

**BEFORE THE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE) BENCH, PUNE
APPLICATION No. 14/2012**

CORAM:

**Hon'ble Shri Justice V.R. Kingaonkar
(Judicial Member)**

**Hon'ble Dr. Ajay.A.Deshpande
(Expert Member)**

B E T W E E N:

1. MR. PANDURANG SITARAM CHALKE
Age-45 years, Indian Inhabitant,
Residing at: Sukivali, Kiv wadi
Taluka-Khed, District Ratnagiri
Pin -415621, Maharashtra.
2. MR.PRALHAD SHANKAR CHALKE
Age-45 years, Indian Inhabitant,
Residing at : Sukivali, Kiv wadi
Taluka-Khed, District Ratnagiri.

....Applicants

A N D

1. STATE OF MAHARASHTRA
Through Its Chief Secretary
State of Maharashtra
Mantralaya, Mumbai, Maharashtra.
Mumbai-400032
2. COLLECTOR OF RATNAGIRI DISTRICT
Taluka Khed,
District- Ratnagiri-415621
Maharashtra.

3. S.D.O DAPOLI,
Taluka Dapoli,
District- Ratnagiri-41562
Maharashtra.
4. TAHASILDAR,
Taluka Khed,
District- Ratnagiri-415621
Maharashtra.
5. SARPANCH
Grampanchayat, Village Sukivali,
Taluka Khed, District- Ratnagiri-415621
Maharashtra.
6. Ministry of Environment and Forest,
Through its Principal Secretary,
Ministry of Environment and Forest,
Paryavaran Bhawan, CGO Complex,
Lodhi road, New Delhi.
7. MINISTRY OF MINES,
Through the Secretary,
Ministry of Mines, Shshtri Bhawan,
New Delhi-110001.
8. DEPUTY REGIONAL OFFICER,
Maharashtra Pollution Control Board,
Through Secretary,
Parkar Complex, 2nd floor, 224,
Behind Nagar Parishad,
Tal. Chiplun, DIst. Ratnagiri-415605
Maharashtra.
9. M/S MANISHA CONSTRUCTON COMPANY
Through its Director,
Having office at: Manisha Villa,

Bharne Naka, Tal. Khed,
Dist. Ratnagiri-415621.

10. M/S GUNDAPPA LAXMAN MANE

Through its Director,
Having office at S.No.335, A/p-Sukhwali,
Tal. Khed, Dist. Ratnagiri-415621,
Maharashtra

11. M/S OM CONSTRUCTOIN CO.

Through its Director,
S.No.339B,A/p SUkhwali,
Tal. KHed, DIst. Ratnagiri-415621,
Maharashtra.

12. M/S D.G.NIKAM & Co.

Through its Director,
Having office at Sukivali Post,
Bharne Naka, Tal. Khed,
Dist. Ratnagiri 415621
Maharashtra.

13. SHRDDHA SHREESH DALI

Proprietor of Sai Nath Metal
Sukivali, Tal. Khed,
Dist. Ratnagiri-415621
Maharashtra.

.....Respondents

Counsel for Applicants:

**Ms. Shaila M. Joshi with
Ms.Jenal Bharat Busa Advocates.**

Counsel for Respondents:

**Mr. D.M.Gupte Advocate for Respondent Nos. 1 & 8,
Mr. Ketan Ghag along with Mr. D.V.Saralkar
Advocates for Respondent Nos. 9 to 13**

J U D G M E N T

1. This Application is filed by the Applicants under Section 18(1) read with Section 14, 15 and 17 of the National Green Tribunal Act 2010. The subject matter of the present Application relates to the issue of illegal mining in the agricultural areas as well as forest and non-forest areas in Sukvali village, Taluka Khed, District Ratnagiri, Maharashtra. The Applicants claim to be agriculturist and have taken up the issues raised in this Application before various Forums and Authorities, prior to approaching this Tribunal.
2. The Applicants submit that the Respondent Nos. 9 to 13 are the civil contractors, who are operating stone crushers and tar plants, and have been excavating minor minerals (Black Stone) for more than past 20 years by taking permission in respect of plot Nos. 308, 310, 316, 320, 321 and 521. The Applicants state that Respondent Nos. 9 to 11 are operating Stone Crushers on plot Nos. 315,320,321 and 339. The Applicants further state that Respondent No 12 is operating Stone Crushers on plot No 310 and 520 and the Respondent No 13 is operating Stone Crushers on plot No 308,316 and 365. It is the case of the Applicants that the dust particles from the stone crushers, are spread over and have affected paddy crops from adjoining agricultural lands. The dust fines that collects in the paddy fields during the Monsoon affects the paddy crops and for last several years the land owners of the adjoining agricultural land have stopped growing paddy crops due

to reduction in fertility of the soil and the adjacent lands have become completely barren and useless for any agricultural activity.

3. The Applicants further state that Respondent Nos. 9 to 13 are not taking any precautions while carrying out blasting activities for mining of black stone, resulting in hazardous pollution, damages and irreparable loss to the fields and houses of the villagers of Sukivali Village. The Applicants have further claimed that the mining and stone crushing activities have affected the overall environment of the village and the adjacent area. It is the case of the Applicants that these environmental damages were brought to the notice of Respondent Nos. 9 to 13, but the Respondent Nos. 9 to 13 never paid any heed to it nor did they ever compensate the villagers for the environmental damages.

4. It is submitted by the Applicants that they have approached the Revenue Department, i.e. Collector and Pollution Control Board with their complaints on these issues. Those Authorities have conducted some investigations. However, they failed to control the environmental damages and the authorities have submitted that there is no substance in the complaints given by the Applicants as far as effects of blasting on the houses, illegal mining, encroachment by mining activities, air Pollution due to the crushers and damages to the agricultural crops are concerned. The Applicants have also approached the Lokayukta of Maharashtra in this regard who sought a report from the

Collector, Ratnagiri and based on the Report of Collector, Ratnagiri dated 31st October, 2011, disposed of the complaint vide letter dated 31st December, 2011, as the complaint is not having any basis. The Applicants have also claimed that there is an illegal encroachment and mining carried out in the village and the mining is carried out on the lands reserved for agricultural purposes. There is a school situated within the 100 meters from the same mining area and there is a habitation within 500 meters from the mines and crushers. Applicants have therefore, prayed for:-

- a) Directing the Respondents to cancel /withdraw and/or recall forthwith all the agreements of parties if executed in favour of Respondent Nos. 9 to 13.
- b) To direct to remove forthwith the boulders, stone crushers and other structures erected in violation of the various Rules and Regulations.
- c) An appropriate compensation may be awarded to the Applicants and all affected family members.

5. The Respondent Nos. 9 to 13 have submitted their preliminary submissions and strongly pleaded that the present application is not maintainable as it is barred by limitation. The present activities of mining and stone crushing are continuing since last 20 years as claimed by the Applicants and, therefore, the 'first cause of action' as defined under Section 14 of National Green Tribunal Act of 2010 makes the case hopelessly barred by limitation as prescribed under the Section 14 of the NGT Act. The Respondents also submit that the prayer for compensation is also

barred by limitation under the provisions of Section 15. The Respondents submit that though the Applicants have prayed for compensation they have not paid the required Court fees at the rate of 1 per cent of the compensation claimed as per Rule (12) of National Green Tribunal (Practice and Procedure) Rules 2011 and, therefore, the present application deserves to be dismissed as it is not maintainable.

6. The Respondents submit that all the grievances sought to be raised in the present application have already been considered by various authorities on different occasions and they have been found to be devoid of any merit. The Circle Officer of Revenue Department in his Report dated 17th October, 2010 has unequivocally stated that there is no damage caused to the soil, trees, crops and houses of the villagers due to the activities of the Respondent No. 9 to 13. The Respondents further submit that the Sub Divisional Officer in his order dated 7th February, 2011 has observed that the activities carried out by the Respondent Nos. 9 to 13 were in accordance with the terms and conditions of licenses granted to the Respondent Nos. 9 to 13 and revenue authorities already have a mechanism of regular inspection and monitoring of said area. In view of the complaints made by the Applicants, the Collector, Ratnagiri has also investigated the complaints in response to the letter from Lokayukta and in his detailed Report dated 31/10/2011 has mentioned that the complainants of the Applicants made on several occasions have been duly investigated by the Tehsildar and SDO office on various occasions. The

Collector further informed that the mining activities have been carried out as per the permissions given by the authorities. The crushers have necessary permissions from the State Pollution Control Board. Considering his Report, the Lokayukta has disposed of the complaint of the Applicants vide letter dated 31st December, 2011. The Respondents further submit that besides mere statements in the application there is nothing on record to show alleged violation of Environment Laws. Further, the allegations made against the Respondents Nos. 9 to 13 also suffer from infirmity and nothing is brought on the record to prima facie show the damages due to blasting, Air Pollution caused and damages to the agricultural crops and more specifically, its relation to the activities carried out by Respondent No's 9 to 13. The Respondents further claim that they are carrying out their business activities in a legal manner with necessary permissions from all the regulatory Authorities and in regular compliance of the conditions mentioned in those permissions. The Respondent Nos. 9 to 13 further averred that they are carrying out the mining activities for last several years and did not cause any nuisance to the villagers. The Respondents, therefore, strongly plead that as the application is not maintainable on the ground of delay and is barred by limitation, it should be dismissed in Limine.

7. The Counsel for Respondent Nos. 9 to 13, while making submission strongly argued that the Applicants have failed to submit and put on record any data which shows and demonstrates that there are environmental damages caused by

the activities of the Respondents and therefore, their claim cannot be considered. The Counsel further states that no notice was served on the Respondents about such damages and the Applicants are submitting the complaints to various Authorities and the authorities have been duly investigating the complaints at various occasions and have found the activities of the Respondent Nos. 9 to 13 as legal and no environmental damages have been noticed by the Authorities. The Counsel further submits that the vagueness of the submissions and statements made in the application has itself lost the spirit of the case and therefore, the application may be dismissed.

8. The District Mining Officer, Office of the Collector, Ratnagiri, has submitted Affidavit on behalf of the Respondent Nos. 2, 3 and 4 and also submitted an additional say in the matter. It is submitted by the Respondents that the mining activities which are going on at Village Sukivali, Taluka Khed, District Ratnagiri are legal and carried on by the Respondent Nos. 9 to 13, according to Bombay Minerals Extraction Rules 1995. The Revenue Authorities have issued the mining permissions as per the provisions of the said Rules and after considering the permissions and NOCs given by concerned Departments. It is also submitted that the permissions which are issued to Respondent Nos. 9 to 13 pertain to lands of the Respondent Nos. 9 to 13 bearing survey Nos. 310,320,321,365,308 and 315 of village Sukivali, Taluka Khed, District Ratnagiri which are non-agricultural and fallow lands. It is also submitted that these lands are about 16 to 17 km away

from the forest land and no permission has been given by the Respondent Nos. 2, 3 and 4 for mining in agricultural and/or forest land. Respondents have also submitted a map prepared on 15th October, 2012 showing the site of mining/quarries and the forest land and distance between these two places. The relevant copies of 7x12 extracts showing that these lands are in the category of 'PAD/RABPAD' are submitted. The Respondents have further submitted that there is no encroachment or illegal mining and there is no destruction of any agricultural land. The Respondents further submit that the mining or minerals are being extracted for more than 20 years and there are no complaints from other villagers of the same village regarding the damage to houses, loss of agriculture, damage to rivers etc. The Respondent Nos. 2,3, and 4 further submit that after the receipt of the complaints from the Applicants, a detailed enquiry with 15 days prior notice of public hearing to the villagers and to the complainants and to the Respondent Nos. 9 to 13 was conducted on 28th January, 2011 at village Sukivali by the Sub Division Officer, Dapoli. During the hearing, all topics mentioned in the application have been point wise discussed elaborately. Majority of villagers were present in the public hearing. It is further submitted that more than 470 villagers in village Sukivali informed about their no objection to the mining activities of Respondent Nos. 9 to 13 and they demanded to reject the application/complaint of the Applicants. A detailed Report of the SDO along with the application has also been placed on record. Respondent Nos. 2, 3 and 4 further submit

that all the complaints and communications from the Applicants have been duly investigated including the complaint made to Lokayukta of Maharashtra. The contesting Respondents further submit that there are no residential houses of villagers in nearby vicinity of the quarries in the village Sukivali. Applicant's complaints regarding damages due to blasting were also investigated and found to be unsubstantiated. A report from Tahsildar dated 6th March, 2010 and 9th August, 2011 is also placed on record. They further plead that as complaints of the Applicants have been duly considered and investigated by the authorities, the application of the Applicants is devoid of any merit and as such, deserves to be dismissed with costs.

9. The Sub Regional Officer, Chiplun of Maharashtra Pollution Control Board has filed an affidavit on behalf of Respondent Nos. 1 and 8 and has submitted that the stone mining/quarries are generally not granted permission/consent by the State Pollution Control Board. However, the said Board has issued guidelines for environmentally sound operations of stone quarrying activities. It is submitted by the Maharashtra Pollution Control Board (MPCB) that they have granted consent to operate under the provisions of Water(P & CP) Act, 1974 and Air(P & CP) Act, 1981 to following industries:-

- 1) M/s Manisha Construction Company, Gut No. 312
- 2) M/s Manisha Construction Company, Gut No. 315
- 3) M/s Gundappa Laxman Mane, S.No. 335
- 4) M/s Om Construction Company, Survey No. 339B(Hot mixed plant)

5) M/s DG Nikam and Company, Gut No 520.

6) Shraddha Shreesh Dali proprietor of M/s Sai Nath Metal.

10. It is submitted by the Respondent Nos. 1 and 8 that they have issued the consent to operate to these units as per the norms and with certain terms and conditions. It is submitted by the Maharashtra Pollution Control Board that Respondent 8 has carried out ambient air quality monitoring at 10 metres distance from the stone crushers in May, 2012 and the values of RSPM and SPM are within the prescribed standards and the copies of the analysis results are also submitted. Maharashtra Pollution Control Board has further carried out ambient air quality monitoring in the surrounding area of human habitation at four places and the results of RSPM and SPM are also within the limit, though it is not clear from the Report whether the crusher was in operation during the monitoring activities. Maharashtra Pollution Control Board has further submitted that show cause notices were issued to the stone crushers for non-compliance of specific conditions including provision of tar road etc. in June 2012. However, it is observed from records that no further action is taken on these show-cause notices.

11. The Maharashtra Pollution Control Board has further submitted that they had received the complaint of Shri. Pralhad Chalke on 28th June, 2011, regarding air pollution being caused due to mining/crushing activities of Respondent Nos. 9 to 13. Surprisingly, Maharashtra Pollution Control Board has not carried out any investigation or air monitoring as a follow up of

this complaint. However, a reference was made to the Taluka Agricultural Officer and Taluka Health Officer regarding the impacts of air pollution on agriculture and human health respectively. The Health Officer has replied stating that there are no complaints from the villagers regarding the air pollution due to activities of Respondent Nos. 9 to 13 and the Taluka Agriculture Officer has replied that said survey regarding effects on agriculture may be carried out from the Expert Panel, Konkan Krishi Vidyapeeth, Dapoli. Maharashtra Pollution Control Board has not taken any action on this letter, though, it itself called the Report from the Agriculture Officer and was expected to take the follow up action in this regard.

12. Maharashtra Pollution Control Board has further submitted that as per the order passed by Hon'ble Supreme Court of India in the *"IA No 12-13 of 2011 in SLP No 19628-19629 of 2009 filed by Shri Deepak Kumar V/s State of Haryana and Others dated 27th February, 2012"*, all the mining projects of minor minerals, including their renewal irrespective of their period of lease, are now required to obtain prior Environmental Clearance. Maharashtra Pollution Control Board further submits that till the moratorium imposed by MoEF, GOI is continued the Respondent Nos. 9 to 13 cannot be allowed to continue their mining operations presently, as the validity of the mine lease, in all the five cases at gut No 305,321,320,296 and 310, has already expired.

13. The Learned Advocate for the Applicants submits that there are discrepancies in the records of the various authorities and

submits that the authorities have not carried out proper investigation and monitoring while investigating their complaints and, therefore, urged that the Tribunal may issue suitable orders on the specific Prayer for the compensation. The learned counsel submits that the applicants are villagers and are not able to scientifically assess the damages in monetary terms and submits that, the Tribunal may decide on the same. The counsel further submits that being villagers, the applicants cannot be expected to generate the scientific data on pollution and damages, and it is the duty of regulatory authorities to provide the scientific data.

14. We have heard the Counsel for the parties in extenso and gone through the documents and information submitted so far. The following issues are involved in the Application which needs to be determined. They are:-

- 1) Whether the application is within the limitation as per the NGT Act?
- 2) (a) Whether the activities of the mining and the stone crushers at village Sukivali are causing pollution and environmental damages?
(b) If yes, then what is the nature and quantum of Environmental impact?
- 3) Whether the Applicants have made out a case for compensation and relief in the present case and, if yes, for what amount?
- 4) What precautions are further required in the present case?

15. The merits of issues are discussed herein below:-

The Present Application has been filed under Section 18(1) read with Section 14, 15 and 17 of the NGT Act 2010. Admittedly, the stone quarrying operations were continuing in village Sukivali for last more than 20 years or so, though the exact date of commissioning of these various stone mining units has not been stated by any of the Respondents which they were supposed to. The complainant has filed various complaints to the authorities and the earliest reference can be found as a Report of Circle Officer who visited the village on 16th January, 2010. Subsequently, there are several complaints and investigation reports are submitted by the Applicants as well as Respondents. The Applicants have submitted various prayers and some of them are related to the relief and compensation As per Section 15 of the NGT Act the cause is continuing. The prayers of applicant's are reproduced below:-

- i. *“That, this Hon’ble GREEN TRIBUNAL be pleased to issue writ in the nature of certiorari or any other like writ, order, direction, directing the Respondents to produce before this Hon’ble Court all the records relating to grant of permission in respect of permissions and examine the legality, validity, propriety and correctness thereof and accordingly be pleased to quash and set aside all the orders of sanction to private sponsors in violation of rules and regulations relating thereto.*

ii. *“That, this Hon’ble Court be pleased to issue writ of mandamus and or any other writ and or writ in the nature of mandamus directing the Respondents to cancel/withdraw and or recall forthwith all the agreements of performance if any executed in favour of the Respondent Nos. 9 to 13.*

iii. *“That, this Hon’ble GREEN TRIBUNAL be pleased to direct the Respondents to remove forthwith the boundary, Stone Crusher and other structure erected by the private sponsors in violation of the various mandatory rules in the interest of safety of public at large”*

iv. *“That an Appropriate compensation may be awarded to applicant and all affected family members”.*

16. The Counsel for Respondent Nos. 9 to 13 have strongly contended that the Stone Quarrying operations are continued since last 20 years and therefore, the first cause of action as per the Section 15 of the NGT Act is more than 5 years old and therefore, the Application is barred by the limitation. Other Respondents, particularly Respondent Nos. 2, 3 and 4 have also taken the similar plea. The Counsel for the Applicants submitted that though, the stone quarrying and mining operations are continued for more than 20 years they have made the complaints within the last 5 years and therefore, the limitation would start from the date of the ‘first cause of action’ related to grievances made either through complaints or applications. It will be

pertinent to refer and reproduce the Section 14 and 15 of NGT Act, 2010 for more clarity in the matter:-

“Section 14: Tribunal to settle disputes: –

1. *The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I.*
2. *The Tribunal shall hear the disputes arising from the Questions referred to in sub-section (1) and settle such disputes and pass order thereon.*
3. *No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose:*

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days.”

“Section 15: Relief, compensation and restitution: –

1. *The Tribunal may, by an order, provide,-*
 - a. *relief and compensation to the victims of pollution and other environmental damage arising under the enactments specified in the Schedule I (including accident occurring while handling any hazardous substance);*
 - b. *for restitution of property damaged;*
 - c. *for restitution of the environment for such area or areas as the Tribunal may think fit.*
2. *The relief and compensation and restitution of property and environment referred to in clauses (a), (b) and (c) of sub-section (1) shall be in addition to the relief paid or payable under the Public Liability Insurance Act, 1991.*
3. *No application for grant of any compensation or relief or restitution of property or environment under this section shall be entertained by the Tribunal unless it is made within a period of five years from the date on which the cause for such compensation or relief first arose:*

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing

the application within the said period, allow it to be filed within a further period not exceeding sixty days.

4. *The Tribunal may, having regard to the damage to public health, property and environment, divide the compensation or relief payable under separate heads specified in Schedule II so as to provide compensation or relief to the claimants and for restitution of the damaged property or environment, as it may think fit.*

5. *Every claimant of the compensation or relief under this Act shall intimate to the Tribunal about the application filed to, or, as the case may be, compensation or relief received from, any other court or authority.”*

It is observed in the present application, that the petitioner has made representation to various authorities about the environmental damages and then approached NGT. It is further observed that the application is mainly for restoration of environmental damages and compensation, which are covered under Section 15 of NGT Act, 2010.

17. Considering the above facts, We are of considered opinion that the application is within the limitation as prescribed under Section 15 of the NGT Act and can therefore, be dealt with.

The stone mining activities as well as crushers are, no doubt, the polluting activities, however, there are regulations and standards which have been prescribed for sustainable operations of these activities which needs to be adhered to by the Project Proponent in order to ensure the environmental safety. It is submitted by the Maharashtra Pollution Control Board that they have granted permissions to the Stone Crushers and they have not granted consent to the stone mining activities though, they have issued guidelines for environmentally sound operations. The Ambient Air Quality Report submitted by the Maharashtra

Pollution Control Board near the crushers and also, the habitation indicate that the same are also within the limits. The Counsel for the Respondent Nos. 9 to 13 contended that the Applicants have failed to provide any data/record or monitoring results which can conclusively prove the environmental damage occurred due to the activities of the Respondent Nos. 9 to 13. The environmental governance principle of 'Precautionary Principle' has led to the special principle of 'Burden of proof' in the environmental cases where Project Proponent has been entrusted with responsibility of proving that the project activities will not cause any injurious effects of the pollution on the environment. This is very important principle as this is often termed as reversal of the burden of proof because otherwise in the environmental cases the common citizen will be asked to provide the scientific and technological data in order to preserve the "Status Quo" and for opposing or raising concerns of the environmental degradation. The concept of sustainable development also entrust the responsibility to the regulating authorities that while permitting the development, not only to ensure that no substantial damage is caused to the environment but also, to take such preventive measures which would ensure no irretrievable damage to the environment, even in the future. Considering these facts, the State Pollution Control Board was expected to provide necessary information and data on the pollution caused due to mining and crushers and also, any environmental damages thereof in a scientific manner, such information has not been submitted. One of the interesting

aspects of the proceedings of this case is, during the inspection, as a follow up of this Tribunal's order, the Revenue Authorities have found that more than 888.23 brass of mined stone was found to be stored in the premises of gut No 339B, 335 and 312 belonging to Respondent Nos. 9, 10 and 11. It has been submitted that this mined stone quantity is over and above the permitted quantities of the mining. This information clearly indicates that there has been excessive exploitation of the mineral (stones) in this mining area over and above the mining permissions. There is no record submitted so far which indicates regular inspections by the Revenue Authorities to verify whether the excavation of the minerals is as per the quantities specified in the permissions granted to the stone mines. However, this one instance of excessive and unauthorised mining can give an indication of such illegal and unauthorised activities. Based on the record available, though, the activities of mining and crushers can lead to pollution and environmental degradation, yet in the present case there is hardly any record, which conclusively prove that the damage is caused to the environment and further, that can be linked to the activities of Respondent No's 9 to 13. And therefore, in the instant case, the answer to the issues No.2 is answered in the 'Negative'.

18. The Applicants prayed for compensation under Section 15 of the National Green Tribunal Act, 2010. However, they have not submitted any details of the quantum like the type of compensation, cause of compensation and amount of compensation. The Learned Advocate for the Respondent Nos. 9

to 13 also strongly objected for grant of compensation in view of the fact that there is hardly any record or information which shows the environmental damage caused to the surrounding area which can be attributed to the activities of Respondent Nos. 9 to 13. The Respondent Nos. 2, 3 and 4 and also 1 and 8 have also submitted that there is no environmental degradation which can be specifically attributed due to operations of the Respondent Nos. 9 to 13. There is no record, information and data in the submissions of the Applicants as well as Respondents which can consequently show that there is an environmental impact except the excessive mining as mentioned above. Under the circumstances, we are not inclined to award any compensation in the present case.

19. The stone mining activities are common and required for infrastructure development. The stone crushing activities are known to be polluting activities and are already covered under the Consent Management Regime of the State Pollution Control Board. Specific standards and guidelines have also been evolved for the environmentally sustainable operations of the stone crushers. The stone mining activities are involved with blasting activities which can cause damages in the surrounding areas. Further, the material transportation from both stone mining as well as crushers leads to air pollution besides the traffic hazards. Considering all these aspects and also fact that the stone quarrying and also, the stone crushers are many times located in the rural areas and are located near the habitation, it is necessary

that all the Regulatory Authorities including the District Mining Officer and the State Pollution Control Board shall take enough precaution based on the 'Precautionary Principle' to mitigate environmental impacts and damages. The Doctrine of the public trust is one of the settled principles of the environmental governance. This Doctrine is more an affirmation to the State Power for utilization of public property for public good. It is also an affirmation of the duty of the State to protect people's common heritage and environment and therefore, these Regulatory Authorities are expected to play a pro-active role in the enforcement and compliance of the environment regulations in order to avoid such conflicts. The above mentioned one instance of unauthorized and excessive mining can be considered as a cause of environmental non-compliance, which needs to be acted upon by regulatory agencies.

20. We may state at this juncture that the crusher, mined material and machinery are removed from the respective sites during pendency of the Application as per various interim orders of this Tribunal. We also find that the Applicants have not made out a case to award compensation in as much as no particular damage is proved as a result of these mining activities of the Respondents or due to operation of the Stone Crushers. It appears from photographs that walls of few houses have received cracks. But it is not established that the walls are damaged as a result of any mining activity carried out by the contesting Respondents.

The Application to the extent of claim for compensation will have to be therefore dismissed.

21. It is a matter of record that the Applicants have raised complaints about the pollution and nuisance due to mining and crushing activities with the various authorities. It is also a matter of the record that the 888.23 brass of stone metal has been illegally mined. We therefore direct that excessive stone shall be auctioned and the amount shall be used for developing necessary plantation in the village particularly to develop green buffer area between the mining and stone crushing activities and the habitation areas. The Revenue Department is free to recover the royalty as per rules, independently, from the Respondent Nos. 9 to 13 as the case may be. The above amount shall be used under the supervision of the SDO, Chiplun for new plantation.

22. We find it necessary that certain directions are required to be issued to avoid any instances as shown in the Application. Hence following direction are issued:-

1) State Pollution Control Board shall conduct necessary ambient air quality monitoring as per the Central Pollution Control Board guidelines and standards at least once in six months in the said area for next 3 years. During this monitoring, the Gram Panchayat and the District Mining Officer shall be due informed and it must be ensured that the Stone Crushers are in operation. Further, the stone crushers shall not be allowed to operate to they comply all the norms and conditions prescribed by the SPCB.

2) The hot mixed plants are known to cause air pollution, particularly, due to the emissions volatile organic carbons and therefore, shall not allowed to operate till they provide necessary air pollution systems including the scrubbers to mitigate VOC with emissions.

3) The mining authorities shall conduct regular inspection of the stone mining activities and ensure that the mining activities are strictly carried out in adherence to the mining permissions. They shall also ensure that the mining activities are within the specified areas and only licence quantities of minor minerals are explored. The mining officer and also, revenue authorities shall verify the mining operations in view of the guidelines issued by Maharashtra Pollution Control Board.

4) Maharashtra Pollution Control Board in its submission has submitted that these mining activities cannot be continued till they get necessary EC. The Authorities shall ensure that all these mining activities are allowed to operate only if all the necessary permissions are granted and the units are complying the guidelines issued by Maharashtra Pollution Control Board. Accordingly, the Application is disposed of in above terms.

No costs.

....., JM
(V. R. Kingaonkar)

....., EM
(Dr. Ajay.A. Deshpande)



NGT