



केन्द्रीय प्रदूषण नियंत्रण बोर्ड
CENTRAL POLLUTION CONTROL BOARD
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय, भारत सरकार
MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE, GOVT. OF INDIA

EMAIL/SPEED POST

CM-13011/110/2024-LAW-HO-CPCB-HO/ 5802

October 28, 2024

To

The Member Secretary
UP Pollution Control Board
Building.No. TC-12V, Vibhuti Khand
Gomti Nagar, Lucknow- 226010

Sub: Directions under section 18(1) (b) of the Water (Prevention & Control of Pollution) Act, 1974, and the Air (Prevention & Control of Pollution) Act, 1981 in matter related to O.A. No. 556 of 2023 (Arun Tiwari Versus State of Uttar Pradesh & Ors.) - reg.

WHEREAS, amongst others, under Section 17 of the Water (Prevention & Control of Pollution) Act, 1974, and Section 17 of the Air (Prevention & Control of Pollution) Act, 1981, one of the functions of the State Pollution Control Board (SPCB) / Pollution Control Committee (PCC) is to plan a comprehensive programme for prevention, control or abatement of pollution of streams and wells and to plan a comprehensive programme for prevention, control or abatement of air pollution in the State/Union Territory and to secure the execution therefore; and

WHEREAS, under section 17 sub-section (1) clause (o) of the Water (Prevention & Control of Pollution) Act, 1974, (hereinafter referred to as Water Act, 1974) and with similar provision under section 17 sub- section (1) clause (i) of the Air (Prevention & Control of Pollution) Act, 1981, (hereinafter referred to as Air Act, 1981), one of the functions of the State Pollution Control Board (UPPCB) constituted under the Water Act, 1974, is to perform such functions as may be prescribed or as may, from time to time entrusted to it by the Central Pollution Control Board; and

WHEREAS, under provisions of the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act), the States Governments are empowered to make rules for regulating the grant of prospecting licenses / mining leases in respect of minor minerals and to make rules for preventing illegal mining, transportation and storage of minerals. All such mining which qualifies under illegal, are to be dealt with according to the provision of MMDR Act by the Mining Department.

WHEREAS, the Central Government had issued Environmental Impact Assessment (EIA) Notification 1994 and 2006 and by virtue of these notifications, the Central Government has made it mandatory to obtain prior Environmental Clearance for projects/activities covered under the Schedule of the notification from Central Government / State Environmental Impact Assessment Authority (SEIAA), including highway projects.

WHEREAS, CPCB has categorized industrial sectors into Red, Orange, Green and White categories and directed all SPCBs/PCCs on 07.03.2016 for its adoption and implementation. The SPCBs/PCCs were also directed that addition of new of left-over

‘परिवेश भवन’ पूर्वी अर्जुन नगर, दिल्ली-110032

Parivesh Bhawan, East Arjun Nagar, New Delhi - 110032

दूरभाष/Tel: 43102030, 22305792, वेबसाइट/Website : www.cpcb.nic.in

industrial sectors and their categorization which is not listed in the categorization done by CPCB, shall be done by a committee at the level of concerned SPCB/PCC, in accordance with the revised criteria and guidelines of CPCB. Highway project are included in the Orange category in the said categorisation; and

WHEREAS, in the project of Uttar Pradesh Expressways Industrial Development Authority (UPEIDA) of 297 km long Bundelkhand Expressway between Gonda village on NH-35 in Chitrakoot district and Kudrail village on Agra-Lucknow Expressway in Etawah district in six packages, The construction work was awarded to four different contractors. About 75 km length in two tehsils - Orai and Jalaun of Jalaun district has been constructed by M/s Gawar Construction Limited, Gurgaon

WHEREAS, in compliance to Hon'ble NGT order dated 06.05.2024 (in O.A. 556 of 2023), a team of CPCB along with officials from UPPCB, UPEIDA, Mining Department (Govt. of UP), and Lekhpal of the concerned area, carried out inspection of the ordinary earth/soil mining sites related to the said expressway construction work in Jalaun District on 03.07.2024 and 04.07.2024 to verify the factual status in respect of the complaint in the said O.A. 556 of 2023. The salient observations made by the inspecting team about the expressway construction project are as follows:

1. State Environmental Impact Assessment Authority (SEIAA) Uttar Pradesh issued Terms of Reference (TOR) to UPEIDA for construction of the Bundelkhand Expressway on 10.05.2019 and subsequently issued Environmental Clearance for the project on 23.11.2019.
2. Approximately 75 Km of Bundelkhand Expressway is constructed in two tehsils (Orai & Jalaun) of district Jalaun under Package IV and V. M/s Gawar Construction Limited, Gurgaon started work on 15.01.2020 and completed construction work on 30.06.2022 for Package IV and on 26.07.2022 for Package V.
3. UPPCB granted Consent to Establish under the Water Act, 1974 and the Air Act, 1981 on 18.05.2020 for Hot Mix Plant and Ready-Mix Concrete Plant of M/s Gawar Construction Limited, Gurgaon and granted Consent to Operate for these plants on 31.10.2020 for the duration of 23.10.2020 to 31.07.2022.

WHEREAS, the CPCB team reported following violations regarding the ordinary earth/soil mining carried for the said expressway construction work in Jalaun district:

1. Mining Department, Jalaun granted 162 mining permissions (with 889 mining pits) in 79 villages in district Jalaun to M/s Gawar Construction Limited for mining of soil (total area- 2336.46 acres and total quantity- 17001696 m³) for Package IV & V of the project. These mining permissions were granted between December, 2020 to April, 2022. Whereas, UPEIDA had mentioned name of 14 villages in Jalaun District for borrow of soil in final EIA report..
2. Mining Department, Jalaun did not provide details of actual quantity of soil excavated during construction of Bundelkhand Expressway in Jalaun District.
3. CPCB team visited 39 mining permission area (with 157 mining pits) and observed the depth of the borrow soil pits as between 0.5 m to 16 m, whereas as per the permission granted by the Mining Department, the depth of pits should not exceed 02 m. (Due to heavy rain, approach road to remaining mining sites was not accessible hence, visit of remaining sites could not be possible)

Copy of the above mention inspection report of CPCB is attached herewith for ready reference.

WHEREAS, Hon'ble NGT vide order dated 16.8.2024 has directed as below:

4. The applicant present in the person submits that illegal mining has been done and he has received certain documents under RTI. He is permitted to place the same on record. Meanwhile Member Secretary, CPCB is directed to ensure no further illegal mining takes place and, appropriate punitive action is taken after dully following the principle of natural justice in respect of illegal mining, if any, already done.

5. List on 28.11.2024.

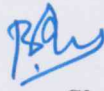
WHEREAS, under section 16 of the Water Act,1974 and under Section 16 of the Air Act, 1981, one of the functions of the Central Pollution Control Board (CPCB), constituted under Water (Prevention & Control of Pollution) Act, L974 is to coordinate activities of the SPCBs and PCCs and to provide technical assistance and guidance to SPCBs/PCCs;

WHEREAS, the above facts reveal gross violations of provisions of environmental laws and MMDR Act, particularly, by not obtaining Consent for the expressway construction project, carrying out earth/soil mining in areas/sites not covered under the EIA study for the project, and carrying out mining more than the limit prescribed in the mining permissions given by the state mining department.

NOW, THEREFORE, in view of violation of provisions of environmental laws, as mentioned above, and the aforesaid order passed by Hon'ble NGT(PB), and in exercise of the powers conferred under Section 18(1) (b) of the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention & Control of Pollution) Act, 1981; the Uttar Pradesh Pollution Control Board (UPPCB) is hereby directed:

- i. to get assessed the extent of illegal mining at all mining sites from which ordinary earth/soil has been mined for the said expressway construction work in Jalaun district;
- ii. to initiate actions immediately for appropriate punitive action as applicable under the law, including levying and realisation of environmental compensation, for violation of provisions of environmental laws as mentioned in above paragraphs, after duly following the principle of natural justice;
- iii. to take all necessary actions to ensure that no further illegal mining takes place, and;
- iv. to get prepared a remediation plan by the project proponent for the illegal mining sites where illegal mining has taken place for the said expressway construction work in Jalaun district, in consultation with mining department and UPPCB, and get it implemented by the project proponent in a time bound manner.

The action taken report shall be sent by UPPCB to the CPCB within 10 days from the date of receipt of these directions.


(Bharat Kumar Sharma)
Member Secretary



Copy to:

1. The Secretary Department of Environment, Govt of UP, Bapu Bhawan, Secretariat, Vidhan Sabha Marg, Lucknow 226 001	: for information and necessary action, please.
2. Mr. Rajeev Ranjan Scientist 'E' & Member Secretary EAC - Non Coal Mining, Ministry Of Environment, Forest and Climate Change, Indira Paryavaran Bhawan, Jor Bagh Road, New Delhi -110003	: for information and necessary action, please.
3. The Director Geology & Mining, Government of UP Khanij Bhawan 27/8, Raja Ram Mohan Rai Marg, Lucknow-226001 (U.P.)	: for necessary action under the MMDR Act in respect of the above mentioned illegal mining, please.
4. The District Magistrate Jalaun Collectorate Campus Jalaun at Orai, PIN-285001, UP	

(Bharat Kumar Sharma)
Member Secretary