td> <th data-bbox="1011 438 1214 505">In Month</th> <th data-bbox="1214 438 1385 505">Till Month</th> </tr> </thead> <tbody> <tr> <td data-bbox="719 505 808 545">1</td> <td data-bbox="808 505 1011 545">April, 2020</td> <td data-bbox="1011 505 1214 545">13</td> <td data-bbox="1214 505 1385 545">13</td> </tr> <tr> <td data-bbox="719 545 808 585">2</td> <td data-bbox="808 545 1011 585">May, 2020</td> <td data-bbox="1011 545 1214 585">51</td> <td data-bbox="1214 545 1385 585">64</td> </tr> <tr> <td data-bbox="719 585 808 626">3</td> <td data-bbox="808 585 1011 626">June, 2020</td> <td data-bbox="1011 585 1214 626">34</td> <td data-bbox="1214 585 1385 626">98</td> </tr> <tr> <td data-bbox="719 626 808 666">4</td> <td data-bbox="808 626 1011 666">July, 2020</td> <td data-bbox="1011 626 1214 666">13</td> <td data-bbox="1214 626 1385 666">111</td> </tr> <tr> <td data-bbox="719 666 808 706">5</td> <td data-bbox="808 666 1011 706">August, 2020</td> <td data-bbox="1011 666 1214 706">88</td> <td data-bbox="1214 666 1385 706">199</td> </tr> </tbody> </table> <p data-bbox="719 706 1443 975">The Committee was informed by Mr. Mithilesh Kumar Pandey, Mining Officer, Prayagraj that a letter no. 1919/M-228/2017 (Mining Rule) (V) dated 13.01.2021 is already dispatched for the purpose of effective control and curbing of illegal mining. An investigation team is being formed for monitoring on the Manda road, Rampur Meja Bhatauti, Ghoorpur route in the district, which will work for 24*7 in three shifts.</p>	S. No.	Month	Number of Vehicle Caught				In Month	Till Month	1	April, 2020	13	13	2	May, 2020	51	64	3	June, 2020	34	98	4	July, 2020	13	111	5	August, 2020	88	199
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6.	Status of Environmental Compensation	<p>The Committee was informed by Mr. Anjani Kumar Singh, Regional Officer, Prayagraj that no penalty has been realized so far from illegal miners. Regarding the above, it was informed that necessary action is to be taken by the CPCB & UPPCB in respect of environmental damage. The Government of Uttar Pradesh, Mining Department, Lucknow has requested the Principal Secretary, MOEF&CC, Govt. of U.P., Lucknow, through Govt. Letter No. 1672/86-2020 dated 22.09.2020 that given the order of the Hon'ble NGT related to the environment, it will not be appropriate to give instructions by the Mining Department. In this regard, Mr. D. K. Soni, Additional Director, CPCB informed that the Expert Committee had prepared a report regarding scale of environmental compensation to deal with the cases of illegal mining and submit it to Hon'ble NGT. The matter was heard on 17.08.2020 and NGT asked the Expert Committee to consider views of amicus curie. The Expert Committee has submitted its view on 12.10.2020 (suggesting no changes in previous report). The matter was listed for hearing on 14.01.2021 but has been adjourned to 26.02.2021. Meanwhile, the Oversight Committee may consider issuing instructions to the concerned authorities to use the scale proposed by the Expert Committee to impose penalty for illegal mining in the areas in question. (Refer Annexure- XXI).</p>																												

7.	<p>Status of Detailed Report in regard to steps taken against illegal sand miners, vehicles confiscated, penalty imposed/realized, action taken against accountable officers, surprise inspections by District Magistrate, Prayagraj and Senior Superintendent of Police and daily reports submitted by the district administration to the Head Office at Lucknow.</p>	<p>It was informed by Mr. Mithilesh Kumar Pandey, Mining Officer, Prayagraj that under the Mines and Minerals (Development and Regulation) Act, 1957 (i.e., MMDR Act), the competent authority is the court of Chief Judicial Magistrate for lodging complaints. In the complaints, orders of the Hon'ble NGT are referred to. Confiscated vehicles are released by the court of Chief Judicial Magistrate concerned after obtaining an affidavit and trial continues in due course. On query being made that when the orders of Hon'ble NGT in this regard have been confirmed by Hon'ble Supreme Court then why the Chief Judicial Magistrate is releasing the confiscated vehicles on affidavit and whether the Chief Judicial Magistrate is made aware of the above confirmation by Hon'ble Supreme Court on 07.05.2019 and even thereafter if confiscated vehicles are being released without payment of penalty, whether appeals are being preferred, the Chief Mining Officer replied that so far no appeal has been preferred, but they will do it now. Registration of vehicles is being done on the Vehicle Tracking System and mineral portal on the vehicles transporting the sub-mineral.</p> <p>No progress has been filed/submitted to the Committee till date. The Committee directed to submit the copy of the detailed report by District Magistrate and Senior Superintendent of Police, Prayagraj in this regard.</p>						
8.	<p>Status of Inspection Report made against illegal sand mining in the Districts of Kanpur Dehat, Fatehpur, Chitrakoot and Kaushambi</p>	<p>It was informed by Mr. Anil Kumar Sharma, Chief Mining Officer that the inspection report has been received by the Mining Department from Fatehpur and Chitrakoot, but no report has been received by Kanpur Dehat and Kaushambi till date. It was also noticed that no report has been given by the Mining Department to the Committee. The Committee directed to submit the copy of the inspection report of Fatehpur and Chitrakoot and the State Mines Department was directed to get an inspection done against illegal sand mining in Kanpur Dehat and Kaushambi at the earliest and submit a detailed report.</p> <p>As per the given information by Mr. A. K. Sharma, Chief Mining Officer vide letter dated 22.02.2021 in OA No. 673/2018, a total of 35 mining leases of Sub-tributary sand/ morang in Yamuna River under Saharanpur, Shamli, Baghpat, Ghaziabad, Gautam Buddha Nagar, Mathura, Agra, Auraiya, Kanpur Dehat, Fatehpur, Banda, Chitrakoot, Kaushambi and Prayagraj are approved/operated (Refer Annexure- XXIII).</p> <p>The Status of Inspection Report made against illegal sand mining in the Districts of Kanpur Dehat, Fatehpur, Chitrakoot and Kaushambi are submitted by Mr. A. K. Sharma, Chief Mining Officer vide letter 2230/M.-Enforcement Bundelkhand (Solid Waste) dated 22.02.2021 are as follows (Refer Annexure- XXIV):</p> <table border="1" data-bbox="716 1999 1433 2373"> <thead> <tr> <th>S. No.</th> <th>District</th> <th>Status</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>Fatehpur (Augasi Ghat)</td> <td>Investigation team was formed by District Collector, Fatehpur on 06.07.2020 to investigate the above area. The investigation dated 09.07.2020 is presented by the team constituted. It has been mentioned in the submitted report that Augasi Ghat where the bridge is under construction, there is no trace of mining/ transport on either</td> </tr> </tbody> </table>	S. No.	District	Status	1.	Fatehpur (Augasi Ghat)	Investigation team was formed by District Collector, Fatehpur on 06.07.2020 to investigate the above area. The investigation dated 09.07.2020 is presented by the team constituted. It has been mentioned in the submitted report that Augasi Ghat where the bridge is under construction, there is no trace of mining/ transport on either
S. No.	District	Status						
1.	Fatehpur (Augasi Ghat)	Investigation team was formed by District Collector, Fatehpur on 06.07.2020 to investigate the above area. The investigation dated 09.07.2020 is presented by the team constituted. It has been mentioned in the submitted report that Augasi Ghat where the bridge is under construction, there is no trace of mining/ transport on either						

		side of the bridge nor digging pits are found. It is clear from the above that in the area, no mining/transportation was found to be near the Augasi Ghat. Currently, no mining lease is operated.
2.	Chitrakoot	At present, 04 mining leases of sub mineral sand/morang are sanctioned in Chitrakoot district. Apart from the above areas, sand/morang is not being mined in the district. Under Enforcement work, in the FY 2020-21 by the month of January-2021, a total of 312 vehicles have been recovered and Rs. 70,41,511/- has been recovered as a case and FIR has been registered in 18 cases and a complaint has been lodged in the competent court in 89 cases. Constant Enforcement action is being taken by the task force constituted to prevent illegal mining/transportation.
3.	Kanpur Dehat	At present, 04 mining leases of sub mineral sand/morang are sanctioned/operational in Kanpur Dehat. Apart from the above areas, sand/morang is not being mined in the district. Under Enforcement work, in the FY 2020-21 by the month of October-2020, a total of 122 vehicles have been recovered and Rs. 40.52 lacs has been recovered as a case and FIR has been registered in 02 cases. Constant Enforcement action is being taken by the task force constituted to prevent illegal mining/transportation.
4.		Action has been taken against the concerned leaseholders on the basis of irregularities received in surprise inspections of the district officials, under which, if mining work is found outside 11 mining lease areas, the concerned leaseholder has been issued a show cause notice and notice for depositing the amount of revenue loss. For prevention of illegal mining/transportation/overloading, in the FY 2020-21, a total of 221 vehicles have been recovered and Rs. 61.12 lacs has been recovered as a case and FIR has been registered in 05 cases and a complaint has been lodged in the competent court in 15 cases. Constant Enforcement action is being taken by the task

				force constituted to prevent illegal mining/transportation /overloading.														
9.	Status of Task Force	The Committee was informed by Mr. Mithilesh Kumar Pandey, Senior Mines Officer, Prayagraj that task force has been constituted at district- level and tehsil-level (comprising of Sub Divisional Magistrate, Circle Officer and Assistant Road Transport Officer) to check/ for prevention of illegal mining/transportation/storage. Weekly reports are sent by Task Forces to SSP office. The Committee directed to submit the copy of the detailed report of task force at the earliest.																
10.	Status of Police Check-post in village Baswar, P.S. Ghoorpur	It was informed by Mr. Mithilesh Kumar Pandey, Senior Mines Officer, Prayagraj that the SSP, Prayagraj vide letter dated 14.04.2020 had directed SHO, Ghoorpur to make arrangement for establishment of Police Chowki in Village Baswar but a police outpost has not yet been established in village- Baswar, P.S.- Ghoorpur till date. It was also informed that the SSP has been asked to set up a Police Chowki in Village Baswar by the DM because Village Baswar is sensitive area. The work is in progress.																
11.	License from UPPCB and CGWA (83 Silica Sand Mining Plants)	<p>As per the earlier information given by Mr. Ashish Tiwari, Member Secretary, UPPCB informed that out of 83 Silica Sand Mining Plants which were identified, only 04 have permission from UPPCB. Rest all the plants were sealed for want of permission on the basis of inspection done by a Committee on 16.06.2020 and EC was imposed. District Magistrate has issued recovery certificate for realisation of the same.</p> <p>Mr. Rajendra Singh, CEO, UPPCB informed about the present status of 83 Silica Sand Mining Plants, are as follows (Refer Annexure- XX):</p> <table border="1"> <tr> <td>Total No, of Identified Silica Washing Plants</td> <td>83</td> </tr> <tr> <td>1. Valid consent</td> <td>05</td> </tr> <tr> <td>2. Without Consent (Defaulter)</td> <td>78</td> </tr> <tr> <td>3. Action against defaulters</td> <td></td> </tr> <tr> <td>(a) Closure order/ Directions</td> <td>17</td> </tr> <tr> <td>(b) EC + Closure Order/ Directions</td> <td>61</td> </tr> <tr> <td>(c) Recovery Certificate by DM</td> <td>60</td> </tr> </table> <p>The Committee directed that Silica Sand Mining Plants be made operational only after obtaining environmental clearance from UPPCB. In this regard, Mr. Mithilesh Kumar Pandey, Senior Mines Officer, Prayagraj informed that the EC has been imposed on 61 Silica Sand Mining Plants along with Closure Order/ directions.</p> <p>Comment by CPCB: In this regard, CPCB RD may write a letter to SPCB, as SPCB is the enforcement agency for U.P. in for ensuring compliance of EC requirement.</p>			Total No, of Identified Silica Washing Plants	83	1. Valid consent	05	2. Without Consent (Defaulter)	78	3. Action against defaulters		(a) Closure order/ Directions	17	(b) EC + Closure Order/ Directions	61	(c) Recovery Certificate by DM	60
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12.	Status of preparation of District Survey Report (DSR)	<i>It was informed by Mr. Anil Kumar Sharma, Chief Mining Officer that the DSR for Prayagraj has been prepared as per the guidelines of MoEF. A State Level Committee has been constituted comprising representatives of Revenue Department, Forest Department, Irrigation Department and Mining Department. The Committee directed that there is a need for preparation of DSR based on Physical surveys and replenishment studies, hence, the Committee observed that the pattas were the lease mandatory type and no physical surveys and replenishment studies has been done; because out of 51 areas, 19 are submerged and rest are unviable and has no tender process, however, there is need to be physical inspection by the concerned authorities.</i>
13.	Best practices (setting up of control rooms)	<i>The Committee has been informed by Chief Mining Officer that Command Centre has been established at Lucknow. Monitoring of mining areas is also done through Geo-fencing conducted by Geo-coordinate by the Unified Command Centre established at the Directorate level.</i>
14.	Status of installation of CCTV cameras at every dumping site	<i>Both the mining areas have CCTV cameras. CCTV camera is installed at the only point where sand mining is continuing as well as to check illegal sand mining and its transportation. This has also been incorporated in the Rule.</i>
15.	Installation of GPS	<i>The Chief Mining Officer informed that process for installing GPS in vehicles is in progress.</i>
16.	Utilization of Electronic surveillance through UAVs/Remote Sensing and Night vision drones for checking mining activity at night	<i>It was informed by Mr. Anil Kumar Sharma, Chief Mining Officer that Electronic surveillance through UAVs/Remote Sensing and night vision drones is not being utilized for checking mining activity at night. The Committee directed the Mining Department to make arrangements of Electronic surveillance through UAVs/Remote Sensing and Night vision drones for checking mining activity at night especially in areas where sand mafias are active at night.</i>
17.	Status of Regular Patrolling done by the police to inspect the mining operations (As per the directions given by the Committee Senior Superintendent of Police has been instructed by District Magistrate)	<i>Regarding the above, it was informed that a total of 449 vehicles have been detained in various Police Stations since April, 2020. Under Section-21(4A) of the MMDR Act, 1957, the Competent Court has the exclusive right to authorize/ dispose of the vehicles. A complaint has been filed in the Competent Court under Section-22 of the said Act, 1957 by Govt. Order No. 608(1)/86-10-24/09 dated 15.02.2010. The Compliant filed in the Hon'ble Court ACJM Room No. 5 & 17 Allahabad does not include the provisions of NGT by the Hon'ble Court and 252 vehicles have been released. Revision has been filed before the Hon'ble Sessions Court, Allahabad against the vehicle release order. The Committee directed Mr. Anil Kumar Sharma, Chief Mining Officer to submit the report at the earliest.</i>
18.	Status of Storage Godowns at least 5 kms away from the river bank	<i>The Committee was informed by Mr. Anil Kumar Sharma, Chief Mining Officer that mandate has been issued in this matter. The Committee directed to submit the copy at the earliest.</i>

19.	Status of Geo-fencing of sites	Mr. Anil Kumar Sharma, Chief Mining Officer informed that geo-fencing of sites, their physical demarcation has been done at the time of leasing along with the allotment of geo-coordinates to all the pillars.
20.	Status of Environmental Audit by experts	Mr. Anil Kumar Sharma, Chief Mining Officer informed that the work has not yet started.
21.	Status of Environment Restoration Fund	No work has been done till date.
22.	Status of Mining activity as per the Provisions and Regulations of CGWA	Report Awaited
23.	Status of Compliance of Sand Mining Guidelines (i.e., Periodic review at CS level)	No work has been done at CS level to improve enforcement effort and sort out the co-ordinational issues.
24.	Status of Detailed Restoration Plans	Mr. D. K. Soni, Additional Director, CPCB informed that CPCB will provide necessary help to District Administration as and when requested for preparation of detailed restoration plans for areas where there has been damage to environment. (Refer Annexure- XVII & XXI)
25.	Status of Green Belts	Report by CPCB regarding Environmental Compensation towards environmental damage is under consideration by Hon'ble NGT.

5. The Oversight Committee has also made following observations and recommendations:-

“VI. OBSERVATIONS OF THE OVERSIGHT COMMITTEE

The Committee observed from the above submitted reports by the concerned authorities that there are 51 areas identified as per DSR in Prayagraj. Out of 51 pattas, 19 are submerged. Moreover, 21 sand Blocks are in Yamuna River. Out of 21 Sand Blocks, 11 blocks are marked as water-logged area. The Working Lease Area- 02 (Balu Khand No. 5 & 6) and one sand blocks has been finalized on 12.02.2021.

As per the report received, there are 06 running leases (pattas) in Ganga (Operational) and 04 running leases (pattas) in Yamuna. Presently, only 10 pattas are operational and 07 blocks are pending in SEIAA for Environment Clearance since last one year. In this regard, the Committee had directed the concerned authority to provide/clear the status of 07 pattas which are pending in SEIAA since last one year. The Member Secretary, UPPCB suggested for

issuing direction to CPCB to make standard formula for compensation instead of different compensation regimes presently in vogue.

The enforcement figures as mentioned in compliance status also have drastically dropped. Only 26 illegal mining cases have been registered this year (till Jan., 2021) as compared to 32 last year. There are 02 mining areas on the Yamuna river bed in the district with installed CCTV Camera where mining is operational, and Weigh-bridge on the mining exit route. The Committee directed to submit the daily reports/patrolling reports in this regard. The vacant mining areas through e-tender cum e-auction has been advertised by the DM vide office letter no. 1958 dated 22.12.2020, in which the process of e-tender cum e-auction is under process. A Portal has been created for verification of deposition of E-form MM-11 relative to the quantity of sub-stations used by the working organization.

RECOMMENDATIONS:

1. The Oversight Committee observed that there have been many complaints regarding illegal mining in the FY 2020-21 (till Jan., 2021) specially in Districts of Prayagraj. Illegal Mining is mining done without a Mining Plan in utter violation of environmental norms and is a grave threat to environment and ecology. The State Government should have a zero tolerance on illegal mining and the Directorate of Mining and District Administration should immediately enquire into all such cases and if found correct take stringent legal action against the guilty.

2. Mining plan is the instrument through which it is enforced. However, Environmental Clearance takes into account all the environmental concerns and for mining activity going on illegally, there is neither any EC nor any mining plan. Illegal mining invariably leads to reckless damage to environment. Hence, utmost efforts are required in surveillance, patrolling and enforcement figures. No penalty has so far been realized from any of the illegal miners. This calls for a strict, impartial, transparent and deterrent environmental compensation regime. State of U.P. needs to evolve a mechanism for the recovering compensation for the damage to the environment from illegal mining.

3. DSRs need to be prepared immediately and should be based on physical surveys and replenishment studies in regular manner. While awarding lease deeds, important environmental parameters like deposition and replenishment of sand, areas of erosion, distance from infrastructural structures needs to be considered by all the concerned authorities. Before award of LOI, physical inspection should be mandatory.

4. As far as leases are concerned, the areas where only few leases are operational and the rest are not settled/surrendered need to be carefully analysed. In district Prayagraj, there are 51 areas identified as per DSR in Prayagraj. Out of 51 pattas, 19 are submerged and breakup of all 51 areas is annexed as **Annexure-XXII**.

5. Storage Godowns should be at least 5 kms away from the river bank. Otherwise, illegal mining can be carried on under the garb of

storage by the leaseholder himself. Geo-fencing of sites, their physical demarcation, allotment of geo-coordinates to all the pillars and their constant physical inspection.

6. The Committee observed that there has to be a mechanism to ensure that the actual mining activity conforms to the approved Mining Plan and the approved Environment Management Plan (EMP). Environment Department can empanel some experts/expert institutions with standard TORs and Remuneration terms which could be utilized by the Mines Department on a regular basis. This way the DM, Prayagraj and other concerned authorities can access good technical experts with standard conditions in a transparent way without bothering about tedious time-consuming tender formalities.

7. The Environment Department can empanel some reputed institutions with standard terms for preparing environmental restoration plans which could be used directly by the Mining Department without the arduous formalities.

8. As far as the enforcement efforts in Prayagraj is concerned, there is an urgent need to augment the monitoring of illegal sand mining in district Prayagraj. Accountability needs to be fixed for the laxity. Constant monitoring of illegal sand mining must be done with drones, aerial surveys, ground surveys through dedicated task force at district level/tehsil level. E-surveillance through UAVs/Remote Sensing is must to ensure that the mining activity is as per the approved mining plan and no illegal mining, detrimental to environment, is going on. The State Government can also organise night-surveillance of mining activities through night-vision drones at district level. Night vision drones could be used for checking mining activity at night. Sensitive spots need to be identified and police presence- both static presence and dynamic patrolling needs to be beefed up there. DMs / SSPs be made directly responsible for checking illegal mining.

9. So far as confiscation of vehicles is concerned, under the provisions of the MMDR Act, 1957; the competent authority is the court of Chief Judicial Magistrate for lodging complaints. In the complaints, orders of the Hon'ble NGT are referred to. Some of the confiscated vehicles are released by the Hon'ble Court obtaining an affidavit and trial continues in due course. This is a practice not only in Prayagraj, but in other districts too. There is need to amend the rules/regulations and the confiscating officer needs to be designated in consonance with amendments made in Forest Act/Rules and the amount so collected to be remitted to UPPCB/PCCs for being utilised for restoration of environment.

10. The State Government must address the issue of monitoring gaps in illegal mining with the following recommendations to remedy the situation:

- Installation of CCTV Cameras should be at mining points to verify the amount of sand extracted.
- To inspect the mining operations, there is need for regular patrolling by the police.

- *Daily Mining reports/regular patrolling should be sent to the District Magistrate.*
- *FIRs should be lodged in case of any illegal mining.*
- *The DM and the SP should carry out surprise checking. In order to stop illegal sand mining, it shall be the duty of the concerned authority to do area survey at regular intervals.*

11. All the mining activity should strictly comply with Provisions of EIA Notification 2006, Sustainable Sand Mining Guidelines, 2016; The Environmental Protection Act, 1986; The Water (Prevention and Control of Pollution) Act, 1974; The Air (Prevention and Control of Pollution) Act, 1981 and Regulations of Central Ground Water Authority.

12. Direction may be issued to the Principal Secretary, Mining to take immediate steps for amendment of rules so that the Courts may order the fine as ordered by the Hon'ble NGT.

13. As per Hon'ble NGT orders it was directed that Chief Secretary must ensure compliance of Sand Mining Guidelines. The Oversight Committee recommends periodic review at CS level which will automatically improve enforcement effort and sort out a number of co-ordinational issues.”

6. We have considered the report and we do not find any reason not to accept the recommendations. Accordingly, the report is accepted and directions are issued in terms thereof. The State of UP and concerned Authorities in the State may take further action. We have also dealt with remedial action against the issue of unscientific mining by our recent order dated 26.02.2021 in OA 360/2015, *National Green Tribunal Bar Association v. Virender Singh (State of Gujarat)* as follows:

“27. We direct all the States/UTs to strictly follow the SSMG-2016 read with EMGSM-2020 reinforced by mechanism for preparation of DSRs (in terms of directions of this Tribunal dated 14.10.2020 in Pawan Kumar, supra and 04.11.2020 in Rupesh Pethe, supra), Environment Management Plans, replenishment studies, mine closure plans, grant of EC (in terms of direction dated 13.09.2018 in Satendra Pandey, supra), assessment and recovery of compensation (as per discussion in Para 25), seizure and release of vehicles involved in illegal mining (in terms of order dated 19.02.2020 in Mushtakeem, supra), other safeguards against violations, grievance redressal, accountability of the designated officers and periodical review at higher levels. As already noted, EMGSM-2020 contemplates extensive use of digital technology, including remote sensing.

28. We further direct that periodic inspection be conducted by a five-members Committee, headed and coordinated by the SEIAA and comprising CPCB (wherever it has regional office), State PCB and two expert members of SEAC dealing with the subject. Where CPCB regional office is not available, if MoEF&CC regional office is available, its Regional Officer will be included in the Committee. Where neither CPCB nor MoEF&CC regional office exists, Chairman, SEIAA will tie up with the nearest institution of repute such as IIT to nominate an expert for being included in the Committee. Such inspection must be conducted at least thrice for each lease i.e. after expiry of 25% the lease period, then after 50% of the period and finally six months before expiry of the lease period for midway correction and assessment of damage, if any. The reports of such inspections be acted upon and placed on website of the SEIAA. Every lessee, undertaking mining, must have an environment professional to facilitate sustainable mining in terms of the mining plan and environmental norms. This be overseen by the SEIAA. Environment Departments may also develop an appropriate mobile App for receiving and redressing the grievances against the sand mining, including connivance of the authorities and also a mechanism to fix accountability of the concerned officers. Recommendations of the Oversight Committee for the State of UP quoted earlier may be duly taken into account.

The mechanism must provide for review at the level of the Chief Secretary at least once in every quarter, in a meeting with all concerned Departments in the State. The Chief Secretary UP may ensure further action in the light of the report of the Oversight Committee.

Similarly, at National level, such review needs to be conducted atleast once in a year by the Secretary, Environment in coordination with the Secretaries Mining and Jalshakti Ministries the CPCB.

Publication of Annual Reports

29. We further direct all the States/UTs to publish their annual reports on the subject and such annual reports may be furnished to MoEF&CC by 30th April every year giving status till 31st March. First such report as on 31.03.2022 may be filed with the MoEF&CC by all the States/UTs on or before 30.04.2022. The report may also be simultaneously posted on the website of the Environment Department of the States/UTs. Based on such reports, MoEF&CC may consider supplementing its Guidelines from time to time. The MoEF&CC may prepare a consolidated report considering the reports from the States/UTs and publish its own report on the subject, preferably by 31st May every year.

Interaction at National Level

30. We direct the Secretary MoEF&CC to convene a meeting in coordination with the CPCB and Mining and Jalshakti

Ministries of Central Government and such other experts/individuals at National level and representatives of States within three months for inter-action on the subject which may be followed by such meetings being convened by the Chief Secretaries in all States in next three months. Holding of such meetings will provide clarity on enforcement strategies and help protection of environment.”

7. Needless to say that the above directions will also apply to the present matter.

The application is disposed of.

It is made clear that disposal of the application will not affect the orders passed with regard to constitution of the Oversight Committee covering environmental issues, beyond the issues in the present matter. The said Committee will continue till further orders, as it has been constituted on the request of the State itself and is rendering useful service without any grievance from any quarter.

A copy of this order be forwarded to the Chief Secretary, U.P., District Magistrate, Prayagraj, and Justice S.V.S. Rathore, former Judge, Allahabad High Court, by e-mail.

Adarsh Kumar Goel, CP

S.K. Singh, JM

Dr. Nagin Nanda, EM

March 18, 2021
Original Application No. 670/2018
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