

above applications for impleadment. The Tribunal is of the considered view that by the said order those mining units would have been the affected parties and hence, necessarily they have got to be heard by giving an opportunity. Hence the applications for impleadment filed by both the associations in M.A. No. 290 of 2014 and 291 of 2014 are ordered making them as party Respondents to the main Application.

In so far as two other applications M.A. No. 292 of 2014 and 293 of 2014 questioning the very maintainability of the main Application the Respondents have to be given an opportunity to file the reply.

As far as other two Applications made by the Applicant associations seeking restoration of the mining operation the counsel on both sides put forth their contentions. As could be seen from the order of the bench made on 29th April, 2014 it is quite clear that only on the strength of the submission made by the Forest Department a direction was issued to the State Government to stop the mining activities of the units which are members of the applicant associations. The State Government was suggested to make a survey. The Counsel for the State would submit that a joint survey was being made by both the mining Department and Forest Department and a report is filed to that effect this day.

An Affidavit sworn by Superintending Mining Engineer is filed whereby it is stated that all the 61 + 23 mining leases are not falling within the prohibited zones like core area and buffer area of Sariska Tiger Reserve or any other prohibited Zone or the Eco- Sensitive zone as proposed by the State of Rajasthan to be notified as prohibited area.

Pointing to the joint report and also the affidavit filed by the State the Learned Counsel appearing for both the associations who are newly impleaded as parties would submit that all those mining units should necessarily be allowed to carry on the mining operations.

The Tribunal paid its consideration on the submission made by the Counsel on either side. The contents of the report and also the affidavit filed by the Superintending Mining Engineer referred to it above are looked into.

It is not in controversy that both the Applicants who were now impleaded as party respondents consisting of 61 +

23 mining leases were not originally the party to the main Application. The Applicant in the main Application 136 of 2013 ventilated his grievance namely illegal mining only against the Respondent 5 & 6. In the pending Application, the direction came to be issued by the Bench on 29th April, 2014 directing the State Government to take necessary steps for ensuring that no mining activity was carried out in the said 61 + 23 mining leases and the same should remain discontinued till further orders. From the order it is quite clear that the said directions came to be made only on the strength of the statement made by the Forest Department to the effect that all those mining leases were within the prohibited area. It is pertinent to point out that the Tribunal while making the order gave liberty to the State Government to make a survey and file a report and also verify the facts given by the Forest Department. Accordingly the joint survey was undertaken by the Mining Department and the Forest Department which has resulted in the report filed today. Referring to the Report para 4 of the written submission of the State reads as follows:

“It is most respectfully submitted that the Secretary Department of Forest in its affidavit had already clarified the boundaries of the proposed Eco Sensitive Zone and even after the perusal of the comprehensive survey report dated 10/06/2014 it is evident that the 61 + 23 mining leases do not fall within the proposed Eco Sensitive Zone. The copies of survey report are marked and enclosed herewith as Annexure RR-3 & RR-4”.

Apart from the said report an affidavit is also filed by the Superintending Mining Engineer para 2 to 4 reads as follows:

“2. That, the joint survey report finalised by the department of forest and department of mines and geology is already placed on record before this Hon’ble Tribunal as Annexure RR/3 and RR/4.

3. That, the 61+23 mining leases are not falling within the prohibited zones like core area and buffer area of Sariska Tiger Reserve or any other prohibited Zone or the Eco-Sensitive Zone, as proposed by the State of Rajasthan to be notified as prohibited area.

4. That, in pursuance of the Joint Survey carried out by the Department of Forest and Department of Mines and geology in pursuance of the order of the Hon’ble Tribunal dated

29.04.2014 it has been categorically found that the 61+23 mining leases whose operations were restrained owing to the prima facie apprehension that they fall within the prohibited zone has been clarified and found that the said 61+23 mines are clearly outside the prohibited area including the Core and the Buffer Zone”.

Reading of both the reports made by the State as a result of the joint inspection by the Mining Department and the Forest Department and also the affidavit of the Superintending Mining Engineer leaves no doubt that both 61 + 23 mining leases are outside the prohibited zone or the Eco-Sensitive zone as proposed by the State of Rajasthan. When a query was made in respect of the statement made by the Forest Department in the earlier hearing to the effect that the said 61 + 23 mining leases were in the prohibited area. The Learned Counsel appearing for the State of Rajasthan would submit that the said statement was contrary to the actual factual position and action has been initiated against the erring officials and the same is pending. He would further add that the following the order of the Tribunal a joint survey was made and it was found that all the 61 + 23 mining leases were outside the prohibited area. It remains to be stated that the suspension of the mining operation would certainly cause revenue loss to the State. No doubt if those mining leases are within the prohibited area all of them should be stopped even there was loss to the exchequer. Needless, to say if they are allowed within the prohibited area it would be permitting them to continue mining activities which cannot but be illegal. But now it is made clear by the joint survey by both the Forest Department and also the mining Department that 61 + 23 are outside the prohibited area. In view of the joint report and also the affidavit filed today by the Superintending Mining Engineer which can be safely acted upon the Tribunal is of the considered opinion there cannot be any reason to stop mining operations of the said 61 + 23 mining leases. Under such circumstances there can be no impediment to permit those 61 + 23 licences to continue their operation till further orders of the Tribunal, provided those mining leases 61 + 23 have got necessary permission and required licenses from the authorities concerned. Hence accordingly ordered. In so far

as other Applications are concerned in respect of maintainability the Respondents are given opportunity to file the respective replies. The matter is posted before the Central Zonal bench at Bhopal on 3rd July, 2014.

....., JM
(M. Chokalingam)

....., EM
(A. A. Deshpande)

