

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

Appeal No. 108 of 2015

(M.A. No. 943/2015)

In the matter of:

1. Rajesh Kumar
S/o Village- Rajawas, District Mahendergarh,
Haryana-123029

..... Appellant

Versus

1. Ministry of Environment, Forest and Climate Change
Through its Director Dr. U. Sridharan,
C/o Indira Paryavaran Bhavan,
Aliganj, Jor bagh Road,
New Delhi-110003
2. M/s R.s. Joint Venture
Through its authorized representative
C/o 701, Pearls Business Park,
Plot No. D-7, Netaji Subhash Place,
Pitampura, New Delhi- 110034
3. State of Haryana
Through Secretary
Irrigation Department,
4. Forest Department
Principal Chief Conservator of Forest
(HOFF) Depart of E & F, Govt. of Haryana,
Van Bhavan, Sector 6, Plot no. C-18
Panchkula- 134109 (Haryana)
5. Mining Department
The Director General
Mines and Geology Deptt., Haryana
1st Floor, 30- Bays Building,
Sector- 17, Chandigarh
6. Central Ground Water Authority

Bhujal Bhawan, NH-IV
Faridabad- 121001

7. Haryana State Pollution Control Board
C-11 Sector-6
Panchkula- 134109,
Haryana

.....Respondents

Counsel for appellant:

Mr.Dinesh Kumar, Mr. Sameer and Mr. & Ms. Heena
Advocates for appellant

Counsel for Respondents:

Mr. Vishwendra Verma, Adv.for respondent no. 1
Mr. Gopal Jain, Mr. Mustafa Alam & Mr. Pradeep Dahiya
Advocates for respondent no. 2
Mr. B.V. Niren, Advocate for Respondent no. 6
Mr. Anil Grover, AAG with Mr. Rahul Khurana and
Mr. Mishal Vij, Advocates for State of Haryana, HSPCB,
Forest Department.

Present:

Hon'ble Mr. Justice U.D. Salvi (Judicial Member)

Hon'ble Mr. Ranjan Chatterjee (Expert Member)

JUDGMENT

Per U.D. Salvi J.(Judicial Member)

Reserved on: 16th March, 2016

Pronounced on: 25th April, 2016;

1. This Appeal assails the Environmental Clearance (EC) granted to stone mining (Minor Mineral Mining) with proposed production capacity of 9.0 Million TPA (ROM) of stone in mining lease area admeasuring 53.03 Hectares at Khasra No. 91, 96, 97, 98, 99, 102 and 103 of Village Rajawas, Tehsil and District Mahendergarh, Haryana in favour of Respondent No. 2, M/s R.S Joint Venture on 3rd July, 2015. Initially, this

Appeal was filed against the Respondent No. 1, Ministry of Environment, Forest and Climate Change (MoEF) and Respondent No. 2, M/s R.S. Joint Venture. At the time of admission of this Appeal No. 108/2015 State of Haryana, Haryana State Pollution Control Board (HSPCB), Forest Department and Mining Department of State of Haryana as well as Central Ground Water Authority (CGWA) were impleaded to this Appeal.

2. All the Respondents except Respondent No. 3 State of Haryana filed their replies. The Appellant filed rejoinder to the Replies filed on behalf of the Respondent Nos. 1, 2, 4, 5 and 7. The Respondent No. 2, M/S R.S Joint Venture- the Project Proponent (PP) made a statement that there shall be no mining work in question till the pleadings were completed and all conditions stipulated in the Environmental Clearance were complied with. According to the Appellants the location of the Mine at Khasra Nos. 91, 96, 97, 98, 99, 102 and 103 of Village Rajawas mentioned in the EC letter dated 3rd July, 2015 is a part of Aravali Hill Range, a forest area particularly surrounded on three (3) sides by Aravali Plantation, the mine being at zero distance from Aravali plantation of Rajawas village and area closed under Section 4 and 5 of Punjab Land

Preservation Act 1900 and this fact has been suppressed throughout the EC process and the EC in question. The Appellants submit that village Rajawas is located within 1 KM range of historic monument of Madhogarh Fort and hills surrounding the Village are home to 20,000 to 25,000 trees and shrubs of ayurvedic medicinal value, namely, Gugal (Commiphora Mukul), Dhowk, Salar, Hadjod and also home to extinct species of animals, namely, Deer, Black Buck, Rabbits, Monkeys, Fox, Blue Bull, Jarakh, Jackal etc. The Appellants, who claim to be the local villagers further submit that the ground water of village Rajawas is below 500 ft and the mining work will adversely affect the water level and environment, generally resulting in disturbance of ecological balance, rising pollution and end of village Rajawas.

3. The Appellants pleaded that the public hearing, a necessary ingredient of the process of grant of EC, was not conducted as per Environment Clearance Regulation 2006 in as much as there was no prior intimation to the villagers of the public hearing and only two (2) people i.e., Appellant No. 1 and one villager, namely, Mr. Rohtang attended the public hearing and the Project Proponents lured the illiterate villagers with distribution of sweets to procure their silence. The Appellants

contended that no proper studies were carried out by the Project Proponent and the Project Proponent has violated the conditions stipulated for grant of EC, particularly the general conditions requiring publication of EC in two (2) local newspapers within seven (7) days of the issuance of EC.

4. The Respondent No. 1 (MoEF) placed before us the factual narration of the course of events leading to grant of the EC in question with reply dated 30th September, 2015. The Respondent No. 1 submitted that this being the project with the mining lease area of more than 50 Hectares, is a category A project and as such was handled by the MoEF & CC in accordance with the detailed procedure prescribed under EIA notification 2006 and the said procedure was followed in the present case. According to the Respondent No. 1 (MoEF), the Project Proponent produced certificate from the Department of Mines and Geology, State of Haryana dated 8th November, 2014 to confirm that the mining lease area does not fall in Aravali Hill Range, and the Project Proponent collected baseline data generated during summer season (March, May, 2014) and one (1) month additional monitoring data for post monsoon season (October, 2014). According to the Respondent No. 1 (MoEF) the Expert Appraisal Committee

(Mining)-EAC held meeting during April 29th -30th, 2014 to determine the TOR for undertaking detailed EIA study and TOR was issued by the Ministry vide letter dated 11th June, 2014; and the proposal of EC was apprised in the EAC meeting held during 10th – 11th December, 2014 wherein the Committee sought clarification / information on plants/trees has reported in public hearing process and ordered a site visit. Subsequently, the Respondent No. 1 (MoEF) reveals, the Project Proponent vide letter dated 13th January, 2015 submitted the information / clarification requested by the EAC and a site visit was also made by a team comprising of the EAC Members, Regional Director of MoEF&CC and DFO of the area on 26th April, 2015; and the proposal for grant of EC was considered in EAC meeting held during 29th – 30th April, 2015 wherein the EAC recommended the proposal for grant of EC along with additional specific conditions for undertaking stone mining in question. The Respondent No. 1(MoEF) further revealed that the public hearing was held on 15th September, 2014 at the mine site and was presided over by Mr. Atul Kumar Divedi, Deputy Commissioner in the presence of the representatives of the Regional Office of Haryana State Pollution Control Board (HPCB), Mahendergarh, Haryana; and

the issues raised, inter-alia, employment opportunities / medical and health care facilities, vibrations and noise generation due to regular heavy blasting, road and transportation etc., during public hearing were duly considered by the EAC.

5. Respondent No. 2, M/S R.S Joint Venture filed exhaustive reply dated 11th September, 2015. Besides imputing vexatious motivations to the Appellants and questioning their locus the Respondent No. 2 accused the Appellant of concealing the relevant facts. According to the Respondent No. 2 Khasra Nos. 91, 96, 97, 98, 99, 102 and 103 of village Rajawas were declared as not falling under reserved / protected forest, area closed under section 38 of Indian Forest Act 1927, under Aravali Plantation area specifically closed under Section 4 and 5 of Punjab Land Preservation Act 1900; and that upon successfully qualifying for the bid through a proper process of public tender to earn mining rights have duly obtained EC, NOC/permissions from all concerned authorities, namely, Haryana State Pollution Control Board, Directorate General of Mines, Central Ground Water Authority in respect of the mining in question. The Respondent No. 2 submits that the ground water level tests were caused to be conducted with the

help of neutral private experts and the same were found to be satisfactory by the authorities. The Respondent No. 2 submits that public hearing as required was duly conducted and every concern was duly considered. The Respondent No. 2 produced before us copies of (i) notice for public hearing published in daily "Hindustan Times" of Chandigarh Edition dated 13-8-2014 and (ii) notice of grant of EC dated 3rd July, 2015 published in Hindi, Minutes of public hearing held on 15th September, 2014 and photographs of public hearing in support of its contentions in that regard. The Respondent No. 2 denied the Appellant's case, parawise as regards the flora and fauna. The Respondent No. 2 chose to rely upon the Report of site visit conducted by the sub-committee of the EAC on 26th April, 2015 as well as the actual site photographs produced at Annexure G to the reply. In reference to the Ground water level at village Rajawas, the Respondent No. 2 contended that the Ground water level starts from 225 ft and goes maximum to 400 ft as per the piezomatix Test carried out by the certified Hydrologist in the presence of authorised representatives of mines and geology Department on various tubewells- vide Hydrological study Report along with its

recharge proposal submitted to the CGWA at Annexure H to the reply.

6. Respondent No. 4 (Forest Department, Government of Haryana) with reference to the location of the mining site admitted that the mining lease area is surrounded on three (3) sides by Aravali Plantation Areas and lies at zero distance from the same area closed under Section 4 and 5 of Punjab Land Preservation Act 1900 of neighbouring village Mahendergarh; and as such has access possible either through Aravali Plantation Areas or area closed under Punjab Land Preservation Act 1900 or through private land. The Respondent No. 4 further revealed that the State Forest Department executed a Project, namely, “ Rehabilitation of common Land at Aravali Hills” during the period from June 1990 and October 1999 and 126 Hectares of land out of total area of 200 Hectares was eco restored by way of plantations carried out under the said Project, and the area so rehabilitated was handed back to the concerned Grampanchayat at the end of the Project, and as a result thereof substantial number of trees and shrubs of native species are present in surrounding Aravali Hills. The Respondent No. 3 further revealed that the animals referred to

by the Appellants as extinct are not extinct as on date and are found in the area. The Respondent No. 3, however, categorically averred that as on the date the said mining area does not fall under the Notified category of Reserved Forest, Protected Forest, area closed under Section 38 of Indian Forest Act 1927 under Aravali Plantation and/or area specifically closed under Section 4 and 5 of Punjab Land Preservation Act, 1900. According to the Respondent No. 4 (Forest Department) the area falls under the category of "Gair Mumkin Pahar" in the Aravali Hills of the Aravali Hill Range and has natural vegetation cover. The Respondent No. 4 further reveal that no permission has been granted so far to the Respondent No. 2 – lease holders under Forest Conservation Act 1980 for diversion of forest land.

7. The Respondent No. 5, Mines and Geology Department of State of Haryana resisted the Appeal with the Reply dated 14th September, 2015. According to the Respondent No. 5, the mining area in question is free from any plantation either Aravali Plantation or the plantation undertaken by the help of foreign funding and is thus free from any prohibitory regime / directions passed by the Hon'ble Supreme Court imposing restrictions on stone mining. The Respondent No. 5 submits

that the Appellants in order to create confusion misquoted the portions of order of the Hon'ble Supreme Court passed with regard to the Aravalli Hill Areas. According to the Respondent No. 5 the mining area in question is a 'Gair Mumkin Pahar' Area in District: Mahendergarh, which does not suffer from any restrictions imposed by the Hon'ble Supreme Court. The Respondent No. 5 submits that the issue regarding the trees / shrubs in the area was duly considered by the EAC in the back drop of factual verification carried out by its sub-committee, through site visit and inspection of the area conducted on 26th April, 2015. The Respondent No. 5 further pointed out that the historic monuments of Madhogarh Fort are situated at three (3) K.Ms distance away from village Rajawas. To counter the contentions of the Appellant regarding the existence of 25 species of trees and shrubs in the area, the Respondent no. 5 produced photographs of the area at annexure R6/2, According to Respondent no. 5 the mining will not be undertaken below ground water level of the area and the excavation work could be stopped two (2) meters above the water table of the area in question as per terms and conditions of the grant of Environment Clearance in question and the pits created on account of open cast mining

operations act as natural water recharge body which would improve water table in the area. The Respondent No. 5 clarified that the area in question is not covered by Aravali Project Plantation and is free for mining and access to the mining lease hold area is available without passing through the restricted area. The Respondent no. 5 attributed malafide intentions to the Appellants in not quoting the modified orders of the Hon'ble Supreme Court which allowed mining in Aravali Hills except in certain parts of Faridabad, Gurgaon and Mewat vide order dated 16.12.2002 in W.P (C) 2002 of 1995 T.N. Godavarman V/s U.O.I & Ors., the Respondent No. 5 further clarified that the Grampanchayat of Rajawas including some of the villagers made a representation on 24th June,2011 to the Director Mines and Geology to get the area demarcated and auction the area, free for mining so that local persons may get employment and State would get revenue vide copy of the representation Annexure 6/3; and pursuant to the said representation the area of village Rajawas was demarcated on 05th August, 2011 and included in the proposed area for auction. The Respondent No. 5 averred that 200 persons and not two or three persons as contended by the Appellant were present at the time of public hearing when only six to seven

persons raised some queries. Photographs of public hearing in support of its assertions have been produced by the Respondent No. 5 with its reply at annexure R/6/4..

8. Respondent No. 6 (CGWA) with this reply dated 13th October, 2015 gave a measured response with a statement that as per the record of the CGWA the blocks of Ateli, Kanina, Mahendragarh, Nangal Chaudary and Narnaul in the district Mahendragarh are considered as over exploited and the intersection of the ground water table situation in such area with mining activity can have bad effects on surrounding surface and ground water, if protective measures are not taken, and it is for the Respondent No. 1 to explain the protective measures taken at their end to avoid the potential damage to Hydrogeological environment while granting the clearance.

9. Respondent No. 7 (Haryana State PCB) responded to the Appeal with the reply dated 18th September, 2015 with Annexures thereto The Respondent No. 7 denied the allegations raised by the Appellant qua itself. According to Respondent No. 7 the public hearing was duly conducted at the site on 15th September, 2014 under the chairmanship of the Deputy Commissioner, Mahendragarh and wide publicity

was done before conducting the public hearing by giving advertisements in leading newspapers in Hindi and English; and executive summary of the Project was forwarded to the Deputy Commissioner of Mahendragarh at Narnaul, GM DIC Narnaul, Chairman Zila Parishad, Mahendragarh, SDM Mahendragarh, DDPO Narnaul, Secretary, Municipal Council, Narnaul, DTP Narnaul, DFO Mahendragarh, and DPRO Mahendragarh well in advance before conducting public hearing. The Respondent No. 7 further revealed that the publicity of public hearing was also done by Munadi in the surrounding villages and the Sarpanch of Village Rajawas was personally informed about the public hearing well in advance and the copies of the executive summary were also distributed to all the officers and the persons who were present at the site at the time of hearing, and the duly recorded proceedings of the public hearing were sent to the MoEF for further consideration. Respondent No. 7 further revealed that the Consent to Establish and Consent to Operate have been duly granted to the said mining project.

From the rival pleadings the following points arise for our consideration.

1. Whether the mining area falls in area prohibited for mining by virtue of it being protected or reserved forest area or Aravalli Plantation area or the area closed under Section 4 and 5 of PLP Act, 1900 or otherwise?
 2. Whether the process of grant of EC is vitiated on account of material infirmities therein.
 3. What Order?
10. Learned Counsel appearing on behalf of the applicant submitted that the EC in question was obtained by the respondent no. 2-Project Proponent by stating lies that the mining lease area does not fall in Aravalli Hill Range as envisaged from the statement in the EC at para 5 thereof, that the "Project Proponent informed that mining lease does not fall in Aravalli Hill Range and submitted a certificate of the Department of Mines and Geology, State Government of Haryana vide letter dated 8th November, 2014. This fact, the applicant argued, is clarified in the reply of the Forest Department- respondent no. 4 with a statement that the mine lease area falls under the category of 'Gair Mumkin Pahar' in the Aravalli Hill Range and it is a part of Aravalli Hill Range and has a natural vegetative cover. Assuming that the area in question is a part of Aravalli Hill Range and letter dated 8th November, 2014 of Department of Mines and Geology, State

Government of Haryana was submitted certifying such fact, a question would rise whether it was a deliberate act to snatch EC in face of any embargo on mining in 'Gair Mumkin Pahar' area of Aravalli Hill Range. Affidavits filed by the respondent no. 4- Department of Mines and Geology, State of Haryana in clear terms reveal that the Hon'ble Supreme Court in related cases qua mining in Aravalli Hill area for the districts of Faridabad, Gurgaon and Mewat vide its order dated 18th March, 2004 directed that no mining shall be allowed to be undertaken in the area where plantation has been undertaken with the foreign funding under Aravalli Project. They further reveal that the State Forest Department has executed a project namely "Rehabilitation of common lands in Aravalli Hill" during the period from June 1990 to October 1999 and area of 126 ha. out of total area of 200 ha. in village Rajawas was used for Eco-restoration by carrying out plantation under Aravalli project and was handed back to the concerned Gram Panchayat. Both the respondent no. 4 and respondent no. 5 categorically aver that mining lease area Khasra no. 91, 96, 97, 98, 99, 102 and 103 of village Rajawas ad measuring 53.03 ha. was kept free from any such plantation and thus remained excluded from the prohibitory directions of the

Hon'ble Supreme Court. Thus, furnishing a certificate dated 8th November, 2014 issued by Department of Mines and Geology, to substantiate a representation made as aforesaid cannot be regarded as a deliberate act intended to obtain material advantage qua the lands in question, which otherwise could not have been obtained. As a matter of fact the averments made by the respondent no.4- Forest Department and respondent no. 5 Department of Mines and Geology, State Government of Haryana in clear terms reveal that the mining lease area is surrounded on three sides by Aravalli Hill plantation areas and the area closed under Section 4 and 5 of PLP Act, 1900 of neighbouring village Madogarh and does not fall under the notified category or reserved or protected forest, area closed under Section 38 of the Indian Forest Act, 1927, under Aravalli Plantation and/or area specifically closed under Section 4 and 5 of Punjab Land Preservation Act, 1900.

Respondent no. 5- Department of Mines and Geology has even referred to a copy of the Demarcation report at Annexure R/6/1 to show that the area is free from Aravalli Plantation.

11. Respondent no. 5- Department of Mines and Geology further revealed that the applicant is obfuscating the matter by referring to part of the order dated 30-10-2002 (wrongly

stated to be 21.11.2002) of the Hon'ble Supreme Court passed in W.P (C) 202 of 1995; T.N. Godavarmen vs. U.O.I & Ors. relating to mining in Aravalli Hill in Districts Faridabad, Gurgaon and Mewat. The respondent no. 5 made reference to the order dated 16.12.2002 passed by the Hon'ble Apex Court in I.As. 828, 833, 834-835, 837- 838, 839, 840, 846 and 847 in W.P (C) 202 of 1995; T.N. Godavarmen vs. U.O.I & Ors. text of which is reproduced herein below:

“IAs 828, 833, 834-835, 837- 838, 839, 840, 846 and 847

One of the aforesaid applications has been filed by the State of Rajasthan seeking modification or clarification to the effect that the order dated 29/30th October 2002 would be applicable only to illegal mines in the Aravalli hills. IA 840 has been filed by M/s Gurgaon Sohna Mineral and Anr. seeking similar relief. Application have also been filed by State of Haryana and other parties.

We have heard learned counsel. On 29/30th October, 2002 this Court prohibited and banned the mining activities in the entire Aravalli hills. This ban, it was directed, is not limited only to the hills encircling Kote and Alampur villages but extends to the entire hill range of Aravalli from Haryana to Rajasthan. The Chief Secretary, State of Haryana and State of Rajasthan were directed to ensure that no mining activity in the Aravalli hills is carried out, especially in that part which has been regarded as Forest Area or protected under the Environment (Protection) Act.

On consideration of the report of Central Empowered Committee dated December 14, 2002, we issue the following further directions:

(1) Mining may be permitted in Forest Areas where specific prior approval under Section 2 of the Forest (Conservation) Act, 1980 has been accorded by the Ministry of Environment and Forest, Government of India. However, in view of this court's order dated 14.2.2000 passed in I.A. No. 548 no mining activity is permitted within areas which are notified as Sanctuary, National Park under Sections 18, 35 of the Wild Life (Protection)

Act, 1972 or any Sanctuary, National Park or Game Reserve declared under any other Act or Rules made thereunder even if prior approval have been obtained from the MoEF under the F.C. Act in such an area.

(2) Under Notification dated 29th November, 1999 issued under Section 23 of the Environment (Protection) Act for certain Districts including Gurgaon District in the State of Haryana, the Ministry has delegated power to grant approval for mining purposes to the State. The mining activities are being regulated under the Notification dated 7th May, 1992 issued by the Ministry of Environment and Forest (Annexure A-1 in IA. No. 833). We direct that, for the time being, no mining shall be permitted within the areas of Gurgaon District in the State of Haryana where mining is regulated under the Environment (Protection) Act, pursuant to permission granted after 29th November, 1999. Meanwhile, the Central Empowered Committee which is examining the matter will give its suggestions within a period of six weeks. On the receipt of those suggestions, the prayers made by the applicants for modification of the order dated 29/30.10.2002 in so far as the Gurgaon District is concerned will be considered.

(3) No mining activity would be permitted in respect of areas where there is a dispute of applicability of F.C. Act, till such time the dispute is resolved or approval under the FC Act is accorded, in addition to order already passed in Writ Petition No. 4677/1985.

For the present, no mining will be permitted in the areas for which notification under Sections 4 and 5 of the Punjab Land Preservation Act, 1900 have been issued for regulating the breaking up of the land etc. and such lands are or were recorded as "Forest" in Government records even if the notification period has expired, unless there is approval under the FC Act.

Learned Attorney General and Solicitor General will assist the Court on the aforesaid aspects on the next date of hearing.

In respect of suggestion 7 and 8, the Union of India will respond on the next date of hearing.

The order dated 29/30th October, prohibiting and banning the mining activity in Aravalli hills from Haryana to Rajasthan is modified in so far as the State of Rajasthan is concerned to the following effect:

Wherever requisite approval/sanctions in the said State have been obtained under FC Act and EP Act, and the mining is not prohibited under the applicable Acts or notifications or orders of the Court, mining can continue and to such mining the order aforesaid will not apply.

This order will be applicable to non-forest land covered for the period prior to the date of modification of the order dated 29th November, 1999 in the state of Haryana.

In light of the above we do not see any embargo on carrying out mining in the mining lease area referred to herein above at village Rajawas in Teshil and District Mahendergarh, State of Haryana and the point is answered accordingly.

Point No. 2

12. Learned Counsel appearing on behalf of the applicant submitted that the village of Rajawas did not have sufficient notice of the public hearing conducted on 15th September, 2015 in as much as the notice of public hearing was not published in Hindi newspaper having local circulation as per Appendix IV of EC Regulations, 2006. According to him, the villagers in village Rajawas are agriculturist and familiar with Hindi language only. To counter these submissions the Respondent no. 2 placed before us the original copy of the issue dated 13th August, 2014 of "Dainik Bhaskar" Rohtak Edition having supplement for Narnaul-Mahendergarh. A copy of this was given to the Learned Counsel appearing for the applicant. A fact, therefore, becomes evident that the notice of public hearing scheduled to be held at about 11:00 on 15th September, 2014 at the mining site was published in issue dated 13.08.2014 of Hindi newspaper "Dainik Bhaskar" carrying supplement for "Narnaul Mahendergarh".

13. Perusal of this public notice reveals that it gives scheduled date, time and venue of public hearing in respect of 9.0 MTPA Stone mining project at village Rajawas of M/s RS Joint Venture and scope of the availability of the EIA report as

well as its summary for reading in the office of Haryana Pollution Control Board, Panchkula as well as for the office of Deputy Commissioner, Mahendargarh at Naraul, Regional Officer, Haryana State Pollution Control Board, Dharuhera, Zila Parishad office, Teshil and District Mahendargarh, Municipal Council office, Teshil and District Mahendargarh, Joint Director, District Industries Centre, Teshil and District Mahendargarh. The notice also called for written objections and suggestions in respect of the project in question within 30 days. Para- 3 point 1 and 2 of Appendix IV under EC Regulations, 2006 deal with this aspect of public hearing in following terms:

3.0 Notice of Public Hearing:

- 3.1 The Member-Secretary of the Concerned SPCB or UTPCC shall finalize the date, time and exact venue for the Conduct of public hearing within 7 (seven) days of the date of receipt of the draft Environmental Impact Assessment report from the project proponent, and advertise the same in one major National Daily and one Regional Vernacular Daily/Official State Language. A minimum notice period of 30 (thirty) days shall be provided to the public for furnishing their responses;*
- 3.2 The advertisement shall also inform the public about the places or offices where the public could access the draft Environmental Impact Assessment report and the Summary Environmental Impact Assessment report before the public hearing. In places where the newspapers do not reach, the Competent Authority should arrange to inform the local public about the public hearing by other means such as by way of beating of drums as well as advertisement/announcement on radio/television;*

Besides this publication in Hindi Newspaper we have also before us a copy of similar notice published in National Daily Hindustan Times, Chandigarh on 13th August, 2014, annexure I collectively to the reply of respondent no. 2.

14. We have before us copies of the minutes of meeting of public hearing Annexure J wherein a reference to the publication of notice in Hindi/English newspaper finds mention. Minutes of public hearing reveal that the public hearing was conducted under the Chairmanship of Sh. Atul Kumar Divedi, IAS Deputy Commissioner, District Mohindergarh and in the presence of Sh. Kuldeep Singh Regional Officer, HSPCB, Sh. Sunder Lal, DFO, Sh. Satish Yadav, SDM, Sh. Jhabar Singh, Jt. Director District Industries Centre, Sh. Rajesh Sangwan, Mining Officer, Shr. R.K. Bhonsle AEE, HSPCB and Sh. Mohit Moudgil, AEE, HSPCB and copies of executive summary of the EIA report were available at different offices as recorded therein. Several questions were asked, the minutes reveals, by the locals particularly, Captain Rohtash Singh, about the safety of already existing dam, project road, employment locations of the mines etc. Nobody raised the issue about the notice of public hearing therein. In fact one of the villager, Mr. Rajesh welcomed the Deputy Commissioner for coming to village Rajawas for conducting the hearing. Copies of the attendance sheet also bear signatures of the persons present, particularly those from village Rajawas. Nothing has been pointed out by the Learned Counsel appearing on behalf of the applicant from the minutes of the meeting or the annexures thereto to substantiate the contention that the public hearing was not conducted as envisaged by law.

15. Perusal of the record before us reveals that the EAC had appointed a sub-committee comprising of Professor G.S. Roonwal, Member, EAS (Mining), Shri Surendra Kumar, Director(S), Northern Regional Office of MoEF, Chandigarh, Shri Vedprakash Gaur, DFO, Mahendragarh and Shri Prem Singh, Range Forest Officer, Mahendragarh to visit the site and carry out inspection. Accordingly, it appears that the sub-committee visited the site on 24th April, 2015 and made following observations;

- (i) *It is clarified by the Divisional Forest Officer, Mahendragarh that khasra no. 91, 96, 97, 98, 99, 102 & 103 of village-Rajawas, Tehsil & District-Mahendragarh does not come under reserved forest, protected forest, area closed under section- 38 of Indian Forest Act, 1927, under Aravali Plantation and areas specifically closed under Section – 4 & 5 of Punjab Land Preservation Act, 1900 and therefore the Forest Conservation Act, 1980 is not applicable to these khasra nos. As per version of the Project Proponent, the entire mining lease area is covered under these khasras.*
- (ii) *The mining lease area is surrounded on three sides by Aravali Plantation and mine is at zero distance from the Aravali Plantation of Rajawas village and area closed under Section 4 & 5 of PLP Act, 1900 of Madhogarh village. There is no road/path to reach to the proposed mine site. The access to mining area is only possible through Aravali Plantation or area closed under PLP Act, 1900 or through private land. DFO has also mentioned that any such proposal for path through Aravali Plantation has not been received under the FC Act, 1980 in his office. However, the Project Proponent has informed that they will use the approach up to mining area through private land in the starting for which the permission from private land owners has been obtained and lease agreement has been signed. It is also informed by the Project Proponent that they have submitted a proposal to State Forest Department to allow the approach through Aravali Plantation area involving forest area to the extent of 0.245086 hectare under FC Act, 1980.*

- (iii) *It is noticed that on entire mining area, isolated trees and shrubs are available.*
- (iv) *In the beginning 33 feet PWD road from Mahendragarh to Gurawata mining site will be used for transportation of mined material through trucks. Transport of 500 Trucks per day is expected. Following safeguards are recommended by the team viz. (a) The road should be maintained; (b) Regular water sprinkling on the road for dust suppression should be ensured; (c) Speed limit of the trucks should be fixed through habituated/populated area so that the children could not get injured; (d) Speed breakers should be constructed through habituated/populated area for the safety of children; and (e) Two lane alternate paths for truck movement should be constructed for truck movement to avoid habituated/populated area, traffic congestion and air pollution due to dust emission in due course of time.*

These observations bring out the facts which have been averted to by the respondents herein. Photographs of the mining lease area produced at annexure G to the reply of respondent no. 2 reveal facts in consonance with the observations made by the sub-committee of the EAC. Nowhere in the application have the appellants testified that the photographs annexed thereto at annexure B pages 28 to 33 are of the mining lease area. We do not also find any averment in support of the photographs at annexure-3 to the rejoinder dated 5th October, 2015. Photographs at annexure-3 to the rejoinder dated 6th October, 2015 pages 16 to 18 are stated to be of the hills surrounding the village Rajawas without there being any specific averment that they are of the mining lease area. The photographs produced by the appellants therefore can have little impact on the merits of the case.

16. As regards issue of ground water, Learned Counsel appearing for the appellants invited our attention to the Study carried out by Dr. Smt. Gupta, Superintending Geologist in Geological Survey of India, Faridabad in 2014 and presented in International Conference of Hydrology and Meteorology held between 15 and 16 September, 2014 at Hyderabad. Abstract of the Study reads as under:

The north-eastern fringe of Thar Desert in Mahendragarh District, Haryana experiences very less monsoon rainfall (annual avg. 450 mm). Further precipitation due to NW disturbances in non monsoon periods is irregular due to which habitants are facing acute water scarcity. Earlier, fall in groundwater level was slow but in recent years declination is rapid. In the area, shallow open dug wells up to 30 m are dried & abandoned, which are replaced by tubewells, extracting groundwater from deeper aquifers. Geologically, area exposes rocks of Delhi Supergroup (Lower to Middle Proterozoic) intruded by multiple phases of acidic and basic intrusive (Upper Proterozoic). However, large part of the area is occupied by Aeolian & alluvium material. Examination of dugwell sections suggests that there occur two horizons of sand, which are separated by a clayey unit with occasional kankar at shallow depth; these are underlain by quartzite/mica schist/phyllite/marble/acidic-basic rocks. As major area is flat or gently undulating, there is tendency of direct infiltration of rainwater, while the surface drainage is incipient as evidenced from poor/absence of proper drainage system. Apart from natural causes, intensive abstraction for irrigation, supporting industries and growing population has led to alarming levels of depletion of groundwater resource to an extent that water level in some parts has gone deeper than 120 m. Besides, in some sectors, groundwater is extremely saline and contains fluoride, iron and nitrate above permissible limits. The present study outlines the subsurface hydrogeological characteristics and assesses the spatio-temporal variation in groundwater quality.

Respondent no. 6 CGWA responded to the Appeal with the statement that as per the record of CGWB the blocks of Ateli, Kanina, Mahendragarh, Nangal Chaudary and Narnaul in District Mahendragarh are considered as over-exploited; and

the intersection of ground water table with mining activity may alter water table in the area in question and mining can have certain bad effect on ground water if protective measures are not taken. In this context the respondent no. 2- project proponent has revealed that the Study of Hydrogeology in the presence of Authorities, Representatives of Mines and Geology, Representatives of Department of Forests on various tube-wells in village Rajawas was carried out by means of piezo-metric tests and the outcome of this Hydrogeological Study annexure- H to the reply along with the recharge proposal was submitted to the Central Ground Water Authority, and Regional Director CGWA, Chandigarh has duly approved and granted NoC on 7th August, 2015 subject to certain specific conditions. Significantly, there is no challenge to the NoC thus granted nor, the appellants have pointed out any infirmities in the site specific study carried out by the Authorities.

17. Moreover, there is nothing to say that there is non-application of mind by the EAC to the proposal for grant of EC in question particularly to the germane environmental issues/concerns. MoEF&CC averred that the proposal for grant of EC was examined in accordance with EIA notification, 2006 and the EC was duly granted subject to the following specific conditions coupled with General conditions for Regular monitoring of Environmental parameters.

A. Specific Conditions

- (i) Environment clearance is granted subject to final outcome of Hon'ble Supreme Court of India, Hon'ble High Court of Haryana and any other Court of Law, if any, as may be applicable to this project.

- (ii) Environmental Clearance is subject to obtaining clearance, if any, under the Wildlife (Protection) Act, 1972 from the Competent Authority, as may be applicable to this project.
- (iii) No mining activities will be allowed in forest area, if any, for which the Forest Clearance is not available.
- (iv) The Project Proponent shall obtain Consent to Operate from the State Pollution Control Board, Haryana and effectively implement all the conditions stipulated therein.
- (v) Implementation of the Recommendations made by the Sub Committee during the visit of mine site.
- (vi) The road should be maintained; Regular sprinkling of the road for dust suppression should be ensured; speed limit of the trucks should be fixed through habituated/populated area so that the children could not get injured; speed breakers should be constructed through habituated/populated area for the safety of children; and Two lane alternate path for truck movement should be constructed for truck movement to avoid habituated/populated area, traffic congestion and air pollution due to dust emission in due course of time.
- (vii) An independent study be organised during peak activity, to understand how the actual compare with the carrying capacities and further decisions taken to maintain sustainability of this essential stone extraction and supply activity. Project Proponent shall ensure that the road may not be damaged due to transportation of stone.
- (viii) Proponent shall appoint an Occupational Health Specialist for Regular and Periodical medical examination of the workers engaged in the Project and maintain records accordingly; also, Occupational health check-ups for workers having some ailments like BP, diabetes, habitual smoking, etc. shall be undertaken once in six months and necessary remedial/ preventive measures taken accordingly. The Recommendations of National Institute for ensuring good occupational environment for mine workers shall be implemented.
- (ix) Implementation of Action Plan on the issues raised during the Public Hearing shall be ensured. The PP shall complete all the tasks as per the Action Plan submitted with budgetary provisions during the Public Hearing.
- (x) The mining operations shall be restricted to above ground water table and it should not intersect groundwater table. In case of working below ground water table, prior approval of the Ministry, Forest and Climate Change and Central Ground water Authority shall be obtained, for which, detailed hydro-geological study shall be carried out; The Report on six monthly basis on changes in Ground water level and quality shall be submitted to the Regional Office of the Ministry.
- (xi) The pollution due to transportation load on the environment will be effectively controlled & water

sprinkling will also be done regularly. Vehicles with PUCC only will be allowed to ply. The mineral transportation shall be carried out through covered trucks only and the vehicles carrying the mineral shall not be overloaded. Project should obtain 'PUC' certificate for all the vehicles from authorized pollution testing centres.

- (xii) There shall be planning, developing and implementing facility of rainwater harvesting measures on long term basis in consultation with Regional Director, Central Groundwater Board and implementation of Conservation measures to augment ground water resources in the area in consultation with Central Ground Water Board.
- (xiii) Use of effective sprinkler system to suppress fugitive dust on haul roads and other transport roads shall be ensured.
- (xiv) A comprehensive study for slope stabilization of mine benches and OB dumps shall be undertaken within one year.
- (xv) Washing of all transport vehicles should be done inside the mining lease area.
- (xvi) Native plant species as suggested by villagers/specialist may be planted.
- (xvii) Implementation of Haryana Government Rehabilitation and Resettlement of Land Owners' Policy as per applicability in the area.
- (xviii) Implementation of Environment Management Policy of the Company w.r.t. judicious use of Mineral resources for growth & development synchronizing mining & environment with prosperity.
- (xix) The Project Proponent shall also take all precautionary measures during mining operation for conservation and protection of endangered flora/fauna, if any, spotted in the study area.
- (xx) The illumination and sound at night at project site, disturb the villages in respect of both human and animal population. Consequent sleeping disorders and stress may affect the health in the villages located close to mining operations. Habitations have a right for darkness and minimal noise level at night. Project Proponent must ensure that the biological clock of the villages is not disturbed; by orienting the floodlights/masks away from the villagers and keeping the noise levels well within the prescribed limits for day light/night hours.
- (xxi) Where ever blasting is undertaken as part of mining activity, the project proponent shall carry out vibration studies well before approaching any such habitats or other buildings, to evaluate the zone of influence and impact of blasting on the neighbourhood. Within 500 meters of such sites vulnerable to blasting vibrations, avoidance of use of explosives and adoption of alternative means of mineral extraction, such as ripper/dozer combination/rock breakers/surface miners etc. should

be seriously considered and practiced wherever practicable. A provision for monitoring of each blast should be made so that the impact of blasting on nearby habitation and dwelling units could be ascertained. The covenant of lease deed under Rule 31 of MCR 1960 provides that no mining operations shall be carried out within 50 meters of public works such as public roads and buildings or inhabited sites except with the prior permission from the Competent Authority.

- (xxii) Main haulage road in the mine should be provided with permanent water sprinklers and other roads should be regularly wetted with water tankers fitted with sprinklers.
- (xxiii) Transportation of the minerals by road passing through the village shall not be allowed. A 'bypass' road should be constructed (say, leaving a gap of at least 200 meters) for the purpose of transportation of the minerals so that the impact of sound, dust and accidents could be mitigated. The project proponent shall bear the cost towards the widening and strengthening of existing public road network in case the same is proposed to be used for the project. No road movement should be allowed on existing village road network without appropriately increasing the carrying capacity of such roads.
- (xxiv) Likewise, alteration or re-routing of foot paths, pagdandies, cart roads, and village infrastructure/public utilities or roads (for purposes of land acquisition for mining) shall be avoided to the extent possible and in case such acquisition is inevitable, alternative arrangements, shall be made first and then only the area acquired. In these types of cases, Inspection Reports by site visit by experts may be insisted upon which should be done through reputed Institutes.
- (xxv) CSR activities by Companies including the Mining Establishments has become mandatory up to 2% of their financial Turn-over, Socio Economic Development of the neighbourhood Habitats could be planned and executed by the Project Proponent more systematically based on the 'Need based door to door survey' established Social Institutes/Workers. The report shall be submitted to the Ministry of Environment, Forest and Climate Change and its Regional Office located at Chandigarh on six monthly basis.
- (xxvi) Provision shall be made for the housing of construction labour within the site with all necessary infrastructure and facilities such as fuel for cooking, mobile toilets, mobile STP, safe drinking water, medical health care, crèche etc. The housing may be in the form of temporary structures to be removed after the completion of the project.
- (xxvii) A Final Mine Closure Plan along with details of corpus Fund shall be submitted to the Ministry of

Environment, Forest & Climate Change 5 years in advance of final mine closure for approval.

We are, therefore, of the considered opinion that sufficient safeguards have been prescribed for protecting the environment in the EC granted by the respondent no. 1- MoEF and there is no material infirmity seen in process of granting the EC in question. Point no. 2 is answered accordingly.

18. At the time of conclusion of hearing of this case Learned Counsel appearing on behalf of the applicant wanted us to hear through the mouth of the local villagers who were present before us. We are conscious of the concerns, of the local villagers, who are farmers, about likely damage to their bread-winning activity of farming. The respondent no. 2 M/s R.S. Joint Venture have given undertaking through their compliance report dated 21st November, 2015 that they have complied with the specific conditions which are to be performed before the commencement of the mining activity and shall duly discharge their obligations under the remaining specific conditions upon commencement of mining activity. We can see that there is need to be vigilant about underground water level which is exposed to the threat of being depleted on account of the mining activity in question. Condition No. 12 and 13 of the General Conditions requires regular monitoring of water quality of upstream and downstream of water bodies as well as of ground water level and quality in and around the mining lease area and sending of such data to the MoEF&CC and to Regional Office of the

CGWA and State Pollution Control Board and Central Pollution Control Board. In Order to facilitate closer and keen vigilance, from the eyes of the local villagers, it is necessary that such data is regularly sent to the village Panchayat, Rajawas and made available to anyone who seeks access to it.

19. We, therefore, dispose of this Appeal with the following order:

- i. The Appeal is dismissed with direction to respondent no. 2- Project Proponent to strictly abide by the terms and conditions stipulated in the EC particularly as regards the regular monitoring of water quality upstream and downstream of water bodies as well as of ground water level and quality in and around the mining lease area as envisaged and send the data thus collected regularly to the Gram Panchayat village Rajawas from time to time.
- ii. We further direct CGWA, Haryana Pollution Control Board and CPCB to carry out surprise checks and maintain its record in order to verify the authenticity of the aforesaid data and further ensure that such data is properly collected from the area in question.
- iii. Haryana Pollution Control Board shall tender compliance report in respect of the directions contained herein to Tribunal every six month.
- iv. No order as to costs.

.....,JM
(U.D. Salvi)

.....,EM
(Ranjan Chatterjee)