

BEFORE THE NATIONAL GREEN TRIBUNAL, CENTRAL ZONAL BENCH, BHOPAL

Original Application No.42/2013

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 MEMBERPRESENT : Applicant : None appeared
Respondent No. 1 : Shri Rajendra Babbar, Advocate
Respondent no. 2,3,4,5 & 6 : Shri Sachin K. Verma, Advocate with
Shri Vikas Soni, OIC
(Resp. No. 5) Shri R.L.S.Parashe, SDO & OIC
(Resp. No. 4 &6) Shri R.N.Mishra, Mining Officer, Rewa
Respondent No. 7 : Shri Joseph Thomas, Advocate

Date and Remarks	Orders of the Tribunal
<p>Item No. 3</p> <p>11th February, 2014</p>	<p><u>Misc. Application No. 68/2014</u></p> <p>Misc. Application No. 68/2014 has been moved by the Respondent No. 7 with a prayer for taking certain facts on record as Annexure R-7/8 & R-7/10 which have been filed along with the application. The Misc. Application No. 68/2014 is accordingly allowed and disposed of. The documents along with the same are ordered to be taken on record.</p> <p>In response to our order dtd. 09.01.2014 the Respondent No. 1 has filed reply affidavit. The same is ordered to be taken on record.</p> <p>We have heard the Learned Counsel for the parties. A perusal of the petition, the documents filed by the Respondent No.7 and the affidavit and reply filed by the Respondent No.1 reveal that in the area in question in the Villages Hata and Lodhi of Tahsil Hanumana in District Rewa, 13 mining leases were in operation out of which two (02) were granted in the year 2008, nine (09) were granted in the year 2010 and two (02) in the year 2012. The Respondent No. 7 was granted a mining lease on 11.11.2010 valid up to 31.03.2015.</p> <p>It appears that complaints were made to the District Collector, Rewa which <i>inter alia</i> alleged that in the garb of aforesaid 13 mining leases granted to them, the lease holders were carrying out illegal mining activity in the adjoining forest area. In addition, it was alleged that as far as the Respondent No. 7 is concerned he had also been using the forest area for transportation of</p>

the mineral from the mines and for approaching the mines through his vehicles. There is material on record to show that the Divisional Forest Officers, Rewa also gave his findings and communicated to the District Collector vide letter dtd. 01.10.2013 corroborating the above facts and further stated that as a result of the aforesaid activity, the wildlife in the area was also being adversely affected.

The record placed before us along with the Misc. Application No. 68/2014 filed today by the Respondent No. 7, reveals the joint inspection report dtd. 07.02.2013 filed at Annexure R-7 (8) wherein the officers of four departments i.e. Sub Divisional Officer (Forest), the Mining Officer, Sub Divisional Officer (Police) & Sub Divisional Officer (Revenue) were unanimously of the view while noticing various irregularities and violation of the conditions of the lease that all the 13 lease holders had been illegally carrying out mining activity in the garb of sanctioned lease and thereby causing grave damage to the forest as well as to the environment. Para 5 of this report records the aforesaid findings. This was also corroborated in the subsequent inspection which was ordered by the District Collector on 10.10.2013 and joint inspection carried out on 22.10.2013 by the Divisional Forest Officer, Tahsildar and Mining Officer in pursuance thereof.

Shri Sachin K. Verma, Learned Counsel for the Govt. of Madhya Pradesh brought to our notice that pursuant to the aforesaid findings of the joint inspection the District Collector directed cancellation of all the 13 mining leases including that of the Respondent No. 7. It was submitted that initially the Respondent No. 7 challenged the order of the cancellation before the Hon'ble High Court *inter alia* on the ground of non observance of the principles of the Natural Justice and the Hon'ble High Court found favour with the contention of the Respondent No. 7 and while allowing the Writ Petition set aside the order of cancellation. It is further brought to our notice that subsequently in the light of the directions issued by the Hon'ble High Court, opportunity of hearing was granted and fresh order for cancelling the

mining lease of the Respondent No. 7 has been passed on 12.12.2013. It was also brought to our notice that after passing of the aforesaid order, the Respondent No. 7 has stopped all the mining activity as well as use of forest land for plying of vehicles accordingly. So far as the remaining 12 mining leases are concerned, the lease holders, it was given out, have approached the Appellate Authority (AA) against the cancellation of their mining leases as a result of which they are continuing to operate their mining leases in the area.

We direct the Learned Counsel for the Govt. of M.P. to bring it to the notice of the learned authority the findings of the joint inspection, more particularly the report dtd. 07.02.2013 wherein it was specifically noted and findings arrived that all the 13 lease holders including the aforesaid Appellants who have filed the appeal before the AA against the cancellation of the mining lease, had been causing damage to the environment and carrying out the mining activity illegally in the forest area which ultimately resulted in the cancellation of their mining lease by the concerned officers of the mining department. We would also draw the attention of the Learned Counsel for the Govt. of M.P. to impress upon the learned AA by bringing to it's notice that since the order against the lease holders for cancellation of their lease have been passed as a result of noticing illegal mining in forest area, causing damage to the environment as well as for indulging in violation of the conditions of the lease, permitting such lease holders to continue to operate their mining leases pending decision of the appeal, by staying the order of cancellation, would grant premium to the defaulters who have been causing damage to the environment and the AA may also take into consideration the provisions of Section 29 of the National Green Tribunal Act, 2010 which bars the jurisdiction of all Courts in such matters.

We would also direct the District Collector, Rewa to constitute a committee to assess the extent of damage caused to the forest and environment by quantifying the same for the purpose of restoration of the environment as recorded in the joint inspection report dtd. 07.02.2013 as a

result of illegal mining and extraction of mineral from the forest area. In case individual acts of mine holders are not possible for quantifying the damage as a result of lack of evidence against each mine holders, joint responsibility on all the 13 lease holders should be fixed and the assessment so made by a team of the Revenue, Forest and Mining Departments should include the cost of reforestation, the loss suffered by the State in terms of price of the mineral by quantifying the quantity of the mineral extracted illegally as also loss occurred to the State in terms of royalty etc. The aforesaid report be prepared under notice to all the 13 lease holders with a direction to remain present at the time of field inspection for quantifying the damage with further directions that all the 13 lease holders be directed to appear before this Tribunal on the next date of hearing. We would also like the Learned Counsel for the Govt. of M.P. to impress upon the learned Appellate Authority, hearing the appeals, to consider advising the State of moving an application for vacation of the said stay orders as well as for the decision on the appeals at the earliest in the light of the facts which have come on record and as mentioned above. We would grant four weeks time to the District Collector, Rewa to comply with the above orders and submit report by the next date of hearing.

Matter be listed on **19.03.2014**.

.....JM
(DALIP SINGH)

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