

Item No. 02

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL**
(Through Video Conferencing)

**Original Application No. 101/2023(CZ)
(O.A.No.408/2022- PB)**

Abhay Jain Applicant

Vs.

State of Madhya Pradesh & Ors. Respondents

Date of Hearing: 09.04.2024

**CORAM: HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

For Applicant(s):	Mr. Mr. Abhay Jain, Adv. (Applicant in Person)
For Respondent(s):	Mr. Prashant M. Harne, Adv. (with Mr. Mehul Bhardwaj, Adv.)

ORDER

1. Mr. Abhay Jain, Advocate working with Zenith Society for Socio-Legal Empowerment, Pili Kothi, Kalaganj, Shivpuri, Madhya Pradesh has sent the present letter petition, which has been treated and registered as Original Application, complaining that Central Government notified Madhav National Park, Eco-sensitive Zone (ESZ) which is spread over an area of 277.20 square kilometers. Annexure II of the ESZ Notification contains a list of villages falling within ESZ and Village Majhera, District Shivpuri is one of those villages. As per ESZ notification, all new and existing (minor and major minerals), Stone quarrying and crushing units are prohibited with immediate effect except for meeting the domestic needs of bonafide local residents including digging of earth for construction or repair of houses and for manufacture of country tiles or

bricks for housing and for other activities. Despite the prohibition illegal mining is taking place in forest and revenue areas at Village Majhera, District Shivpuri. The Mining Department called for tenders for stone mining in Survey No. 314, 316, 357/1 and 358/1 of Majhera Village, Tehsil and District Shivpuri which fall under Eco-Sensitive Zone of Madhav National Park. A colony of 25 families of Sahariya Adivasi Community which is a Particularly Vulnerable Tribal Group (PVTGs) as notified by the Central Government is located within 1 km range of the mining area and residents thereof are adversely affected by mining activities. The water in the handpumps in said colony has become polluted with high iron and other mineral contents making it unfit for drinking. Complaints regarding illegal mining were made to the concerned authorities but no action has been taken.

2. Vide order dated 11.07.2022, this Tribunal constituted a Joint Committee with direction to submit its report within two months. Report of the Joint Committee has been submitted vide email dated 13.09.2022. The relevant part of the report is reproduced below:-

“Report of Joint committee in compliance of order dated 17.07.2022 of Hon’ble NGT, Principal bench, New Delhi in the matter of O.A No. 408 of 2022 (Abhay Jain Vs. State of Madhya Pradesh)

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10.0 Conclusion & Suggestions

- a) It is evident from the site visit that the survey nos. mentioned by the applicant is located within 02 Kms. of Madhav National Park Eco sensitive zone.*
- b) Mining operation was under taken by the previous lessee, however proper reclamation was not done.*

- c) *From the test reports of hand-pump water, it is noted that the iron content is exceeding the limit. However, no relation between the mining operation and the iron content can be made as no mining operation is in progress from last 03 years. Further, water supply is made by the PHE for the villagers from approx. 1200 m distant bore well for present drinking purpose. The geological study may be conducted by CGWB through a reputed institution to find the reasons for excess iron in that area.*
- d) *The advertisements were published by the mining department as per the MP gazette notification (enclosed at Annexure-11) department of mineral resources department bhopal dated 20.01.2021 Para 02 for online applications. However, the decision to allot the said mining survey areas is under process at the end of mining department. The mining department has sought report/ objection from concern departments i.e. Department of Forest, Revenue, Local body, Madhav National Park etc.*
- e) *The mining department may be directed to undertake the reclamation work of previously mined areas through due process. For present mining process the mining department should follow the applicable rules of ESZ.”*

3. Vide order dated 16.01.2023, notices were ordered to be issued to the respondents no. 1 to 5. Reply has been filed by respondents no. 1, 2, 3 and 5 vide email dated 15.02.2023. The relevant part of the reply filed by respondents no. 1, 2, 3 and 5 is reproduced below:-

*“Compliance To The Directions Dated 21/ 09 /2022 Passed By
The Hon'ble Tribunal.*

1. In compliance to the directions passed by the Hon'ble Tribunal the Director, Department of Geology and Mines, MP through District Collector Shivpuri dated 29/12/2022 constituted a joint committee comprising the Officials of Revenue Forest, Water Resources, Mining, Rural Engineering Services Department, thereby the Sub-Divisional Officer(Forest), Sub-Divisional Officer(WRD), Sub-Divisional Officer(RES), Mining Officer, Tehsildar, Tehsil Shivpuri were instructed to carry out spot inspection and submit its factual report along with the proposed plan for reclamation of the subjective land and the committee has given the comprehensive survey-wise description of the present factual position.

2. The joint committee has also proposed a plan for reclamation of the subjective land thereby has proposed to convert the mining pitholes into a natural feature of Talab at survey no. 300, 301, 314, 315, 316 and 137 which includes back filing and plantation and further the total cost of the reclamation is 118.96 Lakhs. The copy of the report cum reclamation is marked and filed herewith as ANNEXURE R-1/1.

3. Since the District Collector Shivpuri has expressed its inability to arrange the capital expenditure for the implementation of the reclamation plan therefore, the State Government has decided to arrange the funds from the District Mineral Fund which is pending for the approval before the High Level Committee headed by Honble Chief Minister, Government of Madhya Pradesh and after the

approval of the same the reclamation plan is going to be implemented by Panchayat and Rural Department of Madhya Pradesh. The proposal for the approval of the fund for the reclamation work is enlisted on the DMF portal, the copy of the same is marked and filed herewith as ANNEXURE R-1/2”

4. Learned counsel for Respondents No. 1, 2, 3, and 5 has submitted that the joint committee has also proposed a plan for reclamation of the subjective land thereby has proposed to convert the mining pitholes into a natural feature of Talab at survey no. 300, 301, 314, 315, 316 and 137 which includes back filling and plantation and further the total cost of the reclamation is 118.96 Lakhs.
5. Since the District Collector Shivpuri has expressed its inability to arrange the capital expenditure for the implementation of the reclamation plan therefore, the State Government has decided to arrange the funds from the District Mineral Fund which is pending for the approval before the High Level Committee headed by Hon'ble Chief Minister, Government of Madhya Pradesh and after the approval of the same the reclamation plan is going to be implemented by Panchayat and Rural Department of Madhya Pradesh.
6. Learned counsel for the State Mr. Prashant M. Harne has submitted that :-

i. That in compliance of the aforementioned order, the Collector / Chairman, District Mineral Foundation, Shivpuri, Madhya Pradesh sought approval through DMF Portal from the Madhya Pradesh State Mineral Resource Department for a total amount of Rs. 1,19,00,000/- (one crore and nineteen lakhs only) for proper Mine Closure in District Shivpuri. That vide letter dated 30.05.2023, Madhya Pradesh State Mineral Resource Department granted the approval for the aforementioned

amount and vide Order dated 31.07.2023 of the Office of District Minerals Foundation was released the amount of Rs. 1,19,00,000/- (one crore and nineteen lakhs only) and various heads were identified for funds to be allocated. That the copies of Letter dated 30.05.2023, Madhya Pradesh State Mineral Resource Department and Order dated 31.07.2023 of the Office of District Minerals Foundation are marked and annexed herewith as Annexure 1 and Annexure 2 respectively.

ii. That after the funds were released and allocated the Office of the Executive Engineer, Rural Engineering Services Division Shivpuri (M.P.) floated E-Tenders for various heads of works as identified in Order dated 31.07.2023, and thereafter the same were allotted to Contractors with a stipulated timeline of four months from the date of the agreements. That copies of E-Tenders floated and Letter of Acceptances issued by the Office of the Executive Engineer, Rural Engineering Services Division Shivpuri (M.P.) are marked and annexed herewith as Annexure 3 (Colly.).

iii. That in compliance of the abovementioned Order dated 13.09.2023 of this Hon'ble Tribunal, wherein it was directed that the District Collector, Shivpuri in lieu of Polluter Pay Principal and the rule of law has issued Demand Notices dated 10.10.2023 against 9 Project Proponents and the copies of the same are marked and annexed herewith as Annexure 4 (Colly.) Paragraph 5, first line, from Diet to Koli. In Paragraph 6, first line, from Diet in Compliance of the Affirmations Centre to Koli.

7. In view of the facts and in view of the submission made by the Standing Counsel the required budget has been sent to the State Government for approval and the Collector has initiated the proceeding to recover the damage on the Principle of Polluter to Pay.

8. Accordingly, we direct the Collector, Shivpuri to do according to rules in view of the replies submitted by the State Department, we further direct

the State Pollution Control Board to periodically monitor the compliances of environmental rules and to enforce the environmental rules strictly.

9. With these observations the **Original Application No. 101/2023** stands **disposed of**.

Sheo Kumar Singh, JM

Dr. Afroz Ahmad, EM

09th April, 2024
O.A No. 101/2023(CZ)
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