



Pradesh is that it is the people from the Haryana who come and carry on the illegal mining in the State of Uttar Pradesh and they have even registered first information reports in the Police Station. According to the State of Haryana mining is being carried on only in that part of the State of Haryana for which the Environmental Clearance has been obtained by the concerned licensee and it is not being carried on in any other area.

Be that as it may, there are photographs placed on record of the Tribunal besides the Police reports. There are number of reports which show that there is not only illegal mining carrying on in these areas but even sand Mafias have built Bridge at Yamuna linked to Faridabad.

The photographs show that huge quantity of sand bags has been placed not only on the river bed but in the river itself to construct the bridge or to stop the flow of the river.

Another photograph has been placed on record to show that in fact the passage has already been built into the river. There are large hume pipes which are perhaps intended to provide some space for the river water to flow under this bridge. Still other photographs have been filed which show that illegal and unauthorized mining are being carried on in the river bed and JCBs machines are being operated and for that purpose the temporary bridge is being constructed.

Notice be issued to the owner of the JCBs.

Learned counsel appearing for the State of Uttar Pradesh submits that these photographs are of the area that falls within the State of Uttar Pradesh. She submits that action has already been taken by the Authorities.

From the above undisputed facts we are of the firm view that both States are erring to perform their statutory and public law obligation particularly in the State of Uttar Pradesh. There is serious defaults and there is non-implementation of Orders of the Tribunal and law in force. It hardly matters whether the people coming from Haryana carry on illegal and unauthorized mining or it is the people from the State of Uttar Pradesh who are carrying on such activity. It is surprising how could a road be made into the river and large scale sand bags could be placed and fixed in the river bed, the hume pipes could be laid and large number of sand could be collected without even knowledge of the Authorities at the very initial stage. According to the Learned counsel appearing for State of Uttar Pradesh the DM of Guatam Budh Nagar has taken action including seizure and has even written letter to DM of Faridabad complaining about the same.

Learned counsel appearing for the Uttar Pradesh submits that the persons who are booked for this illegal and unauthorized mining namely Mr. Dinesh Tyagi of M/s Dkrrish Builders Pvt. Ltd. has stated in the letter that the Haryana allows the company to construct the temporary structure cabin on the river bed over the Yamuna river and also allow to create temporary structure for passage across the river.

According to the Learned counsel appearing for State of Harayana they are not to be blamed for the letter written by the offenders, who according to the Uttar Pradesh was carrying on mining and bridge construction activity in that area.

In view of the documents placed on record

particularly the photographs, media report and the contradictory stand being taken by the respective States, we have no hesitation in coming to the conclusion that both the States have failed in not performing their statutory duties and ensure compliance of the orders of the Hon'ble Supreme Court of India as well as Orders passed by the Tribunal from time to time.

Illegal and unauthorized mining on the river bed particularly is causing serious impacts on the environment and ecology and particularly river biodiversity. Here in this case efforts have also been made to change the course of the river and/or obstruct the free flow of the river. It is a grave situation. Shifting blame between the States is no solution to this issue. Greater is the obligations on both States to ensure that such activities must not be carried on. Unfortunately, the plea of innocence and appropriate action taken by the respective States do not inspire the confidence. In the circumstances afore-referred, we pass the following interim directions:-

1. The State of Uttar Pradesh shall seize all the materials including JCBs and the hume pipes lying on the river bed and in the river Yamuna at Gautam Budh Nagar. They shall not take *spurdhari* bond or otherwise and without specific orders of the Tribunal.
2. We constitute a Team of Senior Officers of Police from both the States DMs of the concerned area, and a nominated person of MoEF, Senior members of the respective Pollution Control Boards to submit a report to the Tribunal as to the extent of the illegal

and unauthorized mining that has already been taken in the river bed or either sides of the river within the State of Haryana and Uttar Pradesh.

3. This Committee shall submit a report along with the Chief Engineer from the Irrigation Department of both States as to the extent of damage caused by dumping of sand bags, construction of roads and deposit of construction materials at the river bed or in the river itself.

4. What is the estimated cost of illegal mining/ removal sand from river bed as well as from the river from either States of Haryana and Uttar Pradesh.

5. Notice be issued to Mr. Dinesh Tyagi, Director of M/s Dkkrish Builders Pvt. Ltd.. and all the other Directors of this Company.

Notice shall be issued to all other persons/companies/ firms/bodies against whom either of the States have registered case or issued Notices for carrying on illegal and unauthorized mining. All these parties shall show cause before the Tribunal as to why seizure of the entire materials, machines recovered at the site be not directed. They should also show cause why they should not be directed to pay environmental compensation in terms of Section 15 and 17 of the National Green Tribunal Act, 2010 and further why in terms of Section 30 of the National Green Tribunal Act, 2010 criminal prosecution be not directed by the Tribunal. This Committee shall also recommend and state the officers/ officials who have permitted illegal and unauthorized mining activity on the river bed and river

itself.

List this matter for submission of report and further directions on 27<sup>th</sup> September, 2015.

Notice be also issued to M/s NCT Real Tech Pvt. Ltd.

None of these concern would carry out any sand mining activity on the river bed and in river Yamuna itself.

Both States and those who have been issued Notice by Tribunal should filed their Replies before the next date of hearing.

We appoint Ms. N.R. Nariman, Advocate as Local Commissioner who shall supervise the entire working of the Committee. Her fee is fixed at Rs. 40,000/- which will be equally shared by State of Haryana and State of Uttar Pradesh, which will be subject to final orders of the Tribunal. The Commission will be executed on 06<sup>th</sup> and 07<sup>th</sup> November, 2015 starting at 1.00 PM on 06<sup>th</sup> November, 2015. The Local Commissioner need not give notice to any of the parties.

.....,CP  
(Swatanter Kumar)

.....,JM  
(M.S. Nambiar)

.....,EM  
(Dr. D.K. Agrawal)

.....,EM  
(B. S. Sajwan)