

## **WP-18183-2014**

*(MEDHA PATKAR Vs THE STATE OF MADHYA PRADESH)*

**21-07-2015**

Ms.Medha Patkar, petitioner in person.

Shri R.N.Singh, learned Sr. Advocate with Shri Arpan J. Pawar, learned counsel for the respondent No.2.

Shri Samdarshi Tiwari, Additional Advocate General for the respondents No.6 and 7.

Shri R.S.Siddiqui, learned counsel appears for the respondent No.3.

Shri V.S.Shrotri, learned Sr. Advocate with Shri V.Jauhari, learned counsel for the respondent No.5.

Two issues are involved in this Public Interest Litigation filed by the petitioners. The first issue is with regard to grant of lease by the State Government and its authorities in respect of the land which is already vested now in the Narmada Valley Development Authority and the question is as to whether State Government and its authorities can grant mining lease now in the area which is vested with the Narmada Valley Development Authority. The second issue is an environmental issue arising out of carrying out of mining activities particularly of the sand in the submerged area.

While hearing the matter on 26.3.2015, this Court found that prima facie there is force in the contention of the petitioners that if the land has already vested in the Narmada Valley Development Authority, the State authorities on their own cannot issue mining lease or permission with respect of such land once the title and authority of the land is given to the Narmada Valley Development Authority. The question as to whether the lease could be granted by the State Government after vesting of the land in Narmada

Valley Development Authority and what will be the effect of vesting of the land in Narmada Valley Development Authority of the right of the State Government to grant mining lease for such land has to be considered by this Court.

However, as far as second issue is concerned, we find that the same is an environmental issue pertaining to illegal mining and pollution created in the submerged area and the other areas connected to it as catchment area is due to illegal mining activities. Even though while hearing the matter on 22.4.2015 and thereafter on 6.5.2015, various orders were passed by us and finally on 1.7.2015, taking note of various illegalities and environmental issues raised by the petitioner, we had thought of constituting a committee to cause an enquiry into such matter, but during the course of hearing today, we find that the second issue involved in the writ petition pertains to environmental issue and issues pertaining to the sand mining in the submerged area, the catchment area and other issues pertaining to echo system, we are of the considered view that the issue pertaining to environment and mining which causes adverse effect on the river bank and the dam which has been constructed is subject to jurisdiction of the National Green Tribunal constituted under the National Green Tribunal Act, 2010 and therefore, the second issue pertaining to permitting of mining in the submerged area and other catchment areas, the consequential pollution and effect on the environment and echo system, in our considered view, has to be taken note of and a decision is to be taken by the National Green Tribunal under the National Green Tribunal Act, 2010. Taking note of the aforesaid circumstances, we deem it appropriate to permit the parties to

canvass the second contention before the National Green Tribunal and for the said purpose we would issue necessary directions to the office to forward the copies of the petition and other documents to the Registrar, National Green Tribunal, Bhopal with a request to place the matter before the Hon'ble Bench and the Hon'ble Bench may consider to proceed with the question of environmental issue and illegal mining in accordance with the provisions of the National Green Tribunal Act, 2010. We are constrained to pass such an order in the peculiar facts and circumstances of the case and make a humble request to the National Green Tribunal because we are told that the issues with regard to sand mining and environment in the State of M.P. is already sub-judice before the National Green Tribunal, Bhopal and yesterday the learned Tribunal has taken cognizance of the same and a complete stay banning mining operation has been issued by the Tribunal. In view of the above, the National Green Tribunal having expertise in the matter and further in view of the jurisdiction vested in the Tribunal to deal with such issue under the National Green Tribunal Act, 2010, we are constrained to pass the aforesaid order. As far as this petition is concerned, we will deal with the first question i.e. right of the State Government and its authorities in granting the mining lease after vesting of the land in Narmada Valley Development Authority.

Accordingly, we direct the Registry to prepare three photocopies of the entire set of documents including petition, documents, annexures, return, additional documents, interlocutory applications and forward the

same to the Registrar of National Green Tribunal, Bhopal with a request to him to place the matter along with copy of this order before the Hon'ble Bench for proceeding in the matter in accordance with law. The parties may appear before the National Green Tribunal, Bhopal for proceeding in the matter in accordance with law.

As far as present petition is concerned, it shall proceed for considering the first issue as indicated hereinabove and the question of contempt involved in the matter. The question of contempt which is said to be committed during the pendency of this matter before this Court in pursuance to the interim order passed shall be considered in connected Contempt Case No.843/2015.

List the matter after six weeks.

Office to comply with the aforesaid directions within one week.

**(RAJENDRA MENON)**  
**JUDGE**

**(SUSHIL KUMAR GUPTA)**  
**JUDGE**