

**HIGH COURT OF JAMMU & KASHMIR AND LADAKHAT
SRINAGAR**

Reserved on: 17.03.2025

Pronounced on: 26.03.2025

WP(C) No.2320/2021

M/S SAHARA STONE CRUSHER ...PETITIONER (S)

Through: Mr. Rizwan-ul-Zaman, Adv.

Vs.

UT OF J&K & OTHERS ...RESPONDENT(S)

Through: Mr. Mubashir Majid, Dy. AG.

CORAM: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE.

JUDGMENT

1. The petitioners are aggrieved of order dated 3rd August, 2021, whereby respondent No.4 has directed the petitioners to close/ relocate their industrial unit within 15 days, failing which they would suffer demolition of their industrial unit.

2. It is stated that the petitioners had established their stone crusher in the year 2007 on the land measuring 06 kanals comprising Survey Nos.651/212 and 655/211 situated at Village Nipora Tehsil and District Anantnag after completing all the requisite formalities. The petitioners have placed on record the license issued by the Department of Geology and Mining having validity from 17th March, 2018 to 16th March, 2023, NOC issued by the Additional Deputy Commissioner, Anantnag, dated 19th July, 2010, NOC dated 19th March, 2019, issued by the Divisional

Forest Officer, Anantnag, NOC dated 12th October, 2006, issued by the Deputy Director, Fisheries, and the consent order dated 26th August, 2021, issued by the J&K Pollution Control Committee, to demonstrate that they had established their stone crusher under the banner of “M/S Sahara Stone Crusher” after obtaining the requisite NOCs and consent from the concerned Pollution Control Committee.

3. It is contended by the petitioners that they have established the stone crusher on their proprietary land and not on the State/Kahcharai land and further that no opportunity of hearing was afforded to them before passing the impugned order.

4. Respondents No.2 to 6 have filed their response wherein it has been stated that respondent No.6 had submitted a detailed report dated 11th February, 2023, wherein it was stated that the owners of the stone crusher are recorded owners of land measuring 01 kanal and 2½ marlas comprising Survey No.657/212 and land measuring 11 marlas comprising Survey No.655/212 situated at Nipora and the type of the soil is recorded as ‘Gair Mumkin Darya’ and the said stone crusher is being partly run on the proprietary land comprising Survey numbers mentioned above and partially on the State land comprising Survey Nos.205 and 206 which has been retrieved during the recent anti-encroachment drive and kept under the superdari of concerned

Lumberdar/Chowkidar. It is stated that the encroachment was removed in compliance to the order dated 5th May, 2022 passed by this court in WP(C) No.1835/2021 titled “Inhabitants of Village Nipora vs. UT of J&K and Ors”.

5. Respondents No.7 to 9 have filed their response stating therein that the petitioners had obtained consent to operate (renewal) from the answering respondents vide consent dated 22.09.2023 and the same was valid only upto August, 2024, as such, the said consent order has lost its validity in August, 2024 and since then, operation of the petitioners’ unit is completely illegal and unauthorized.

6. Mr. Rizwan, learned counsel appearing for the petitioners submits that in the light of the response filed by respondent Tehsildar, the present petition be disposed of by permitting the petitioners to operate their stone crusher in accordance with law.

7. *Per contra*, Mr. Mubashir Majid, learned Dy. AG, submitted that the petitioners had established the stone crusher partly on the State land which stands retrieved by the Government.

8. Heard and perused the record.

9. The respondent-Tehsildar in his report has categorically stated that the petitioners had established the stone crusher partly on their land and partly on the State land and the encroachment was removed

pursuant to the directions passed by this Court in WP(C) No.1835/2021.

Perusal of the aforesaid directions, as extracted in the response filed by respondents No.2 to 6, reveals that the said writ petition was disposed of with a direction to the official respondents therein to ensure that no one operates his stone crusher anywhere in the village Nipora Tehsil and District Anantnag, otherwise than after complying with the legal requirements.

10. It is an admitted fact that the State land, on which the petitioners had partly established their stone crusher, has been retrieved but it is equally true that the petitioners are not having a valid consent order from the Pollution Control Committee to operate their stone crusher as on date.

11. In view of the above, this Court deems it proper to dispose of the present petition by directing the respondents No.3 and 4 to ensure that the petitioners operate their stone crusher only after obtaining requisite consent from the Pollution Control Committee, provided there is no other legal impediment in running the stone crusher over the proprietary land of the petitioners.

(RAJNESH OSWAL)
JUDGE

Srinagar

26.03.2025

“Bhat Altaf-Secy”

Whether the order is reportable: Yes/No