

BY SPEED POST

No. CPCB/IPC-II/Direction -DM/SSP, Haridwar/2016 18473

22nd March 2019

To,
The Additional Chief Secretary,
Department of Mining,
Govt. of Uttarakhand,
4, Subhas Road, Secretariat,
Dehradun- 248001

UTTARAKHAND

106/25/2PC-II
26-03-19

Sub.: **Modified Directions under Section 5 of the Environment (Protection) Act, 1986**

Ref.: **CPCB Letter No. PCI – SSI / Direction – DM / SSP, Haridwar / 2016, dated 06.12.2016**

WHEREAS, Matri Sadan, Jagjeetpur, Kankhal, Haridwar, an ashram, addressed a representation dated 7.11.2016 to District Magistrate, Haridwar and Senior Superintendent of Police, Haridwar with copy endorsed to various authorities including Central Government, in which, inter-alia, request was made 'to take action against stone crushers in Shyampur-Katarpur-Bishanpur-Tandamagmal-Bhogpur and close stone crusher within 5 km distance from Ganga' and 'to strictly implement the restrictions on mining in Haridwar'; and

WHEREAS, Matri Sadan further informed the National Mission on Clean Ganga (NMCG), MoWR, RD&GR, Govt. of India that 35 stone crushers are functioning illegally within 5 km from the river, and also submitted following documents in support of their statement:

- i) State Government notification of 1951/52 regarding prohibition on removal of boulders and other bed material from course of the Ganga River 6 miles upstream and 6 miles downstream of Bhimgoda Weir in the specified width of the river, and also in two furlong length of each of the tributaries joining the river in this stretch.
- ii) District Magistrate letter dated 16.2.2015 to Director, Mining and Minerals, Uttarakhand suggesting that if stone crushers within 5 km from bank of river are stopped it will help in stopping illegal mining.
- iii) Minutes of the Meeting held on 4.3.2016 taken by Chief Secretary, Uttarakhand wherein it is mentioned that mining is not being allowed in Raiwala-to-Bhogpur stretch of Ganga river and private mining lease are also being cancelled in this area; and

WHEREAS, MoEF&CC, Government of India forwarded the representation dated 7.11.2016 of Matri Sadan to NMCG, MoWR, RD&GR, Government of India vide letter dated 15.11.2016, and DG, NMCG forwarded it to Central Pollution Control Board vide letter dated 2.12.2016 requesting CPCB to take necessary action; and

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WHEREAS, in view of the above and in exercise of powers delegated by Central Government to Chairman, CPCB under Section 5 of the Environment (Protection) Act, 1986, Chairman, CPCB vide letter No. IPC-II/Direction-DM/SSP, Haridwar/2016/6980 dated 6.12.2016 issued following directions:

- i) District Magistrate, Haridwar and Senior Superintendent of Police, Haridwar shall ensure that the decision of Uttarakhand Government banning mining in Raiwala-to-Bhogpur stretch of river Ganga in Haridwar is strictly complied and no illegal mining takes place in this stretch.
- ii) In view of the required action needed to stop illegal mining communicated by District Magistrate, Haridwar in letter dated 16.2.2015, Principal Secretary-Industrial Development, Government of Uttarakhand shall issue necessary orders immediately for closure of operation of stone crushers / pulverisers as applicable along the banks of Ganga River in Raiwala-to-Bhogpur stretch in Haridwar.
- iii) On issuance of necessary orders from State Government, District Magistrate, Haridwar and Senior Superintendent of Police, Haridwar shall immediately ensure closure of stone crushers / pulverisers as aforesaid in direction 2 above; and

WHEREAS, Uttarakhand Government submitted reply to above directions of CPCB vide letter Reference No. 2013/VII-I/43-kha/2012 T.C. dated 27.12.2016, which included following points:

- i) Legal *chugan* (collection) of minor mineral material from river bed is an environment friendly activity for river training. Every year in the rainy season thousands of cubic metres of RBM containing boulders is deposited in Ganga Canal Harki Pauri Haridwar located downstream of Bhimgoda Barrage which is auctioned every year by district administration, which nullifies the contention that no boulders come downstream of Bhimgoda Barrage.
- ii) State policy for *chugan* (collection) of minor mineral material has been made to curb illegal mining activities and movement of RBM from state to outside has been completely banned.
- iii) **Notification dated 16.11.1951 of prohibiting removal of boulders and other bed material from course of the Ganga River 6 miles upstream and 6 miles downstream of Bhimgoda Weir is not relevant now, and Minutes of Meeting taken by Chief Secretary, Uttarakhand on 04.03.2016 wherein it is mentioned that mining is not being allowed in Raiwala-to-Bhogpur stretch of Ganga river was an interim measure to stop illegal mining.**
- iv) Direction dated 09.04.2015 has been complied and State Government has established Anti-mining Task Force under supervision of IG Garhwal and IG Kumaon, which actively conducts surprise visits and raids in the mining prone areas of illegal mining and takes stringent action against illegal miners, stone crushers and stockholders, who have been successful in curbing illegal mining activities in the State.
- v) At district level also, a task force comprising of officials from Revenue, mining, Forests and Police Department is constituted to check and curb illegal mining.

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Besides, Mining and Revenue officers of concerned district also make surprise inspections from time to time to prevent such illegal mining.

- vi) **No illegal mining shall take place.** EC to the State Government undertaking (for *chugan*) may be granted immediately so that site can be controlled and illegal works stopped.
- vii) **The letter dated 16.02.2015 of District Magistrate to Director, Mining and Minerals, Uttarakhand (suggesting that if stone crushers within 5 km from bank of river are stopped it will help in stopping illegal mining) was a mere suggestion on his behalf, which the state government has not accepted since it was not in accordance with Act, Rules and State Policy. All stone crushers in district Haridwar have been established and are being operated as per relevant rules and stone crusher policy of State.**
- viii) The direction regarding stone crusher is clearly arbitrary hence difficult to be complied with, as per the comments made above, and has to be withdrawn; and

WHEREAS, meanwhile, 'Matri Sadan' forwarded to CPCB copies of various complaints made to local administration to inform specific instants of illegal mining and these were forwarded by CPCB to the state government vide D.O. letter dated 09.01.2017. CPCB wrote another letter to the state government on 20.06.2017 to regarding continued illegal mining; and

WHEREAS, Uttarakhand Government submitted an appeal dated 11/28.11.2017 to CPCB requesting for recalling of the Direction dated 6.12.2016 of CPCB on following grounds:

- i) **Section 65 of the Northern India canal and Drainage Act, 1873, under which the notification of 1951 was issued, has been omitted.**
- ii) **The decision in the meeting held on 04.03.2016 was an interim measure to stop illegal mining,** and subsequently decision was taken by state cabinet to continue mining in those mining leases for which EC under EIA Notification Dated 14.9.2006 and other clearances had been obtained.
- iii) Mining policy has been formulated by state government in compliance of the order passed by Hon'ble High Court of Uttarakhand while disposing the W.P. (PIL) No. 699/2008 whereas **the suggestion as given in the letter dated 16.2.2015 of District Magistrate was a mere suggestion on his behalf, which the State Government has not accepted** since it was not in accordance with the Act, Rules and state Policy.
- iv) **All leases in river Ganga for collection (chugan) of river bed materials were sanctioned as per the relevant provisions of the Act and Rules, in consonance with the State policy, after duly obtaining EC as per provisions of the EIA Notification Dated 14.9.2006.**
- v) State Government is trying its best to stop illegal mining, and all the necessary safeguards, checks and controls are being applied by the State Government. State of Uttarakhand has submitted that in view of the facts mentioned, the Directions passed by CPCB dated 06.12.2016 may be recalled in the interest of justice; and

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WHEREAS, in continuation to the appeal dated 11/28.11.2017, Uttarakhand Government submitted another letter dated 15.11.2018 to CPCB informing about mining management policy with incorporation of information technological techniques for operation of mining in the state and the vigilance system to prevent illegal mining, illegal transportation and illegal storage; and

WHEREAS, the order dated 05.09.2018 of Hon'ble High Court in the matter of WP (PIL) No. 62 of 2016 with WP (PIL) No. 146 of 2017 mentions that the 'State of Uttarakhand through Chief Standing Counsel submitted that the matter of CPCB's Directions dated 06.12.2016 has already been taken up with CPCB for revocation of the directions in the year 2017 but the CPCB has not taken any decision on it'. Hon'ble High Court of Uttarakhand, at Nainital vide the said order dated 05.09.2018 disposed of the Writ Petitions and directed 'the respondents to comply with the CPCB Directions dated 06.12.2016 till it is revoked'; and

WHEREAS, in view of the above mentioned replies/appeals of Uttarakhand Government and the order dated 15.09.2018 of Hon'ble High Court, CPCB convened a meeting on 21.12.2018 in CPCB Head Office to hear the complainant (Matri Sadan) and Uttarakhand Government; and

WHEREAS, Matri Sadan attended the hearing in CPCB Head Office on 21.12.2018 but no one from Uttarakhand Government attended the hearing. During the hearing Matri Sadan submitted objections vide letter dated 21.12.2018 and additional information the next day by email; and

WHEREAS, CPCB vide letter dated 09.01.2019 forwarded the copies of above mentioned objection/letter of Matri Sadan to Uttarakhand Government for information and necessary action, and in reference to Uttarakhand Government replies/appeals dated 27.12.2016, 11/28.11.2017 and 15.12.2018 and in view of the objections/letters of Matri Sadan dated 21.12.2018 and 22.12.2018, CPCB asked Uttarakhand Government vide letter dated 09.01.2019 to provide the following details/comment/proposals for necessary action on the matter:

- (a) Details of proposed mining sites on Ganga about which there is no restraining order of any Court/Tribunal as well as all necessary statutory permissions have been obtained along with copies of the permissions and the report of replenishment studies on the basis of which EC have been issued, and also inform further replenishment studies underway for mining on Ganga, if any.
- (b) Proposed measures to stop access for vehicles to Ganga River to prevent illegal mining.
- (c) Comments on Matri Sadan's requests that there is a need to review stone crusher siting policy in view of High Court Judgement dated 26.05.2011 in Special Appeal No.03 of 2011, High Court Judgement dated 01.05.2012 in WP(C) No.458 of 2008 and Supreme Court order dated 10.5.1996 in WP(C) No. 4677 of 1985.
- (d) Details of action taken on the findings / recommendations in the report of the Committee submitted to NGT in March 2017 in EA No. 03 of 2017 and OA No. 117 of 2015.

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- (e) Proposed measures to prevent illegal mining from Ganga river which is promoted by presence and operation of large number of stone crushers in the area even when mining is not permitted or permitted to limited extent in the area.

WHEARAS, Uttarakhand Government vide letter dated 21.02.2019 has submitted reply to CPCB's letter dated 09.01.2019 and again requested to revoke the directions dated 06.12.2016. Uttarakhand Government vide letter dated 20.02.2019 has submitted another reply which in substance is similar to their reply dated 21.02.2019. Brief of the information provided is as below:

- a) It has been stated that mining leases in river Ganga are sanctioned after obtaining EC and other necessary clearances. Copy of a letter of Uttarakhand Forest Development Corporation (UFDC) dated 19.01.2019 has been submitted as annexure in which names of 7 ECs granted by MoEF&CC for mining on Ganga River and its three tributaries in Haridwar districts are mentioned, and it is also mentioned in the said letter that UFDC has applied to MoEF&CC for amendment of EC. Copy of the replenishment study submitted by state government to NGT has also been submitted as annexure. Copies of other 24 ECs issued by SEIAA for mining in Haridwar in the past years have also been submitted.
- b) It has been stated that Uttarakhand Government has taken the mentioned measures to prevent illegal mining, illegal transportation and illegal storage of mined material.
- c) It has been stated that current norms for establishing stone crushers are governed by the State Stone Crusher Policy 2011 and that the state government has complied the relevant order of Hon'ble High Court (in WP PIL No. 799 of 2008) in formulation of the said State Stone Crusher Policy 2011 (no proposal to further review the existing stone crusher siting policy has been submitted).
- d) It has been stated that Uttarakhand Government has taken the mentioned measures to stop illegal mining in view of the illegal mining noticed/reported by the referred by Committee constituted by NGT in EA 3 of 2017 in OA 117 of 2017 (no proposal to further review the existing stone crusher siting policy has been submitted)
- e) It has been stated that Uttarakhand Government has taken the mentioned measures to prevent illegal mining and that further measures are under consideration (no proposal to further review the existing stone crusher policy has been submitted).

NOW THEREFORE, in view of the above and in exercise of powers delegated by Central Government to Chairman, the Direction issued under Section 5 of the Environment (Protection) Act, 1986 vide letter No.IPC-II/Direction-DM/SSP, Haridwar/2016/6980 dated 6.12.2016 are modified and the following modified directions are issued:-

1. Uttarakhand Government shall ensure that any mining of river bed material in the river bed and river flood plains of Ganga and its tributaries in Haridwar district shall be undertaken with valid Environmental Clearance as per provisions of the EIA Notification dated 14.9.2006 issued under the Environment (Protection) Act 1986 and there is no stay order of any competent court / tribunal on the EC.
2. Uttarakhand Government shall ensure through strict enforcement and complaint redressal system that no illegal mining, screening and crushing of river bed

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material takes place in the river bed and river flood plains of Ganga and its tributaries in Haridwar district.

3. Uttarakhand Government shall re-examine the matter of need to review their existing stone crusher policy to consider 3-5 Km buffer zone for Ganga River and inform CPCB about the decision / action taken within 3 months.

(S. P. Singh Parihar)
(S. P. Singh Parihar)
Chairman

Copy to:

1. The Advisor (IA Division),
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2. The Advisor (CP Division),
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3. The District Magistrate,
Haridwar,
UTTARAKHAND
4. The Senior Superintendent of Police,
Haridwar,
UTTARAKHAND
5. The Chairman,
Uttarakhand Environment Protection &
Pollution Control Board,
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6. The Regional Director (North),
Central Pollution Control Board,
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UTTAR PRADESH

(Prashant Gargava)
(Prashant Gargava)
Member Secretary

केंद्रीय प्रदूषण नियंत्रण बोर्ड
निर्गत: 26/03/19
दिनांक: 26-03-2019

Copy to IT Div

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26/3/19

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