

**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 Ravi Goyal, Adv.
MoEF&CC: Shri Om S.Shrivastav, Adv.**

Date and Remarks	Order of the Tribunal
Order No.3 17th November, 2015	<p>Today, Counsel for the State Shri Sachin K.Verma has filed two compliance reports in pursuance of our order dated 12.10.2015. These reports are in respect of the action taken in the two Districts of Alirajpur and Khargone which was not included in the previous reports that were filed by the State as the issue at hand pertains to four Districts of Alirajpur, Khargone, Badwani and Dhar.</p> <p>As regards the action taken for Alirajpur District is concerned, it is submitted that directions have been issued to the concerned officers to take strict action against illegal mining, storage and transportation in the entire District of Alirajpur vide letter dated 22.10.2015. It has further been stated that as a result of the preventive measures initiated by the State, 147 cases of illegal transportation, two cases of illegal mining and two cases of illegal storage were registered. The details have been submitted in Annexure RR/2 along with this report. It has however been submitted in the compliance report filed today that for the District Alirajpur, 33 leases were allotted out of which 22 leases were allowed to run as they possess necessary consent from SEIAA. However, even these 22 do not possess consent from the MPPCB.</p> <p>Similarly, so far as District Khargone is concerned similar letters have been issued by the Administration against illegal mining, storage and transportation of sand on 24.10.2015.</p>

In compliance of the aforesaid orders, preventive steps were taken and about 100 cases of illegal transportation, 3 cases of illegal mining and 3 cases of illegal storage were registered and adjudicated in accordance with law which means that these cases were compounded after taking penalty and the mineral released and also the vehicle involved was released. It was further submitted that in the District Khargone, the mining activity is governed by the State Mining Corporation. It is however admitted that SEIAA has not granted any clearance in respect of the mines in Khargone District and no mining activity is being carried out since 12.07.2015.

The Applicant appearing in person submitted that the State has not taken adequate measures for preventing illegal mining, transportation and storage of the sand mineral in as much as hardly any check post has been established in the four Districts and whatever is being done is only by way of lip service for the satisfaction of the record in this case. It is further submitted that when mining itself of the mineral from the rivers bed and the pits of the nallahs is under question, the State has no business to compound the cases after charging the compounding amount and allow the mineral to be taken away by persons involved.

At this stage we do not wish to go into the aforesaid question, however, we direct that the State take greater care and ensure adequate number of check points and preventive measures for preventing the mining in the area till such time as no valid mining leases or permissions are granted.

One of the issues that emerged during the course of hearing and which we are concerned particularly in view of the fact that the Hon'ble High Court has referred the issue pertaining to carrying out of the mining activities particularly of sand in the submerged area.

There is unanimity amongst the parties that "submerged area" would mean the area get submerged by the water from the dam as a result of completion of the project. It was also submitted that the time when the

project report was submitted for an appraisal and for hearing the issue with regard to the life of the project and on the issue of the issues for determining the life of the project being as a result of the amount of silt that would be carrying to the reservoir must have been taken into account.

Learned Counsel Shri Om S. Shrivastav appearing for the MoEF submitted that while dealing with such issues, preventive measure which may be necessary for preventing silting that would affect the life of the project is taken care of and considered and also if necessary, measures are suggested for taking preventive action for preserving the present state and preventing future deterioration by not allowing silting to come into the reservoir whether it is through the main river or its tributaries.

As was reflected from the report submitted before us by the Learned Counsel for the State that in the District of Alirajpur SEIAA has granted consent to 22 mining leases though consents to operate have not been given by MPPCB so far.

This raises the issue that while granting the permission and clearance for the main project the issue of silting affecting the life of the project having been taken note of and protective measures if required in that behalf having been suggested on what grounds the SEIAA considered the grant of permissions to 22 mining leases in the submergence area, as it is generally felt that the silting would adversely affect the project. We would therefore, direct that a notice be issued to SEIAA to explain and submit the record as to on what basis/grounds these consents were granted by SEIAA to these 22 mining leases in Alirajpur District. The notice be given Dasti to the Learned Counsel for the MPPCB along with copy of this order.

In the meanwhile we expect that the MPPCB authority based upon the information submitted by the State for various offences that have been committed, shall examine individual complaints and file proceedings of prosecution against the concerned persons. For the aforesaid purpose the concerned mining officer who has registered the complaints shall provide a

copy of the complaints to the Regional Officer of the MPPCB.

Let the matter be listed on **11th December, 2015.**

.....,JM
(DALIP SINGH)

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

