

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

M.A.No. . 627/2014,640/2014, 641/2014,642/2014, 681/2014,682/2014 & 683/2014

in

Original Application No. 116/2013 (THC) (CZ)
Netyendra Manav Vs. State of Rajasthan & Ors.

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

PRESENT : Applicants: Shri Dharamvir Sharma, Advocate
Applicants in M.A. : Shri Ayush Dev Bajpai, Advocate
Respondent RSPCB & RRDC : Shri Rohit Sharma, Advocate for
Shri Sandeep Singh, Advocate
Respondent State of Rajasthan: Shri Sachin K. Verma, Adv.with
Shri K. Kunal,
District Magistrate, Jaipur
Shri MP. Swami,
District Mgistrate, Alwar
Shri Vikas Kumar, S.P., Alwar
Shri Nitin Deep Balagan
SP (Rural) Jaipur
Shri P.S. Meena
Mining Engineer, Sikar
Avinash Kuldeep
Mining Engineer, Jaipur

Date and Remarks	Orders of the Tribunal
Order no. 12 2nd December, 2014	Misc. Applications No. 627,640,641,642,681 and 682 of 2014 filed by the owners of the vehicles for release of their seized vehicles, shall be considered after the replies have been submitted by the Learned Counsel for the State who shall also indicate whether these vehicles have been previously involved in similar activities. Meanwhile the Applicants who have submitted these MAs for release of their vehicles, are directed to submit information with regard to the parties to whom they had been supplying the material from the area in dispute in Rajasthan, giving full details including the duration for which such vehicles were used for supplying such material with the names of the proprietors / consumers / parties to whom such material has been supplied

(project details).

The Applicant has filed an affidavit dtd. 29.11.2014. Copy of the same has been furnished to the Learned Counsel for the State, who after going through the same submitted that time may be allowed to submit the counter affidavit to the same.

M.A. No. 683/2014

Pursuant to our order the District Collectors, Jaipur as well as Alwar and the Superintendent of Police (Rural), Jaipur and Superintendent of Police, Alwar are present. The Learned Counsel for the State submitted a compliance report in M.A. No. 683/2014 on our order dtd. 31.10.2014 and further prays that steps in pursuant to our order, are still being undertaken and that he may be permitted to submit further information pertaining to the same, more importantly with regard to the details of the parties to whom such illegally mined material was being supplied. It was suggested that the parties who are receiving the material from Rajasthan, which is being illegally mined, are in fact receivers of stolen property and accordingly cases under IPC may be registered against them. The Learned Counsel for the State submits that the feasibility of incorporating the aforesaid aspect in the pending cases shall also be looked into and the aspect of impleading them as co-accused for the same will also be considered. The District Collectors, Jaipur and Alwar submitted that after the issue of previous orders by this Tribunal various steps have been taken by the Administration and as a result thereof, there is a noticeable change in the prevailing circumstances. The District Administration has also contacted the National Highway Authorities and seeking their assistance in the matter. Also steps have been taken for checking the plying of overloaded vehicles the details of which as stated by the Learned

Counsel for the State, shall be submitted before this Tribunal.

It has been brought to our notice that as a result of the illegal mining in the river bed Sadi and other territories and nallahs as was evident from the photographs submitted by the Learned Counsel for the State, deep excavation has been carried out and huge quantity of residue as a result of washing activities, has got accumulated. It was submitted that in the last 4-5 years no flow in the river bed could be noticed because of such illegal mining going on in the area. Primarily as a result of the aforesaid activities the water table in the adjoining area and downstream has considerable gone down which is a cause of concern. It was also submitted by the District Collector, Jaipur that in the garb of carrying out mining of bajri and sand in the *Khatedari* lands, adjoining lands were also being exploited beyond the boundary of *Khatedari* lands of the tenants (*Khastkar*). In such cases action in terms of the provision of section 171 of the Rajasthan Tenancy Act has been initiated and *Khatedari* rights are terminated. This has been done to prevent the illegal activities pertaining to the sand mining.

We are of the view that in the areas which includes revenue lands (*Nazul land*) '*siwai chak*' '*charagah*' and forest lands which are more prone to such illegal activities the Revenue and Forest Department officials shall take measures for preservation of such lands by demarcating them and also going ahead with extensive plantation with suitable species so as to prevent interference and encroachments in the same. The village joint Forest Management Committees can also be mobilised for sharing the benefits and for involving them in the development of the area so that a check on illegal mining activities and encroachments can be maintained and such illegal activities are prevented as also for getting necessary information of any unlawful activities going on in adjoining areas

and thereby alerting the officials.

We are of the view that all necessary measures which the administration considers appropriate for preserving the area and putting an end to the illegal mining activities, are needed to be put into place.

The State of Rajasthan shall also submit before this Tribunal an estimate on the extent of loss caused to the environment as a result of such illegal mining activities. *Prima facie* we are satisfied from the material placed before us by means of photographs showing deep excavation and piling up and accumulation of deposits of residue after washing of the sand, no flow in the river bed is possible and this has caused severe environmental damage to the eco system including fall in water table as without flow of river water the water table cannot be changed. Henceforth in all such offence cases pertaining to illegal mining whether booked under the concerned mining Regulations and Act or under the Forest Act an estimate of the damage caused to the environment, shall also be quantified and mentioned in the concerned FIR filed by the Mining and Forest officers as the case may be, against the accused. We expect that the Learned Courts, while dealing with these issues shall also take the aforesaid aspect into consideration with regard to the damage caused to the environment by the accused person while imposing the penalty and fine. Taking into consideration of the extent of the economic activities and profit arising therefrom from the transactions as a result of illegal mining a more realistic view to act as a deterrent, needs to be taken into account and mandate under Article 48(A) of the Constitution on the 'State' also requires the same to be taken into account.

It was also brought to our notice that the residue and the discarded filtered material which is collected on the spot at various

washeries both legal and illegal, is now being utilized by establishing of stone crushers. It is alleged that stone crushers have come up without requisite consent to establish and / or consent to operate in the area in dispute. The Learned Counsel for the RSPCB is directed to get the aforesaid facts verified as there appears to be substance in the submission made by the Applicant in this behalf and which is also corroborated from the submissions made on behalf of the State orally that the possibility of the stone crushers having been established without consent, cannot be ruled out.

The Misc. Applications filed by the owners of the vehicles shall be listed on **19.12.2014**.

For consideration of the mining matter and the information provided by the State, matter be listed as prayed by the Learned Counsel for the State, on **16.02.2015**. On the said date the presence of the officials of the state of Rajasthan is exempted.

.....JM
(DALIP SINGH)

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