

Dasu. Manikantaiah vs Ministry Of Environment Forests & ... on 30 September, 2022

Bench: K. Ramakrishnan, Satyagopal Korlapati

Item No. 01

Court No.1:

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI
Original Application No. 87 of 2020(SZ)
(Through video conference)

IN THE MATTER OF:
DASU MANIKANTIAH
Aged 32 years,
S/o. D. Penchalaiah,
Chittoor District,
Andhra Pradesh - 517589

...Applicant(s)

Versus

UNION OF INDIA
Represented by its Secretary,
Ministry of Environment, Forest and Climate Change,
Indira Paryavaran Bhawan,
Jor Bagh Road,
New Delhi-110003 & Ors

...Respondent(s)

Date of Judgment: 30.09.2022

CORAM:

HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. SATYAGOPAL KORLAPATI, EXPERT MEMBER

For Applicant(s):

M/s. Taarus Associates
Mr. S. Kamlesh Kannan
Mr. S. Sai Sathya Jith

For Respondent(s):

Mr. Syed Nurullah Sheriff for R1
Mrs. Madhuri Donti Reddy for R2 to R6
.

ORDER

Judgment pronounced through Video Conference. The original application is disposed of with directions vide separate Judgment. Pending interlocutory application, if any, shall stands disposed of.

Sd/-

Justice K. Ramakrishnan, J.M. Sd/-

Dr. Satyagopal Korlapati, E.M.

O.A. No. 87/2020(SZ)
30th September 2022. AD

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Versus

1. UNION OF INDIA
Represented by its Secretary,

Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhawan, Jor Bagh Road,
New Delhi-110003.

2. The State of Andhra Pradesh Rep. by Principal Secretary for Mines and Geology, Secretariat,
D.No. 7-104, B-Block, 5th and 6th Floor, Ibrahimipamam, Vijayawada, AP-521456.

3. The District Collector Chittoor, New Collectorate Office of Chittoor, Chittoor District.

4. The Assistant Director of Mines and Geology, Chittoor Jurisdiction.

2-53 & 54, Officers Lane, Kongareddy Pally, Chittoor-517001.

5. The Chairman Andhra Pradesh Pollution Control Board D-33-26-14 D/2, Near Sunrise Hospital,
Pushpa Hotel Centre, Chalamalavari Street, Kasturibaipet, Vijaywada-520010.

6. The Andhra Pradesh Mineral Development Corporation Limited Rep. by its Executive Director
No. 294/ID, Tadigadapa to Enikepadu 100 ft. Road, Kanuru Village, Penamaluru Mandal,
Vijayawada-521137.

7. PMR Infra Inida Limited, Rep by Chairman Flat No. 1018, Visakhapatnam, Andhra
Pradesh-530003.

...Respondent(s)

For Applicant(s):

M/s. Taarus Associates
Mr. S. Kamlesh Kannan
Mr. S. Sai Sathya Jith

For Respondent(s):

Mr. Syed Nurullah Sheriff for R1
Mrs. Madhuri Donti Reddy for R2 to R6
.

Judgment Reserved on: 26th September 2022.

Judgment Pronounced on: 30th September 2022.

CORAM:

HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER HON'BLE DR. SATYAGOPAL KORLAPATI, EXPERT MEMBER Whether the Judgment is allowed to be published on the Internet - Yes Whether the Judgment is to be published in the All India NGT Reporter - Yes.

JUDGEMENT Delivered by Justice K. Ramakrishnan, Judicial Member

1. The grievance in this application is regarding illegal mining going on in Arani River Bed in Chittoor District of Andhra Pradesh without obtaining necessary Environmental Clearance and other statutory permissions.
2. It is alleged in the application that the applicant is a resident of Karani Village, Nagalapuram Mandal, Chittoor District, Andhra Pradesh and he is representing the interest of the entire village who are depending on Agriculture as their main source of livelihood.
3. The Applicant village is located at the border of Andhra Pradesh and Tamil Nadu State wherein Arani River passes through the same. The said river passes through Karani village and then to the adjacent Surutupalli Village and there after enters Tamil Nadu. There is a reserve forest known as Palem Forest which is situated adjacent to the applicant's village.
4. As per proceedings in F.No. 2940/SAND/2019, dated 08.07.2019, the District Collector had identified 5 reaches of river sand mining places in Aaraniaar riverbed evidenced by Annexure No. 1 proceedings. Out of the said 5 reaches, 3 reaches were approved.
5. The Applicant is aggrieved by Reach No. 3 which is located within the village of Surutupalli and he had made representations along with other members of the village to the authorities, not to grant any permission for river sand mining in that area as they are totally depending on the water from the river for irrigation and that is likely to be affected on account of the same.

6. Without assessing the environmental damage that would be caused, the 6th and 7th Respondent had entered upon an agreement to mine the river sand and started sand mining in that area and exhibit Annexure No. 2 is the agreement entered into between 6th and 7th Respondent for this purpose. Immediately after executing the agreement, mining activity was started without obtaining necessary Environmental Clearance from the 1st Respondent. Till date they have mined about 15 feet depth using machines which is also prohibited. They are also laid a road along the riverbed for the purpose of transport of illegally mined sand and they have transported about 400 to 500 Lorry loads. They were excavating 24x7 and in full capacity at nights as well. Annexure No. 3 series are the photographs showing the activities of the Respondent 6 and 7.

7. The River Stretch in which sand mining is being undertaken is having an extent of 4.70 Hectares and as per the decision of the Deepak Kumar Vs. State of Haryana reported in (2012) 4 SCC 629, there is necessity for obtaining Environmental Clearance irrespective of the extent of the land involved in Sand mining and as per EIA Notification, 2006 as amended by Notification dated 15.01.2016 also makes it mandatory for obtaining Environmental Clearance for this purpose.

8. Apart from Reach No. 3 of proceedings dated 08.07.2019, the 6th and 7th Respondent has now begun their mining activities in other areas as well including private lands in Survey Nos. 161 and 162 of Karani Village, without obtaining necessary Environmental Clearance. They were also using the heavy machineries and they are also adopting the dubious method of bifurcating the sand reaches into small extents to avoid the rigid efforts of obtaining Environmental Clearance to make it to category „B2 and avoid public hearing and other environmental assessment methodology.

9. It is also adjacent to the National Highways, Agricultural lands and forest and severe damage has been caused on account of the illegal mining activity undertaken by the 6th and 7th Respondents. Severe environment damage has been caused. Since the authorities are not taking any action in spite of representation is given. The Applicant has no other remedy except approach this Tribunal seeking the following reliefs:

(i) Restrain the 6th and 7th Respondents or anyh other person from mining the river sand from Arani River and Suruttupalli Village of Nagalapuram Mandal, Chittoor district, Andhra Pradesh, and sand from the Private lands in S.Nos. 161 and 162 of Karani village of Nagalapuram Mandal, chittoor District, Adnhra Pradesh without the necessary Environmental Clearance from the 1st respondent,

(ii) Direct the Respondent Authorities to takeaction against the illegal mining activity, at Arani river (in Karani and Suruttupalli Village) aqnd S.Nos.

161 and 162 (in Karani Village), Nagalapuram Madal, Chittoor District, Andhra Pradesh and assess the damages that has been caused due to the same.

(iii) To award cost for causing degradation to the environment at Karani and Suruttupalli Village of Nagalapuram Madal, Chittoor District, Andhra Pradesh, and

(iv) Pass such further or other orders in the interest of justice.

10. The 1st Respondent filed Counter Affidavit on behalf of the Ministry of Environment, Forest and Climate Change contending as follows:

They have denied most of the allegations made in applications. They contended that Ministry had issued EIA Notification, 2006 namely S.O. 1533(E) dated 14th September, 2006 under the provisions of the Environmental (Protection) Act, 1986 and as per EIA Notification, 2006 certain projects requires Environmental Clearance as referred to in the schedule attached to the Notification before commencing their work.

11. Further the projects were categorized as Category "A" and Category "B" and as far as Category „A is concerned the issuing authority is Central Government and as far as Category „B is concerned it has to be done at the state level. They also detailed the procedure to be followed by the Central level officials and State level officials for granting the Environmental Clearance.

12. After the Deepak Kumar s case of the Hon ble Apex Court, the 1st Respondent Ministry had issued another notification S.O. 141(E) dated 15.01.2016 whereby category „B has been divided into "B1 & B2" categories and „B2 category the Environment Clearance issuing authority is DEIAA after appraisal made by District Expert Appraisal Committee and „B1 category will have to be considered by State Expert Appraisal Committee and Environmental Clearance will have to be issued by the State Environment Impact Assessment Authority.

13. The National Green Tribunal Principal Bench, New Delhi by order in execution Application No. 55/2018 in O.A. 520/2016 titled as "Vikrant Tongad Versus Union of India" has ordered the following:

The directions that 15.01.2016 should still be acted upon is merely illegal and in violation of Judgement of this Tribunal. The same will stand suspended till a fresh Notification is issued by the Ministry of Environment, Forest & Climate Change (MoEF&CC) as directed herein above.

The directions will apply to all the State Environment Impact Assessment Authority / State Governments evidenced by Annexure R1/1 judgment.

14. Person to the above said order of the Hon ble National Green Tribunal dated 11th December, 2018, the 1st Respondent Ministry had challenged the same before the Apex Court by filing Civil Appeal as "Union of India Vs. Rajiv Suri" and that matter is still pending.

15. Further in order to regulate the sand mining in a proper way ministry had issued new guidelines namely "Enforcement Monitoring Guidelines of Sand Mining" (EMGSM-2020) supplemental to the existing guidelines namely Sustainable Sand Management Guidelines (SSMG-2016) and that focus on the effective monitoring of the sand mining since from the identification of sand mineral sources

to its dispatch and end-use by consumers and the general public. These documents will serve as a guideline for collection of critical information for enforcement of regulatory provision(s) and also highlights the essential infrastructural requirements necessary for effective monitoring for Sustainable Sand Mining.

16. The objective of the guidelines inter-alia include the identification and quantification of the Mineral Resource and its optimal utilization; use of it enabled services and latest technologies for surveillance of the sand mining at each step; setting up the procedure for replenishment study of Sand; Post Environmental Clearance Monitoring and Procedure for Environmental Audit.

17. The EMGSM-2020 specifies that the necessary requirements to comply with the directions of Hon ble National Green Tribunal and to facilitate effective Monitoring Enforcement of Regulatory provisions for sand mining includes Identification of Sand Mining sources it quantification and feasibility of mining considering various environment (proximity of protected area, wetlands, creeks, forest etc.,) and other factors such as important stretches places of archaeological importance, habitation prohibited area etc.,

18. It also includes the preparation of comprehensive District Survey Report that mentions about the identification of mining and no mining zone, which shall follow with defining the area of sensitivity by ascertaining the distance of mining area from the protected area, forest, bridges, important structures, habitation etc., and further based on the sensitivity of the area needs to be defined in sensitive and non-sensitive area. It further specifies that the potential site for mining having its impact on the forest, protected area, habitation, bridges etc., shall be avoided.

19. Both these will have to be read and implemented in sync with each other in case of any ambiguity or variation between the provisions of both this documents arises the provisions made in the Enforcement and Monitoring Guidelines for Sand Mining, 2020 shall prevail.

20. They have further contended that the State Mining and Geology Department is a nodal authority for implementing the provisions of allotment of mining leases under the Mines and Minerals Development Regulation Act, 1957 and is entrusted with its enforcement regulation of mining activities in the State.

21. Further Sec 23 (c) of the said Act empowers the state to make rules to regulate the mining activities and check illegal mining transportation storage of minerals and it is for them to enforce the mining laws in the State. They prayed for accepting their contentions and passing appropriate orders.

22. As per order dated 25.06.2020 this Tribunal gave an opportunity to the State of Andhra Pradesh to file their statement regarding the allegations made in the application.

23. The matter was taken up on 21.09.2020 and on that day this Tribunal received the inspection report submitted by the Additional Director of Mines and Geology, Chittoor who is the 4th Respondent in the matter dated Nil received on 21.09.2020 which reads as follows:

INSPECTION REPORT IN THE MATTER OF ORIGINAL APPLICATION NO.87 OF 2020(SZ), FILED BY MR. DASU MANIKANTAIAH, ANDHRA PRADESH AT THE HON'BLE NATIONAL GREEN TRIBUNAL (SOUTH ZONE), CHENNAI Mr. Dasu Manikantaiah, Resident of Karani village and post Chittoor District has filled an original application at Hon'ble NGT (South Zone) against illegal mining activity, at Aarani River (in Karani and Suruttupalli, Village) S. Nos. 161 and 162 (in Karani Village), Nagalapuram Mandal, Chittoor District, Andhra Pradesh assess the damages that has been caused due to the same.

The Hon'ble National Green Tribunal (Southern Zone), Chennai on its order Dated 25.06.2020, and 02.09.2020 has issued the following directions among other things inter alia as follows.

"Considering the allegations in the application, we are satisfied that there arises a substantial question of environment for consideration. So, we admit the matter. It is alleged in the application that when the matter was admitted on 25.06.2020, at the request of the counsel appearing for the State respondents even without appointing a committee to go into the issue that they will come with the status report"

Based on the Hon'ble NGT (SZ) order Dated. 25.06.2020 we have accompanied with Assistant Director of Mines and Geology, Chittoor for inspection of sand reaches in Surutupalli Village of Nagalapuram Mandal and SSB Peta Village of Pichatur Mandal in Chittoor District on 02.09.2020 alone with District Sand Officer, Chittoor and concerned Revenue Staff and Technical Assistant of this Office.

1.The District Collector, Chittoor has accorded permission as per New Sand Policy 2019 to carryout sand mining in above said sand reaches and then the Sand reaches are handed over to M/s APMDC for operations of reaches. In turn M/s APMDC has appointed various rising Contractors for excavation and loading of sand in the above sand reaches.

2. During the inspection we have observed three Poclainers kept at different sand reaches i.e., Surutpalli, SSB Peta 1 & SSB Pet - 3 which is violation under APMDC Rules 1966 and New Sand Policy 2019.

3. Further, we have conducted Panchanama in presence of local villagers and handed over the Machinery to the concerned VROs for safe custody.

4. In this connection, the Proclaim owners have approached this office and paid penalties as per rules in vogue. The details of collected penalties are given below.

Sl.No.	Machinery	Name of the reach	Penalty amount	Challan No Date 4113333537 Dt: 07-09- Rs. 50,000
1	Poclainer	Surutpalli	Rs. 1,00,000/-	

2	Poclainer	S.S.B. Peta-1	Rs. 1,00,000/-
3	Poclainer	S.S.B.Peta-3	Rs. 1,00,000/-

4113342600
Dt: 07-09-
Rs. 50,000
4113764372
Dt: 10-09-
4113667467
Dt. 09-09-

5. Further, this office vide Lr. No. 4472/Sand/2019, Dt:

18.09.2020 has requested the District Sand Officer, M/s APMDC Ltd., Chittoor to Stop the sand quarrying operations a Surutpalli sand reach of Nagalapuram Mandal as the permitted quantity in the above sand reach is exhausted (Annexure-I).

This is submitted for information.

24. Since the Tribunal was not satisfied with the inspection report submitted regarding the fact as to whether Environmental Clearance is required for such purposes and even in the reply statement submitted by MoEF&CC, since they have not mention anything about the same, this Tribunal directed the applicant to take steps implead M/s APMDC Limited to whom permission has been granted by the District Collector to extract the sand from the sand reaches and this Tribunal has appointed a Joint Committee comprising of the Senior Officer from MOEF&CC Regional Office, Chennai, Senior Scientist from State Impact Assessment Authority, State of Andhra Pradesh, the Assistant Director of Mines and Geology, Chittoor District, Senior Officer from Central Pollution Control Board, Regional Office, Chennai and the District Collector, Chittoor District to inspect the area in question and submit of actual as well as action taken export if there was any violation found.

25. The Committee was directed to go into the question as to whether the activity that is being carried out in that area requires any Environmental Clearance as provided under EIA Notification, 2006 as amended in 2016 and as per directions of the Apex Court in Deepak Kumar Vs. State of Haryana and if there is any violation they were directed to assess the environmental compensation.

26. The Committee was directed to go into the question as to whether what was the nature of activity that was being done by the user agency whether they had involved in any dredging for the purpose of clearing the riverbed so as to enable free flow of water or in the guise of dredging they were doing sand mining without obtaining necessary clearance and how the sand was being dealt with, whether it has been used for commercial purposes or spreading the same in the area were replenishment of sand required under the Sustainable Sand Mining Policy of the Central Government.

27. The Committee was also directed to ascertain the quantity of sand that was extracted by the user agency for the purpose of assessing environmental compensation.

28. The Regional Office of Ministry of Environment, Forest and Climate Change (MoEF&CC), Chennai was designated as the nodal agency for providing necessary logistics and also for coordination.

29. On 22.07.2021 this tribunal deprecated the practice of the Assistant Director of Mines and Geology Department filing a different report instead of joining the report prepared by the Joint Committee and directed them to file the Joint Committee report after incorporating their dissent of any in the report itself instead of filing different reports but they have permitted to submit their independent statement regarding the allegations made in the application.

30. The Assistant Director of Mines and Geology Chittoor also filed a report e- filed on 14.7.2021 which reads follows:

31. On 29.10.2021, this Tribunal considered the reports filed by the Joint Committee e-filed on 29.10.2021 which reads as follows :

32. Thereafter, as directed by the Tribunal the Joint Committee has filed the further report as directed by this Tribunal by order dated 21.09.2020, the Joint Committee filed the further report dated Nil e-filed on 15.07.2022 which reads as follows:

33. Heard the Counsels for the Applicants and the respondents.

34. The Counsel for the applicants are argued that even as per the sanction issued by the District Collector it was nothing but sand mining and it was mentioned that the user agency has to obtain necessary Environment Clearance and consent from the Pollution Control Board for carrying out the sand mining in that reach.

35. Further the report submitted by the Joint Committee also will go to show that it will be sand mining only and without conducting proper scientific study regarding the availability of the sand they have started doing mining in that area and thereby the impact of sand mining in that area is very difficult to assess and further it was due to the water logging in that area due to rain the impact of sand mining could not be assess as well.

36. Further the report of the Mining Department will go to show that heavy machineries were used and certain fines has been imposed on those persons who were carrying on the mining without using heavy machinery which was prohibited.

37. So according to the Learned Counsel the act was illegal and necessary directions will have to be issued apart from imposing environmental compensation other penal action being taken against the officials who were responsible for the same.

38. On the other hand, Mr. P.S. Raman, Senior Counsel along with Mrs. Madhuri Donti Reddy appearing for State of Andhra Pradesh and other State Departments submitted that no illegal mining was done and they were done the activity for using the sand for local community purposes

and government purposes in good faith on the basis of the provisions of Andhra Pradesh Water Land and Trees Rules, 2004 where under Sec 23-(1) (a), sand mining shall not be permitted in notified areas except for local use in the villages or towns bordering the streams.

39. Transportation of sand from these notified areas through mechanical means out of local jurisdiction shall be banned.

40. So the permissions were granted for the use of local purposes and there was no violation committed wilfully.

41. Further as per the Joint Committee report, it was mentioned that only a small quantity was excavated beyond the permitted quantity and if at all the Tribunal feel that they are liable for illegal mining the extent of compensation will have to be restricted to that amount alone and not for the entire excavated sand as calculated by the Joint committee.

42. They prayed for exonerating them from payment of any compensation and on the ground that now necessary instructions have been given and the guidelines and the EIA Notification procedures were strictly adhered to and action is being taken against the persons who are violating the same in accordance with law.

43. The Learned Counsel appearing for MoEF&CC submitted that the report of the Joint Committee can be accepted and it will go to show that there was illegal mining done by Respondent 6 and 7 without obtaining necessary Environment clearance and consent as required.

44. Considering the pleadings submissions made by the counsel for the parties and the Joint Committee reports submitted.

45. The points that arose for consideration:

1. Whether Respondent 6 and 7 have committed any violation in carrying out the sand mining in Arani river stretch in the disputed area?
2. Whether there was any damage caused to environment?
3. Whether the Respondent 6 and 7 are liable to pay any compensation for the alleged illegal act committed, if it is found that their act is illegal, then what is the quantum of compensation to be recovered from them?
4. What are the nature of further directions to be issued applying the precautionary principle and sustainable development for protecting environment in respect of sand mining to be carryout in river bed areas?
5. Reliefs and cost.

Points

46. The grievance of the applicant in the application was that illegal mining is going on in Arani riverbed area of Karani village, Chittoor District without obtaining Environmental Clearance.

47. In order to ascertain the genuineness of the allegations, this Tribunal had appointed a Joint Committee and the Joint Committee had submitted the report with dissenting note of the District Collector and Mining Department regarding the nature of activity carried out in that area but the other members of the Joint Committee had categorically stated that the sand mining done is without obtaining necessary Environmental Clearance and consent from the authorities as required under the EIA Notification, 2006 as amended in 2016 and also under the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 from Pollution Control Board.

48. Even as per the tenders issued by District Collector produced as Annexure No. 1, it was specifically mentioned that it is sand mining and certain fees has been fixed for dispersal of the sand so mined and this must be done only after obtaining necessary Environmental Clearance and consent from the concerned authorities. So that will go to show that what was intended to be carried out in that area even as per the tenders issued by the District Collector is nothing but sand mining and not any other activity like dredging or de-silting.

49. In the reports submitted by the mining department, it was mentioned that on inspection when they came to know that it was being done without Environmental Clearance, directions were issued to the APMDC Limited to stop the activity.

50. Further certain amount of fine has been imposed against the persons who were found using proclains and other heavy machineries which are not permitted for that purpose.

51. They relied on the provision of Andhra Pradesh Water Land and Trees Rules, 2004 for the purpose of justifying their act. Rule 23-(1) (a) of the said rules deals with Sand Mining and certain restrictions have been made and under Rule 23 1(a) it was mentioned that sand mining shall not be permitted in notified areas except for local use in village or towns bordering the streams. Transportation of sand from these notified areas through mechanical means out of local jurisdiction shall be banned.

52. Certain procedures were also provided as to how the permits can be granted to what extent the sand mining can be done in the permitted areas etc.,

53. It may be mentioned here that there also it was not mentioned that it can done without obtaining any Environmental Clearance or other clearances required for that purpose.

54. In Deepak Kumar Vs. State of Haryana and Others reported in (2012) 4 SCC 629, the Hon ble Apex Court has reiterated the necessity for protecting the natural resources and its over exploitation.

55. Taking into account the impact of such activities on environment, further reiterated that no mining of minerals can be done without obtaining Environmental Clearance irrespective of the mining area. It is also mentioned that before granting permission for sand mining, they must conduct the District Survey regarding the availability of the sand, the permissible quantity that can be permitted to be mined taking into account the replenishment level in those areas and also the depth at which it can be done etc.,

56. It was also mentioned that as far as possible bifurcation of the mining areas to smaller extent cannot be permitted and it can be permitted only in exceptional circumstance and that will have to be evolved by the authorities while considering bifurcation into smaller extent.

57. Further it was reiterated in the decision that if there are cluster of mining areas situated in a particular area, then a cluster environment impact assessment has to be made before granting permission.

58. Further on the basis of the directions of the Hon ble Supreme Court in the above case, MoEF&CC has issued an amendment to EIA Notification, 2006 dated 15.01.2016 bringing in all type mining activities irrespective of the extent under the regime of obtaining prior Environmental Clearance.

59. Further there after the Principal Bench of National Green Tribunal and this Bench had fixed the cut off date for applying for Environmental Clearance for existing mining activities as 31.03.2016 and thereafter, the existing mine operators were also directed to close down the mining activities, if they did not obtain necessary Environmental Clearance.

60. On the basis of the directions given by the Principal Bench of National Green Tribunal in certain matters dealing with sand mining, the Ministry of Environment, Forest & Climate (MoEF& CC) has come with Sustainable Sand Mining Policy (SSMP), 2016 and also Enforcement and Monitoring of Sand Mining Guidelines, 2020 and there also certain procedures have been provided which includes obtaining Environmental Clearance, conducting of District Survey of the availability of sands and fixing the quantity of sand available and the quantity of sand that can be extracted and the manner in which it can be done etc.,

61. Instream river sand mining was prohibited under the guidelines issued. Further mechanical mining was also prohibited as per the above guidelines.

62. The Andhra Pradesh State Government also issued a Sand Mining Policy of 2019, wherein they have incorporated all the guidelines issued by the Ministry of Environment, Forest & Climate (MoEF& CC) and the directions issued by the Principal Bench and this Bench and insisted for prior Environmental Clearance and consent from the Pollution Control Board before starting the mining operation.

63. So under such circumstances, the submission made by the Senior Counsel along with the State Counsel appearing for the State of Andhra Pradesh that since it was intended for local purpose they

were under impression that Environmental Clearance was not required cannot be accepted.

64. Further the Joint Committee had gone into the question and came to the conclusion that the sand mining was done in an unscientific manner without conducting any survey on availability of sand before granting permission. Because of the water logging due to rain, they were not able to assess the actual impact caused on account of the sand mining done without obtaining Environmental Clearance.

65. They have also mentioned that this will not come under the de-silting or dredging for which obtaining Environmental Clearance was exempted and what was done in that area by Respondent 7 and 8 was nothing but sand mining and not dredging.

66. It was also mentioned in the report that the sand mining was done over and above the permission granted.

67. M/s APMDC Limited was permitted for mining in an area of 4.7 Hectares and they have fixed the sand mining fee as Rs. 89 per Metric Tonnes of sand when they had given the contract to the 7th Respondent.

68. It is also seen from the report that heavy machineries have been used and certain fine has been imposed by the Mining Department against the poclain owners and steps have been taken to recover that amount as well and that amount has been remitted.

69. On the basis of the directions given by their letter dated 18.09.2020, the further sand mining in that area has been stopped.

70. So the first prayer in the application has become now infructuous as no sand mining is being done in that area without complying with the procedure provided under EIA Notification, 2006 as amended in 2016.

71. It is seen from the Joint Committee report that an extent of 49,000.90 Meter Cube of sand was extracted as against the permitted quantity of 47,000.09 Cubic Meter and the Joint Committee, on the basis of the directions given by the Principal Bench in O.A. No. 360/2015 dated 26.02.2021 and on the basis of the directions of the Hon ble Apex Court in Common Cause Case reported in (2017) 9 SCC 499 assessed the compensation payable as Rs. 2, 10, 41, 201 (Two Crores Ten Lakhs Forty One Thousand Two Hundred and One).

72. The contention of the District Collector and Mining Department that the Environmental Clearance and consent to establish and operation are required only for order 4 streams as classified by the Irrigation Department and Araniar being classified as 3rd order steam that is not required cannot be accepted as no such distinction has been made by the Apex Court or Ministry of Environment, Forest & Climate (MoEF& CC) in the decision referred to above and the EIA Notification referred to above and the State legislation or the State Government is not entitled to exempt the necessity for the obtaining Environmental Clearance for sand mining in river stretches

against the Central legislation and against the orders passed by this Tribunal and also by the Principal Bench or Hon ble Apex Court in several cases of this nature.

73. So the submission made by the Learned Senior Counsel and the State Counsel that no Environmental Clearance is required for doing sand mining in Araniar River in view of the classification that it falls under 3rd order stream cannot be accepted and the same is rejected.

74. The submission made by the Senior Counsel and the State Counsel appearing for the State Departments that if at all they are liable to payment of compensation then the compensation has to be restricted to the excess mining done than the permitted quantity also cannot be accepted as once the sand mining was done without obtaining necessary clearance and consent required under the respective Environmental laws, then whatever quantity extracted will amount to illegal mining and they are liable to pay compensation for the same.

75. So under such circumstances, we confirm the environmental compensation of Rs. 2,10,41,201 (Two Crores Ten Lakhs Forty One Thousand Two Hundred and One) assessed by the Joint Committee based on the admitted quantity of sand extracted as per the documents produced by the Mining Department, though it was not reflected in the report but it can be presumed from the earlier orders that the committee had obtained the documents from Mining Department and it is on that basis the amount was calculated, applying the principle of assessment of compensation approved by the Principal bench in O.A. No. 360/2015 and this amount will have to be paid by the 6th Respondent and they are at liberty to recover the amount from the 7th Respondent to whom the contract was granted by the 6th Respondent.

76. So under such circumstances, we feel that the application can be disposed of with following directions:

(i) The Director of Mines and Geology, State of Andhra Pradesh and the District Collectors dealing with granting permission in State of Andhra Pradesh are directed to strictly implement the Environment Laws of obtaining Environmental Clearance for the purpose of doing sand mining in river stretches of whichever order and they are directed to take appropriate action against those persons who are conducting mining without obtaining Environmental Clearance and consent in accordance with law.

(ii) The Director of Mines and Geology is directed to strictly implement the Mining Policy of State of Andhra Pradesh, coupled with the guidelines issued by the Ministry of Environment, Forest and Climate Change (MoEF& CC) in Sustainable Sand Mining Policy of 2016 and Monitoring and Enforcement of Sand Mining Guideline, 2020 and the directions issued by the Principal Bench in O.A.No.360/2015 in the order dated 26.02.2021 and also the Directions issued by this Tribunal in O. A. No. 177/2016 and O. A. No. 47/2016 in respect of sand mining in State of Andhra Pradesh.

(iii) The 6th Respondent Andhra Pradesh Mineral Development Corporation Limited (APMDCL) is directed to pay an Environmental compensation of Rs. 2,10,41,201 (Two Crores Ten Lakhs Forty One Thousand Two Hundred and One) assessed by the Joint Committee in their final report received on 15.07.2022 extracted by this Tribunal in the earlier paragraphs and the State Pollution Control Board is directed to recover the amount from them in accordance with law.

(iv) If there is any contractual violation found committed by the 7th Respondent, then the 6th Respondent is entitled to recover the amount from the 7th Respondent on the basis of the violation of contract in accordance with law. They are directed to pay the amount within the period of 4 (four) months. If the amount is not paid within the period of 4 months then the 4th Respondent, Andhra Pradesh Pollution Control Board is directed to recover the amount from the 6th Respondent Andhra Pradesh Mineral Development Corporation Limited (APMDCL) in accordance with law.

(v) Once amount is recovered, then the State Pollution Control Board, in coordination with the Director of Mines and Geology, State of Andhra Pradesh and the Additional Chief Secretary for Ministry of Environment, Forest and Climate Change (MoEF&CC) is directed to evolve an action plan for utilizing this amount for protecting the riverine ecology for replenishment of sand and protection of river.

(vi) The Directors of Mines & Geology and Andhra Pradesh State Pollution Control Board are directed to file the periodical report of recovery the amount and utilization amount as directed once in six months before this Tribunal by e-filing in the form of searchable PDF/OCR and not in the form of Image PDF along with necessary hardcopies to be produced as per rules.

(vii) As and when the report is received, the Registry is directed to place the same before the Bench for consideration and for issuing further directions in this regard.

77. The points are answered accordingly.

78. In the result, the application is allowed in part and disposed of with the following directions:

(i) The Director of Mines and Geology, State of Andhra Pradesh and the District Collectors dealing with granting permission in State of Andhra Pradesh are directed to strictly implement the Environment Laws of obtaining Environmental Clearance for the purpose of doing sand mining in river stretches of whichever order and they are directed to take appropriate action against those persons who are conducting mining without obtaining Environmental Clearance and consent in accordance with law.

(ii) The Director of Mines and Geology is directed to strictly implement the Mining Policy of State of Andhra Pradesh, coupled with the guidelines issued by the Ministry of Environment, Forest and Climate Change (MoEF& CC) in Sustainable Sand Mining Policy of 2016 and Monitoring and Enforcement of Sand Mining Guideline,

2020 and the directions issued by the Principal Bench in O.A.No.360/2015 in the order dated 26.02.2021 and also the Directions issued by this Tribunal in O. A. No. 177/2016 and O. A. No. 47/2016 in respect of sand mining in State of Andhra Pradesh.

(iii) The 6th Respondent Andhra Pradesh Mineral Development Corporation Limited (APMDCL) is directed to pay an Environmental compensation of Rs. 2,10,41,201 (Two Crores Ten Lakhs Forty One Thousand Two Hundred and One) assessed by the Joint Committee in their final report received on 15.07.2022 extracted by this Tribunal in the earlier paragraphs and the State Pollution Control Board is directed to recover the amount from them in accordance with law.

(iv) If there is any contractual violation found committed by the 7th Respondent, then the 6th Respondent is entitled to recover the amount from the 7th Respondent on the basis of the violation of contract in accordance with law. They are directed to pay the amount within the period of 4 (four) months. If the amount is not paid within the period of 4 months then the 4th Respondent, Andhra Pradesh Pollution Control Board is directed to recover the amount from the 6th Respondent Andhra Pradesh Mineral Development Corporation Limited (APMDCL) in accordance with law.

(v) Once amount is recovered, then the State Pollution Control Board, in coordination with the Director of Mines and Geology, State of Andhra Pradesh and the Additional Chief Secretary for Ministry of Environment, Forest and Climate Change (MoEF&CC) is directed to evolve an action plan for utilizing this amount for protecting the riverine ecology for replenishment of sand and protection of river.

(vi) The Directors of Mines & Geology and Andhra Pradesh State Pollution Control Board are directed to file the periodical report of recovery the amount and utilization amount as directed once in six months before this Tribunal by e-filing in the form of searchable PDF/OCR and not in the form of Image PDF along with necessary hardcopies to be produced as per rules.

(vii) As and when the report is received, the Registry is directed to place the same before the Bench for consideration and for issuing further directions in this regard.

(viii) Considering the circumstances, parties are directed to bear the respective cost in the application.

(ix) The Registry is directed to communicate this order to the official respondents, the Chief Secretary, State of Andhra Pradesh, the Additional Chief Secretary for Ministry of Environment, Forest & Climate (MoEF& CC), State of Andhra Pradesh and the District Collector, Chittoor District for their information and compliance with the directions.

79. With the above directions and observations, the application is disposed of.

Sd/-

Justice K. Ramakrishnan, J.M. Sd/-

Dr. Satyagopal Korlapati, E.M. O.A. No. 87/2020(SZ) 30th September 2022.