

**BEFORE THE PRINCIPAL BENCH
NATIONAL GREEN TRIBUNAL
NEW DELHI**

CIRCUIT BENCH AT JODHPUR

**Original Application No. 439(T_{HC})/2013
(CWP No. 4053 of 2013)**

And

**Original Application No. 440(T_{HC})/2013
(CWP No. 6696 of 2012)**

And

**Original Application No. 441(T_{HC})/2013
(CWP No. 4576 of 2013)**

And

**Original Application No. 54(T_{HC})/2014
CWP No. 6541 of 2011**

And

**Original Application No. 55(T_{HC})/2014
CWP No. 4861 of 2013**

And

**Original Application No. 53(T_{HC})/2014
CWP No. 7241 of 2010**

In the matters of : -

M/s Vijay Dangi Vs. Union of India & Ors.

And

M/s Kamus Stone P. Ltd. Vs. Union of India & Ors.

And

M/s Tripura Marble & Granite Vs. Union of India & Ors.

And

Kalyan Prasad Gupta Vs. Union of India & Ors.

And

New Age Marble & Minerals Vs. Union of India & Ors.

And

M/s Nalwaya Minerals India Pvt. Ltd. Vs. State of Rajasthan & Ors.

**CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE PROF. (DR.) P.C. MISHRA, EXPERT MEMBER
HON'BLE DR. R.C. TRIVEDI, EXPERT MEMBER**

**Present : Petitioner (s) : Mr. M.S. Singhvi, Sr. Adv. and Mr. Vikas Balia and Mr. Sanjay, Advs.
Respondent : Mr. Sanjeet Purohit, Adv. for MoEF
Mr. Sanjay Raj Paliwal, Adv. for Forest Dept.
R-3 in CWP No. 7241/2010
Mr. Manish Shishodia, Adv. for SPCB**

Date and Remarks	Orders of the Tribunal
Item Nos. 15 to 17 and supplementary Item Nos. 14 to 16 March 7, 2014	We have heard learned Counsel appearing for the parties. The only relief sought in all the above applications is that the Respondents be directed to accord extension for a period of 13 years or such other period as prayed for in the applications

and non granting of diversion is arbitrary and the Respondents be restrained from interfering in the mining activity.

We may refer to the facts of the Original Application No. 53 of 2014 (THC) (M/s Nalwaya Minerals India Pvt. Ltd. Vs State of Rajasthan & Ors.). The Applicant has been carrying on mining activity since 1963. Lastly, they were granted diversion permission for a period of ten years vide order dated 08.08.2000 vide annexure-8. Thereafter, upon expiry of the said period, the diversion permission has not been granted resulting closure of the mining activity of the Applicant.

According to the Applicant, in other cases, in the similarly placed cases from the same mining area for the same minerals, the Respondents have granted permission even for 24 or 30 years depending on each case.

However, the permission to the Applicant has not been granted and is kept pending. It is, however, the case of the Applicant that vide letter dated 28th October, 2009, the application of the Applicant had been recommended and forwarded. The MoEF had asked for the comments of the State Government vide its letter dated 20th February, 2010 and the State Government had recommended the case of the Applicant for grant of diversion permission for thirteen years. Since, this matter is pending before the Court, MoEF has not finally disposed, either way.

Another issue that is raised before the Tribunal is that whether the area in question, where the Applicant is carrying on mining activity, forms part of the Aravalli Hills or not. If it forms part thereof then by interim order of the Hon'ble Supreme Court of India dated 20th February, 2010 any mining activity is not permitted in the Aravalli Hills. However, according to the learned Counsel appearing for the Applicant, their mining area

does not fall in Aravalli Hills. According to him, this averment is duly supported by the fact that State Government have already recommended the case of the applicant.

Be that as it may, it is not necessary for us to go into the merits or otherwise of the controversies raised in the present cases, in view of the order that we propose to pass. In fact, learned Counsel appearing for the MoEF had very fairly stated that the matter requires consideration and disposal at the end of the MoEF.

Having heard the learned Counsel appearing for the parties, we dispose of all the above applications with a direction to MoEF to consider the cases of the respective Applicants and pass appropriate orders in accordance with law, keeping in view of the above facts within a period of either (8) weeks from today. We make it clear that the orders passed shall be communicated to the parties without any further delay.

In the other bunch of applications before, us the primary ground taken is discrimination and not acting uniformly in relation to the similar clusters of mining. In some clusters, diversion permission has been granted for a period of 20 years while in some clusters the period of lease granted was 30 years while in other cases it had been mentioned 20 years or the expiry of the period of lease whichever is lesser.

According to the Applicant, this discrimination has caused serious prejudice to them and the MoEF should be directed to consider all the cases by adopting a uniform policy. Learned Counsel appearing for the MoEF submits that the Ministry would consider these matters in accordance with law and policy formulated by it. However, learned Counsel appearing for the MoEF also stated that in some of the cases the State Government has not sent its recommendation. Wherever

such recommendation has not been sent by the State Government, we direct the State Government to send its recommendation within a period of three (3) weeks from today and final orders thereof will be passed by the MoEF within five (5) weeks thereafter.

Learned Counsel appearing for the Applicants submits that in terms of the interim order of the Hon'ble High Court they are carrying on mining activity. The interim order shall continue till the period of eight (8) weeks from today.

With the above order, these petitions are disposed of while leaving the parties to bear their own costs.

.....,C.P.
(Swatanter Kumar)

.....,JM
(M.S. Nambiar)

.....,EM
(Prof. (Dr.) P.C. Mishra)

.....,EM
(Dr. R.C. Trivedi)

