

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

M.A. No. 1126/2017  
In  
Original Application No.35/2014 (T<sub>HC</sub>)

Ganpat Ram Mirdha Applicant(s)

Versus

State of Rajasthan &Ors. Respondent(s)

Date of hearing: 31.01.2020

**CORAM:**

**HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER  
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

For Applicant(s)

Mr. Rishabh Sancheti,  
Advocate

For Respondent(s)

Mr. Adhiraj Singh, Advocate  
Mr. Jibran Tak, Advocate  
for Mr. Ankit shah,  
Advocate  
Mr. Raj Kumar, Advocate  
Ms. Sneha Ravi Iyer,  
Advocate for Ms.  
Padhmalakshmi Iyengar,  
AAG

**ORDER**

**M.A. 1126 of 2017**

This miscellaneous application has been filed in Original Application no. 35 of 2014 which was a matter transferred from Rajasthan High Court (C.W. 1968 of 13).

After considering the matter in its entirety the larger Bench of the Tribunal had decided the original

application on 02.09.2015. It would be relevant to

reproduce the said order, which is as under:-

*“Learned counsel appearing for the Rajasthan Pollution Control Board submits that two stone crushers M/s Baba Ram Dev Stone Crusher and M/s Kamlesh Stone Crusher are found to be non-compliant and polluting stone crushers and they fail to carry out the directions of the Board passed vide Order dated 31st August, 2015 and they have been ordered to be shut down.*

*Let the Rajasthan Pollution Control Board ensure that these stone crushers are shut down forthwith. We are also informed that the electricity supply of these stone crushers has already been disconnected.*

*In view of the above, we direct that both these stone crushers should not be permitted to operate unless they become environmentally compliant and non-polluting and would be permitted to operate with the approval of the Orders of the Board by the Tribunal.*

*Learned counsel appearing for the 10 Stone Crushers who have now been found to be compliant and non-polluting submits that they would pay a sum of Rs. 1 Lakh each as and by way of compensation for the damage to the environment due to their past generations of pollution for years within two months from today. This amount shall be paid to the Rajasthan Pollution Control Board which in turn along with Forest Department and State of Rajasthan would spend the amount in bringing up the green belt in the area as well as taking other anti pollution measures. He further states that they were admittedly operating since 1990 and each stone crusher would plant 100 trees including 75 trees they have already planted and additional 25 trees of the local species within one month from today. It will be the responsibility of each of the stone crusher to protect and ensure that these saplings grow into full trees.*

*We accept the statement made on behalf of these stone crushers. They abide by their undertaking.*

*The Pollution Control Board and the State Government shall conduct a joint inspection and ensure that the directions contained herein are complied with. In the event of default each stone crusher would be liable to pay further sum of Rs. 1 lakh subject to specific orders of the Tribunal in that behalf.*

*With the above directions, Original Application No. 35(THC) of 2014 (CW 1968/13) stands disposed of without any order as to costs”*

In the said order a direction was given to Rajasthan Pollution Control Board with regard to functioning of the Stone Crusher, namely, Baba Ram Dev Stone Crusher and Kamlesh Stone Crusher. As at that time they were found to be non-compliant

because they had failed to carry out the directions of the Board passed on 31.08.2015, that the Pollution Control Board was directed to ensure that these stone crushers were shut down forthwith. Further, it was directed that the said stone crushers should not be permitted to operate unless they become environmentally compliant as well non-polluting and would be permitted to operate with the approval of orders of the Tribunal.

Other sets of Stone Crushers, numbering to 10, were found to be compliant and non-polluting. However, they were directed to pay a sum of Rs 1 Lakh each by way of compensation for damage to environment due to their past generations of pollution, for years, within two months that day. The said amount was to be paid to Pollution Control Board. We are informed by Counsels for the parties that the amount has been paid and the counsel for the Pollution Control Board also accepted the fact that the Board has received the amount. Further, it was directed that Rajasthan Pollution Control Board, along with Forest Department of State, was to spend the aforesaid amount in bringing up a green belt in the area as well as for taking other anti-pollution measures.

Apart from it, the stone crushers were to plant 100 trees including 75 which they have already

planted. Therefore, the remaining 25 trees, of local species, were to be planted within one month. Responsibility was that of stone crushers to protect and ensure that these saplings grow up into full trees. Thus, statement on behalf of stone crusher was accepted by the Tribunal and they were to abide by their undertaking.

The Pollution Control Board was to conduct a joint inspection to ensure that the directions contained in the order are complied with. It was also ordered that in case of default the stone crushers are liable to pay further sum of Rs. 1 lakh, subject to specific order of the tribunal in that behalf.

The State Pollution Control Board, in regard to the compliance to be made on their part of the direction passed in order dated 02.09.2015, have filed number of reports/affidavits since the year 2015. However, as submitted by the Counsel for the Applicant and could not be controverted by the Counsel of Pollution Control Board that growth of green belt to be brought up in the area, along with the Forest Department, is yet to be completed. The Learned Counsel for the Applicant submits that as a matter of fact, except few plants of babool tree, nothing has been planted so far. In any case, the fact remains that aforesaid direction of the tribunal is yet

to be complied with and there is no quarrel to it from any of the parties.

It is noteworthy that despite of the fact that the amount of compensation, as directed by the tribunal, has been received from stone crushers long back but the Board has sanctioned an amount of Rs. 8 lakhs only on 23<sup>rd</sup> July, 2019 i.e. after four and half years.

The compliance of other direction of the Tribunal, with regard to planting of addition 25 trees by the Stone crushers, as it was said that they have already planted 75 trees, is still not done.

In view of the above, it is strange that the direction of the Tribunal, passed in year 2015, has not yet been complied with even by State Pollution Control Board. The aforesaid facts leave no room of doubts that the compliance of said order was never taken seriously, either the Pollution Control Board or the crusher so as to take appropriate steps. If the saplings had been planted within time, with passing of more nearly 5 years the same would have grown into mature trees. But for inaction on the part of the Pollution Control Board as well as Stone crusher no tree, in the real sense, exists on the site as of now.

In these circumstances and to expedite compliance of the order passed by the Tribunal in 2015 we direct the Secretary Environment, State of Rajasthan to supervise/monitor the compliance of the

aforesaid direction given by the Tribunal through officers at district level and ensure that the same is done by the Board and the respective owners of Stone Crushers within a time frame, which shall not exceed 31<sup>st</sup> July, 2020.

Compliance Report is sent by the Secretary Environment in first week of August which shall be registered separately and listed before the Tribunal.

A copy of this order be sent to the Secretary Environment, State of Rajasthan, through e-mail forthwith.

With the aforesaid direction, the Miscellaneous Application 1126 of 2017 is disposed of with no order as to cost.

Justice Raghuvendra S. Rathore, JM

Dr.Satyawan Singh Garbyal, EM

jpg