

Original Application No.42/2013

and

M.A.No. 113/2013

in

Smt. Sunita Devi Kol Vs. Union of India & Ors.

**CORAM : HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER
HON'BLE MR. P.S. RAO, EXPERT MEMBER**

PRESENT : Applicant : Shri Asad Ullah Khan on behalf of
Shri Ajay Pratap Singh, Adv
Respondent no. 1 to 6: Shri Sachin K. Verma, Adv.
Shri Ayush Dev Bajpai, Adv.
Dr. Vikas Soni, OIC (Resp. No.2)
Shri R.N.Mishra, Mining Officer, Rewa &
OIC (Resp. No. 4 &6)
Shri R.L.S.Parashe, SDO, Forest & OIC
(Resp. No. 5)
Respondent no. 7 : Shri Sanjeev Pandit, Adv.

Date and Remarks	Orders of the Tribunal
Item No. 4 31st October, 2013	<p><u>M.A.No. 113/2013</u></p> <p>M.A.No. 113/2013 has been filed seeking exemption from personal appearance of Divisional Forest Officer who is reported to be unwell and in his place the Sub-Divisional Forest Officer, Shri R.L.S.Parashe is appearing personally to explain the position. On the grounds mentioned in the M.A.No. 113/2013 is allowed.</p> <p>The respondent no. 5 has also filed an affidavit indicating that in the Map annexed as C-1, the road which is being used by the lease holder of the mine is not a notified forest road and in the original notification and in the map thereto, it was indicated only as a footpath. The lease holder of the mine has placed before us a video presentation indicating that it is wrong to say the road being used by the trucks of the lease holders as a footpath as it is a sufficiently wide passage.</p> <p>We find that there is some dispute regarding the distance between the mine and the forest area as well as the mining lease area, the Inter-State boundary of Uttar Pradesh and the forest. Submissions on behalf of the Mining Officer who is present as stated by Shri Sachin K.Verma is that the distance between the Inter-State boundary and the mine is around 300 meters</p>

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whereas the Learned Counsel appearing for the mining lease holder (respondent no. 7) disputes the same and contended that it is only 1½ kilometre. In such an event, it is necessary to ascertain the actual distance as to whether the classification of the project would come under category 'A' or not which has to be determined. If it is a category 'A' project for which the State Authorities may not be competent to grant the Environmental Clearance. It has also come on record that so far there is no EC granted to the respondent no. 7. Further, in the reply submitted by the respondent State, in Para 4, it has been stated that during the inspection which has been carried out on 22.10.2013 adjoining to the mining lease area, private lease holders have also started illegal mining activity.

In view of the above, prima facie we are satisfied that a case for issuing interim order is made out. We direct that the respondent no. 7 shall not be permitted till further orders to carry out any mining activity in the area granted under the mining lease and the respondent State Government shall take action in accordance with law against any illegal mining activity that is taking place in the area since it has come on record that through the Protected Forest, the footpath which is reported to be meant for the use of villagers only has been utilised for commercial activity and used for transportation of mining material and equipment by the lease holders and others carrying on the illegal mining. The same should not have been permitted by the forest officials. The aforesaid activity is impermissible under law and therefore deserves to be stopped immediately. It is surprising that the forest officials have permitted such activity to continue through Protected Forest for using the pathway for transportation of equipment and material to and from mining lease area. The Principal Chief Conservator of Forest, (Head of Forest Force) MP is directed to hold an enquiry into how the aforesaid activity has been permitted and if found guilty, to take suitable action against the officials concerned and intimate this Tribunal about the action taken in that behalf.

The respondent no. 7 is restrained from carrying out any mining activity or removal and transportation to and from mines of any material and equipment. The respondents no. 2 to 6 shall be responsible for enforcing the

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aforesaid order. The respondent no. 2, 4 and 6 shall furnish the information regarding the distances as indicated above, on the next date on affidavit and also on a map/sketch.

List on **16.12.2013**.

.....,JM
(DALIP SINGH)

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

