

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

Original Application No. 152/2014(CZ)
Virend Singh Vs. State of Rajasthan & 12 Ors.
and
M.A.No. 414/2015

**CORAM : HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER**

**PRESENT : Applicant : Shri Deepesh Joshi, Adv.
Respondent/RSPCB : Shri Sandeep Singh, Adv.
Respondent No. 9, 10 &11: Shri Om S. Shrivastav, Adv.
Respondent No. 12: Shri Shantanoo Saxena, Advocate**

Date and Remarks	Orders of the Tribunal
Item No. 4 4th August, 2015	<p>This Application had been submitted before this Tribunal by the Applicant with the prayer that the Respondent No. 12 and 7 are carrying out illegal mining activity and be directed to close down the same. The grievance raised in the application was that initially the mining lease granted was in respect of only millstone and in garb of the said mining lease, the Respondent No. 12 had started quarrying masonry stone.</p> <p>It was the contention of the Respondent that the masonry stone was part of the over burden and that their mining lease was obtained for millstone as well as the masonry stone which is the part of overburden. It was also submitted that different rates of royalty in respect of each of them has also been prescribed and that the Respondent had been carrying on the activity based upon the mining lease. The issue further evolved from the fact that the EC required as far as masonry stone is concerned was not there and it was only in respect of millstone and as such without a valid EC for carrying out the mining of masonry stone, the Respondent should not be permitted to carry out the aforesaid task of mining masonry stone even if it was</p>

the part of overburden so as to reach the millstone.

Looking to the aforesaid, this Tribunal directed a stay against the Respondent No. 12 on the overburden by way of mining of masonry stone as admittedly there was no EC for the same. At one point of time, even the stand of the State of Rajasthan was that no separate EC is required so far as the removal of the overburden and masonry stone which is to be removed in order to reach the millstone for which the mining lease had been granted. It was also pointed out by the State that in fact lease for mining of millstone included overburden for removal of the masonry stone and since the EC for millstone is there, no separate EC for masonry stone is required. This Tribunal vide its order 29.05.2015 initially stayed the Respondents from removal of the overburden from the mining area. In the meanwhile during the pendency of the original application, the Respondent No. 12 infact submitted application for grant of EC along with all necessary documents. The MoEF which is seized of the matter in the meanwhile also granted ToR to the Respondent No. 12 in this behalf after appraisal of the application submitted before it. The said ToR, it was submitted before us, is in respect of millstone (RoM). Based upon the same, it was submitted that the masonry stone which forms the overburden to reach the millstone and therefore millstone itself was a part of the masonry stone as per the EC granted to the Respondent. Looking to the entire facts and circumstances, this Tribunal vide its order dated 28.05.2015 permitted the Respondents to remove the waste / overburden by way of masonry stone in addition to the millstone. It was directed, by way of safeguards, that it would be the duty of the Respondent to identify and apprise the Mining Engineer concern of the region, the area which the overburden / waste including masonry stone was sought

to be removed.

M.A.No. 414/2015

Counsel for the Respondent No. 12 has today filed M.A.No. 414/2015 wherein it has been prayed to take on record the report of the Mining Engineer and the order issued by the Mining Engineer in this behalf after the area was communicated to the Mining Engineer in terms of our above referred order dated 28.05.201. It was communicated that the permission has been sought in respect of plot No. 1 and 4 of the mining area. Learned Counsel appearing for Respondent No. 12 therefore submitted that the present activity of removing of masonry stone would be confined to plot No. 1 and 4 only as has been permitted under the orders of the Mining Engineer dated 01.06.2015 after having inspected the area and prepared the report on 01.06.2015.

Learned Counsel appearing for the MoEF submitted before us that the application submitted by the Respondent is under consideration of the MoEF, however, it is the practice of the MoEF that in the event of any litigation pending before a Court / Tribunal in respect to any area or mining lease, the MoEF does not take a decision in the matter till the matter is finally decided by the competent Court / Tribunal.

In the light of the above, we feel that the pendency of the Original Application may in fact hamper the decision making process or delay the process before the MoEF which is seized of the matter with respect to grant of EC. Since the Respondent No. 2 has already applied for EC along with the relevant documents and based on the material placed before us for the purpose of the grant of EC, we are of the view that keeping this application pending would not be

fruitful for any of the purpose. In the event of the MoEF refusing to grant EC, based upon the proper appraisal and appreciation of the material before it, the Respondent No. 12 would have the liberty to challenge the order before us. If in the event of grant of EC, it would be open for the Applicant, if so advised, after having gone through the order of the MoEF granting EC, to approach this Tribunal for appropriate relief.

We would, therefore, dispose of the application with the observation that this application has not been decided on the merits which were setup before us and disposal of the same with liberty to the MoEF to take decision in the matter based upon proper appraisal and in the light of the entire record and material placed before it or any other material which it may deem proper to call for in the facts and circumstances.

We would make it clear that our order of 28.05.2015 shall abide the final decision taken by the MoEF so far as grant of EC is concerned and the conditions imposed in the said EC shall be binding on the parties in case of grant of such EC. We would expect the MoEF to take expeditious decision in the matter.

Accordingly, Original Application No. 152/2014 as well as pending Miscellaneous Applications stand disposed of.

.....,JM
(DALIP SINGH)

.....EM
(BIKRAM SINGH SAJWAN)