

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

Original Application No. 248/2022

News Item published in The Hindu dated 27 March 2022 titled "Digging up the Chambal"

Date of hearing: 19.04.2024

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Respondent: Mr. Paritosh Anil, Adv. for MoEF & CC (Through VC)
Ms. Rukhmini Bobde, Mr. Amlaan Kumar & Mr. Amaan Ahmed Khan, Adv. for the State of Madhya Pradesh
Mr. Bhanwar Pal Singh Jadon & Mr. Chetan Jadon, Adv. for the State of UP (Through VC)
Mr. Mukesh Verma, Adv. for the Mining Department, State of UP
Ms. Prachi Mishra & Ms. Rebecca Mishra, Adv. for Dept. of Mines & Geology & Dept. of Environment, State of Rajasthan (Through VC)
Mr. Raghav Sharma, Adv. for MP PCB (Through VC)
Mr. Arvind Kumar & Mr. Ankit Kumar Vats, Adv. for UPPCB (Through VC)

ORDER

1. In the previous proceedings, the counsel for the State of Madhya Pradesh was questioned as to how by de-notifying certain revenue areas, taking away from National Chambal Sanctuary Notification dated 24.12.1982, wildlife can be protected and that too by permitting sand mining and time was granted to the counsel for the State to clarify the said permission.

2. After hearing the counsel for the State, we notice that notification dated 31.01.2023 has been issued by the State exercising the power under Sub Section 1 of Section 18 of Wildlife Protection Act 1972 de-notifying the 207.05 hectares from the National Chambal Sanctuary. The aim for excluding the partial revenue area of the sanctuary is stated to be to protect the sanctuary and to make provision for sand supply to the local residents for their livelihood. It could not be demonstrated from their record as to

how the aim of protection of sanctuary will be achieved by de-notification of the partial revenue area from the Sanctuary. We also notice that Ministry of Environment, Forests and Climate Change had issued ESZ Notification dated 20.02.2020 specifying the extent and boundaries of the Eco Sensitive Zone as under:

“1.Extent and boundaries of Eco-sensitive Zone – (1) The extent of Eco-sensitive Zone varies **from zero (due to Inter-State boundary) to two Kilometer from the National Chambal Sanctuary in the State of Madhya Pradesh. The area of the Eco-Sensitive Zone is **870 square kilometres**.**
(2) The boundary description of the Eco-Sensitive Zone is appended at **Annexure I**
(3) The map of the Protected Area demarcating the Eco-sensitive Zone boundary is at **Annexure II**
(4) List of geo co-ordinates of the boundary of the Protected Area and the Eco-Sensitive Zone is at annexure III (A) and Annexure III (B) respectively.
(5) The list of villages falling within the Eco-sensitive Zone along with their geo co-ordinates at prominent points is appended as Annexure IV.”

The Annexure I of the Notification contains the boundary description of the Eco-Sensitive Zone of the protected area. Annexure –II is the Google Map of the Eco-Sensitive Zone of the Sanctuary and Annexure –III contains the area of the Sanctuary falling in different villages and districts along with latitude and longitude of prominent locations and Table B thereof contains the latitude and longitude of prominent locations of ESZ. Annexure -IV contains list of list of village area coming under eco-sensitive zone along with geo-coordinates.

3. It is undisputed that ESZ Notification dated 20.02.2020 has not been amended. Therefore, the State is required to explain as to how the sand mining can be permitted by amending/de-notifying the sanctuary area by issuing notification under Wildlife Act by the State. It has also been pointed by the Counsel for the State that the orders of the Hon’ble

Supreme Court dated 26.04.2023 passed in I.A. filed in W.P. (C) No. 202 of 1995 in T.N. Godavarman Thriumulpad Vs. Union of India & Ors. and the order dated 28.04.2023 passed in I.A. No. 3949 of 2016 in W.P. (C) No. 202 of 1995 (Supra) come in the way of State in issuing such notification. Hon'ble Supreme Court in the order dated 28.04.2023 (Supra) had directed as under:

“22. As such, any activity, which is prohibited by both the guidelines as well as the ESZ notification shall strictly be prohibited. Since the mining activity in ESZ area is a prohibited activity, there is no question of such an activity being permitted in an ESZ area even if it falls beyond the distance of one kilometer from the boundary of the protected area.”

23. We clarify that even if in a particular case, the ESZ is more than one kilometer, still, if the concerned area where mining is proposed falls within the ESZ, the mining activity will not be permitted, even if it falls in an area which is beyond one kilometer from the boundary of the Protected Area”.

4. Submission of the learned counsel for the State of M.P. is that I.A. No. 81043 /2024 has been filed by the State of M.P. in I.A. No. 3949/2016 and 131377/2022 in W.P. (C) No. 202 of 1995 for modification/relaxation of the order dated 26.04.2023 and 28.04.2023 passed by the Hon'ble Supreme Court which is pending for consideration before the Hon'ble Supreme Court.

5. Learned Counsel for the State has stated that till the clarification/modification application is allowed by the Hon'ble Supreme Court and till the ESZ Notification dated 20.02.2020 is amended, the State notification dated 31.01.2023 will not be implemented and no sand mining leases in pursuant thereto will be issued. On this ground the State of M.P. has sought time to apprise the Tribunal about the outcome of the I.A. filed before the Hon'ble Supreme Court.

6. List this matter on 29th July, 2024.

Prakash Shrivastava, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

April 19, 2024
OA No. 248/2022
HB