

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

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**(M.A. Nos.448/2017, 449/2017, 450/2017, 451/2017, 452/2017)**

**in**

**Original Application No. 90/2017(CZ)**

**IN THE MATTER OF:**

1. Tikam Singh  
S/o Shri Uttam Singh,  
Aged about 38 years,  
R/o Rajpooton Ka Bas, Daspan,  
Rajasthan

.....Applicant

Versus

1. State of Rajasthan,  
Through the Principal Secretary,  
Mines Department,  
Government of Rajasthan,  
Government Secretariat,  
Jaipur (Rajasthan)
2. Principal Secretary,  
Transport Department,  
Government of Rajasthan,  
Government Secretariat,  
Jaipur (Rajasthan)
3. Director,  
Mines & Geology Department,  
Government of Rajasthan,  
Udaipur (Rajasthan)
4. The Collector,  
Jalore (Rajasthan)
5. Superintendent of Police,  
Jalore (Rajasthan)
6. The District Transport Officer,  
Jalore (Rajasthan)

.....Respondents

**COUNSEL FOR APPLICANT:**

Shri Sandeep Singh Shekhawat, Mr. Ayush Dev Bajpai, Advs.

**COUNSEL FOR RESPONDENTS:**

Mr. Akshay Pare, Adv. Ms. Ritu Pathak, Adv.

Mr. Amit Shrivastava, Adv. for GPCB

Mr. Sandeep Singh, Adv. and Mr. Rohit Sharma, Adv. for the State of Rajasthan

**JUDGEMENT**

**PRESENT:**

**Hon'ble Mr. Justice Raghuvendra S. Rathore (Judicial Member)**

**Hon'ble Dr. Satyawan Singh Garbyal (Expert Member)**

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**Reserved on: 16<sup>th</sup> November, 2017**

**Pronounced on: 23<sup>rd</sup> March, 2018**

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1. Whether the judgment is allowed to be published on the net?
2. Whether the judgment is allowed to be published in the NGT Reporter?

**JUSTICE RAGHUVENDRA S. RATHORE, (JUDICIAL MEMBER)**

1. Since the beginning when this matter was listed before us the Learned Counsel for the respondents had vehemently submitted that the Original Application is not maintainable. Further, they had submitted that the subject matter of this application does not fall within the purview and scope of Section 14 or any other provisions of the NGT Act 2010. Therefore, it was requested by the Learned Counsel for all the respondents that preliminary issue of maintainability, including territorial jurisdiction of this Bench, may be considered and decided at the first

instance. Hence, the parties were heard on the question of maintainability of this Original Application.

**2.** This Original Application has been filed by the applicant who is resident of a place nearby Sanchore, District Jhalor, Rajasthan. According to the applicant the present subject matter of which he is aggrieved is “illegal transportation of mineral Bajari from the State of Gujarat into the State of Rajasthan whereas the Gujarat Mines and Mineral Concession Rules clearly provides, under Rule, 70, that the mineral Bajari shall not be transported outside the State of Gujarat and the Ravanna issued for the aforesaid would be illegal beyond the territorial limits of Gujarat State.”

**3.** It has been submitted by the applicant that the trucks from outside State of Rajasthan, precisely from the State of Gujarat are coming with illegal mined minerals of Bajri in the said area of Rajasthan. Further, it has been submitted that those trucks operate overloaded and have substantially destroyed the roads of the area in question. According to the applicant local trucks often go to Gujarat border districts from where the trucks, after paying lesser amount of royalty and permit fee and in connivance with the local administration, come within the State of Rajasthan though the same is not permitted as per the Gujarat Minor Mineral Concession Rules. The truck operators of Gujarat and Rajasthan which operate

on the border district are flouting the aforesaid rules by plying trucks overloaded with mineral from Gujarat to earn huge profit and to distort the local roads of Rajasthan. It is also submitted that vehicles coming from Gujarat are having bajari, over their capacity and paying a lesser amount for excavation and other charges which is being used in the State of Rajasthan to give serious competition to local truck operators.

4. Such action is being perpetuated by the local administration whereby the vehicles are allowed to come from Gujarat without considering the fact that any vehicles entering into the State of Rajasthan without any payment of royalty or permit fee and merely on the basis of the royalty issued by the minors of the State of Gujarat, the same is bound to adversely affect the environment by plying of heavy vehicles. The local truck operators, with help of the villagers, are also plying overloaded vehicles to compete with the trucks coming from the State of Gujarat and as such competition adversely affects the prospects of maintenance of environment, law and order situation within the state of Rajasthan. There are illegal operators from Gujarat contributing extensively in overloading of vehicles and are not letting the local truck operators to operate legally and are constantly fighting against the local administration.

5. On feeling aggrieved against action of the respondents in allowing the vehicles from Gujarat without considering the fact that the Ravanna issued to them are invalid and beyond the territorial limits of Gujarat. It is causing financial loss to the State exchequer. Therefore, the petitioner has preferred this Original Application with the following prayers :

- (I) *Direct the respondents to restrain the vehicle carrying Bajri coming from State of Gujarat to enter within the State of Rajasthan.*
- (II) *Further the respondents be directed to restrain from allowing over loaded of vehicles and keeping a check over the illegal mining.*
- (III) *Further the respondents be directed to establish Check-Posts specifically to check over such transportation of vehicles or in the alternate if any already established the same may be permitted to function.*
- (IV) *Pass such other or further orders as this Hon'ble Tribunal may deem fit in the interests of justice.*

6. Later on the applicant filed an M.A. (387/2017) whereby the amendment in the Original Application was sought. By the said amendment two more reliefs were sought in the prayer clause which were as follows :

- “V. *Direct the State of Gujrat to implement the provision of the Gujrat Mining Mineral Concession Rules, which prohibits the transportation of mineral outside the territorial boundary of Gujarat, so that illegal transportation of minerals is not undertaken by the miners of Gujarat in the State of Rajasthan.*
- VI. *Direct the State of Gujarat to compensate the State of Rajasthan and its valid mining lease holders for the revenue losses so, inculcated, due to the illegality undertaken by the State of Gujarat.”*



Another M.A. (388/2017) was filed by the applicant for addition of parties such as State of Gujarat through Chief Secretary as respondent no. 7 and Principal Secretary, State of Gujarat, Department of Industries and Mines as, respondent no. 8.

7. According to the applicant formal lease has been entered upon but the LOI holders are functioning on the lease hold areas on the basis of directions of the Hon'ble apex court in C.A. No. 9703 of 2013 dated 25.01.2013 and further on the basis of temporary agreement entered between the LOI holders and the State of Rajasthan. The temporary agreement provides certain conditions which were duly published by the State of Rajasthan on 19.12.2013 which are to be abided by LOI holders. Further, it is stated that the State of Rajasthan has minor density of population in border district on account of huge geographical area and less amount of population in the said area, of which the development is at a snail's speed and therefore, the demand of minerals is also very limited. This demand is duly catered upon by the local truck operators considering the basic legal provisions for maintenance of law and order as well as keeping the vehicles within load as LOI holders in the State of Rajasthan are bound by the temporary conditions, do not promote overloading vehicles. But on account of the fact that the vehicles coming from Gujarat are having Bajri

over their capacity and paying lesser amount for excavation and other charges which is being used in State of Rajasthan, gives grave competition to the local truck operators.

- 8.** It is also submitted by the applicant that illegal operation of vehicles from State of Gujarat creates a peculiar condition whereby local vehicles which are using limited route of transport while keeping their vehicles filled with minerals excavated by local LOI holders, are being forced to either commit an illegality so as to compete for viability with vehicles coming from Gujarat or to stop working in the aforesaid field. This unfair competition is causing grave damage to the local roads and transport, as vehicles are travelling on the village roads and municipal roads in high propensity and longer distance to curtail over the domestic competition. Moreover, with less traffic being available with the local LOI holders to compete in the effective competition they are also being forced to overloading. The local truck operators, with the help of villagers, are also plying vehicles over loaded to compete with the trucks coming from the State of Gujarat and such competition adversely affects the prospects of maintenance of environment, law and order within the State.
- 9.** Before proceeding further it would be appropriate to take note of the relevant provisions of law :

**Section 14:** Tribunal to settle disputes. -

(1) The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of the enactments specified in Schedule I.

**2. Definition - (1)**

(m) "substantial question relating to environment" shall include an instance where,-

(i) there is a direct violation of a specific statutory environmental obligation by a person by which,-

(A) the community at large other than an individual or group of individuals is affected or likely to be affected by the environmental consequences; or

(B) the gravity of damage to the environment or property is substantial; or

(C) the damage to public health is broadly measurable;

(ii) the environmental consequences relate to a specific activity or a point source of pollution;

**4. Composition of Tribunal -**

(3) The Central Government may, by notification, specify the ordinary place or places of sitting of the Tribunal, and the territorial jurisdiction falling under each such place of sitting.



**10.** At the outset it may be mentioned here that the Central Government, in exercise of its powers conferred under sub Section (3) of Section (4) of the National Green Tribunal Act, 2010 (19 of 2017), had specified Bhopal as the ordinary place of sitting of National Green Tribunal, Central Zone Bench, which was to exercise its jurisdiction in the area / territorial jurisdiction of Madhya Pradesh, Rajasthan and Chhattisgarh, vide notification no. S.O. 1908 (E) dated 17.08.2011.

Thereafter, the Chairperson of National Green Tribunal, in exercise of his powers conferred under clause (D) Sub Section (4) of Section (4) of the National Green Tribunal Act, 2010 read with sub-Rule (1) and (2) of Rule 3 of the National Green Tribunal (Practices and Procedure) Rules, 2011 constituted the Central Zone Bench of the National Green Tribunal at Bhopal to deal with the cases relating to the Central Zone, on 03.04.2013. Pursuant to the said order all the cases under the jurisdiction of Central Zone of National Green Tribunal were transferred to the Central Zone Bench at Bhopal, having jurisdiction in the area / territorial jurisdiction of Madhya Pradesh, Rajasthan and Chhattisgarh which were to be heard w.e.f. 07.04.2013. The order issued by the Chairperson of the National Green Tribunal on 03.04.2013 is as under:

**NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI**

File No. : NGT(PB)/24/2013

Dated :03.04.2013

**ORDER**

*WHEREAS, in exercise of powers conferred by sub-section (3) of Section 4 of the National Green Tribunal Act, 2010 (19<sup>th</sup> of 2010), the Central Government has specified Bhopal as the ordinary place of sitting of the National Green Tribunal, Central Zone Bench which shall exercise jurisdiction in the area / territorial jurisdiction of Madhya Pradesh, Rajasthan & Chhattisgarh, vide Notification No. S.O. 1908 (E) dated 17.08.2011.*

*WHEREAS, in exercise of powers conferred upon the Chairperson, National Green Tribunal, under Clause (d) of sub-section (4) of Section 4 of the National Green Tribunal Act, 2010 read with sub- rules (1) & (2) of Rules 3 of the National Green Tribunal (Practices and Procedure) Rules, 2011, Central Zone Bench of the National Green Tribunal at Bhopal to deal with the cases relating to the Central Zone has been constituted.*

*Now, pursuant to above order, all the cases under the jurisdiction of Central Zone of the National Green Tribunal are hereby transferred to the National Green Tribunal, Central Zone Bench at Bhopal, having jurisdiction in the area / territorial jurisdiction of Madhya Pradesh, Rajasthan and Chhattisgarh, to be heard with effect from 7<sup>th</sup> of April, 2013.*

*Chairperson  
National Green Tribunal*

Therefore, the territorial jurisdiction of the Central Zone Bench at Bhopal is in relation to the area / territorial jurisdiction of Madhya Pradesh, Rajasthan and

Chhattisgarh only. In other words the Central Zone Bench has no jurisdiction over the area / territorial jurisdiction of the State of Gujarat and its authorities.

- 11.** This Tribunal, under the aforesaid provisions of law has the jurisdiction of settling disputes of all Civil Cases where substantial question relating to environment is involved and such question arises out of implementation of enactments specified in Schedule –I. The terms ‘substantial question’ has been defined under Section 2 (m) of the National Green Tribunal Act, 2010. In the instant case the grievance of the applicant is regarding transportation of Bajri from State of Gujarat into the State of Rajasthan. Accordingly, the applicant has sought relief from the respondents to restrain the vehicles carrying Bajri coming from the State of Gujarat and entering the State of Rajasthan. In other words, there is no question relating to environment which can be said to be involved in the present case, much less to say that a substantial question relating to environment. Moreover, there is no question which can be said to arise out of implementation of enactments specified in Schedule I.

It would be relevant to mention here a decision of NGT in the case of *Dr. Arvind Gupta vs. Union of India* (O.A. No. 61 of 2012) decided on 10<sup>th</sup> December, 2015.

*“On the true construction of Section 14 read with Section 2(c) and 2(f) of the NGT Act, to which the Rule of strict construction has to be applied, the radiation would neither be covered under the definition of environment nor under the definition of hazardous substance and, therefore, would not fall within the ambit and scope of Section 14 of the NGT Act. It is not pollutant as it is not a solid, liquid or gaseous substance which is present in such concentration which may or tend to be injurious to the environment. Even if concentration which may or tend to be injurious to the environment. Even if the definitions afore-referred are given liberal construction, then also radiation would not be covered under any of the scheduled acts.”*

- 12.** Besides, the applicant has raised other questions like the implementation of Rule 70 of Gujarat Mining and Mineral Concession Rules. He has also raised a question of overloaded vehicle being plied. The Applicant has further submitted that check post be established for restraining transportation of such vehicles. Accordingly, the Applicant has sought relief from this Tribunal to restrain the vehicles which are carrying Bajri from State of Gujarat and the State of Gujarat be directed to implement the provisions of Gujarat Mining and Mineral Concession Rules which prohibits transportation of minerals outside the boundary of State of Gujarat, so that illegal transportation of minerals is not undertaken

in the State of Rajasthan. The Applicant has also prayed that the State of Gujarat should compensate Rajasthan State and its lease holders for the revenue loses. It was for this purpose that the Applicant had impleaded the State of Gujarat, through its Chief Secretary and also Secretary Department of State Industries.

In our considered opinion, the aforesaid grievances raised by the Applicant does not fall within the purview and scope of Section 14 of the National Green Tribunal Act 2010 nor it can be said to be a dispute where substantial question relating to environment is involved, much less to say, arising out of implementation of the enactments specified in Schedule I.

Therefore, in view of aforesaid facts and circumstances, the question raised by the Applicant and the relief sought, do not fall within the jurisdiction of this Tribunal. We have no hesitation in holding that this Zonal Bench of the Tribunal has no jurisdiction to adjudicate the present Original Application no. 90 of 2017, on two counts, namely, for want of territorial jurisdiction and that the present matter does not involve a substantial question relating to environment nor the question raised by the Applicant arising out by implementation of the enactments specified by the Schedule I. Thus, the Original Application No. 90 of 2017 deserves to be rejected.



Consequently, the Original Application no. 90 of 2017 is dismissed with no order as to cost. As the Original Application has been dismissed today, Miscellaneous Application No. 448/2017, 449/2017, 450/2017, 451/2017 and 452/2017 does not survive and therefore they are also dismissed.

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Justice Raghuvendra S. Rathore  
(Judicial Member)

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Satyawan Singh Garbyal  
(Expert Member)

**Dated: 23<sup>rd</sup> March, 2018**

NGT