

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

Appeal No. 02/2019 (CZ)

IN THE MATTER OF:

1. **Mukesh Sethi
S/o Late Mahaveer Chand Jain
R/o 75, Anupam, Ashok Nagar
Ajmer, Rajasthan
305006** **.... Appellant**

Versus

1. **State Level Environment Impact
Assessment Authority (SEIAA), Rajasthan
Through Member Secretary
Room No. 5221, Main Building
Government Secretariat
Jaipur - 302005, Rajasthan**
2. **Union of India
Through Secretary
Ministry of Environment & Forest, Government of India
Indira Prayavaran Bhawan
Jor Bagh Road, New Delhi - 11003**
3. **Principal Secretary, Department of Mines and Geology
Government of Rajasthan
Secretariat, Jaipur - 302001
Rajasthan**
4. **Principal Secretary, Department of Environment
Government of Rajasthan
Secretariat, Jaipur - 302001
Rajasthan**

5. **Chief Wildlife Warden**
C Scheme, Ashok Nagar, Jaipur
Rajasthan - 302001

6. **Rajasthan Pollution Control Board**
Through Member Secretary
4, Jhalana Institutional Area
Jhalana Doongri, Jaipur - 302004
Rajasthan

7. **Deputy Conservator of Forest**
246/b, Jaipur Road, Domes Compound
Bank Colony, Ajmer
Rajasthan 305001

...Respondents

COUNSEL FOR APPELLANT:

Mr. Sanjay Upadhyay, Advocate

COUNSEL FOR RESPONDENTS:

Mr. Om Shankar Shrivastava, Advocate

Mr. Rohit Sharma, Advocate

Mr. Sandeep Singh, Advocate

Mr. ArvindSoni, Advocate

JUDGEMENT

PRESENT:

Hon'ble Mr. Justice Raghuvendra S. Rathore (Judicial Member)

Hon'ble Dr. Satyawan Singh Garbyal (Expert Member)

Reserved on: 22nd October, 2019
Pronounced on: 31st October, 2019

1. Whether the judgment is allowed to be published on the net?
2. Whether the judgment is allowed to be published in the NGT Reporter?

Dr. S.S. GARBYAL, (EXPERT MEMBER)

1. This appeal has been filed by Shri Mukesh Sethi resident of Ashok Nagar, Ajmer, Rajasthan for being aggrieved by the letter dated 16.12.2018 issued by respondent no. 1-State Level Environment Impact Assessment Authority (SEIAA), Rajasthan cancelling the environmental clearance dated 24.05.2016 granted to the appellant for Quartz, Feldspar and Mica Mining Project of ML 01/96 in an area measuring 4.59 hectare in Village-Ramsar, Tehsil-Nasirabad, District-Ajmer, State of Rajasthan. The primary reason for cancellation was incorrect information given by the appellant to the SEIAA, Rajasthan in Form-I by not disclosing the fact that the mine falls within breeding area of Godawan (Great Indian Bustard (GIB)) and Kharmor (Lesser Florican).
2. It is the case of the appellant that SEIAA, Rajasthan has issued impugned letter dated 06.12.2018 without verifying the facts, belatedly, in absence of any physical demarcation of the habitat of above species and by total non-application of mind. The appellant has further submitted that the impugned letter dated 06.12.2018 has failed to consider the fact that the appellant has got the Environment Impact Assessment (EIA) report prepared by NABET, an accredited consultant including

the preparation of Form-I, and incomplete disregard of the fact that the mining lease of the appellant was sanctioned in the year 1996 and since then, there has been no intimation by the Forest Department, Government of Rajasthan to the effect that the area falls near to the breeding area of GIB and Lesser Florican. It has been submitted that the respondent has failed to take into consideration the fact that the appellant has got the mining lease renewed from time to time and Deputy Conservator of Forest, Ajmer has categorically mentioned, in his letter dated 27.06.2016, that from 2014 onwards there have been no record of presence of GIB and Lesser Florican in the area where the appellant has been conducting his mining operation. It has further been submitted that the mining area of the appellant is at a distance of approximately 10 KM from the Village- Sokhalia which is said to be the breeding ground of GIB and Lesser Florican. Therefore, the appellant has submitted that the impugned letter is not only without merits from environmental strength point but totally infringes on the right to livelihood of the appellant. The appellant has further stated that its activities, in no way affects these species and, therefore, prayed as under :

“a. Set aside the impugned letter dated 06.12.2018 issued by respondent No. 1-SEIAA, Rajasthan cancelling the Environmental Clearance dated 24.05.2016 granted

to the Appellant for Quartz, Feldspar and Mica Mining Project.

b. Pass any other such order/orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of this case. ”

3. We find that the facts and circumstances narrated in this appeal is identical to *appeal no. 01/2019 (CZ) in the matter of Sunil Kumar Jain Vs. Rajasthan State Level Environment Impact Assessment Authority & Ors.*, which was decided by this Tribunal on 24.09.2019.

4. We, therefore, hold that the reasons and direction given in appeal no. 01/2019 will apply *mutatis mutandis* in this appeal also. For the sake of convenience the directions are reiterated as below:

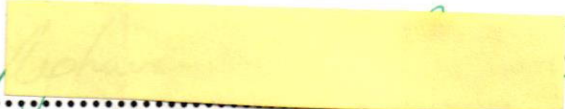
“ a) It is the undisputed fact that the total area of 43 villages of Sokhliya is more than 526.81 KM² and out of which only 102.41 Km² of Sivayachak land and 57.47 KM² of Charagah land needs to be kept for conservation of Lesser Florican. In the absence of any notification for protection of GIB or Lesser Florican or demarcation of such area on ground, the mining lease area of 4.59 Hectare of mining lease of 01/96 near Village-Sanod cannot be said to be falling within the conservation area of GIB or Lesser Florican. We, therefore, set aside the order dated 06.12.2018 issued by SEIAA, Rajasthan to the appellant for cancelling the Environmental Clearance dated 07.04.2016.


b) The Principal Secretary, Department of Forest & Environment and Chief Wildlife Warden of the State of Rajasthan are directed to identify area required for the conservation for Godawan (GIB) / Kharmor (Lesser

Florican) on emergent basis and notify the same as Godawan /Kharmor conservation area or Birds Sanctuary as deemed appropriate within a period of Six (6) months from hence.

c) In the event, the mining lease area of the appellant is found to be falling within the Lessor Florican/GIB conservation area after same is notified, the SEIAA, Rajasthan and State Respondents will be free to restrain his mining in accordance with the EIA Notification, 2006.

5. With the above direction, this appeal stands disposed of with no order as to costs.


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Raghuvendra S. Rathore, JM


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Dr. Satyawah Singh Garbyal, EM

Dated: 31.10.2019
Place :New Delhi