

Shiv Lal Salvi vs Union Of India Through Secretary ... on 28 April, 2023

Item No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL
(Through Video Conferencing)
Original Application No. 95/2017 (CZ)
(M.A. No. 392/2017)

Shivlal Salve

Applicant(s)

Versus

Union of India & Ors

Respondent(s)

Date of completion of hearing and reserving of order: 12.04.2023

Date of uploading of order on website: 28.04.2023

CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER

For Applicant(s):

Mr. Saurabh Sharma, Adv.

For Respondent(s) :

Mr. Manoj Kumar Singh, Adv
Mr. Om Shankar Shrivastava, Adv
Ms. Ankita Singh, Adv
Mr. Nilava Bandyopadhyay, Adv
Mr. Anuragh Abhishek, Adv
Mr. Arvind Soni, Adv

ORDER

1. The factual matrix of this case is that Environmental Clearance was granted to respondent no. 2 on 09.08.2010 in respect of mining at Dhulkheda, District Bhilwara, Rajasthan. After issuance of Environmental Clearance and being aggrieved of the consequences of such mining, the applicants had filed a PIL before the High Court of Rajasthan at Jodhpur (D.B. Civil Writ Petition (PIL) No. 8188/15) on 03.08.2015.

2. The Learned High Court had on 05.02.2016 decided the matter as under:

"The cause sought to be agitated in this petition for writ can very well be examined by the National Green Tribunal as per provisions of Sections 14 and 15 of the National Green Tribunal Act, 2010 (hereinafter referred to as 'the Act of 2010'). In view of availability of alternative remedy under the Act of 2010, we are not inclined to entertain this petition for writ. Accordingly, the same is dismissed. The petitioner, however, is at liberty to avail alternative remedy under the Act of 2010. All the

objections raised by the respondents in reply to writ petition shall remain open to be contested before the Tribunal."

3. In view of the above order, the applicant filed this application before this Tribunal and after admission, vide order dated 04.09.2018, Regional Officer, Ministry of Environment at Lucknow was directed to visit the unit of the Respondent and submit the status of the compliances.

4. On 05.09.2019, the issue of delay and condonation of delay was raised by the parties and after giving an opportunity of hearing to the parties the Tribunal passed an order as follows:

9. It is also significant to note here that after the conclusion of the proceedings before the High Court, when the applicant had approached the Tribunal the case was heard and the original application was admitted on 10.01.2018. Now it should be finally heard on merits.

10. After having gone through the facts and circumstances of the case and the nature of grievance raised before the Tribunal by the applicant, we are of the considered opinion that it is a case which falls under Section 15 of the NGT Act, 2010. The limitation prescribed for such proceedings is 5 years. As mentioned above, the petition before the High Court was filed within five years of issuance of the Environmental Clearance and thereafter, this original application before the Tribunal was filed in the month of August, 2017.

11. Besides, the High Court had also specifically granted liberty to the applicant so as to approach the Tribunal for redressal of his grievance. It goes without saying that as the issue involved herein is related to environment, which is having its impact over the public at large, this original application has been filed in accordance to the provision of Section 15, we are of the considered opinion that the ends of justice would be served if this application is considered to have been filed within the period of limitation, as prescribed on the Act of 2010. Moreover these proceedings before the High Court and after its conclusion, also before this Tribunal, have been filed with sufficient cause to explain the delay, if any.

5. Aggrieved by the order, the Appellant M/s Jindal Saw Limited filed Civil Appeal No. 8200/2019 and Hon'ble the Supreme Court of India issued notice to the respondents and passed an order to stay the further proceedings of this Original Application.

6. Vide order dated 03.03.2020, the matter was adjourned sine-die with liberty to the parties to move an application for listing of the case when the matter is finally decided by Hon'ble the Supreme Court of India.

7. Now vide letter no. D. No. 34891/2019/SEC-XVII (SCI) dated 17.11.2022, order dated 11.11.2022 passed in Civil Appeal No. 8200/2019 by the Hon'ble Supreme Court of India has been received, which is as follows:

"The learned senior counsel appearing for the Appellant, on instructions, seeks leave to withdraw this appeal. The Civil Appeal is, accordingly, dismissed as withdrawn, reserving the liberty to the Appellant to put forward all submissions on the merits of the matter, but not on the issue of limitation"

8. Respondents have filed their replies. Heard the arguments of the learned counsels for the parties and perused the record.

9. Respondent No.2 was granted a mining lease which came into effect from 08.12.2010 extending to an area of 1556.7817 Ha of land near village Dhedwas, Tehsil and District Bhilwara bearing cadastral survey no 45/K/11.

for the purpose of excavation of Gold, Silver, lead, Zinc, Copper, Iron, Cobalt, nickel and associated minerals, The Mine is also adjoining village Dhulkhera which (as alleged) has been adversely affected by the mining activity of Respondent No.2. On 09.08.2010 an Environmental Clearance was granted to the Respondent No.2 for this mine The Respondent has been violating the conditions of the EC like specific condition no. (x) which states that overburden should be dumped in the earmarked dumping sites only, violation of condition no. (ix) which stated that no watercourse and/or water resources shall be obstructed due to mining operation and condition no. (xxv) which states that the vehicles carrying the mineral shall be covered by Tarapaulin. It is stated all these EC conditions are not being followed by the Respondent No

2.

10. The Ministry of Environment Forest & Climate Change, Regional Office Lucknow (U.P.) vide communication dated 01.10.2018 has communicated compliance. The report makes it clear that CTE was granted by the RSPCB.

CTO was granted and renewed, the ground water extraction for domestic use and other use was in accordance with the parameters laid down by the regulatory authority and after obtaining proper permission NOC for mining purpose. Development of fodder plots has been complied. As reported there is no extraction of the water and other conditions have been complied by the project proponent.

11. Latest compliance report dated 21.11.2022 was sent to the MoEF & CC in the form of six monthly status report which is as follows:

S.N. Specific Conditions Compliance Status i The project proponent shall obtain a. The Consent to Establish was Consent to Establish and Consent granted by RSPCB on to Operate from the Rajasthan 16.12.2010.

State Pollution Control Board and b. The Consent to Operate the effectively implement all the Mine was granted by RSPCB on conditions stipulated therein.

06th June, 11.

c. CTO renewal permission granted by RPCB on 06.09.2022 which is valid from 01.06.2022 to 31.05.2027.

ii Environment clearance is granted We shall abide by the final subject to final outcome of Hon'ble outcome of Hon'ble Supreme Court of India in Court of India as may be Contempt Petition (C) 412/2004 in applicable to this Project. IA No. 833 in Writ Petition (C) No. 202 of 199S, as may be applicable to this project All the conditions stipulated by the 1. Ground water is being Central Ground Water Authority abstracted to the extent of 12 while according NOC vide letter No. 21-4 (439/WR/CGWA/2010-795 drinking/domestic purpose. dated 14.05.10 to be electively implemented.

2. Water meter has been installed in the bore well and

1. All the conditions stipulated by routine flow meter monitoring is the Central Ground Water under practice. Ground water Authority while according NOC vide quality monitoring is being letter No. 21-4 carried out by MoEF & GOI (439/WR/CGWA/2010-795 dated approved lab on quarterly basis 14.05.10 to be electively implemented.

3. . Three Nos. ground water recharge system have been made in plant and mines area 2 Tube well to be fitted with water Balance ground water recharge meter monitoring at least structure construction job is once/month. Ground Water quality under implementation.

to be monitored in pre-monsoon and Post-monsoon periods.

4. Photographs have been furnished to The Regional

3. Ground water recharge structure Director, CGWB, and Jaipur to be installed within six months immediately after completion, with consultation with Regional under intimation to CGWA.

Director. CGWB, Jaipur

5. Piezometer installation has been completed as per CGWB

4. Photographs of recharge recommendation and routine structures after completion to be monitoring is under practice. furnished to The R.D, Jaipur under intimation to CGWA, New Delhi.

6. Ground water monitoring data of existing Piezowell is

5. Piezometers shall be installed at being submitted to CGWB.

sailable locations and ground water Jaipur on annual basis and also regime monitoring programme in enclosed and around the project area shall be executed regularly in .

consultation with the Regional

7. Beneficiation process water is Director, CGWB, Jaipur completely recycled through thickener and advanced filter press and reused within the

6. Ground water monitoring data plant.

shall be submitted to CGWB, Jaipur on regular basis at least once in a year.

8. Action taken report, photographs of Ground Water Recharge Structure and

7. The firm shall ensure proper Piezometer installation has been recycling and reuse of waste water submitted to MoEF& CC after adequate treatment.

Regional Office Lucknow
through letter No. JSL/BHL/D-
Mines/2017-18/90 dated

8. Action taken in respect of S.No.1

03.08.2017.

to 7 shall be submitted to CGWA
within one year period

iv The environmental clearance is
subject to approval of the State
Land use Department, Government
of Rajasthan for diversion of
agricultural land for non-
agricultural I use.

The application has been
submitted on 08.02.2008 to the
State Govt. The matter is under
consideration of the State Govt
Pending the approval, no mining
activity will be conducted in the
agricultural land.

v Necessary prior permission from NOC for grazing land has been

the Competent Authority as may be obtained vide Letter No 3445 applicable for use of grazing land dated 30.07.2010 of Distt.

for mining purpose shall be Collector, Bhilwara. obtained vi The project proponent shall develop Work is confined within fodder plots in the non-mineralised Government waste/barren land. area in lieu of use of grazing land. We have developed fodder plots in 1.65 ha non-mineralised area.

Apart from this, we are also providing fodder 10 nearby villagers/ Gausala on routine basis During the half year ended upto 30.09.2022 total 214410 Kg. of fodder were supplied to Samodi, Dariba, Suras and Pur villages vii The tailing ponds shall be provided The bottom and the inner sides with HDP lining of the tailing pond have been covered by synthetic liner (HDP). Presently tailing is being recovered by advanced thickener & filter press technology.

Generated tailing cake in dry forms stacked in earmarked place and will be recycled in future to recover the mineral present there.

viii The top soil shall temporarily be No top soil was generated from stored at earmarked site(s) only and the mines during compliance it should not be kept un-utilized for period from 1st April 2022 to long. The topsoil shall be used for 30th Sep, 2022. Earlier land reclamation and plantation generated top soil was completely utilized for plantation purpose within the lease area.

ix The project proponent shall ensure No first order nallah exists that no natural watercourse and/or within the lease area. The water resources shall be obstructed second order seasonal nallah due to any mining operations. lies far away from the mine Adequate measures shall be taken workings and will not be for protection of the first order and obstructed. The right main second order seasonal nalla has canal of the Mela Dam passing emanating/passing through the through lease area is being mine lease and also the right main protected by leaving adequately canal of the Meja dam passing wide barrier between the through the mine lease during the working and the Canal. course of mining operation.

x The over burden generated during OB is being stacked only at the mining operation shall be earmarked places and stacked at earmarked dump site(s) compliance status is submitted only and it should not be kept to the Ministry of Environment active for a long period of time and and Forest and its integrated its phase-wise stabilization shall be Regional Office on six monthly carried out. There shall be four basis. We assure that all external over burden dumps, The conditions will be complied maximum height of the dumps with, overall slope of the waste shall be maintained to 30m having dump is being maintained at 27 three terraces of 10m each so that degree and mature dumps will the overall slope of the dump shall be vegetated. be maintained to 27*. The over Total 39,17,410 Tonnes Over burden dump shall be scientifically burden was generated during vegetated with suitable native the period of 01.04.2022 to 10 species to prevent erosion and 30.09.2022 which has been surface run off. Monitoring and stacked as external dump at management of rehabilitated areas earmarked place as per shall continue until the vegetation condition given in Mining Plan.

becomes self-sustaining.
Compliance status shall be
submitted to the Ministry of
Environment & Forests and its
Regional Office located at Lucknow
on six monthly basis.

Catch drains and siltation ponds of
appropriate size shall be

The catch drains have been
made around the stockyard.

xi

constructed around the mineral
and over burden dumps to prevent
run off of water and flow of
sediments directly into the
agricultural fields, the Kothari
River, first order and second order
seasonal nallahs, canal, the N4eja
dam, the Meja Talav the Mandai

Siltation ponds of appropriate
size have also been constructed
and water is being utilized for
watering the mine area, roads,
green belt development etc. and
drains are being regularly
desilted, particularly after the
monsoon and maintained

Talav and other water bodies. The water so collected should be utilized for watering the mine area, roads, green belt development etc. The drains shall be regularly desilted particularly after the monsoon and maintained properly.

properly.

Garland drains, check dams and settling tanks have been constructed and mainlined

Garland drains, settling tanks and check dams of appropriate size, gradient and length shall be constructed around the mineral and over burden dumps to prevent run off of water and flow of sediments directly into the agricultural fields, the Kothari River, first order and second order seasonal nallahs, canal, the Meja dam, the Meja Talav, the Mandal Talav and other water bodies and sump capacity should be designed keeping 50% safety margin over and above peak sudden rainfall (based on 50 years data) and maximum discharge in the area adjoining the mine site. Sump capacity should also provide

adequate retention period to allow proper silting of silt material. Sedimentation pits shall be constructed at the corners of the garland drains and desilted at regular intervals.

- xii Dimension of the retaining wall at the toe of the OB dump(s) and the OB benches within the mine to check run-off and siltation should be based on the rain fall data.

- xiii The water recovery and spill way system shall be so designed that the natural water resources are not affected and that no spill water goes into the nearby Kothari River

As per mining plan external dumps of OB have , been created within the mine lease area. The stipulation has been complied by constructing retaining wall to check run off. Retaining walls are all around each dump. These are 1.5 ml in heights, 2.0 meter in width at base and '1.5 mt. Wide at top made by stone. There is no spillage of water. Water recovery is through settling tank Natural water resources are not affected.

and other water bodies.

xiv The project proponent shall carry Water is being sprayed on ore

out conditioning of the ore with stacks to suppress the dust water to mitigate fugitive dust before handling the same. emission, without affecting flow of ore in the ore processing and handling areas.

xv The effluent from the ore No effluent is being discharged beneficiation plant shall be treated from the beneficiation plant to conform to the prescribed Most of the tailing slurry is standards and the tailings slurry being dewatered in tailing filter shall be transported through a press and some of the slurry is closed pipeline to the tailing dam. being sent to tailing pond The tailing slurry is being transported through a closed pipeline to the tailing pond.

xvi The decanted water from the tailing The decanted water from the ponds s hall be re-circulated and tailing pond is being re- there should be zero discharge from circulated and there is no the tailing ponds. Acid mine water, discharge from tailing pond. if any, shall be neutralized and There is no acid water in the reused within the plant. mine and no acid is used in the process Water contained in tailing and concentrate is being recovered with the help of thickener and advanced filter press technology and 100% is being reused in Mineral Beneficiations process. The system is helping to conserve water resources.

xvii Effective safeguard measures such Effective measures such as as regular water sprinkling shall be regular water sprinkling in carried out in critical areas prone crusher zone, loading and to air pollution and having high unloading point and all transfer levels of particulate matter such as points during handling of the crusher zone, loading and ore have been adopted to unloading point and all transfer mention the Ambient Air points during handling of the ore. Quality parameters. Extensive water sprinkling shall be Extensive water sprinkling on carried out on roads. It should be Mine Haul Road also under ensured that the Ambient Air practice to control the fugitive Quality parameters conform to the dust. AAO measurements were norms prescribed by the Central carried out by MoEF & GOI Pollution Control Board in this approved lab at 6 places on regard.

quarterly basis in Jun' 2022 and Sep' 2022 and noticed that AAQ is within permissible limits. Summarized MQ reports are enclosed.

Plantation shall be raised in an Wherever feasible plantation area of 491.388 ha including a has been done in Safety Zone, xviii 7,5m wide green belt in the safety Haul Road, around the OB zone around the mining lease, over Dumps and Mineral burden dumps, around Beneficiation Plant beneficiation plant, around tailing ponds, roads etc by planting the native species in consultation with Stage-wise plantation the local DFO/ Agriculture programme has been raised as Department. The density of the per mining plan. Plantation has trees should be around 1500 plants been raised inside the mine per ha. lease area in 97.35 hectare area by the end of Sep'2022.

We have also carried out plantation outside the mine lease area, approx. 29793 saplings have been planted over 30.3 hectare area by the end of Sep' 2022 xix The project authority should The ground water recharge implement suitable conservation measures for augmenting the measures to augment ground water ground water resources of the resources in the area in area is being implemented as

consultation with the Regional approved by the Central Ground Director, Central Ground Water Water Authority. Three nos.

	Board.	recharge structures have been constructed in mine and plant area for perseverance and recharge of ground water.
xx	Regular monitoring of ground water level and quality shall be carried out in and around the project area (mine lease, beneficiation plant and tailing ponds) by establishing a network of existing wells and installing new piezometer during the operation. The periodic	Regular monitoring of ground water level and quality is being carried out as stipulated and data thus collected is being sent to all the Authorities. Monitoring of ground water level and quality carried out by MoEF & GOI approved lab on

monitoring [(at least four times in a quarterly basis of Piezowell year- pre-monsoon (April-May), installed near the plant office monsoon (August), post monsoon and mining lease area at 8 (November) and winter (January)i Locations. Summarized once in each season)] shall be Piezowell water quality reports carried out in consultation with the for the period of Jun' 2022 and State Ground Water Board/Central Sep' 2022 are enclosed Ground Water Authority and the data thus collected may be sent regularly to the Ministry of Environment and Forests and its Regional Office Lucknow, the Central Ground Water Authority and the Regional Director, Central Ground Water Board. If at any stage, it is observed that the groundwater table is getting depleted due to the mining activity, necessary corrective measures shall be carried out.

xxi The groundwater and surface water Regular Ground, Surface and in and around the mine including Process water quality tailing ponds shall be regularly monitoring is being carried out monitored at strategic locations for by MoEF & GOI approved lab in heavy metals. The monitoring and around the mining lease stations shall be established in area including STP Reservoir, consultation with the Regional Filter Press and tailing pond.

	Director, Central Ground Water Board and the State Pollution Control Board.	Summarized water quality monitoring reports for the period of Jun' 2022 and Sep'2022 are enclosed
xxii	Appropriate initiative measures shall be taken to prevent pollution of the Kothari River in consultation with State Pollution Control Board.	There is no discharge of water from the mine Kothari river is not being polluted due to mining activities.
xxiii	Water requirement of the project shall be met from the treated sewage only. No water shall be drawn from the Kothari Dam	Water requirement for Mine & Mineral Beneficiation Plant is being met from JSAW 10 MLD STP Plant. This STP is treating the sewage of Bhilwara city and the treated water is completely used for Mining. Mineral

- | | | |
|--------|--|---|
| | | Beneficiations, Dust suppression and Horticulture /Plantation etc. |
| | | 12m3/ day for drinking/domestic use is drawn from ground water as permitted by CGWA. No water is being drawn from Kothari Dam |
| xxiv | Suitable rainwater harvesting measures on long term basis shall be planned and implemented in consultation with the Regional Director, Central Ground Water | We are in consultation with the Central Ground Water Board in this regard and as per their advice we have started construction of ground water |
| | Board. | recharge structures. Three structures have already been completed. |
| xxv | Vehicular emissions shall be kept The stipulation is being under control and regularly complied with monitored. Measures shall be taken for maintenance of vehicles used in mining operation and in transportation of mineral. The vehicles carrying the mineral shall be covered with a tarpaulin and shall not be overloaded | |
| xxvi | Mineral handling area shall be provided with adequate number of high efficiency dust extraction system. Loading and unloading areas including all the transfer points should also have efficient dust control arrangements, These should be properly maintained and operated, | Dry fog/.canon system and continuous water sprinkling arrangement have been installed in crusher unit to control the fine dust in all transfer point. Routine maintenance of water spray nozzle is being carried out by operation and maintenance team |
| xxvii | The project authorities should undertake sample survey to generate data on pre-project community health status within a radius of 1 km from the proposed project | The Pre-project community health status survey, within a radius of '1.0 km from the proposed project site, had been conducted and submitted to Rajasthan State Pollution Control Board, Pre-project community health status survey report submitted to MoEF& CC Regional Office Lucknow through letter No JSL/BHL/D-Mines/2017-18/90 dated 03.08.17 |
| xxviii | Occupational health surveillance program of the workers shall be undertaken periodically to observe | Occupational health surveillance programme of the workers has been undertaken |

	any contractions due to exposure to dust and take corrective measures, if needed. Health records of the workers shall be maintained.	periodically as required under Mines Rules, 1955 No contraction has been detected Health records of the workers have been maintained
xxix	Pre-placement medical examination and periodical medical examination of the workers engaged in the project shall be carried out and records maintained. For the purpose, schedule of health examination of the workers should be drawn and followed accordingly.	Pre-placement medical examination of JSAW employees is being carried out as required under Mines Rules, 1955. During 1st April 2022 to 30th Sep, 2022 total 510 JSAW employee 403 Casual and 2142 contractual workmen examined by Competent Medical Office Schedule of Health examination has been drawn and is followed.
xxx	Sewage treatment plant shall be installed for the colony. ETP shall also be provided for the workshop and the wastewater generated during mining operation.	No colony has been constructed as yet. No waste water is being generated during mining and in the Plant. The stipulation is being complied with.
xxxi	The R&R of the project affected people shall be carried out as per the NPRR. The plan shall be prepared within three months in consultation with State Government and a copy submitted.	The R&R of the project affected people shall be carried out as per the NPRR. The plan shall be prepared within three months in consultation with State Government and a copy submitted.
xxxii	The R&R of the project affected people shall be carried out as per the NPRR. The plan shall be prepared within three months in consultation with State Government and a copy submitted.	Digital processing of the entire lease area using remote sensing technique has already been done and submitted with EIA & EMP report. Second digital processing was carried by M/s Armenge Engineering & Management Consultant Pvt. Ltd. Jaipur in 2013. Third & Fourth digital processing study was carried by Mr. Sanjay Rai Environment Consultant Jaipur in July 2016 & 2019. Fifth Digital Processing Study of entire lease area has been carried out by Mr. S. S, Bist M/s Udaipur Mintech Pvt. Ltd. in Aug 2022. LULC study report enclosed
xxxiii	Provision shall be made for the housing of construction labour within the site with all necessary	Construction work has been completed. Maximum workers were from nearby villages. After

infrastructure and facilities such as end of days work they used to fuel for cooking, mobile toilets, go back to their houses. mobile STP, safe drinking water, Therefore, need for temporary medical health care, creche etc. The structures did not arise. housing may be in the form of temporary structures to be removed after the completion of the project.

xxxiv The critical parameters such as The instructions contained in RSPM (Particulate matter with size circular No. J-20012/12006- less than 10 micron i.e., PM10) & 1A.II (M) dated 27.05.09 issued NOx in the ambient air within the by MoEF&CC have been noted impact zone, peak particle velocity and are being complied with. at 300m distance or within the nearest habitation, whichever is closer shall be monitored As per circular fortnightly AAQ periodically. Further, quality of monitoring is being carried out discharged water shall also be by MoEF & GOI approved lab in monitored [(TDS, DO, pH and Total mine lease area. The fortnightly Suspended Solids (TSS)1. The Ambient Air Quality monitored data shall be uploaded summarized monitoring reports on the website of the company as for the period of 13th April 2022 well as displayed on a display board at the project site at a to 30th Sep' 2022 is enclosed suitable location near the main gate of the Company in public domain.

The circular No. J-20012/1/2006- IA.II(M) dated 27.05.2009 issued by MoEF&CC, which is available on the website of the Ministry www.envfor.nic.in shall also be referred in this regard for its compliance.

xxxv A Final Mine Closure Plan along The Final Mine Closure Plan with details of Corpus Fund should shall be submitted as per rules be submitted to the Ministry of Environment & Forests 5 years in advance of final mine closure for approval B. General Condition :

i No change in mining technology No change will be made in and scope of working should be mining technology and scope of made without prior approval of the working without prior approval Ministry of Environment & Forests. of MoEF&CC. ii No change in the calendar plan No change will be made in the including excavation, quantum of calendar plan mineral iron ore and waste should be made.

iii Conservation measures for Conservation measure detail for protection of flora and fauna in the protection of flora and fauna in core & buffer zone should be drawn the core & buffer zone has been up in consultation with the local prepared with consultation of forest and wildlife department. local forest department, copy of the same report has been submitted to MoEF& CC Regional Office Lucknow through JSAW letter No JSL/BHL/D Mines/2017-18190 dated 03.08.2017.

No endangered species of flora and fauna has been observed in core and buffer zone area iv Four ambient air quality- Ambient air quality monitoring monitoring stations should be was carried out by MoEF & GOI established in the core zone as well approved lab from April 2022 to as in the buffer zone for RSPM Sep'2022 and noticed that the (Particulate matter with size less AAQ is within permissible than 10 micron i.e., PM10) & NOx limits. Summarized reports are monitoring. Location of

the stations enclosed asv. Four ambient air should be decided based on the quality monitoring stations in meteorological data, topographical each of Core zone and Buffer features and environmentally and zone have been established as ecologically sensitive targets and per approved plan lor frequency of monitoring should be monitoring the AAQ. undertaken in consultation with the State Pollution Control Board v Ambient air quality monitoring was The Reports are enclosed The carried out by MoEF & GOI reports are submitted to approved lab from April 2022 to MoEF&CC and its integrated Sep'2022 and noticed that the AAQ Regional Office located al is within permissible limits. Jaipur, RSPCB and CPCB on Summarized reports are enclosed. regular basis. Four ambient air quality monitoring stations in each of Core zone and Buffer zone have been established as per approved plan for monitoring the AAQ.

vi Fugitive dust emissions from all the The fugitive dust emissions sources should be controlled from all the sources are being regularly. Water spraying controlled regularly. Regular arrangement on haul roads, loading water sprays arrangement on and unloading and at transfer haul roads, loading and points should be provided and unloading and transfer points properly maintained. been made and maintained properly.

vii Measures should be taken for Proper measures are being control of noise levels below 85 dBA taken for control o[noise in the in the work environment. Workers work environment area. engaged in operations o{ HEMM, Adequate PPES are provided to etc. should be provided with ear the workers engaged in the plugs / muffs. operations. The monitoring reports are enclosed viii industrial waste water (workshop No industrial waste water has and waste water from the mine) been generated till date. Proper should be properly collected, arrangement will be made to treated so as to conform to the collect the waste water standards prescribed under GSR whenever it will be generated.

422 (E) dated 19th May '1993 and 31st December, 1993 or as amended from time to time, Oil and grease trap should be ,installed before discharge of workshop effluents.

ix Personnel working in dusty areas Proper compliance is being should wear protective respiratory done. devices and they should also be Pre-employment Medical Tests provided with adequate training examination is under practice.

and information on safety and It is being repeated periodically health aspects.

to observe any contractions due Occupational health surveillance to exposure of dust.

program of the workers should be undertaken periodically to observe any contractions due to exposure to dust and take corrective measures, if needed.

x A separate environmental The Cell has been set up under management cell with suitable the control of a Senior Executive qualified personnel should be setup who reports directly to the under the control of a Senior President & Unit Head. Executive, who will report directly to the Head of the Organization, xi The funds earmarked for Separate Fund has been environmental protection measures earmarked for environment should be kept in separate account protection measures.

and should not be diverted for other purpose. Year wise expenditure should be reported to the Ministry of Environment Forests and its Regional Office located at Lucknow.

xii The project authorities should inform to the Regional Office located at Lucknow regarding date of financial closures and final approval of the project by the

The date of financial closure of the company is 31st March of every year. The final approval of the Project as Consent to Operate has been given by

concerned authorities and the date RSPCB on 6th June'2011. The o{ start of land development work. land development was started from 15.06.2011 .

xiii The Regional Office of this Ministry The instruction has been noted located at Lucknow shall monitor The Regional Office, Lucknow compliance of the stipulated has been provided with all the conditions. The project authorities information asked by them. should extend full cooperation to the officer (s) of the Regional Office by furnishing the requisite data / information / monitoring reports.

xiv The project proponent shall submit The Compliance Report for the six monthly reports on the status of period from 01st April 2022 to compliance of the stipulated 30th Sep' 2022 is enclosed environmental clearance conditions herewith. Earlier reports have including results of monitored data been sent regularly to all (both in hard copies as well as by authorities.

email) to the Ministry of Environment and Forests, its Regional Office Lucknow, the respective Zonal Office of CPCB the SPCB. The proponent shall upload the status of compliance of the environmental clearance conditions. including results of monitored data on their website and shall update the same periodically. It shall simultaneously be sent to the Regional Office of the Ministry of Environment and Forests, Lucknow, the respective Zonal Office of CPCB and the State Pollution Control Board xv A copy of the clearance letter shall The copy of the Clearance letter be sent by the proponent to has been sent to all concerned concerned Panchayat, Zila Parishad/ and it has been put on the Municipal Corporation, Urban website of the Company on 23'd Local Body and the Local NGO, if Sep. 2010 any, from whom suggestions/ representations, if any, were received while processing the proposal. The clearance letter shall also be put on the website of the Company by the proponent.

xvi The State Pollution Control Board It has been done by RSPCB should display a copy of the clearance letter at the Regional office, District Industry Centre and the Collector's office/ Tehsildar Office for 30 days xvii The environmental statement for Environmental Statements in each financial

year ending 31st Form V for the period of 1st March in Form-V as is mandated to April 2021 to 31st Mar 2022 be submitted by the Project has been sent to the RPCB and proponent to the concerned State MoEF integrated Regional office, Pollution Control Board as Jaipur on 16.09.2022. The soft prescribed under the Environment copy of the same was also sent (Protection) Rules, 1986, as to MoEF Lucknow through amended subsequently, shall also email and uploaded on company be put on the website of the website.

company along with the status of compliance of environmental clearance conditions and shall also be sent to Regional Office of MoEF, Lucknow by e-mail.

xviii The project authorities should advertise at least in two local newspapers widely circulated, one

It has been advertised in three Newspapers. namely The Hindu, Rajasthan Patrika and Dainik

of which shall be in the vernacular Bhaskar on 13.08.2010. The language of the locality concerned, copies have been forwarded to within 7 days of the issue of the the Regional Office, MoEF&CC, clearance letter informing that the Lucknow vide our letter No. 923 project has been accorded dated 24.09.2010 environmental clearance and a copy of the clearance letter is available with the State Pollution Control Board and also at web site of the MoEF&CC at <http://envfor.nic.in> and a copy of the same should be forwarded to the Regional Office of this Mining located at Lucknow

12. A separate report was also called from Regional Officer, Rajasthan State Pollution Control Board, Bhilwara who submitted the status as follows:

"Site visit report in the matter of OA No- 95i2017 Shiv lal Salvi & Ors vs. union of India & Ors before Hon'ble National Green Tribunal.

M/s. Jindal Saw Ltd. Dhulkhera mines was inspected by the undersigned on 23.08.2018 to verify the compliance of EC conditions in the matter of OA 95,7017 Shiv lal Salvi & Ors vs. Union of India & Ors The tactual status is as under :

A. EC condition: Overburden should be dumped in the enmarked dumping sites only.

During visit of the area, it was observed that overburden was dumped at enmarked site as per approved mining plan. Land for overburden dump is on rental basis from farmers.

B. EC condition : No water course and/or water resources shall be obstructed due to mining operation.

During visit no obstruction was observed.

C. EC condition : Vehicles carrying the mineral shall be covered by tarpaulin.

Industry is using tarpaulin to cover vehicles for mineral transportation.

Regarding other matters like cracks in houses due to blasting, illegal mining, health hazard, this office is not competent to comment on it."

13. The applicant has filed the rejoinder with the facts that this application has been filed for non compliance of condition of environment clearance by the project proponent by dumping overburden and debris in the agricultural field and water body and further to highlight damages caused to houses and Temple of Mata Ji Mandir due to rampant blasting of activities. It is further contended by the applicant that the livelihood of the villagers have been adversely affected and that project proponent is violating the environmental conditions by dumping done in the water bodies /agricultural fields and carrying of mine and minerals and carrying in trucks by not covering them with tarpaulin, and that the blasting by the Project Proponent is causing considerable damage to the whole area.

14. Assistant Conservator of Forest, Bhilwara vide his letter / communication dated. 18.09.2009 communicated the Dy. Conservator of Forest, Bhilwara with the fact that there is no wildlife sanctuary and National Park, there is no biosphere reserves or Wildlife Corridor or Tiger Elephant Reserves and upto some extent some birds migrates towards mega tank and nearby tanks during winter season of wood rainy year. In and around Mining Lease No. 631/05 i.e of Project Proponent.

15. In another Application no. 88/2015 (CZ) the similar matter was raised before this Tribunal and vide order 22.01.2018 this Tribunal disposed this application, as follows :

"Compliance affidavit on behalf of the respondent no. 2 Jindal Saw Ltd. has been filed on 29.05.2017 wherein Action Plan for setting up of 10 MLD, STP was given. It has been stated that the work of establishment of the STP would be completed within a period of 30 months i.e. by June, 2020. The Learned Counsel for the State of Rajasthan / respondent no. t had filed the compliance report on 22.11.2017 and it has been stated therein that there is no overburden left in the Samodi pond area and about that there is no obstruction in the catchment of the Samodi pond. It has also been stated that plantation of fruit bearing trees has been raised over 100 bighas land which is adjacent to the plant area and necessary steps have also been taken for protection and maintenance of the trees that has been planted The Learned Counsel appearing for the applicant does not wish to file any response to the compliance filed by the State.

In view of the above, this Original Application No. 88/2015 stands disposed of. Liberty is however, granted to applicant to approach this Tribunal in case he finds that certain compliances are formed not to have been made as directed by this Tribunal."

16. During the course of proceeding of Original Application No. 88/2015 the Tribunal vide order dated 11.09.2017 observed as follows :

"In our order dtd. 29.05.2017 a direction was given to the Respondent Company for carrying out plantation of trees 10000 in number. It is submitted that till date this work has not been completed and only about 300 trees have been planted. Learned Counsel for the State submitted that the Collector had identified certain areas where illegal mining had been done which was ordered to be backfilled with soil and over there these 300 trees have been planted.

Learned Counsel for the Applicant and the Applicant who are present submitted that this land on which the plantation had been carried out may be allotted for setting up of industrial estate by RIICO, the catalyst agency of the State of Rajasthan and in that view of the matter these trees that have been planted are liable to be cut and therefore, the purpose of green belt would not be served.

It was suggested by the Learned Counsel for the Applicant that the Collector may be directed in consultation with the Forest Department as well as with the Applicant to identify the areas where such plantation can be safely carried out and where the possibility of these trees being cut in future would not be there. In the event of such land being either allotted or which are capable of being allotted it was suggested that the river front of the River Kothari be taken up for tree plantation. We would direct that the copy of this order shall be given to the Collector by the Learned Counsel for the State and the Collector in consultation with the Forest Department and the Applicant would identify such area which would always remain as the green belt and not liable to be allotted for any such purposes where the trees are required to be cut.

We may also add that variety of the trees to be planted would be such which can easily survive as the area is saline with scanty rain fall and advice of the Forest Department officials be taken to identify appropriate varieties of trees to be planted in the area.

Another issue that has been dealt with by us earlier is with regard to the establishment of the STP. Learned Counsel for the State pointed out that area has been marked on the ground and the Respondent No. 2 Company can safely now proceed with the work of setting up of the STP.

Learned Counsel for the Respondent No. 2 submitted that though the area have been marked by Revenue Officer however formal possession of the land to the Respondent No. 2 has not been handed over. We direct that the Collector shall depute the Tehsildar for carrying out the aforesaid task and the land be handed over within next two weeks. It would be thereafter responsibility of the Respondent No. 2 to protect the area by way of fencing or wall and start their work immediately.

We have seen in the news paper today that in Kotra Sultanabad at Bhopal a Sewage System has been established where the treated water is of drinking water quality. We would direct that the representative of the Respondent No. 2 Company who are

present in court today would visit the aforesaid site and discuss with the person who has set up plant and see whether similar system could be set up in the case the same is found appropriate.

The Learned Counsel for the Applicant and the Applicant raised the issue before us by showing the photographs of the area near the overburden site of the Respondent No. 2 Company which they allege that the same has become sludge as a result of the run off from the overburden site and some cattle etc. which are entering in the area get struck and some of them even had died. It is submitted that an area of 400 beghas which was originally a Charagah (grazing land) for the cattle and out of which a small portion was earmarked for the establishment of Gowshala has been adversely affected because of run-off from overburden dump.

So far as this issue is concerned, we would direct that the Collector along with the officials of the Respondents Company to depute a team to inspect the area along with the Applicant and whatever steps are required to be taken for the improvement of the same including the proper maintenance of the overburden site and to prevent the storm water to come down from the dump. For this purpose the PCB authorities shall insist upon the compliance of the EC conditions with regard to overburden dump including construction of the garland drain. We direct here that the garland drain should be pakka not a kachha garland drain and all efforts should be made to ensure that the storm water does not over flow the garland drain, and, therefore, it should be of adequate capacity.

As far as the Gowshala is concerned we direct the District Collector and the Municipal Authority, Bhilwara to consider the same to be taken up for the purpose of management by the Municipal Authorities. Order to that effect be issued by the Collector to the Municipal Authorities and same be notified for that purpose. We have seen in the Media that the Central Government has come out with the scheme for proper maintenance of the Gowshala and making them self sufficient by utilising the gobar and other material for the purpose of gobar gas and / or compost for self sustaining of the Gowshala on that pattern and looking to the scheme of the Govt. of India the Gowshala should be properly administered and maintained. Stray cattle within the city should be taken to the Gowshala and city should made free from such cattle. The stray cattle are not only a problem for the traffic on the road but also at the same time are reason for the congestion on the roads and air pollution is also being caused by the same. Therefore the said measures should be taken up on priority, Administration and maintenance of Gowshala could be taken up under the CSR activity of the Respondent NO. 2 company. We may also add that the 400 beghas which have been identified and handed over to the Respondent NO. 2 and sufficient plantation can also be carried out in the same as well as in the Gowshala which can act as shady trees and fodder for the benefit of stray cattle. The parties are directed to submit proof of execution and compliance of the aforesaid order.

The Municipal Authority shall also take immediate steps as we have been informed that in Bhilwara the Municipal body had acquired and installed a decomposition plant and for preparation of compost. We have been informed that contractor who was engaged for running the same had left the work and thereafter for a long time the same is lying without being used. The Municipal Authority shall take up the issue immediately as under the MSW Rules, 2016 there is a specific provision for preparation of the compost out of the MSW and also marketing and utilisation of the said compost along with chemical fertilizers. We would direct that the Collector and the Municipal Commissioner looking into the said issue shall make every effort for operationalising the said plant at the earliest. The efforts that are made in that behalf shall be submitted before us on the next date of hearing."

17. Several Writ Petitions were filed before High Court of Rajasthan at Jodhpur vide DB Civil Writ Petition No. 8848/2020, Jindal Saw Limited vs. State Of Rajasthan and connected Civil Writ Petitions by others also and the Court after going through the contentions of the parties vide order dated 09.10.2020 passed an order as follows :

"Heard Learned Counsel for the respective parties.

After going through the various issues that arise for consideration in various writ petitions, we are of the considered view that an Expert Committee ought to be constituted for the purpose of answering factual issues narrated herein below.

The Expert Committee shall be headed by Shri R,K. Sinha, Controller General (Rettd.), of Indian Bureau of Mines, R/o Flat No. B 903, Civitech,-sampriti, Sector 77, Noida- 201301 (U.P) along with a nominee of the Secretary Mine, Department of Mines and Geology, Rajasthan, -Jaipu as well as the nominee of the Director General, Survey of India. The Collector, Superintendent of police and Tehsildar of the Bhilwara shall provide all necessary assistance to the aforesaid Committee.

-The Expert appointed by this court namely Shri R,K. Sinha, Controller General (Retd.) of Indian Bureau of Mines, shall be paid Rs. 50,000/- per day apart from other expenses including travelling and stay which have to be borne by the petitioner company.

The following factual issues need to be determine :

a. As to whether the structure existing within the mining lease area of the petitioner was a mosque or structure which can be removed for the purpose of carrying out lease hold activities within the said area. b. The committee shall also ascertain as to whether any illegal mining activity within the mining lease area of the petitioner and if so whether the same was carried out by the petitioner company or any other entity.

The aforesaid committee is directed to submit its report on or before this Court in the sealed envelope on or before 12th November, 2020.

The matter be listed on 18th November, 2020."

18. In the same Writ Petition a Miscellaneous application No. 01/2020 was filed before Division Bench in Civil Writ Petition No. 8848/2020 in which the Controller General of Indian Bureau of Mines was directed to assist the Chairman of the committee by providing necessary secretarial support for carrying out the purposes as directed by the Court. The aforesaid committee in compliance of the order of Hon'ble High Court of Rajasthan submitted the report before the Court with the following conclusions:

"Based on the documents submitted by Jindal Saw Limited, records submitted by State Agencies & verification of documents at the time of the site visit, this Committee concludes the following:

(i) The dilapidated structure existing in Khasra No.6731, Tiranga hills is neither a mosque nor any structure with any archaeological or historical relevance and that the structure can be removed from the place where it stands today, for mining purpose. Additionally, it also found that the adjoining area does not have any archeological significance and as such other structures can also be removed for carrying out leasehold activities.

(ii) Besides the removal of disputed and dilapidated structure from the top of Tiranga Hills as well as other structures, would also facilitate to carry out mining operations in scientific and a systematic manner for optimal utilization of mineral resources found within the leasehold area under reference of M/s Jindal Saw Limited.

(iii) Based on the field observations and past records and upon examination of the correspondences it can very well be said that illegal mining has taken place within the leasehold under reference of M/s Jindal Saw Limited.

(iv) Based on the observations made under the aforesaid paras, it can be said that there does not seem to be any motive behind the petitioner company to carry out illegal mining of masonry stones.

(v) It appears that illegal mining has been carried out by entity other than petitioner company/Jindal Saw Limited and it was beyond the purview of the committee to identify the entity who had carried out illegal mining within the leasehold of the petitioner company.

(vi) In order to curb illegal mining of masonry stones within the leasehold under reference of M/s Jindal Saw Limited, it was observed by the committee that an area of 129.77 hectar.es may be deleted as in the past DMG had recommended to the

Government of Rajasthan to reserve the same for masonry stone before grant of mining lease to the petitioner company.

19. The matter of obstruction of free flow of water was raised before Division Bench of the High Court of Rajasthan in D.B. CWP (PIL) No. 1424 of 2013 and the Bench consisting of the Hon'ble Chief Justice was pleased to pass an order as follows :

"It is stated by the learned counsel appearing for the respondent company M/s Jindal Saw Ltd. that the only grievance raised in this writ petition Filed in public interest by the villagers that the company has closed the canal for temporary transportation of the minerals, which has stopped the flow of water.

In the reply filed by the respondents, it is stated that no damage has been caused to the canal. A temporary road was constructed with the permission of the department. The respondent company states that the canal has since been constructed after the drawings were approved and requisite permission was obtained.

List on 30.9.2014 so as to enable the respondent company to file appropriate affidavit along with photographs in proof of construction of the bridge. Learned counsel appearing for the petitioner will also file a rejoinder to the reply given by the respondents.

An additional affidavit has been filed today by the respondents no.3 to 5 annexing therewith the photographs of the site and the bridge constructed over the canal. The respondents have also annexed the letter dated 28.3.2013 of the Executive Engineer, Water Resources, Division-II, Bhilwara informing the respondent-

Company that last time the water was released in the subject canal for irrigation on 21.02.2007"

We are satisfied from the additional affidavit filed by the respondents no.3 to 5 that there had been no flow of water in the irrigation canal since the year 2007 and in any case, now after a bridge has been constructed, there will be no possibility of obstructing the flow of water in the canal. In view of these latest developments, the prayers in the writ petition have become infructuous. The writ petition is accordingly dismissed.

20. In another D.B. CWP (PIL) No. 1549 of 2014 the matter of mining operation in the catchment area of Suras Talab was raised before the Court and the Hon'ble High Court disposed of the writ petition with the following observations:

"This petition for writ is preferred in public interest to have a direction for the respondents No.3 to 5 to stop mining operations in the catchment area of "Suras Talab" in District Bhilwara.

Suffice to mention that a writ petition bearing D.B. Civil Writ Petition (P.L.L.) No. 11377/2012 preferred by the same petitioner is already pending before this court, wherein a direction is sought for not having mining operations around the "Talab" aforesaid. An interim order restraining the respondents from carrying out any mining activity around the Talab in violation of the agreement exiting between the State of Rajasthan and M/s. Jindal saw Limited.

Having considered the facts noticed above, we deem it appropriate to dispose of this petition for writ by directing the State Government not to permit any mining operation in the area, which is otherwise prohibited for mining activities by law.

The writ petition is disposed of, accordingly."

21. The Learned Counsel for the Respondent has raised the preliminary objection with the facts that Applicant No. 2 was a contractual employee of the respondent no. 2 on ad-hoc basis and after the discontinuance of his employment, he alongwith other applicant has filed the present proceedings making false and baseless allegation without any substantial evidence. It is further argued that the applicant has with malafied intention tried to potray as if Khasra No. 276 to 314 are affected, whereas Patwari report makes mention of only two Khasras and it is further contended that the inspection report discloses only following facts:

- a) In Khasra no. 190 No mining activity is happening, contrary to what has been alleged in the OA;
- b) The passage to Devasthan in Khasra no. 221 is functional; contrary to what has been alleged in the OA;
- c) The passage to Kabristan/Cemetery in Khasra no. 256 is functional, contrary to what has been alleged in the OA.

The inspection report nowhere states that the OB dumping is happening illegally. It is to be noted that Rule 22(3)(h) and Rule 72 of the Mineral Concession Rule, 1960 permit the lease holder to use the private land within its Mining Lease area, after obtaining express and prior consent from the Khatedars.

22. The contention of the Learned Counsel for the applicant is that the respondent /project proponent is leading loss of agriculture by dumping and the agreement which was entered by the khatedars are illegal or that the respondent is carrying out mining in areas not permitted by the Tehsildar. In response to the contention it is replied that:-

- i. That the mining activities being undertaken by the Respondent No.2 are being done in compliance of the sanctioned Mining Plan and relevant Rules and the Environment Clearance dated 09.08.2010.

ii. The Respondent No. 2 is also carrying out plantation activities and there is no adverse effect on ecology.

iii. The Respondent No.2 is using private land within its Mining Lease area only after having valid agreements with the Khatedars and after obtaining express consent from the respective khatedars. The Respondent No. 2 is also paying the due amounts as compensation regularly to those Khatedars on account of using their land for mining purposes.

iv. Khatedar has ever complained about the illegal dumping in their land.

v. No local water bodies or natural water source is being affected/polluted by the dumping or mining activities of the Respondent No.2.

vi. The Respondent No.2 is dumping the waste/debris in the earmarked places and no other places as alleged by the Applicants.

vii. The Respondent No. 2 is carrying out the mining activities in compliance of the communications issued by the Tehsildar, Bhilwara dated 03.12.2010.

viii. The Respondent No. 2 has obtained permissions for the deep hole drilling and blasting under the Metalliferous Mines Regulations, 1961. In accordance with Section 106(2) the Directorate General of Mines Safety, Ajmer Region vide letter dated 15.06.2011 had granted permission to the Respondent No.2 and the same has been renewed from time to time.

ix. The temple of Mataji exists in Khasra no. 221 and there is adequate distance of more than 100 feet from where the mining activities of the Respondent No.2 have been carried out, and that the temple has been heavily guarded and the Respondent No.2 has assured its safety.

x. The department of Mining Engineering College has checked the blasting operations carried out by the Respondent No.2 and have given a conclusion that no nearby houses are being affected by the blasting operations or because of the vibrations caused due to the blasting.

xi. The Mauka Parcha Report dated 10.01.2015 makes it clear that the Respondent No.2's activities are not blocking any water ways.

xii. That no part of the Mining Lease of the Respondent No- 2 falls within the area of Eco-Sensitive Zone and above all there is no mention/provision of Eco Sensitive Zone in the Master Plan of 2005 - 2035. The letter dated 06.06.2006 being relied upon by the Applicants is not relevant as the updated/revised Master Plan 2005- 2035 prepared under the provisions of Rajasthan Urban Improvement Act, 1959 is the

prevailing authority.

xiii. That the Respondent No. 2 always made serious efforts to take care of the environment etc. and hence as a practice testing of Water, Overburden and impact of blasting is being conducted regularly through third parties and experts. In fact, with the present Written Submissions, the Respondent No.2 is filing the OB Analysis Test Reports which show that the OB Dumping of the Project Proponent is being done within permissible limits. Further, the Potable & Domestic Water Report also shows that the observed values are within the Standards Permissible.

23. The Project Proponent has filed the copy of the different agreements with the khatedars as Annexure-R/1. The Team Institute of Science and Technology Private Limited, Jaipur has taken the samples for test report of different places and time and the report has been submitted to the Regional Officer, Rajasthan State Pollution Control Board, Bhilwara.

24. An another D.B. Civil Writ Petition No. 16072/2019 was filed before the High Court of Rajasthan which was heard and finally decided vide order dated 29.09.2021 and reported in 2021 SCC Online Rajasthan 1296, AIR 2021 Rajasthan 148.

25. The petitioner has prayed for the following reliefs:-

a) by an appropriate writ, order or direction, the respondent authorities may be directed to cancel the Patta No. 631/2005 issued to respondent No.5 for allotment of 343, 4317 hectare of Charagah land in villages Samodi, Dariba, Pansal, Malola, Suras and;

b) the respondents may further be directed to stop mining activities in the nearby area of villages Samodi, Dariba, pansal, Malola, Suras of Bhilwara District and;

c) the respondents may further be directed to reconstruct each and every house which is damaged due to mining activities and blasting by the respondent No, 5 or pay the actual cost of their houses as compensation to the each and every owner of house whose houses have been damaged.

d) the respondents may further be directed to repair the public places like Temples, Masjid, Roads, Govt./Semi-Govt. buildings and any other building or structures which have damaged due to illegal mining activities and blasting by the respondent No. 5.

e) the respondent authorities may be directed to constitute a committee for the evaluation of the losses mentioned in para (d) and (e) above and according to the recommendation of committee the actual cost of loss suffered by the citizen may be allowed to them alongwith interest @ 18% per

f) heavy penalty may be imposed on the Respondent No. 5 and respondents may be directed to recover all the losses as mentioned in para (c), (d) and (e) above from Respondent No, 5 company.

g) Any other order, which this Hon'ble Court considers just and proper, may kindly be passed in favour of the petitioner."

26. Hon'ble the High Court dismissed the petition with the following observations :-

(1) Issue regarding violation of Condition No' 17 of the agreement dated 5.10.2011:

i. There is no denying the fact that after the execution of mining lease in favour of the respondent No. 5, an agreement was executed between the Municipal Corporation, Bhilwara and the respondent No. 5 on 05.10.2011 for the purpose of setting up of a 10 MLD Sewage Treatment Plant on BOOT basis to treat the sewage water of Bhilwara City for use in the plant of the respondent No. 5. The said agreement contained as many as 23 conditions, out of which Condition No. 17 is relevant for our purpose, which is being reproduced as under:-

vuko`f"V dh fLFkfr esa miuxj {ks= iqj ds 3 rkykcksa esa fV^afVax fd;k gqvk ikuh NksM+k tk,xk A ii. The above condition specifically provides that the treated water will be released in two ponds in village 'Pur', only when there will be drought in the 'Pur' area. From the said condition it is not borne out that the objective was to fill two water tanks in village 'Pur' with drinking water on regular basis. Be that as it may, the petitioner has failed to establish that any drought had occurred in the said area after the execution of the agreement in question.

iii. The matter can be viewed from another angle also. Admittedly, the writ petitioner was not a party to the said agreement and the Municipal Corporation, Bhilwara has never made an allegation against the Respondent No.5 regarding non- compliance of Condition No. 17 (supra), Therefore, this issue is not established by the writ petitioner.

(2) Issue regarding Gochar land iv. The sequence of events depicted by the respondent No. 5 in its reply, which is duly supported by affidavit of its authorized representative Shri Rajesh Kumar Kuvera and the documents, it is revealed that on 11.10.2007, the Government of Rajasthan issued a Letter of Intent for grant of mining lease to the respondent No. 5. Thereafter, NOCs' came to be issued by the Gram Panchayat, Suras, Dariba, Pansal and Malola on 28.03.2008, 30.07.2008, 06.08.2008 and 15.10.2009 respectively. Thereafter, on 16.10.2009 a public hearing relating the Environment Clearance was conducted after due publication in the newspaper in accordance with law, on 29.04.2010, a No Objection Certificate for mining in the Charagah land was granted by the State Government. This No Objection Certificate is very relevant for deciding the present controversy, which is

being reproduced :

jktLFkku&ljdkj jktLo ¼xzqi &3½foHkkx dzekad-i-2 ¼468½jkt &3@10 t;iqj]fnukad 29-04-10 ftykdysDVj] HkhyokM+k fo"k; % vuqnku [kuu iV~Vk okLrs [kfut] pkanh] tLrk] lhlk] dkWij] vk;ju] dksCkkYV] fudy ,aM ,lksl,VsM feujy fudV xzke MsMokl rglhy o ftyk HkhyokM+k esa loZJh ftany 'kk fy- cker~A lanHkZ%&vkidk i= dzekad 1066 fnukad 06-01-10 egksn;] mijksDr fo"k; ,oa lanHkZ esa vkids izLrkokuqlkj [kuu iV~Vk la 631@05 ds laca/k esa xzke leksMh xzke njh;k] xzke ikly] xzke lqjkl dh dqy pkjxkg Hkwfe 334-4317 gSDVs;j Hkwfe dh fdLe [kkfjt dj loZ Jh ftany 'kk fy-dks vuqnku [kuu iV~Vk okLrs [kfut] pkanh] tLrk] lhlk] dkWij] vk;ju] dksCkkYV] fudy ,aM ,lksl,VsM feujy dks [kuu ,u-vks-lh- jktdh; Lohd `fr funZs'kkuqlkj ,rn~ }kjk iznku dh tkrh gS A vkids dk;kZy; dh ewy i=koyh layXu dj iszf"kr gS A layXu%&mijksDrkuqlkj A Hkonh;

"kklu mi lfpo i=fyfi %& 1-jf{kri=koyh A 2-ekLVjxkMZQkbZy A v. Thereafter, vide letter dated 30.07.2010, the District Collector, Bhilwara issued NOC in respect of mining in the Charagah land situated in the aforesaid villages. The Ministry of Environment and Forest issued Clearance Certificate in favour of the respondent No.5 vide letter dated 09.08.2010 and ultimately mining lease was sanctioned on 16.11,2010 and execution thereof took place on 08.12.2010. The aforesaid material placed on record reveals that the mining lease was granted to the respondent No.5 after following due process of law and since thereafter the respondent No. 5 is carrying on mining activities in pursuance of the mining lease.

vi. After the issuance of the mining lease in the year 2010, the instant writ petition has been filed in the year 2019 i.e. after a lapse of almost 9 years, whereas under Section 30 of the Mines and Minerals (Development and Regulation) Act, 1997, a person aggrieved by the order granting mining lease can challenge the same before the appropriate authority of the Central Government. The petitioner-Society did not avail the alternative efficacious remedy and has directly approached this Court and that too without any locus standi.

vii. It is also borne out from the record that the respondent No 5 has established a fodder plot in the village Samodi and is supplying green Fodder therein for the livelihood of cattles and livestock in the area. The respondent No. 5 in support of this fact, has placed on record the photographs of green fodder supply for cattles in the Villages Pur, Samodi and Dariba for the Financial Year 2018-2019 under Corporate Social Responsibility Scheme (CSR Scheme). Therefore, the plea of the petitioner that the mining activities of the respondent No. 5 are prejudicial to the lives of the cattles has no basis at all.

viii. One more fact which needs special attention is that prior to filing of the present petition, the petitioner-society has filed Case No 683/2018, titled as Sangarsh Sewa Samiti v. Jindal Saw Limited, before the Permanent Lok Adalat, Bhilwara (Raiasthan)

under the provisions of Section 22-B of the Legal Services Authority Act, 1987 and the said matter is still pending before that Forum, however, the petitioner has suppressed the said material facts in the instant writ petition. Therefore, the petitioner has not approached this Court with clean mind, clean heart and clean objective. The facts on record reveal that the present petition is nothing but a colourable device to abuse the process of law and cause hindrance to the respondent No. 5 in carrying out its mining activities.

ix. In view of the above discussion, there is no merit in the present PIL petition and the same is hereby dismissed."

27. The allegation of the applicant are that "Project Proponent' has been violating the specific conditions of the Environmental Clearance like condition No (X) which states that overburden should be dumped in the earmarked dumping sites only, violation of condition No. (IX) which states that no water course or water resources shall be obstructed due to mining operations and condition No. (XXV) which states that the vehicle carrying the minerals shall be covered by Tarpaulin.

28. In reply thereof, the respondent has contended that :-

1. "The Respondent No. 2 is dumping the overburden only at the earmarked place as per the Mining Lease and only after getting consent of the landowners and within the purview of the Mineral Concession Rules. It is denied that the Respondent No. 2 had blocked the course of water by making a Pulia with inserted cement pipes. It is further submitted that overburden generated during the mining operation was dumped at earmarked and identified dump site(s) in accordance with approved Mining Plan.

2. The Respondent No. 2 i.e., Lessee had the right to make road in the lease area as defined under Para 4 of Part II of the Lease Agreement for the purpose of vehicular movement and transportation of mineral, over burden etc. in the lease area.

Further, the Project proponent/Respondent No 2, even prior to making Kaccha roads or developing the existing road in the lease area, also got permission from the Executive Engineer, Water Resources Department, Division II Bhilwara vide their letter dated 23.01.2014 for laying pipeline in the existing drains, wherever required to avoid obstruction of watercourse/drain in the lease area. It is submitted that in terms of Part - II (6) - Form -K , the Respondent No. 2 had the permission to use water from any streams, water-courses and other sources.

29. Copy of the letter dated 23.01.2014 issued by the Executive Engineer, Water Resources Department, Division-II, Bhilwara to the respondent No. 2 and copy of the Form-K (Extract from Mining Lease) have been submitted by the applicant.

30. Notices were also issued to the Rajasthan State Pollution Control Board and in compliance thereof the affidavit-cum-reply on behalf of the Respondent No. 3 Rajasthan State Pollution Control

Board has been filed with the following facts :-

- i. That the mining lease was inspected by the officials of the State Board on 23.08.2018. During the course of inspection, it was observed that the overburden is dumped at earmarked site as per the approved mining plan; the land used for dumping of overburden is on rental basis from farmers.
- ii. That no water sources/water resources were obstructed due to mining activities.
- iii. That the mining lease is using tarpaulia to cover vehicles used for transportation of minerals.
- iv. There is no violation of EC conditions as claimed by the applicant.

31. The matter was raised under Rule 377 in the Parliament (Lok Sabha) by one of the Hon'ble Member of the Parliament regarding flouting of the environmental norms and the report which was submitted by the Dy.

Director/Scientist 'C' is as follows :-

" (Report dated 27.04.2022) FACTUAL REPORT on the issues raised under Rule 377 in Lok Sabha by Shri Hanuman Beniwal, Hon'ble MP regarding alleged flouting of environment norms by a company engaged in production of iron and steel products:

Directions were received from Head Office, MoEF&CC, GoI, New Delhi through email dated 25/02/2022 to submit a factual report on the issues raised by Shri Hanuman Beniwal, Hon'ble MP regarding alleged flouting of environment norms by a company engaged in production of iron and steel products at Bhilwara, Rajasthan. In Bhilwara, a company named as M/s Jindal Saw Ltd. is operational having two Mines, one beneficiation Plant and one Iron Pallet Plant. Accordingly, the projects situated near the village "Pur" (i.e. one Open Cast Iron Ore Mine with Beneficiation Plant named as "Integrated Mineral Beneficiation Plant and Iron Ore, Copper and Associated Minerals Mining Project (M. L. No. 631/05 of M/s Jindal Saw Limited located in village Dhedwas, Tehsil & District Bhilwara, Rajasthan" Project No. J-11015/176/2009-IA II (M) and Iron Ore Pallet Plant named as "Capacity enhancement of existing pellet plant from 1.2MTPA to 1.5 MTPA by M/s Jindal Saw Ltd. Located at Pur, Tehsil and district Bhilwara, Rajasthan" under clause 7(ii) Project No. J - 11011/371/2014-IA II (I) were visited on 25/02/2022 for the purpose of preparing factual report.

The point wise observations against the issues raised are as follows:

1. There are two projects situated near the village "Pur"

one Open Cast Iron Ore Mine with Beneficiation Plant named as "Integrated Mineral Beneficiation Plant and Iron ore, Copper and Associated Minerals Mining Project (M. L. No. 631/05) of M/s Jindal Saw Limited located in village Dhedwas, Tehsil & District Bhilwara, Rajasthan" Project No. J-11015/176/2009- IA II (M) & Iron Ore Pallet Plant named as "Capacity enhancement of existing pellet plant from 1.2MTPA to 1.5 MTPA by M/s Jindal Saw Ltd. Located at Pur, Tehsil and district Bhilwara, Rajasthan under clause 7(ii) Project No. J- 11011/371/2014-IA.II(1) of the company M/s Jindal Saw Ltd. Both the projects were visited and a detailed monitoring report of the are attached.

2. With reference to physical verification of metal being extracted, it is submitted that the unit has submitted Authenticated Production Figures of the Mine duly verified by the Mining Engineer, Department of Mines and Geology, Government of Rajasthan. Copy of same is attached.

3. With reference to land allotment and its uses, the unit has submitted Mining Lease documents as well as agreement of land being used by the project. Copy of same is enclosed for ready reference. The unit is also having approved mining plan which was valid during on the date of inspection.

4. With reference to the dumping of OB and Tailing ponds a satellite image of marked lease area, plantation; active mining pit, OB dump, tailing dump, anicut and canal area of Dhedwas Mine and Mineral Beneficiation Plant is available for ready reference and a Digital KML file of the same is being forwarded through the email. There is one canal of Meja dam passing through the lease area between the Pit DK -S (Dhulkheda South) And DK-N (Dhulkheda North) and a safety pillar of adequate width has been left from the canal towards both the pits. Further as per the visual inspection no obstruction of water body was observed due to dumping.

5. The unit has also retrofitted the filter press with advanced technology and the water contained in tailing and concentrate is being recovered with the help of thickener and advanced filter press technology and being reused in Mineral Beneficiations process. The tailings are in the form of cakes and being stored at the designated places.

6. With reference to cracks in the houses situated in the nearby villages due to blasting, the PP has got done Blast Vibration Monitoring Study from an institute of National Repute i.e. "CSIR- Central Institute of Mining & Fuel Research, Nagpur and also from a reputed regional university i.e. "Jai Narayan Vyas University, Jodhpur the detailed reports along with blast monitoring data is annexed for ready reference. It has also been informed that there have been historical issues of cracks in houses in the nearby villages long before the commencement of Mining Operation in the aforementioned projects and a detailed presentation and documentary evidence regarding the same has been submitted by the unit."

32. It is further argued that in terms of the environmental clearance granted by the MoEF & CC dated 09.08.2010, the project proponent has been submitting the detailed compliance report of every six months and a copy of the latest report / compliance report have been submitted to the concerned Ministry regularly and the MoEF&CC has not made any objection with regard to non-

compliances of the conditions of the EC.

33. The learned counsel for the applicant has further argued that there are cracks in the building due to blasting activities by the respondent no. 2. In reply thereof the learned counsel for the project proponent has submitted that the matter was referred and examined by the technical committee constituted by the State of Rajasthan.

34. The District Collector, Bhilwara has constituted a team of Technical Experts on 22.07.2019 to conduct further studies to find out the root cause of the cracks. District Collector, Bhilwara constituted a team of Technical Experts comprising of:

i. CSIR-Central Building Research Institute, Roorkee;

ii. IIT Roorkee;

iii. National Institute of Hydrology, Roorkee;

iv. CSIR - Central Institute of Mining and Fuel Research,
Dhanbad;

v. MBM Engineering College, Jodhpur to discuss the causes and
effects of development of cracks

building/structure/roads/drains in and around village Pur, Bhilwara.

35. The Final Report of the team of the Experts of the Technical Committee dated 05.04.2021 was prepared after detailed investigations and it emphatically concluded that the blasting activities of the project proponent could not be said to be responsible for the alleged cracks in the houses in and around village - Pur, Bhilwara. Copy of the report dated 05.04.2021 has been filed with the records.

36. Scope of the work given to institutions are:

a) CSIR-CIMFR was requested to evaluate the impact of blast induced ground vibrations.

b) CSIR - CBRI, Roorkee was requested to carry out the scientific study to investigate the reasons of cracks development in buildings of Pur Village, Bhilwara.

c) IIT-Roorkee was requested to carryout hydro-geological study of Pur Village area, Bhilwara.

37. CSIR- CIMFR Dhanbad team conducted 15 experimental blast rounds at Dhedwas Iron ore mine in different phases for field investigation. The parameters of blasts were decided after reviewing data of mine blasting operations carried out during April, 2018 to Dec, 2019. Altogether vibrations were monitored at 56 different locations which were chosen considering size of blast, mine location

the distance of the presence of any domestic structures.

In all cases, measurements were carried out in the direction with an intention to record maximum vibration as well as air overpressure intensity.

38. That CSIR-CIMFR observed that analysis of propagation characteristics of the vibration reveals that ground vibration beyond a distance of 1.5 km decayed to less than 1.0 mm/s in majority of the cases. In most of the housing structure beyond 2.0 km from the blast site, equipment did not record any vibration and the values were not noticeable by human body.

Therefore, it is concluded that observed blast induced ground vibration values are safe and well within the permissible limit as per the recommendations of Directorate General of Mine Safety (DGMS). based on the findings of the study conducted by CSIR-CIMFR, it was concluded that impact of blast induced ground vibration and air over pressure in causing the damage to the housing structures of Pur village, approx. 2.5 kms away is practically not possible.

Cracks in the houses may be accounted to hydro-geological set-up of Pur village and its interaction with the weak non-engineered foundation of the houses.

39. Along with CSIR - CIMFR, CSIR - Central Building Research Institute also carried their investigations and filed studies. It carried out survey of buildings stocks to assess the type of damages in the buildings and other structures.

The different site locations were selected to know the sub-surface lithology of the surrounding region of the Pur Village, Bhilwara and also the central part of the Pur village.

40. It is submitted that CSIR-CBRI inferred from the geotechnical investigations that the cracks appeared in the buildings, which are situated on the considerably thick heterogeneous soil in the central part of the Pur village.

The buildings situated at the village periphery having less overburden are less damaged than the buildings in the central part of the village where the loose soil mixed with rock fragments has a thickness varying from 8m to 14m. The damages were observed mainly, in non-engineered and old constructed buildings. The crack patterns in the buildings clearly indicate towards differential settlements in foundation. During study, it was also found that damages due to cracks were mainly in stone masonry structures (no engineered type buildings). No attribution to blasting activities of the Project proponent/Respondent no.2 was drawn in this Report.

41. IIT Roorkee also carried out comprehensive site surveys followed by a series of field experiments conducted during 07-11th November 2019 and 28 January to 01 February 2020, to know the hydro-geological behavior of the study area. A total of 19 geophysical surveys were conducted in and around the village using 06 vertical electrical soundings (VES), 11 electrical resistivity tomography (ERT) surveys, and 02 Surface nuclear magnetic resonance (SNMR) surveys using ground magnetic resonance (GMR). The top soil depth in central part of the village was found thicker than the other

sites situated at the village periphery particularly towards the mining industry. A significant variation in water content and hydraulic conductivity observed with depth of GMR surveys indicated towards the sudden change in subsurface strata.

These types of subsurface anomalies are prone for differential land settlement.

The expert also concluded that possible water seepage from leaky drainage network seems further aggravating the observed differential land settlement and associated cracks. Extreme rainfall event of 1023 mm observed in 2019 monsoon period appears contributing land settlement. Even in this Report no attribution to blasting activities of the Project proponent/Respondent no. 2 were drawn. It is argued that the blasting being conducted by the Respondent No.2 is under permissible limit and as per the norms and no damages /cracks are due to blasting by the Respondent No.2.

42. The next contention as raised by the learned counsel for the Applicant is that mining activities are being conducted near the abadi area. In reply thereof, it is submitted by the respondents that mining activities is not taking place in and around abadi area. Abadi area is more than 300 meter away from the blasting area of mines.

43. That the Mining operations are being carried out at a safe distance. As per Rule 27(1) (h) of the Mineral Concession Rules, 1960: 50 meters has been demarcated as the distance from the abadi area, railway line, reservoirs, canals, buildings etc. where the mining operations shall be done and in this it has been contended by the learned counsel for the Respondent that no cogent evidence has been filed or produced to corroborate the allegations of the Applicant.

44. The Applicant has further raised the issue of mining, taking place in eco-

sensitive zone and in reply it is argued that, no "Eco Sensitive Zone" exists in the Mining area of the Respondent No. 2. Eco-Sensitive Zones can be notified and declared only by the Ministry of Environment and Forest around protected areas, National Parks and wildlife Sanctuaries as per the Guidelines notified and not by the local bodies. It is further submitted that Bhilwara Master Plan was approved and Notified on 25.10.2016 and according to it, no eco-sensitive zone is existing in the Bhilwara District. That there is no mention/provision of eco sensitive zone in the master plan of 2005-2035. The letter dated 06.06.2006 being relied upon by the Applicants is not relevant as the updated/revised Master Plan 2005-2035 prepared under the provisions of Rajasthan Urban Improvement Act, 1959 is the prevailing authority.

45. It is submitted that MOEF has issued Guidelines for declaration of Eco-

sensitive Zone around National Parks and Wild life sanctuaries on 09.02.2011. This was done as per the directions issued by the Supreme Court in the PIL filed by Goa Foundation (Goa Foundation v. Union of India, (2014) 6 SCC 590 - Para 88 onwards) .It is submitted that the purpose of declaring Eco Sensitive Zones around National Parks and Wild life Sanctuaries is to create a "Shock Absorber" for the protected area. As a general principle the width of the Eco-Sensitive Zones could go upto 10 Kms around a Protected Area as provided in the Wildlife Conservation Strategy 2002. As

per the Guideline, MOEF has directed and requested State Government to forward site specific proposal for declaration of Eco-Sensitive Zones around National Parks and Wildlife Sanctuaries. However, no proposal was sent by the State of Rajasthan for development of Eco-Sensitive Zone in the Bhilwara District.

There are no National Parks and Wildlife Sanctuaries around the Bhilwara Mines. In this respect, it is pertinent to point out the letter of Forest Department dated 23 .09.2009 that has clearly mentioned that no Wildlife Sanctuaries and National Parks, Wildlife Corridor, Tiger/Elephant Reserves etc. will exist within 10 Km radius of the ML No. 631. (DFO letter submitted in the Compliance Affidavit filed by MOEF on 01.10.2018).

46. It is further argued that the master plan 2005-2025 has been subsequently replaced and superseded by the revised Bhilwara Master Plan 2005-2035, and declaring an area to be an eco-sensitive zone comes within the MoEF & CC, Government of India and till date the same has not been declared nor notified.

47. The matter of illegal mining and other connected issues were raised in following petitions:

- (i) DB CWP (PIL) No. 11496/2012
- (ii) DB CWP (PIL) No. 1424/2013
- (iii) DB CWP (PIL) No. 1549/2014
- (iv) DB CWP (PIL) No. 8188/2015
- (v) DB CWP 16072/2019 and all these matters have been heard and decided by the Hon'ble High Court.

48. On the basis of above discussion and observations, we find that the issue of dumping of over burden, obstruction to the natural water course or vehicles carrying the minerals shall be covered with the tarpaulin as contained in condition no. (ix, x and xv) of the EC condition were raised before the National Green Tribunal or before the Hon'ble High Court of Jabalpur and was finally heard and decided.

49. The issues of grazing land, khatedaars, Devi origin or blasting and illegal mining or violation of eco-sensitive area were also raised before different platforms in different petitions and was finally heard and decided and no illegality or irregularity has been found to be in violation of environmental norms or environmental conditions.

50. During the course of hearing of this petition, the Applicant failed to produce any cogent evidence which may prove the violation of environmental conditions. The periodical report and compliances at the interval of six months were reported by the project proponent to the MoEF & CC and MoEF & CC never reported the non compliances. The reports of the committees constituted by the High Court or constituted by the State Government submitted the report with the facts that the conditions of environmental clearance have been followed by the project proponent and there are no violations of the environmental conditions. The parliamentary question was replied by the concerned department with regard to the allegations as alleged in this petition and nothing was found to be in

violation of environmental conditions.

51. On the grounds mentioned above, the application has no merit and deserves to be dismissed and accordingly dismissed.

Sheo Kumar Singh, JM Dr. Arun Kumar Verma, EM 28th April, 2023 O.A No. 95/2017(CZ) PU, K, PN