

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

**M.As.No. 560/2014, 561/2014 & 565/2014**

and

**Original Application No. 146/2014 (CZ)**

**Nityanand Mishra Vs. State of M.P. & 7 Ors.**

**CORAM : HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER  
HON'BLE MR. P.S.RAO, EXPERT MEMBER**

**PRESENT : Applicant : Applicant in perSon  
Respondent 1,5,6,7,8: Shri Sachin K. Verma, Advocate  
Respondent No. 4 : Shri Om Shankar Shrivastav, Advocate  
Respondent No. 9 : Shri Naman Nagrath, Sr. Advocate  
With Shri Quasim Ali, Advocate  
Respondent No. 8: Shri Yadavendra Yadav, Advocate**

<b>Date and Remarks</b>	<b>Orders of the Tribunal</b>
<b>Item No.1 29<sup>th</sup> September, 2014</b>	<p><b><u>M.A.No. 560/2014</u></b></p> <p>The State has filed this application with the prayer to take on record the documents filed by way of Annexure R/D. Copy of the same has been furnished to the Learned Counsel for the Applicant. The said documents are ordered to be taken on record.</p> <p>M.A.No. 560/2014 is allowed and disposed of.</p> <p><b><u>M.A.No. 561/2014</u></b></p> <p>Learned Counsel for the MPPCB submitted this application seeking perSon al exemption from appearance today. The said application allowed.</p> <p><b><u>M.A.No. 565/2014</u></b></p> <p>Primarily submissions have been filed on behalf of Jaypee Sidhi Cement Plant with the prayer that the same may be taken on record alongwith the documents annexed therewith as also that they may be impleaded as party to this application</p> <p>Having considered the matter and heard the Learned Counsel for the parties, we are inclined to allow the M.A. filed on behalf M/s Jaypee Sidhi Cement for taking on record the</p>

primary submissions submitted by them alongwith the documents annexed thereto as also impleading the M/s Jaypee Sidhi Cement as party Respondent No. 9.

We have heard the Learned Counsel appearing for M/s Jaypee Sidhi Cement and also perused the Annexure R9/1 Minutes of the meeting of the Expert Committee which have been filed alongwith submissions in the M.A. revealing that the Expert Committee on conservation and planning of *Son* Gharial Sanctuary which met on 13.03.2014, has taken specific issues which pose threat to the *Son* Gharial Sanctuary, into consideration. It was pointed out, among others, that the cause of concern with regard to the destruction of the breeding site of the Gharials in the *Son* rivers is the site which is chosen for the construction of the high level bridge upstream of the Jogdaha as the Expert Committee was of the opinion that the breeding area is just below this particular stretch of the river and construction of 20 piers of the bridge is likely to adversely affect the said breeding area. However, we find that the Expert Committee has taken note of the fact that the Hon'ble Supreme Court of India on the recommendations of the National Board for Wild Life has granted permission for the construction of the bridge. Shri Om Shankar Shrivastav, Learned Counsel appearing on behalf of MoEF is directed to place on record a copy of the Hon'ble Supreme Court's order with the conditions attached. He would also file an affidavit to the effect whether work of the bridge in question has already started and whether these conditions were imposed by the Hon'ble Supreme Court on the recommendations of the National Board for Wild Life have been incorporated in the work orders and also the fact who would be responsible for monitoring the observance of

those conditions.

Among the other issues which were considered by the Expert Committee under Para 8, we find that one of the causes for concern was with regard to the maintenance of the water quality in the Sanctuary and Committee sought the recommendations of the Water Quality Committee Members on the aforesaid issue. In the meeting of the Expert Committee held on 13.03.2014, it was stated that two months' time is granted to the Water Quality Committee to finalise their recommendations in this behalf and submit their report. Action in this behalf was required to be taken by the CCF, Rewa as well as the Member Secretary, Sanjay Tiger Reserve. Shri Sachin K.Verma appearing for the State of MP is directed to submit the report of the Water Quality Committee with its recommendations in accordance with Para 8 of the report of the Expert Committee. It was also pointed out that under Para No. 16 of the Expert Committee Report dated 13.03.2014, it has taken note of the fact that while Jaypee Sidhi Cement plant was to contribute fund for long term management project for the survival of the 3 species namely Gharial, Soft Shell Turtle and Indian Skimmer.

It was also taken note of the fact that on the stretch of the river *Son*, 5 other projects namely (1) HINDALCO, (2) DB Power (first stage Hardi) (3) DB Power (second stage Hardi) (4) Suryachakra Power Ventures Ltd. and (5) Jaypee Nigrie Super Thermal Plant which are located upstream and one project i.e. Reliance Power Chitrangi, Sasan Project located downstream are also existing and as mentioned in Para No. 16, a clarification was sought whether the Jaypee Sidhi Cement alone was required to fund the preparation and implementation

of the project as conceived by the Expert Committee and the Chief Wildlife Warden, MP was required to obtain clarification from the NBWL. Shri Sachin K.Verma, in the affidavit to be filed, as directed above, shall also indicate whether the aforesaid clarification has been received and the contents thereof.

While on the above issue of having noted the fact that there are as many as 6 projects upstream including that of Jaypee Sidhi Cement and one project downstream on the river *Son* where the Gharial Sanctuary exists, the Learned Counsel for the MoEF shall apprise this Tribunal whether in the EIAs prepared and examined by the EAC before the grant of EC for such projects as mentioned above while considering the impact of each project on the Sanctuary, the cumulative impact of all such projects while considering the application of the Project Proponent for subsequent ECs, was taken into account and what was the material placed before the Expert Appraisal Committee and other considerations which resulted in the EAC recommendations. It has been several times highlighted by the Hon'ble Courts as well as by this Tribunal that while carrying out the assessments, the cumulative impact of such projects shall always be taken into account. In the affidavit which has been directed hereinabove to be filed by the MoEF, the aforesaid information shall be included before this Tribunal with the copies of the minutes of the EAC meetings.

While this application was filed primarily on account of the menace of illegal sand mining on the river *Son* causing severe damage to the habitation of the Gharial Wildlife Sanctuary which is an admitted position by the State as well as in the Minutes of the Meeting of the Expert Committee, the

sand mining is quite rampant. It has been noted by the Expert Committee that “*the Sanctuary has been facing huge challenge from the sand mafia.*” Learned Counsel for the State Shri Sachin K.Verma had submitted that certain measures have been put into place by the State Government as well as District Administration and all efforts are being made to control the illegal sand mining in the area. However, it is not denied that complete check on the illegal mining has not been possible.

Another issue which was taken up by the Expert Committee was with regard to sudden and excessive discharge of water from the Bansagar Reservoir located upstream to the Sanctuary which adversely affects the breeding of the Gharials and Turtles particularly when such water destroys the breeding habitat and even washes away the eggs which have been laid in such areas. It was submitted that the reservoir on river *Son* was accomplished under water sharing agreement between the States of Madhya Pradesh, Uttar Pradesh and Bihar and as & when the States downstream make a request for water to be released, such water is released from the barrage. We would like to know from the Respondent MoEF whether, the aforesaid issue which was brought before the Expert Committee has been examined and what remedial measures to be taken as it is an inter State river water sharing issue and in pursuance of the same for maintaining a reasonable flow of water without excessive and sudden discharge so as to prevent damage to the habitat of Gharials, Turtles and Skimmers in the *Son* river has been taken into account and consequently whether any measures for maintaining a slow and regulated flow of water without excessive discharge so that damage to the sanctuary and the habitat could be avoided, have been taken

into account and necessary instructions issued in this behalf.

During the course of hearing, the Learned Counsel appearing for Respondent No. 9 submitted that while having sought certain clarifications with regard to the Demand Note issued to them for depositing of Rs. 28.47 lakhs, they have nonetheless agreed to deposit the same. The aforesaid amount shall be deposited in terms of the Demand Note by Respondent No. 9 within two weeks from today.

List on **8<sup>th</sup> December, 2014.**

.....JM  
(DALIP SINGH)

.....EM  
(P.S.RAO)

