

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

**Original Application No. 78/2015 (CZ)  
Medha Patkar Vs. State of MP & 8 Ors.**

**CORAM : HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER  
HON'BLE PROF. A.R.YOUSUF, EXPERT MEMBER**

**PRESENT : Applicant: Ms. Medha Patkar  
State of MP/Mining Corp: Shri Sachin K.Verma, Adv.  
Respondent /MPPCB : Ms. Parul Bhadoria, Adv. for  
Shri Purushaindra Kaurav, Adv.  
Respondent No. 3: Shri Siddharth Singh, Adv. for  
Shri Ravi Goyal, Adv.  
MoEF&CC: Shri Om S.Shrivastav, Adv.**

<b>Date and Remarks</b>	<b>Order of the Tribunal</b>
<b>Order No.2 12<sup>th</sup> October, 2015</b>	<p>Shri Sachin K.Verma, Learned Counsel has filed the affidavit on behalf of the Secretary (Mines) stating therein the steps taken so far by the Government in District Badwani &amp; Dhar for checking the activity of illegal sand mining in District. In this behalf, it is given out that five check posts with adequate number of staff including homeguards, constables have been deputed and mineral check posts are being set up by the Chief Municipal officer who in turn will provide necessary steps, etc. for setting up such posts. It has also been submitted in the affidavit that preventive action has also been initiated against illegal sand mining and transportation of illegally extracted mineral i.e. sand and for confiscation of the same. It has also been stated that issue has been highlighted by putting up public notices in the villages and in the Panchayat Bhawan regarding illegal mining and the consequences. It has also been stated that directions have been issued to all concerned officers regarding implementation of the directions of the Hon'ble High Court and the Tribunal in respect of illegal sand mining. For preventing illegal sand mining trenches have been dug on the path and roads leading to these areas and the river front for preventing such heavy vehicles, etc. to reach the mining pits. The Applicant however, insisted that the measures are inadequate and also that original application pertains to four districts including Alirajpur and Khargone for which no information has been submitted.</p>

Learned Counsel for the State further submitted that since information regarding these two districts alone have been called as such the affidavit for two districts on behalf of District Collectors have been filed. We are of the view that since the original application is in respect of all the four districts, the Respondent State shall submit all the information in respect of two Districts of Alirajpur and Khargone also by the next date.

The Applicant submitted that the scheme of the provisions of the Environment (Protection) Act, 1986, rules and under the EIA notification, 2006 under which action is being initiated for obtaining of consents from PCB, requires that the PCB authorities on coming to know of the non-observance and non-compliance of the directions and provisions of the Act, rules and notification take action against the erring person particularly in the light of the Section 15 of the Environment (Protection) Act, 1986.

Our attention has also been invited to the reply submitted before the Hon'ble High Court by the MPPCB with particular reference to the averments made in Para 11 onwards and the document Annexure R5/2 filed along with the said reply with its enclosures.

We have considered the said reply. As per the said reply it has clearly been stated that the last consent issued by PCB expired nearly three years ago i.e. before 11.08.2014, which is the date on the letter (Annexure R5/2) written by the RO, Dhar to the Superintendent Engineer, SEZ, Pithampur on the said subject of illegal mining and particular reference to the contents of this OA. In this letter it is indicated that no sand mining in District Dhar and Alirajpur have valid consent from the MPPCB as per the records available and the consents that they had, stand already expired nearly 3 years ago.

In view of the above since it is still alleged that illegal sand mining continues even today and particularly in the submergence area as well as the catchment area in which the mining lease have been granted in the two districts , we would direct that the State furnish information available with the State pertaining to the following:

(1) Details of royalty collection in respect of each of the mining lease area after the date on which the consents for such mining leases expired. We make it clear that we are not entering into the question whether there was any stay in operation by any Court/Tribunal or authority. The mining operations would only have been carried out with valid consents and if the said consent was either not obtained or if obtained had expired then such activity need to be stopped with immediate effect. In case, payment of such royalty have been received by the State that would a *prima facie* indication against such lessee of operations being carried out without proper consent from the MPPCB which is not permissible and would be in contravention of consent to operation from the MPPCB / SEIAA depending upon the area.

(2) The State shall also furnish all information available with it pertaining to any preventive steps taken for apprehending such illegal mining, transportation of sand, confiscation of mineral and / or transporting and storage with details of any penalties imposed or compounding fee levied before release of either the mineral or the vehicle in First Information Reports or complaints lodged by the State Mining Department / Police. What applies in the two districts of Alirajpur and Khargone, the same information shall also be submitted before the Tribunal by the State in respect of District Badwani and Dhar. The said information be provided to this Tribunal by 17.11.2015.

The affidavit and the applications filed today are taken on record.

List on 17<sup>th</sup> November, 2015, as prayed and as agreed.

.....JM  
(DALIP SINGH)

.....EM  
(PROF. A.R.YOUSUF)

