

1.7.2015

Petitioners are represented by Ms.Medha Patkar.

Shri R.N.Singh, learned Senior Advocate with Shri A.J.Pawar, counsel for respondent nos.1 & 2.

Shri J.K.Jain, Assistant Solicitor General for respondent no.3.

Shri Ashish Shroti, counsel appears for respondent no.5.

Shri Samdarshi Tiwari, Dy.A.G., for respondent nos.6 to 9.

Shri P.K.Kaurav, counsel for intervener M.P.State Mining Corporation.

Intervention by the M.P.State Mining Corporation is allowed. They be impleaded as respondent. To that effect necessary correction be made in the cause title within one week.

Overwhelming report and affidavit have been filed to indicate that the interim order passed by this Court on 6.5.2015 is being complied with and now the preventive order passed by this Court prohibiting mining activities is being complied with. However petitioner who appears in person has filed objection and documents so also contempt petition bearing Con.C.No.843/2015 indicating that even now various mining activities are going on. She submits that a proper enquiry and investigation into the matter should be conducted and against all the illegal mining

activities which have undertaken and which are still in progress, coercive steps be taken against the erring official or the culprits and they should also be prosecuted.

Even though Shri Samdarshi Tiwari, learned Dy.A.G., appearing for State and other counsel submitted that the allegations raised by Ms.Patkar are not correct, but we have gone through the material available and we find that for the purpose of restraining and stopping the illegal mining activities, some independent Commission or Agency should be appointed which can conduct surprising inspection or enquiry and submit a report. For the said purpose even though this Court was of the view that the Commission consisting of lawyers should be appointed, but in the back drop of the situation prevailing it is necessary that some technical experts should be available to assist the Commission or the Agency so appointed, that apart security concern is also to be addressed.

Keeping in view aforesaid, we propose to constitute a Commission consisting of three Advocates practicing in this Court and experts consisting of an officer from the Department of Geology, an officer from the Department of Mining, an officer from Revenue Department, an officer from Police Department and one renowned social worker unconnected with the dispute and who are not posted in the District or Division in question. Shri Samdarshi Tiwari is directed to submit to us a list of officers not below the rank

of Joint Secretary or Additional Secretary in the Department of Mining, Geology, Revenue and an expert in Environment alongwith the name of social worker in the area by the next date. He should submit a panel of at least 5 persons in each category who according to the State Government can be nominated to this Commission.

List the matter for constitution of the Commission and deciding its term, if required on 9th July, 2015.

A copy of this order be given to Shri Samdarshi Tiwari, learned Dy.A.G., for necessary compliance.

On 9th July, 2015 appearance of petitioners and their representative is not necessary, as the matter shall be taken up for constitution of the Commission.

Parties were also heard on the question of continuing and prohibiting mining activities.

Prima facie we are of the considered view that the land and area which comes under the submerged portion after construction of dam and which is handed over to the Narmada Valley Development Authority, the M.P.State Mining Corporation has no power or authority for granting mining lease in such areas and no mining activities should be carried out in such area.

Accordingly, it is directed that until further orders the M.P.State Mining Corporation is restrained from granting any lease in the area which has been handed over to the Narmada Valley Development Authority and if any mining

activities are going on in the area which has been granted to the Narmada Valley Development Authority the same stopped forthwith. It would be for the Collector of the area concerned to stop all the mining activities in such area. In case any compliant is received regarding illegal mining activities, the Collector of the concerned District shall be held responsible .

List the matter for further consideration on 21st of July, 2015, as prayed for by the learned counsel for parties.

C.C., as per rules.

(RAJENDRA MENON)
JUDGE

(SUSHIL KUMAR GUPTA)
JUDGE

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