

**BEFORE THE NATIONAL GREEN TRIBUNAL, CENTRAL ZONAL BENCH,
BHOPAL**

**M.A.No. 627/2014, 640/2014, 641/2014, 642/2014, 681/2014, 682/2014,
711/2014, 712/2014 & 713/2014, 35/2015 & 36/2015**

in

**Original Application No. 116/2013 (THC) (CZ)
Netyendra Manav Vs. State of Rajasthan & Ors.**

**CORAM : HON'BLE MR. JUSTICE U.D.SALVI, JUDICIAL MEMBER
HON'BLE MR. P.S.RAO, EXPERT MEMBER**

**PRESENT : Applicant: Shri Dharamvir Sharma, Advocate
Respondent State of Rajasthan: Shri Sachin K. Verma, Advocate
Applicants in M.A. : Shri Ayush Dev Bajpai, Advocate
Shri Shrey Raj Saxena, Advocate
Shri Narendra Bhausar, Advocate**

Date and Remarks	Orders of the Tribunal
Order no. 11 22nd January, 2015	<p><u>M.A.No. 641/2014 & 642/2014</u></p> <p>Order for impounding of the vehicles involved in illegal mining operations including transportation of mineral bajri/sand and directing the authorities concerned not to release the same without approaching this Tribunal, was passed in these proceedings on 13.10.2014. Such order came to be passed on finding that the State despite several efforts to check illegal mining, did not succeed in bringing end to it, particularly in the region of Kasba Kotputli, District Jaipur about which grievance has been made in the present Original Application. In pursuance to this order, trucks bearing registration nos. HR 47-B-3755 & HR 61-A-7486 loaded with 35 tons & 39 tons of <i>bajri</i> (sand), respectively were seized at 15 kms West of Paniyala Police Station, Village Deota, District Jaipur and FIR Nos. 257/2014 & 258/2014 under Section 379 IPC and Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957 (in short 'MMDR Act') were lodged.</p> <p>The Applicant submits that he is the owner of the trucks</p>

earning his livelihood from transport business by means of the said trucks and the trucks were carrying 35 tons & 39 tons of *bajri*, respectively which was duly purchased from mining lease holder, Shri Mahendra Singh Ratnawat, as per the copies of the bills of purchase and Royalty Receipts annexed to his applications as Annexure AR-1. On learning about the seizure of the trucks he submits that he had moved applications to the Learned Addl. CJM for the release of the trucks and the same were rejected in view of the aforesaid directions passed by us. The Applicant is now seeking release of his trucks by us from the impounding.

No reply except one letter dated 21.01.2015 from the Mining Engineer, Jaipur has been placed before us by the State. It reveals that one, Shri Pradeep S/o Jagdeesh Prasad Yadav R/o Rajpura and Monu S/o Ajjad Singh Prajapat R/o Jhajjar, Haryana were driving the vehicles in question at the time of seizure of the vehicles and were carrying 35 tons and 39 tons of *bajri*, respectively and as such under the provisions of the MMDR Act, he is under the obligation to pay total penalty of Rs. 1,10,500/- (i.e. penalty of Rs. 1,00,000/- and cost of sand Rs. 10,500/-) and Rs. 1,11,700/- (i.e. penalty of Rs. 1,00,000/- and cost of sand Rs. 11,700/-) for compounding the offences under MMDR Act.

Learned Counsel appearing on behalf of the State submitted that as per the provisions of the MMDR Act, a complaint ought to have been lodged in writing for an offence under Section 21 of the said Act by the person authorised by the State Government and the process of confiscation of the seized vehicle and compounding of the vehicle initiated as per the Rules framed thereunder (Section 15 of the MMDR Act). He invited

our attention to the provisions of Section 21, 22 of the MMDR Act and Rule 68 made thereunder. He submitted that actual quantification of damage to the environment caused by the removal of *bajri* would take some more time and this issue can be decided in the Original Application on the basis of the material furnished therein. At this stage, he submits that he has no material in hand to reveal the exact quantum of the damage caused to the environment on account of extraction of *bajri* in question. However, he submits that it is very much evident that the mineral (*bajri*) weighing about 35 tons and 39 tons costing Rs. 10,500/- and Rs. 11,700/- respectively were found loaded in the trucks in question. He submitted that if truck is to be released from the impounding it would be open for the Tribunal to atleast get the cost of the sand deposited in the Tribunal and bind the truck owner to satisfy the final outcome in the present case.

It needs to be borne in mind that the order of the impounding of vehicles involved in illegal sand mining was passed for two purposes :

- (1) To prevent illegal sand mining in future.
- (2) To secure the losses caused to the environment.

Keeping in mind these purposes and the hardships caused to the owners of the trucks who claims to be the bonafide purchaser of sand (*bajri*) we think that the vehicles in question can be released from impounding on certain conditions. The Applicant has expressed his unequivocal willingness to abide by all such terms and conditions stipulated for release of vehicles from impounding. Relying upon his word and in the given circumstances, we release the said vehicles from impounding on the followings conditions :

- (1) The vehicle owner/s shall deposit amount of Rs. 10,500/- & Rs. 11,700/- in respective applications being the cost of sand with the Registrar, National Green Tribunal Central Zone Bench, Bhopal.
- (2) The vehicle owner/s shall give an undertaking in each application that :

- (a) He shall not transfer or sell these vehicles during the pendency of this proceeding.
- (b) He shall not use these vehicle for the purposes of illegal sand mining in any manner what so ever.
- (c) He shall abide by all the orders that may be eventually passed by this Tribunal in the present proceedings.
- (d) He shall furnish a bond / with two solvent sureties of the value of vehicles in question to the satisfaction of the Registrar, NGT, CZB in each application for due performance of the terms and conditions mentioned herein.

The amounts deposited in the above two M.As. shall be invested by the Registrar, NGT, CZB in the Nationalised Bank for the highest return during the pendency of this case.

We leave and grant liberty to the State to initiate appropriate legal proceedings / complaint under the Mines and Mineral (Development and Regulation) Act, 1957 for the purpose of confiscation and compounding of offences as they deem fit. We have expressed no opinion about the involvement of the vehicles in the crimes alleged and it is for the Learned JMFC to deal with it and pass such appropriate orders for release of the vehicles in accordance with law without being influenced by the Order that we have passed. Liberty granted to the Applicants to move the concerned Learned Additional Chief Judicial Magistrate, Jaipur.

M.A.No. 641/2014 and 642/2014 accordingly stand disposed of.

So far as the other Misc. Applications are concerned, the Learned Counsel appearing on behalf of the State submits that the similar details, as in the aforesaid two cases, could not be provided for want of chassis and engine numbers of the vehicles. Parties in the concerned applications are directed to furnish requisite chassis and engine numbers to the State. This order is specific to the concerned vehicles and does not in any way

modify order dated 13.10.2014.

The applicant in the M.As be impleaded to the present proceedings. Requisite amendments be carried out. Applicant in the O.A. to furnish copies of the application to the newly impleaded vehicle owner/s.

List the matter tomorrow i.e. on **23rd January, 2015 on the request of the parties.**

.....,JM
(U.D.SALVI)

.....,EM
(P.S.RAO)