

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

Execution Application No. 32/2016

IN

O.A. No. 295/2016

WITH

Original Application No. 295/2016

(M.A. No. 539/2016)



Amresh Singh

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 12.02.2019

**CORAM:**

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

For Applicant(s):

For Respondent(s):

Mr. G.M. Kawoosa, Advocate for State of J&K  
and SPCB  
Mr. Rajesh K. Singh, Mr. Rovins Verma,  
Advocates for MoEF&CC  
Mr. Raghav Pandey, Aanchal Mallick, Advocate  
for HCC  
Mr. Rajkumar, Advocate for CPCB

**ORDER**

1. The matter involves control of pollution caused in the course of four-laning of National Highway from Udhampur to Banihal in Jammu and Kashmir by the Gammon India Limited and the Hindustan Construction Co. Ltd.
2. Vide order dated 24.08.2018, the matter was considered in the light of photographs and averments and the report of the Committee headed by the Chairman, Jammu and Kashmir State Pollution

said Report dated 23.04.2018 was accepted but in view of potential of serious adverse impact on environment, a monitoring Committee headed by Justice J.R. Kotwal, former Judge of Jammu and Kashmir High Court was constituted. The Committee was to prepare an action plan to deal with the challenge to the protection of environment.

3. The Committee has given its preliminary report dated 18.01.2019 after visiting the site and deliberations.

4. Relevant observations with regard to Banihal to Ramsoo/Digdol are as follows:

"The Committee on a thorough survey of these dumping sites has noticed as under:

a) None of these sites can be said to have been selected suitably or could have been adequately developed as dumping sites, given the small horizontal and vertical distance between the bed of the stream and the existing/proposed level of the road in that segment.

b) It can be safely said that all these sites have been put to use without proper preparation. The representative of the project proponent, nonetheless, pointed out, what he called, the gabion walls constructed at the foot of these sites, which, however, to a layman's understanding are too inadequate to meet the requisite purpose. There namesake gabion walls have been constructed on the bed of the stream ranging between 4 feet to 5 feet in height. The spilling over of the muck/dumped soil into the stream is evident and inference that much of it has already been washed away can be safely drawn.

c) All these sites have already attained their full capacity inasmuch as the angle of repose seems not less than  $70^{\circ}$  to  $75^{\circ}$ . No more dumping at these sites is possible.

d) None of the sites, which have attained their full capacity, have been stabilised and rehabilitated by making engineering and botanical intervention. (See Photographs P-I2 to P-I 7.)"

representative of the project proponent pointed out the gabion walls having been constructed deep in the gorge at some of these sites. The said gabion walls to a layman's understanding, however, are too inadequate to meet the requisite purpose and have already breached and given way to the muck/dumped material thrown at these sites. (See Photographs P-18 to P-34).

b) One of these sites located at a place called 'Battery Cheshma' comprises of the bed of a Nallah (seasonal water course) which has huge catchment area, but no scope for flow of water has been left and the Nallah has been virtually chocked. (See Photograph P-35).

c) Some of these sites have already attained their full capacity and no further dumping is possible, whereas in the rest further dumping is possible only after strong and methodical engineering intervention like construction of concrete holding walls and terracing etc.

d) None of the sites, which already have attained their full capacity, have been stabilised and rehabilitated by making engineering and botanical intervention though nominal plantation was visible at one such site. (See Photographs P-36 and P-37).

e) A big dumping site in use at village, 'Seri' depicts the height of the lack of concern shown by the project implementing authority and the project proponent in setting up and maintenance of the dumping sites. This dumping site has been set up along a considerable length of river Chenab right at its bank with a nominal gabion wall constructed almost on the bed of the river. Huge spilling over of the muck/dumped soil into the river is visible. (See Photographs P-38 & P-39)."

6. Finally, the Committee issued following advisory:

"The Monitoring Committee thus issues following advisory :

1) The project proponent shall immediately discontinue with the use of dumping sites, which have already attained full capacity, as pointed out above and shall take immediate steps to strengthen, stabilise and rehabilitate them by planting local grass, shrubs and trees and by adopting all other scientific methods as directed by the Hon'ble NGT vide order dated 24.08.2018 supra.

2) The project proponent shall immediately take steps for adequate preparation of the dumping sites, which are in use and where further dumping

concern in providing suitable and adequate number of new dumping sites to the project proponent within shortest possible time.

- 4) The project implementing authority (NHAI) in general and the Regional Officer, NHAI, J&K and Project Director of the project implementing unit (PRJ) in particular shall ensure that the dumping sites are adequately and systematically developed before putting them to use and are adequately rehabilitated in the due course after they attain their full capacity.
- 5) The NHAI in general and the Regional Officer, NHAI, J&K and Project Director of the project implementing unit (PIU) in particular shall ensure visible improvement on the ground by the next inspection of the area, which shall be held in first week of March, 2019.
- 6) The NHAI in general and the Regional Officer, NHAI, J&K and Project Director of the project implementing unit (PIU) in particular shall be responsible for strict compliance of all the conditions of environmental clearance obtained by them for execution of the project and the directions issued by the Hon'ble NGT from time to time and shall be liable for the failure/lapses in this regard. The State Government and the J&K SPCB shall be responsible for keeping strict vigil to ensure strict compliance and shall take necessary legal action, whenever there is any failure or lapse.
- 7) All the concerned shall ensure that the directions issued by the Hon'ble NGT vide order dated 24.08.2018 are strictly complied with.
7. The suggestions of the Committee are well formed and necessary for protection of environment. We accept the report of the Monitoring Committee and direct that the advisory issued be strictly complied with by the project proponent.
8. Having regard to the entirety of the fact situation and the observations of the Committee to which there is no challenge, we direct the Gammon India Limited and the Hindustan Construction Co. Ltd. to pay interim compensation for the damage to the environment to the extent of Rs. 1 Crore each and also furnish a Performance Guarantee for improving the situation in the manner

10. The deposit of compensation be made with the Central Pollution Control Board (CPCB) within one month and the Performance Guarantee may also be furnished to the satisfaction of the CPCB within one month.
11. Let further report of the Committee be furnished after three months but before June 30, 2019.

List for further consideration of the report on 11.07.2019. The scheduled date already fixed i.e. 21.02.2019 is accordingly deferred.

NATIONAL HIGHWAY AUTHORITY OF INDIA  
DV

February 12, 2019  
Execution Application No. 32/2016  
IN O.A. No. 295/2016



Forest Complex, Sheikh Bagh, Lal Chowk,  
Srinagar, Jammu & Kashmir,  
Phone: 0194-2455027,  
Fax: 0194-2455027,  
NIV, 10 April,  
Van Jhawan, Below Gumar,  
Jammu-Kashmir,  
Phone: 0191-2560585, Fax: 0191-2547276,  
URL Address: [www.jkforsts.com](http://www.jkforsts.com)

Government of Jammu and Kashmir  
Office of the Pr. Chief Conservator of Forests  
J&K, Jammu

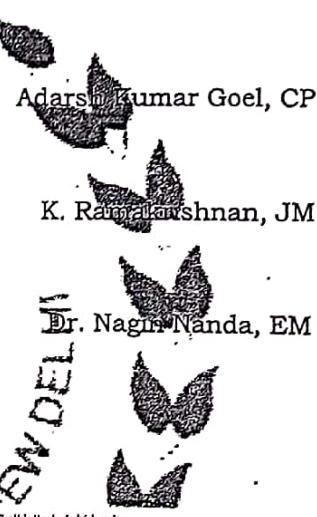
No: PCCF/LO/138/SC/2016/ 3/D - 13

Dated: 23/2/2019

Copy of the above forwarded for information & n/ action to the:-

1. Chief Conservator of Forests, Jammu.
2. Regional Director, National Highway Authority of India, J&K, Jammu.
3. Divisional Forest Officer, Udhampur.
4. Divisional Forest Officer, Ramban.

Speed post



BEFORE THE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI

Execution Application No. 32/2016

In

Original Application No. 295/2016

And

Original Application No. 295/2016

(M. A. No. 539/2016)

IN THE MATTER OF:

Amresh Singh Vs. Union of India & Ors.

**CORAM :** HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

Present: Applicant/Appellant(s)  
Respondent No. 1  
MoEF  
Respondent No. 6:  
DDA:

Mr. Kr. Swarn Kishore Singh, Adv.  
Mr. B.V. Niren, Adv. and Mr. K. Mudgal, Adv.  
Mr. Rajesh Kr. Singh & Mr. Rovines Verma, Adv.  
Mr. Aanchal Mullick, Adv.  
Mr. Rajiv Bansal, Sr. Adv., along with Mr. Aniruddh  
Singh., Ms. Kamna Singh and Ms. Khushboo  
Kumari, Adv.  
Ms. Aanchal Mullick, Adv.  
Mr. GM Kawoosa, Adv.  
Mr. Pinaki Mishra, Sr. Adv. with Ms. Kritika Shukla,  
Adv.

Date and Remarks	Orders of the Tribunal
Item No.	
07-08 August 24, 2018 dv	<p>1. The application seeks following directions:</p> <ul style="list-style-type: none"><li>a) Direct the respondent authority to keep the rivers free from any pollution and contamination and further keep forests free from any intrusion which harms their integrity.</li><li>b) Direct the respondent authority to ensure the forest land and the rivers basins are not encroached into.</li><li>c) Issue an order of the nature of mandamus, constitute a high level committee to monitor the construction till it is completed. And further direct the committee for furnish periodical reports to the Hon'ble Tribunal about the status of the environment well being.</li><li>d) Direct the respondent authority to conduct a Cumulative Impact Study on rampant soil</li></ul>

D

<p>Item No. 07-08</p> <p>August 24, 2018 dv</p>	<p>dumping in the State.</p> <p>2. Case of the applicant is that there is rampant dumping of soil in the Chenab and Tawi Rivers without prior Environmental Clearance adversely affecting the environmental balance. Four-lanning of National Highway from Udhampur to Banihal is in progress for which excavation work is done. In the process, the soil is dumped in the river. The work is executed by the Gammon India Ltd. and the Hindustan Construction Co. Ltd. directly or through their contractors. The cement mixing plants emit harmful chemicals. Several photographs have been annexed in support of the averments.</p> <p>3. Though in the replies Respondents no. 5 and 6 have denied the allegations, this Tribunal vide order dated 29.01.2018, after considering the report of the Committee headed by the Chairman, Jammu &amp; Kashmir State Pollution Control Board, appointed another Committee comprising of Senior Scientists, each from Central Soil and Water Conservation, Research &amp; Training Institute, Chandigarh, Central Pollution Control Board and Ministry of Environment, Forest and Climate Change and Himalayan Forest Research Institute, Shimla to visit the sites and give a report to this Tribunal.</p> <p>Accordingly, report dated 23.04.2018 has been submitted, recommending as follows:</p> <p><b>"Recommendation and suggestions:</b></p> <ol style="list-style-type: none"> <li>1. The acquired dumping sites should be prepared appropriately before start of dumping as all the sites are downhill side of the slopes. Appropriate engineering interventions need to be done in terraces to securely hold the muck.</li> <li>2. The possibility of construction of Plain Concrete Cement (PCC) grids or anchored RCC grid structure on the unstable slopes may be explored to prevent overflow of muck &amp; debries.</li> <li>3. There is a need to re-assess gabion structures in vulnerable hilly eco-system. All the gabion</li> </ol>
---	--

(2)

		<p>Item No. 07-08</p> <p>August 24, 2018 dv</p>	<p>structures/retaining wall should have sufficient foundation and bottom width should be 4-5 m. Length of one gabion structure should not be more than 10 m. Gabions could be bound with another in case of more length.</p> <p>4. Angle of repose of muck should be maintained between 30°-45°. Long slopes should be intercepted to several short ones with the help of 1.5 to 2.0 m wide berms/terraces/benches in-between in order to maintain less than critical velocity for runoff water and to control mass erosion.</p> <p>5. Gabion walls should be constructed above HFL of River with sufficient height. Construction of RCC/stone masonry retaining wall along river banks should be carried out instead of gabion wall in cases of steep slopes where construction of gabion wall is difficult. Height of this wall should be well above the HFL of River.</p> <p>6. All the damaged gabion walls/structures of the muck dumping sites should be immediately repaired and strengthened to hold the muck securely.</p> <p>7. Dumping sites which have attained full capacity should be rehabilitated with local grass, tree &amp; shrubs. Jute Geo Textile (JGT) may also be used for establishment of vegetation at vulnerable sites.</p> <p>8. Monitoring of river water &amp; ambient air quality as per CPCB guidelines should be carried out.</p> <p>9. Management plan to be prepared for natural water courses &amp; drainages crossing the project area and submit the annual report to the authority granted environmental clearance &amp; SPCB.</p> <p>4. Since there is no objection to the above recommendations and suggestions, the report of the Committee is accepted and all concerned are directed to take steps accordingly covering each and every aspect of said report.</p> <p>5. Learned Counsel for the applicants submit that having regard to the potential of serious adverse impact on the environment, there is a need of constant oversight for implementation of the recommendations in holistic manner and compliance of environmental norms.</p> <p>6. Learned Counsel for the parties have no objection for an appropriate Committee being constituted for the purpose.</p>
--	--	---	---

(2)

<p>Item No. 07-08</p> <p>August 24, 2018 dv</p>	<p>7. Accordingly, following Monitoring Committee is constituted:</p> <ol style="list-style-type: none"> <li>i. Justice J.R. Kotwal, Judge of J&amp;K High Court (retiring on 28.08.2018) w.e.f. a date after his retirement – Chairman.</li> <li>ii. Representative of Central Soil and Water Conservation, Research and Training Institute, Chandigarh – Member.</li> <li>iii. Representative of MoEF&amp;CC, New Delhi – Member.</li> <li>iv. Joint Director (S), NRO, MoEF&amp;CC Chandigarh – Member.</li> <li>v. Representative of Himalayan Forest Research Institute, Shimla – Member.</li> </ol> <p>8. The Monitoring Committee will take following steps:</p> <ol style="list-style-type: none"> <li>(i) Take stock of all the actions taken so far in the light of the various directions of the Tribunal and the report of the Committee.</li> <li>(ii) Propose time bound action plan to deal with the problem and ensure its implementation.</li> </ol> <p>9. The Committee may requisition services of any technical experts. State Pollution Control Board, J&amp;K shall be the agency which shall co-ordinate the matter.</p> <p>10. The action plan should also include construction of Plain Concrete Cement (PCC) grids or anchored RCC grid structures as has been done with regard to stabilizing such slopes in Chamba Distt. Himachal Pradesh on river Ravi which got destabilized due to road construction and tunneling by Hydro-electric project construction activity.</p>
---	---

67

Item No. 07-08  August 24, 2018 dv	<p>11. The online mechanism for monitoring the slope stabilization waste should also be connected to the servers of CPCB and State Pollution Control Boards so that the CPCB and SPCB can also monitor the data and progress.</p> <p>12. The Monitoring Committee may also setup a website for receiving and giving information on the subject.</p> <p>13. The Monitoring Committee may also involve educational institutions for awareness and feedback.</p> <p>14. All the authorities concerned in the State Jammu &amp; Kashmir will co-operate and coordinate with the Monitoring Committee. The Monitoring Committee can seek such technical and scientific assistance as may be required from any relevant authority.</p> <p>15. We request the Chief Secretary, Jammu &amp; Kashmir to provide all facilities to the said Monitoring Committee to perform its functions. The Committee may send its monthly reports to this Tribunal by e-mail. The Committee may requisition the services of such technical experts as may be necessary and may also carry out physical visits to the sites, whenever necessary. They will be entitled to logistic support for performing these functions to be provided under the directions of the Chief Secretary, Jammu &amp; Kashmir. The Committee may assume its charge within two weeks from today. The Committee may prepare its Action Plan which may have target of ensuring compliance to stop stabilization and prevent indiscriminate dumping of muck on slopes preferably within three months. It may meet at such intervals as considered appropriate but twice in every month and fix</p>
---	---

Item No.  
07-08

August 24,  
2018  
dv

next targets. The Committee will be free to take up all incidental issues and all such activities like running of illegal stone crushers, illegal dumping of debris on slopes and its remediation, stabilization of slopes where dumping has been carried out at designated sites. All Concerned authorities are expected to cooperate with the Committee subject to any objection being put forward before this Tribunal. The Committee will be free to seek any further directions from this Committee by Email.

16. The Chief Secretary of the State of Jammu & Kashmir may determine the remuneration of the Chairman in consultation with him and also provide logistic support for their proper functioning.

17. The Committee may send its report at such intervals as may be found necessary. The report may be submitted by E-mail at [filing.ngt@gmail.com](mailto:filing.ngt@gmail.com).

The same may be put up for consideration on 21<sup>st</sup> February, 2019.

A copy of this order be sent to the concerned authorities by E-mail. The applicant may send complete set of papers to the Committee for compliance of these directions.

In terms of the above order, both the applications stand disposed of.

..... CP  
(Adarsh Kumar Goel)

..... JM  
(S.P. Wangdi)

(7)

	Item No. 07-08	
	August 24, 2018 dv	.....,EM (Dr. Nagin Nanda) 24.08.2018

