

# Syed Arshad Nasar Social Activist vs Union Of India Through Secretary ... on 30 November, 2022

**Author: Adarsh Kumar Goel**

**Bench: Adarsh Kumar Goel**

Item No. 02

Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

I.A. No. 233/2022 & I.A. No. 234/2022  
IN  
Original Application No. 23/2017 (EZ)

Syed Arshad Nasar

Applicant

Versus

Union of India & Ors.

Respondent(s)

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M/s Vikash Stone Works  
Sahibganj District, Jharkhand

Applicant in I.A.s

Date of hearing: 30.11.2022

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL,  
CHAIRPERSON  
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL  
MEMBER  
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER

Applicant: Mr. Joby P. Varghese, Advocate for Applicant  
(M/s Vikash Stone Works) in I.A 233-234/2022

ORDER

1. These applications have been filed by M/s Vikash Stone Works, District Sahibganj, Jharkhand for intervention/quashing of order dated 19.09.2022 issued by the Deputy Commissioner, Sahibganj directing closure of its stone chip processing unit, in pursuance of order of this Tribunal dated 23.08.2022 in O.A. No. 23/2017 (EZ), Syed Arshad Nasar vs. Union of India & Ors. and other connected matters directing remedial measures against serious violation of environmental norms threatening public health and environment, as found by expert studies, referred to therein.

2. The issue considered by the Tribunal arose out of grievance against violation of environmental norms in the operation of quarrying and crushing units in Rajmahal hills of the Vindhya Mountains, District Sahebganj, Jharkhand. The Tribunal passed several orders in the course of about four years which included study of factual situation by a joint Committee which included MoEF&CC, CPCB, SEIAA, Jharkhand and State PCB. It was found that violation of environmental norms was rampant and unremedied. Air quality in the area was of critical category. Status of compliance by the stone crushers in the area was inadequate. The stone crushers were operating without requisite Emission Control Systems and environmental impact assessment, environmental clearance and other mandatory requirements.

3. By last order dated 23.08.2022, the Tribunal considered the joint report of the authorities dated 18.08.2022 giving the particulars of the operating stone crushers and extent of their non compliance which was resulting in continuing unchecked pollution calling for stringent action against the violations. The Tribunal accordingly directed remedial action.

Operative part of the order is reproduced below:-

"7. In the light of above, the reconstituted joint Committee headed by Member Secretary, CPCB has filed its report dated 18.08.2022. The report gives details of the stone mining and crushing activities, extent of air pollution and inadequacy of environmental management. Carrying capacity of the area has also been worked out. Relevant extracts from the report are as follows:

"4.2 Calculation and Results The outcome of the estimations/calculations made by following the above approach is given below;

Out of total 130 grids (i.e., boxes of 4 km x 4 km) in the district, 203 stone crushers and 126 mines are located in 29 grids and 27 grids (i.e. in 32 grids there are crushers or mines) (Figure 8) Grid wise number of stone crushers and mines and their capacity is given in Annexure A1.

(a) The total PM<sub>10</sub> emission load from the stone crushers located in 29 grids is estimated to be 168.4 TPD. Total PM<sub>10</sub> emission load, due to resuspension of road dust on movement of trucks, from all grids comes out to be 68.8 TPD respectively, with maximum PM<sub>10</sub> emissions from Grid 1 (20.7 TPD). Total PM<sub>10</sub> emission load from the mining activities is estimated to be 3.2 TPD. Overall total PM<sub>10</sub> emission load for 32 grids due to operation of stone crushers, resuspension of dust and mining activities is calculated to be 240.4 TPD. PM<sub>10</sub> Emission load from mining activities

only comprised of 1.3% of the total PM<sub>10</sub> emission load. Estimated grid-wise PM<sub>10</sub> emission load from the aforementioned activities is summarised in Annexure A 2.

(b) Subsequently, PM<sub>10</sub> concentration for each grid in winter season was estimated using box model, and is summarised in Annexure A 3.

(c) Grid wise PM<sub>10</sub> Assimilative Capacity/Load, estimated PM<sub>10</sub> emission load using calculated PM<sub>10</sub> concentration and the resultant supportive Capacity was assessed and is summarized in Annexure A. It is observed that supportive capacity is negative in 4 grids, and therefore stone crushing and mining activities need to be controlled in these grids. Accordingly, the supporting capacity is converted to equivalent crushing & mining capacity using the ratio of net estimated PM<sub>10</sub> load and total crushing and mining capacity. This total allowable capacity is further separated to mining and crushing components, using the proportion of contribution of each activity to PM<sub>10</sub> emission load in the grid. Thus, the grid-wise stone crushing and the mining capacity, which may be permitted to operate within the assimilative capacity or available supportive capacity during winter season is computed and is summarized in the Table 14.

Table 14. Grid wise capacity of stone crushing and mining to be permitted in winters

Grid ID	Crushing capacity (TPD)	Mining capacity (TPD)	Allowable Capacity (TPD)
1	11162	6760	5382
2	5357	360	2395
3	4287	4644	8319
4	6663	6201	6183
5	6980	6742	2656
6	2655	512	2307
7	NA	NA	9582
8	5283	1135	1128
9	11	280	5424
10	NA	NA	12
11	NA	NA	4017
12	11673	13	1800
13	7243	3135	3315
14	51	5335	2277
15	3573	15	918
16	7550	1365	1433
17	886	4357	2389
18	2507	37	3600
19	7378	2500	2550
20	47	60	4289
21	2102	3017	56
22	NA	NA	958
23	9213	57	338
24	5363	NA	NA
25	66	NA	NA
26	417	8552	89
27	377	8001	1643
28	2035	98	1018
29	7870	1906	2112
30	99	2732	9505
31	4253	4418	107
32	2640	5909	3693
33	3773	108	5410
34	10767	1500	1526
35	115	158	7456
36	NA	NA	117
37	5444	7670	7812
38	7859	118	216
39	6916	NA	NA
40	127	550	5232
41	1041	1144	

(d) Using Table 14 above, the number of stone crushers and mines that can be allowed to operate are estimated based on the capacity of one stone crusher and one stone mine (Table 15). It is important to note that the crushing capacity for each stone crusher is different, and thus the number of crushers that may be permitted to operate is only indicative in nature, whereas the overall objective is to achieve reduction in net crushing capacity in the grid to meet the permissible capacity. List of existing stone crushers and mines (details enclosed as Annexure A 5) and the number of stone crushers and mines that can be allowed to operate, is summarised in following table:

Table 15. No. of stone crushers and mines that can be permitted to operate during winters in 4 grids with negative supportive capacity

Grid ID	No. of stone crushers	No. of stone mines
1	1	1
2	2	2
3	3	3
4	4	4
5	5	5
6	6	6
7	7	7
8	8	8
9	9	9
10	10	10
11	11	11
12	12	12
13	13	13
14	14	14
15	15	15
16	16	16
17	17	17
18	18	18
19	19	19
20	20	20
21	21	21
22	22	22
23	23	23
24	24	24
25	25	25
26	26	26
27	27	27
28	28	28
29	29	29
30	30	30
31	31	31
32	32	32
33	33	33
34	34	34
35	35	35
36	36	36
37	37	37
38	38	38
39	39	39
40	40	40

Number of No. of stone crushers that No. of mines that stone Number of can be can be allowed GRID ID crushers in mines in the allowed to the grid to operate# operate## grid \* Floor function (largest nearest integer which is less than or equal to a specified value) used in this case # Numbers have been calculated considering average capacity of the crushers hence, actual no. may vary as per the exact capacity of the crushers so that the total capacity does not exceed the capacity indicated at Table 14.

## Mining capacity may be proportionately reduced to match with the crushing capacity.

4.3 Summary The carrying capacity for 4 km×4 km grids in Sahibganj District, Jharkhand was assessed using box model. The analysis was done for the critical winter season, when deterioration of air quality is a major concern.

4 grids were found to have negative supporting capacity, thereby reduction in stone crushing capacity is required in these 4 grids, i.e. Grids 1, 3, 4 and 7. It may also be noted that 58% of the stone crushers in Sahibganj district, considered in the analysis, are located in these four grids. According to the assessment, a total of 42 number of stone crushers, i.e. 24 stone crushers in Grid 1, 4 stone crushers in Grid 3, 1 stone crusher in Grid 4 and 13 stone crushers in Grid 7, may not be permitted to operate.

5.0 Assessment for Environmental Compensation For assessment of Environmental Compensation (EC) for violators with respect to illegal or non-compliant stone mining and stone crushing operation in Sahibganj district, the following methodology may be considered:

5.1 Illegal or Non-Compliant Stone Mining For assessing Environmental Compensation for illegal or non-

compliant stone mining operation, JSPCB shall follow the methodology accepted by Hon'ble NGT in the matter of O.A. No. 75 of 2019 (CZ) (Vijay Singh Rajput Vs. State of M.P. & Ors.), vide its order dated 5.10.2020 as given below:

The volume of the illegal mining of the stone assumed as "V" m<sup>3</sup>, in the length of 'l' m, width of 'w' m and depth of 'd' m

1. The market value per m<sup>3</sup> of the stone is Rs X. The market value is assessed by District Mining Office or State Pollution Control Board.

2. Therefore, the total market value of the V m<sup>3</sup> illegal stone mines is calculated as T = V × X Rs

3. The proposed penalty is calculated as four times the market value of illegal mines Stone, Rs. = 4 × T The proposed Environmental Compensation in the Hon'ble NGT matter of O.A. No. 75 of 2019 (CZ) was considered based on the M.P. Land Revenue Code 1956 (as amended) rule 247 (7).

5.2 Illegal or Non-Compliant Stone Crusher For assessing Environmental Compensation for illegal or non-

compliant stone crusher, JSPCB shall follow the methodology prepared by CPCB and accepted by Hon'ble NGT as follows:

I. Nature of violation - Discharges in violation of consent conditions, mainly prescribed standards/consent limits. II. The basis for levying the Environmental Compensation

- Pollution Index III. The environmental compensation is based on the following formula:

$EC = PI \times N \times R \times S \times LF$  Where, EC- Environmental Compensation PI- Pollution Index of Industrial Sector, for stone crusher: 50 The industrial sectors have been categorized into Red, Orange, Green and White based on their Pollution Index range of 60 to 100, 41 to 59, 21 to 40, and <20, respectively (Table 16).

Table 16 Category-wise Pollution Index Values  
Sl No Industrial Category Pollution Index (PI) Average PI Based on the "Revised Classification of Industrial Sectors Under Red, Orange, Green and White Categories" published by the Central Pollution Control Board on February 29, 2016", the PI for stone crushers is to be taken as 50.

N -Number of days of violation took place.

It is the period between the day of violation observed/due date of direction's compliance and the day of compliance verified by CPCB/SPCB/PCC.

As per the available records of previous inspections, JSPCB shall calculate the number of days of violation with respect to the non- compliance.

R - A factor in rupees for EC, to be taken as per CPCB's guidelines S- Factor of scale of operation, Scale of operation of stone crusher was taken as defined in CPCB's Comprehensive Industry Document Series COINDS/78/2007-08 on Stone Crushers (Feb 2009) (Table 17) Table 17. Value for Factor of Scale of Operation  
Sl No Scale of Operation Production Capacity Factor (S) (TPH)  
1 Small Scale 3-25 0.5  
2 Medium Scale 25-100 1.0  
3 Large Scale >100 1.5  
LF - Location factor.

It could be based on the population of the city/town and the location of the industrial unit. For the industrial unit located within the municipal boundary or up to 10 km distance from the municipal boundary of the city/town, the following factors (LF) may be used as mentioned in Table 18.

Table 18. Location Factor Value  
Sl No Population (in Million) Location Factor (LF)  
1 1 - <5 1.25  
2 5 - <10 1.5  
3 >10 2.0  
\*\*LF will be 1.0 in case unit is located >10 km from municipal boundary or city/town having population less than 1 million.

LF is to be taken as 1.25 as the total population of Sahibganj district is 11,50,567 as per Census Data 2011.

The Environmental Compensation that would be imposed may be considered as interim. Detailed study on assessment of environmental compensation taking into account the cost of restoration for the damage caused and its apportionment among the violators may be done through the expert institute(s).

6.0 Recommendations Based on the field visit (3rd-4th March 2022) and the carrying capacity study carried out by the Expert Committee, the following are recommended;

6.1 Measures to be taken for crushers/mines I. In the case of stone crushers, the crushing units (both primary & secondary) should be placed in a covered section and the crushing units having capacity more than 100 TPH, shall be provided with bag house as emission control system.

II. The Crushers shall install scientifically designed adequate number of sprinklers with requisite hydraulic pressure and shall ensure that the sprinklers remained in operation during crushing period.

III. JSPCB along with district administration shall ensure that crushers are not in operation without having requisite pollution control measures through strict vigilance. Priority may be given for the grids where negative supporting carrying capacity has been observed.

IV. Conveyor belts should be covered /enclosed to avoid fugitive emission, without side gaps, in enclosure and belts.

V. The crushed stones or finished products should be stored in a silo, or the finished goods should be kept lower than the height of wind-breaking walls. Strong structural base and framing should be provided for wind-breaking walls to withstand strong wind conditions. The height of the stockpile should always be kept lower than the height of the wind-breaking wall. The wall can be erected radially with a screen as center point. In addition, proper sprinkling arrangement should be provided all around the stockpiles.

VI. The haul roads/roads within the mines/industry premises used for the transportation of the products from the stone crushers or mines shall be paved and sufficient number of sprinklers be in operation. The concerned crushers shall be responsible for installation and O&M. VII. Cleaning of crushing units and railway goods shed shall be performed with only mechanical means on regular basis.

VIII. JSPCB shall direct the concerned agencies to maintain the national highways and other metalled roads to reduce fugitive emission.

IX. The stone dusts from the stone crushing/ mines are dumped in the nearby area causing may be utilized for construction activities of the 4-lane highway and Ganga Bridge in the area and filling up

the ponds/mine voids which were created during the stone mining or reclamation of the stone mines.

X. A proper green belt is to be developed surrounding the crushers.

6.2 Measures to be taken for management of railway siding XI. Ten railway sidings and eight railway goods sheds are important source of pollution as they deal with 14,25,000 tonnes of materials (Stone Chips, Ballast and Bolder) per month (Table 11). Therefore, the railway sidings are recommended to be covered /enclosed with Galvanized Iron (G.I) / Mild Steel (M.S) sheets with proper pollution control system to avoid fugitive emissions. Proper housekeeping should also be maintained.

XII. The loading/unloading points of the wagons shall be covered if possible or shall be equipped with scientifically designed sprinklers with adequate hydraulic pressure. The sprinklers should be in adequate number to maintain a water curtain along the loading/unloading points. XIII. The waste generated from the railway goods sheds/sidings shall be collected and segregated for proper disposal.

XIV. Since the railway sidings are located near the clusters (Table 12), which may impact on human health, these shall be relocated to some safer distance. XV. The trucks, as well as the wagons, should be properly covered while transporting the stone chips.

6.3 Surveillance and monitoring XVI. Pan-tilt-zoom or PTZ cameras must be installed at all the stone crusher units at appropriate locations to detect fugitive emissions. Feed of the PTZ cameras shall be shared with the JSPCB.

XVII. The operating capacity of the Stone crusher units may be verified with the monthly electricity bills of the respective unit.

XVIII. The units using DG set as power source may only be allowed to operate when the unit is having valid authorization as per Hazardous & Other Wastes (Management and Transboundary Movement) Rules, 2016.

XIX. Random drone surveillance on the bank of river Ganga may be done to prevent illegal dumping of debris generated during stone mining, crushing or allied activities.

XX. Online and manual ambient air quality monitoring stations may be installed in the grids where negative carrying capacity is observed to monitor atleast for measurement of PM<sub>10</sub>, PM<sub>2.5</sub> and NO<sub>x</sub>. JSPCB may be responsible for operation of these stations however, the expenses incurred for the same may be recovered from the respective stone crushers and mines.

XXI. The environmental management status shall be updated as well as verification of the adequacy of the pollution control devices installed in all the stone mines/ crushing units operating in the region shall be done by JSPCB & DC Sahibganj.

6.4 Environmental Compensation & Damage Assessment XXII. JSPCB may impose Environmental Compensations (EC) for violators based on methodology as described in para 5.0 till the cost of restoration to the extent of damage including the deterrent element is assessed.

XXIII. The cost of restoration of the actual damage and apportionment assessment may be carried out by technical institutes through JSPCB following the mechanism already developed by CPCB and circulated to all SPCBs/PCC following the direction of Hon'ble NGT in the matter of O.A. No. 739/2018. The copy of the mechanism for "Assessment of Damage to Air Quality", "Damage Assessment of Health Issues" and "Agricultural Production Loss" w.r.t Stone Crushers" is given in Appendix 11.

XXIV. A Comprehensive Environment Management plan may be prepared, for the areas where the stone mines and crushers are located, through the expert institutes like Indian Institute of Technology - India School of Mines (IIT- ISM), Dhanbad or any other reputed agency."

8. District Survey Report of Sahibganj District annexed to the report shows contamination of groundwater as follows:

" 7 . 6 G r o u n d W a t e r Q u a l i t y x x x  
.....xxx.....xxx The results of ground water samples were analyzed in accordance with the standard (ISI - 1993) for drinking purpose. In general the quality of ground water in the phreatic aquifer is suitable for drinking and irrigation purpose except few samples, which shows nitrate concentration more than permissible limit. The EC value ranges from 193 - 1687 micro Siemens/cm at 25°C. During the Ground Water Management Studies (AAP 2006 - 07), 60 acidified samples were collected from Gangetic alluvium of the district for the study of Arsenic in ground water. As per the analytical results of these samples, the Arsenic concentration is found more than 50 ppb in 20% of the samples and in 16.66% of the samples Arsenic value ranges between 10 - 50 ppb.

xxx .....xxx.....xxx 7.12  
RECOMMENDATION:-

1. Fluoride concentration in ground water (bore well ) exceeds the permissible limits in/around villages Dharampur Morh, Amrapara, Bannawgram, Dhekiduba, Jatang Khakhsa and Rajdaha. In fluoride affected area, the ground water must be used after defluoridation through fluoride removal plants.

Alternative source may be identified. The existing fluoride affected sources may be sealed.

2. Nitrate concentration in shallow aquifer (dug well) is found more than permissible limit in/around villages Bannawgram (Pakuria Block), Kairachhatar (Maheshpur Block) and Litipara (Litipara Block). The bore well may be a better alternate option for the drinking water purposes for the above villages.



3. The exploration data indicates the poor percentage of successful bore wells in the district. Thus the geophysical surveys may be adopted for selection of suitable sites for ground water exploration.

4. In order to conserve run - off water during monsoon, the water conservation and recharge structure may be constructed in and around Barharwa, Berhait, Borio, Sahebganj and Sakrigali villages where the long term (2002 - 2011) water level trend shows declining trend during post monsoon."

9. Separate report has been filed by the joint Committee constituted by this Tribunal through the CPCB and State PCB on 22.08.2022. The report mentions the data compiled during field monitoring as follows:

"2.1. Field Monitoring 2.1.1 Ambient Air Quality Monitoring was carried out by the team covering all the significant points for PM<sub>2.5</sub> & PM<sub>10</sub>. 2.1.2 The strategic locations for measurement of the PM<sub>2.5</sub> & PM<sub>10</sub> are tabulated below (Table 1) Table 1. Ambient Air Quality Monitoring Location carried out during the field visit Sl No Strategic Location No of Sampling 2 Railway Sidings & Residential 2 2.1.3 The analysis of the particulate matter is as follows in (Table

2), the analysis results are enclosed as Annexure III.

Field monitoring was carried out at following 7 locations covering all the points as directed.

Table 2 Analysis Result of the ambient air quality carried out (for 8 hours based on prevailing situation and feasibility) during the field visit.

S. No.	Location	Lat & long	Monitoring results for parameters (stipulated norm in bracket)		Remark
			PM <sub>10</sub> (100 mg/Nm <sup>3</sup> )	PM <sub>2.5</sub> (60 mg/Nm <sup>3</sup> )	
1.	Jokmari, Mahadeoganj	N - 25.237361 E - 87.574636	135.70	91.75	Not meeting
2.	Mahadeobaran, Mirzachowki	N - 25°14'56.40288" E - 87°029'36.7242"	217	55	PM <sub>10</sub> Not meeting
3.	Sahibganj Railway Siding	N - 25°14'24.58392" E - 87°038'29.48523"	137.75	95.80	Not meeting

		2"			
4.	Mirzachow ki Village	N- 25015'39.74436 "	120.90	70.25	Not meeting
		E- 87029'37.77036 "			
5.	Talbanna, Sahibganj	N- 25014'42.21132 "	1133	50	PM10 Not meeting
		E- 87037'37.48512 "			
6.	Ratanpur, Barharwa Town	N- 24051'24.76152 "	112.80	65.75	Not meeting
		E- 87046'13.05912 "			
7.	Hathigarh a, Sakrigali	N- 25014'26.5308"	148.75	99.80	Not meeting
		E- 87042'16.97328 "			

Remarks: Ambient air qualities are not meeting the stipulated norms for all the locations for PM10 and PM2.5 except Mahadeobaran, Mirzachowki & Talbanna where it is meeting for only PM2.5 as above.

2.2 Field inspection 2.2.1. When the site was visited many of the crushers were in operation. It was found that a huge quality of dust is generated in the area.

2.2.2. Majority of the crushers were running without properly operating the existing emission control system as reported in the Monitoring status report submitted by the District Mining Task Force (DMTF) from 11.12.2020 to 16.02.2021. 2.2.3. There is no display board/name plate specifying a particular stone crusher (running without proper ECS) so it could not be specified which specific crushers it were. When the team tried to get the basic information about the crushers (i.e. Name of the crushers, capacity of the crushers, Status of validity of CTE/CTO, Name of the proprietor, since how long it has been in operation). Nobody was there to reply even the operator of the Crushers, JCB operator and other labour evolved in stone braking using hammers did not reply. In reply they stopped the operation of the running crushers and ran away. 2.2.4. Most of the crushers are running without proper display board in the area (i.e. Name of the crushers, capacity of the crushers, Status of validity of CTE/CTO, Name of the proprietor, since how long it has been in

operation).

2.2.5. Many of the stone crusher operators do not show the legal document at the time of site inspection.

2.2.6. Jharkhand State pollution control board has issued valid CTO for only 192 no of stone crushers(list enclosed as Annexure IV),118 no of stone mines (List enclosed as Annexure V), 20 no. of Stone Crusher with mines (list enclosed as Annexure VI). However following are observed:

a. A list provided from the District Mining Office enlists that there are 161 crushers which have been demolished since 2017 but many of the stoner crushers mentioned in the list are repeated twice or thrice(Annexure-VII).As reported such stone crushers were demolished by the District Administration by demolishing the conveyor system and the hopper but such units start their operation after some days. b. From close verification of the list of 161 stone crushers (Annexure VII) status of many of the stone crushers are as follow:-

Particula Status of running and non-running crushers as observed rs by the team  
Status of running stone crushers Runni Runni Running/exis Still Existi ng ng ting  
crusher existing but ng but with witho without name not running seale valid ut d CTO  
valid CTO 30, o o 26,31,39,4 161

64), (112,61)83, 87, 103,105,11 90, 0,1 12, 148 147,149,15 1,1 60 crusher s c. Present Status of Stone Crusher/ Stone Mine for which request have been made for cancellation of CTO by District Level Task Force, (Mining) Sahibganj as reported in the meeting with CPCB team dated 3-4th March 2022(List annexed as Annexure VIII) d. Present Status of stone crushers which have been relocated from their existing location by District Level Task Force, (Mining) Sahibganj as reported in the meeting with CPCB team dated 3-4th March 2022(List annexed as Annexure IX) e. 33 crushers running without CTE have been dismantled.

24 crusher not having valid CTO have been sealed by District Taskforce committee (DTC) during April 22-June

22. Renewal of consents are being issued with conditions of compliance of conditions mentioned in point 5.3.1 & 5.3.3 of the order dated 22.12.2021.

Overall finding:

i. The certain dismantling of stone crushers by simply dismantling the conveyor belt has not all resulted into any effective action to prevent illegal stone crushing in the area. As the operators/owners of the units have stated operating the same unit by repairing the dismantled part of the crushers operational.

ii. When the units are running as benami units it is very difficult to fix the responsibility of the illegal operation of crushers to someone unless the specific persons are identified. iii. Ambient air qualities are not meeting the stipulated norms at any of the monitored locations for PM<sub>10</sub> and PM<sub>2.5</sub> except Mahadeobaran, Mirzachowki & Talbanna where it is meeting for only PM<sub>2.5</sub>.

### 3.0 Recommendations:

Based on the above field observations and finding it is proposed as follows:

3.1 All stone crushers / stone mines must be provided with display board of adequate size (preferably not less than 1 m × 1 m), mentioning the following details:

- a) Name of the crusher / Mines with Capacity
- b) Address and exact location of area with latitude and longitude of all corner points.
- c) Name of the proprietor with contact no.
- d) Status of regulatory compliance status with Validity(CTE, CTO, HWA)
- e) Status of Electricity Power Supply.

3.2 All the crushers in the area running without valid CTE/ CTO to be treated as illegal and be demolished. Taking lesson from earlier demolition by dismantling the conveyer system& disconnection of power supply that such crusher start operating after sometime as reported, it is proposed that whenever any crusher is demolished for running without CTE, the whole foundation to be demolished & all the major machineries of the crushers (i.e. primary crusher, secondary crusher, screen, hopper, loader, DG set, etc) should be seized.

3.3 The crusher having valid CTE, but running without valid CTO should be sealed with ensuring disconnection of power supply/seize of DG set.

3.4 All the units using DG sets as power source must have valid authorization as per rule (Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016).

3.5 Taking into account the scarcity of water in the area(where villagers use Zaria Nallah water for drinking, bathing and other domestic purpose) poor conditions effective emission control system, it is proposed that stone crushers with capacity greater than 100 TPH must be provided with bag filters as emission control system for primary crusher, secondary crusher & screen in a time bound manner (preferably in 6 month).

3.6 Proposed railway siding near the school should be developed keeping safe distance from the school to prevent the children from getting affected by silicosis/respiratory problem.

3.7 All stone crushers operating using DG set must get valid authorization from Jharkhand State Pollution Control Board as per Rule.

3.8 Overloading in loaded vehicle carrying stone/fines should be avoided to prevent spillage on the road. The crushing of these spillage under the wheels results in high load of PM 10/PM 2.5. Minimum free board of minimum 6 inch should be left keeping in mind the undulating road condition. The materials should be properly covered to prevent escape of fines under negative draft.

3.9 Haul roads should be properly maintained. Sprinklers should be installed to suppress the dust.

3.10 Plantation should be done in both side of the road. Green belt should also be improved in each cluster as well."

10. Thus, there is huge and unchecked pollution load by the reckless and unregulated mining and stone crusher activities. There is need for any serious and sincere authority to ascertain how such serious violation of the Air Act, 1981 and norms laid down under the EP Act, 1986 and Rules are continuing, contrary to the mandate of law and to the detriment of environment and public health. Effective appraisal of impact of mining activity appears to be missing before granting EC by SEIAA, as required in terms of Deepak Kumar vs State, (2012) 4 SCC 629. In the light of Goa Foundation v. Union of India & Ors. (2014) 6 SCC 590, there has to be proper appraisal by the State PCB before granting consents which also does not appear to have been done. It is not clear how blowing of naturally occurring hills for mining purpose is being allowed. How mining is being allowed to the detriment of hills, which have to be protected. Further, carrying capacity of the area in terms of air quality has been ignored. 'Precautionary' principle of environmental law has been compromised. This calls for high level inquiry and fixing of accountability of concerned government officers responsible for such large scale damage to the environment and motives/reasons for which this has happened. ECs/consents for mining activities and stone crusher activities need to be reviewed to give effect to 'Sustainable Development' principle. Violators need to be brought to justice. There also appears to be no monitoring of compliance of the ECs/consent conditions. The stone crushers have been found to be operating without necessary safeguards, particularly the Air Pollution Control Devices (APDC), to the detriment of environment and public health. The recommendations in the report include safeguards in operation of stone crushing activities, stopping operation of stone crushers till pollution control measures are adopted, management of the railway sidings which are generating pollution, surveillance and monitoring measures and recovery of environmental compensation followed by restoration measures by preparing an appropriate comprehensive Environment Management Plan for the areas where stone mines and crushers are located.

11. Further, the second report by CPCB and State PCB also shows huge air pollution and generation of dust on account of running of the stone crushers without requisite safeguards and without any display boards. Many of the stone crushers do not have legal documents. It is surprising that the Committee has mentioned that responsibility for the illegal operations of crushers could not be fixed as the same were being run benami. Even the earlier demolished illegally operating units were found to have started working which shows lack of continuous vigilance and failure of the monitoring mechanism. Further, CTO mechanism also seems to be faulty as how consent to operate can be

granted unless, owner/occupier is known with its location for operation.

12. In absence of any reason not to accept the observations and recommendations in the above reports, we accept the same and direct remedial action in terms thereof. However, statutory bodies need not to wait further and must forthwith proceed against violating miners and crushers on polluter pays principle for past violations in terms of degradation of ambient air, changes in ground water quality and associated environmental aspects and closing violating activities.

13. We also regretfully note that in matter such magnitude, none has cared to appear for the State of Jharkhand or its authorities particularly when appearance in virtual mode is permitted in the Tribunal and it is not difficult for the officers of the State to log in and participate in the matter.

14. Accordingly, we direct the Chief Secretary, Jharkhand to constitute a Monitoring Committee under an Additional Chief Secretary with heads of concerned departments. The Committee may take stock of the situation and prepare an action plan to remedy the air pollution in the area as well as restoring the degraded areas by closing polluting activities (mining and crushing) and fixing accountability for past violations in terms of 'Polluter Pays' principle so that the compensation recovered is utilized for restoration of the environment. The Committee may be constituted within two weeks and hold its first meeting within one month and thereafter prepare its monitoring plan within one month. Further monitoring may be held atleast once in a fortnight. The Committee will be free to take assistance from any other Expert/Agency but not to delay the proceedings on that ground. The Committee will also be free to undertake visit to the site and interact with the stakeholders. The restoration plan should endeavor to complete restoration measures including restoration of mined areas within three months, including measures to stop the polluting activities with the assistance of the State PCB, State Police and any other regulatory authorities. The Monitoring Committee will take into consideration the findings, observations and recommendations in the reports of the Committees referred to above. The Additional Chief Secretary chairing the Monitoring Committee may remain present in person on the next date. The Committee may also consider interim compensation to begin with in the light of the reports, pending finalisation of such compensation after following requisite procedure speedily. The Tribunal may consider liability of the State later. The Chief Secretary may also file criminal case against violators, after necessary scrutiny, including against erring officers. Since violation of environmental laws involve offences under PMLA Act, 2002, Director ED may also look into the matter. Action taken report may be filed within four months by e-mail at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

15. It is made clear that affected stone crushers/mining units will be at liberty to move this Tribunal, if they are aggrieved by this order or by orders passed in pursuance of order of this Tribunal."

Scheduled offence as defined under Section 2(y) read with paras 25 to 27 of the Schedule.

4. This application purports to be in pursuance of observations in para 15 above.

5. We proceed to consider the grievance in the application which challenges order purportedly in terms of order of this Tribunal. Extract from the translated copy of the impugned order, as filed by the applicant, is extracted below:-

"Subject: District Mining lease/storage held in (Not Legible) under SAHIBGANJ district to comply with the order passed by the Hon'ble NGT regarding the license:

In respect of the aforesaid it is brought to your notice that since your lease area is falling within the Gird Area as directed by the Hon'ble NGT, you are hereby issued 15 days statutory notice. As per the orders of NGT grid line has been demarcated. Your area falls under that.

Hence, you are directed to close down your works area and remove your belongings from there. In case the directions are not followed, legal action shall be taken."

6. It is true that the above order may appear to be non speaking but it does refer to order of this Tribunal which is speaking order and accepts report dated 18.08.2022, of the joint Committee which is on website and is exhaustive.

7. The report has studied the air quality of the area and its assimilative capacity to take the pollution load of the stone crushers. It has divided the area in grids as per air quality level and found negative capacity to take pollution load of stone crushers in view of already critical level of the air.

Thus, any further pollution results in damage to public health which has to be prevented to enforce right of the citizens area to life which means pollution free and safe environment. We may briefly refer to the said report.

Applicant stone crusher at Serial No. 1 in the list of stone crushers in Grid 7 at page 1364 of the paper-book. Estimated PM10 concentration in Grid 7 has been found to be 111 (page 1352 of the paper-book) as against laid down permissible PM10 concentration of 100 µg/m<sup>3</sup> as per National Ambient Air Quality Standard (NAAQS) of PM10 (24-hour average). The finding in the report is:-

"4 grids were found to have negative supporting capacity, thereby reduction in stone crushing capacity is required in these 4 grids, i.e. Grids 1, 3, 4 and 7. It may also be noted that 58% of the stone crushers in Sahibganj district, considered in the analysis, are located in these four grids. According to the assessment, a total of 42 number of stone crushers, i.e. 24 stone crushers in Grid 1, 4 stone crushers in Grid 3, 1 stone crusher in Grid 4 and 13 stone crushers in Grid 7, may not be permitted to operate."

8. Critical air quality corresponds to severe which results in respiratory impact even in healthy people and serious health impact on people with diseases. Table of adverse impact of the air pollution as noted in the judgment of the Hon'ble Supreme Court in Arjun Gopal & Ors. v. UOI & Ors.<sup>2</sup> is quoted below for ready reference:-

Table 1 AQI Associated Health Impacts Good Minimal impact.

(0-50) Satisfactory May cause minor breathing discomfort to sensitive (51-100) people.

Moderately May cause breathing discomfort to people with lung polluted disease such as asthma, and discomfort to people with (101-200) heart disease, children and older adults. Poor May cause breathing discomfort to people on prolonged (201-300) exposure, and discomfort to people with heart disease. Very Poor May cause respiratory illness to the people on prolonged (301-400) exposure. Effect may be more pronounced in people with lung and heart diseases.

Severe May cause respiratory impact even on healthy people, and May serious health impacts on people with lung/heart disease. (401-500) The health impacts may be experienced even during light physical activity.

(2017) 1 SCC 412 Table 2 AQI Category, Pollutants and Health Breakpoints AQI PM<sub>10</sub> 2 PM<sub>2.5</sub> 2 NO<sub>2</sub> 2 O<sub>3</sub> 8- CO 8- SO<sub>2</sub> 2 NH<sub>3</sub> Pb category 4-hr 4-hr 4-hr hr hr 4-hr 24- 24-

(Range)					(mg/m <sup>3</sup> )		hr	hr
Good (0-50)	0-50	0-30	0-40	0-50	0-1.0	0-40	0-200	0-0.5
Satisfactory (51-100)	51-100	31-60	41-80	51-100	1.1-2.0	41-80	201-400	0.5-1.0
Moderately polluted (101-200)	101-250	61-90	81-180	101-168	2.1-10	81-380	401-800	1.1-2.0
Poor (201-300)	251-350	91-120	181-280	169-208	10-17	381-800	801-120	2.1-3.0
Very poor (301-400)	351-430	121-250	281-400	209-748*	17-34	801-1600	120-0-	3.1-3.5
Severe (401-500)	430+	250+	400+	748+*	34+	1600+	180-0+	3.5+

9. It is not the case of the applicant that the above findings are erroneous. Only plea of the applicant is that it has the 'consent to operate' granted by the State PCB on 15.03.2021 which is still operative. Even so, if the stone crusher falls in Grid 7 where supporting capacity of the ambient air will be negative, its activity cannot be allowed. Admittedly, no impact assessment had been done for granting consent to the unit nor



EC granted. Thus, mere grant of consent when such activity is hazardous and violative of right of citizens to clean environment as found by this Tribunal, can be of consequence. The Tribunal has already recorded its findings against serious violation of environment by negligent working of the authorities in permitting rampant violations to the detriment of environment and public health, defeating right to life guaranteed to the citizens and principle of sustainable development to be enforced by this Tribunal under the NGT Act, overriding any order defeating such rights and principles.

10. Accordingly, we do not find any merit in the applications which are dismissed.

Adarsh Kumar Goel, CP Sudhir Agarwal, JM Prof. A. Senthil Vel, EM November 30, 2022 I.A. No. 233/2022 & I.A. No. 234/2022 In Original Application No. 23/2017 (EZ) SN