

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

Original Application No. 144/2013 (THC) (CZ)

CORAM:

**Hon'ble Mr. Justice Dalip Singh
(Judicial Member)**

**Hon'ble Mr. P.S.Rao
(Expert Member)**

BETWEEN:

Narmada Khand Swabhiman Sena
Through its President,
Mamlesh Sharma S/o Shri Prahalad Sharma,
Aged about 33 years,
R/o – 25/2, Kachnar City Vijay Nagar,
District –Jabalpur (M.P.)

.....Applicant

Versus

1. State of Madhya Pradesh
Through its Principal Secretary,
Department of Mineral Resources,
Vallabh Bhawan, Bhopal (M.P.)
2. The Union of India
Through it's Secretary,
Ministry of Environment and Forests,
Government of India, C.G.O. Complex,
Lodhi Road, New Delhi
3. The Collector (Mines)
District Anuppur (M.P.)
4. The Divisional Forest Officer
Forest Division, Anuppur (M.P.)
5. M/s Katni Minerals Pvt. Ltd.
Through its Director, Shri Pawan Mittal,
24, Commercial Complex,
Housing Board Colony,
District Katni (M.P.)
6. M/s Ganpati Minerals (Bauxite Mines)
Through Proprietor Suresh Gupta,
Gram-Garhidadar, Tehsil – Pushprajnar
District Anuppur (M.P.)

7. Imtiaz Khan (Bauxite Mines)
Gram-Garhidadar, Tehsil – Pushprajgarh,
District Anuppur (M.P.)
8. The Secretary
The Ministry of Mines and Minerals,
III Floor, A-Wing Shastri Bhawan,
New Delhi.

.....Respondents

Counsel for Applicant : Shri Parag S. Chaturvedi, Adv.

**Counsel for Respondent
Nos. 1, 3, 4 & 8:** Shri Sachin K. Verma, Adv.
Shri D.S.Kanesh, DFO

Counsel for Respondent No. 2: Shri Rajendra Babbar, Adv.

Counsel for Respondent No. 5: Shri Naman Nagrath, Sr. Adv.
with Mr. Qasim Ali, Adv.

Counsel for Respondent No. 6 & 7: Shri Om Shankar Shrivastav, Adv. &
Shri Dharamvir Sharma, Adv.

Dated : October 1st, 2014

J U D G E M E N T

1. This Application was originally filed as Writ Petition No. 6930/2009 in the High Court of Madhya Pradesh at Jabalpur as Public Interest Litigation. In pursuance of the order dated 05.12.2013 of the Hon'ble High Court of Madhya Pradesh in consonance with the judgement dated 9th August, 2012 of the Hon'ble Supreme Court in *Bhopal Gas Peedith Mahila Udyog Sangathan and Others Vs. Union of India & Others (2012) 8 SCC 326*, the Writ Petition was transferred to the Central Zone Bench, National Green Tribunal, Bhopal and was registered as Original Application No.114/2013. The matter was listed for hearing on 13-1-2014 since the Hon'ble High Court, while ordering the transfer of the case, directed that the parties shall appear before this Tribunal on 13-1-2014.
2. In the Writ Petition the Petitioner claimed that theirs is an organization of social activists and they hold the river Narmada in reverence. Having observed

that heavy pollution is being caused to the sacred river Narmada they have taken up the cause of protection of the river from pollution. In this connection, the Petitioner's organization, having come to know that Mining Leases (for short, 'ML') as well as Prospective Licenses (for short, 'PL') are being granted for mining Bauxite mineral in Achanakmar-Amarkantak Biosphere Reserve (for short, 'AABR'), they have filed the Writ Petition. According to them mining activities in this sensitive area will cause irreparable damage to the ecology as well as the flora and fauna besides polluting to the river Narmada which originates in the aforesaid Biosphere Reserve (for short, 'BR').

3. The Petitioner stated that the AABR was notified vide Government of India, Ministry of Environment and Forests (for short, 'MoEF') order dated 30.03.2005 duly indicating the boundaries a copy of which is filed at Annexure P-1 of the petition. The Petitioner further submitted that the Respondent No.5, M/s Katni Minerals submitted an Application on 20.08.2002 for granting PL for Bauxite mineral over an area of 284.774 hectares at village Garhidadar, Tehsil Pushparajgarh, District Anuppur (MP) (copy filed at Annexure P-3 of the petition). Accordingly, the Respondent No. 1, Department of Mineral Resources, Govt. of Madhya Pradesh vide order dated 09.09.2008 recommended the PL for an extent of 152.655 hectares instead of the sought area of 284.774 hectares in favour of the Respondent No. 5.

4. It was further stated in the petition that as per the information gathered by the Applicant's organization the District Collector, Anuppur vide memo dated 21.08.2008 referred the matter to respective authorities in the District including the Divisional Forest Officer (for short, 'DFO'), Anuppur for furnishing requisite information to examine the Application of the Respondent No. 5. However, the

DFO, Anuppur vide his letter dated 11.09.2007 had already informed the Collector that he was not in favour of granting PL, in view of the fact that the proposed mining area falls in the AABR and if the mining is allowed, the flora and fauna in the area would be destroyed. A copy of the report of the DFO, Anuppur dated 11-9-2007 is filed at Annexure P-5 by the Applicant. The Applicant further states that in spite of the fact that the Forest Department has refused to accord permission for granting PL in respect of the aforesaid area falling in the village Garihdadar which lies in the AABR the District Collector recommended the case to the Respondent No.1, who in turn referred the proposal to Respondent No. 8 vide reference No. F-2/101/08/12/1 dated 09.09.2008 for granting PL for an area of 152.655 hectares. It is the case of the Applicant that the Respondents took a short sighted decision to grant PL in such an ecologically sensitive area falling in the AABR for personal benefits despite the local Forest Officer's concern and refusal to recommend the case. It is the apprehension of the Applicant that such mining if carried out in the AABR, will not only destroy the eco-system but will affect the flora and fauna and may also aggravate the pollution in the river Narmada which originates in the AABR. The river Narmada is the lifeline for the States of Madhya Pradesh and Gujarat and therefore such mining activities if permitted in such ecologically sensitive areas, falling in the limits of AABR, will cause irreparable damage. Finally the Applicant prayed for quashing and setting aside the impugned order/ letter of the Respondent No. 1 dated 09.09.2008 for granting PL to Respondent No. 5 and directing the competent authority to initiate departmental proceedings against those officers who are responsible for taking such a decision which may destroy the environment/eco-system in the AABR.

5. After hearing the case the Hon'ble High Court was pleased to pass the following order on 17-7-2009.

“In the meanwhile, operation of the impugned order passed on 9-9-2008 in favour of Respondent No.5 shall remain stayed”.

6. On 3rd November 2009 the Applicant filed amendment to the Writ Petition adding Respondent Nos. 6 to 8 however with the prayer that by this amendment the nature of the petition does not change. The Hon'ble High Court allowed the amendment vide its order dated 18.12.2009 and on subsequent dates of hearing notices were ordered to be issued to the newly added Respondents No. 6 and 7 and later on to Respondent No.8. In the amended petition the Applicant has stated that vide order dated 07.10.2008 the Respondent No. 1 granted PL to the Respondent No. 6 M/s Ganpati Minerals in the aforesaid village falling in the limits of AABR over an extent of 11.237 hectares for Bauxite mining. The Applicant also challenged the order dated 17.04.2007 of granting ML for Bauxite mining to Respondent No. 7 Imtiaz Khan for an area of 12.2 acres in the aforesaid village.

7. The Respondents No. 1, 2 & 4 filed a combined reply dated 07.08.2009, stating that under Section 5 (1) of the Mines and Minerals (Development and Regulation) (for short, 'MMDR') Act, 1957 the State Government, vide their letter dated 09.09.2008, submitted proposals to the Central Government recommending the case of the Respondent No.5 for granting PL and no decision has been taken by the Central Government till the time of filing of the reply and therefore the Writ Petition is premature and deserves to be dismissed.

8. It was further stated by the Respondents No. 1, 2 & 4 that the Respondent No. 5, submitted Application in form-B for granting PL for Bauxite mining for an area admeasuring 286.774 hectares in the aforesaid village but the Forest Department refused NOC as part of it involves forest land. Therefore the area has been reduced to 152.655 hectares after deducting the forest area and after considering all the aspects and also taking into account that the proposed PL area does not fall within the Core Zone of the AABR and mining activities are prohibited only in the Core Zone but permissible in the Buffer Zone and Transition Zone, the case was recommended to the Central Government. The Respondents No. 1,2 & 4 further stated in their reply that as per the Government of India, Notification/Letter dated 30.03.2005 while declaring the AABR it is clearly mentioned under Clause 4 (b) that manipulation activities may be permitted in the Buffer Zone but the same has to be in conformity with the general guidelines issued on the management of BRs. The area applied by the Respondent No. 5 falls in the Buffer Zone where mining activities are permissible and the state government, while sending proposals dated 09.09.2008 to the Government of India, have already reduced the extent of area applied by the Respondent No. 5 from 284.774 hectares to 152.655 hectares duly excluding the forest area. They further stated that the recommended PL site is more than 250 mt. away from the forest and no damage or harm would be caused to the flora and fauna in the area and the site where the river Narmada originates will not get affected in any manner. Finally the Respondents No. 1,2 & 4 prayed for outright rejection of the Writ Petition.

9. Subsequently, the Respondent No. 4, in compliance of the Hon'ble High Court order dated 18.11.2009, filed additional affidavit stating that the Respondent No. 1, having taken into consideration and having examined all the

aspects, recommended the Application of the Respondent No. 5 for granting PL for an area of 152.65 hectares. The letter dated 11.09.2007 issued by the Forest Department which is filed at Annexure P-5 by the Applicant, was mainly based on the fact that the initial proposal involved forest land and later on it was found that there will be no effect with regard to the Forest land in the reduced/ revised PL area. Moreover the proposed area does not fall under the Core Zone of AABR but it falls under the Buffer Zone where the mining activities are permissible. It was further stated that as the reduced/ revised PL area is not only not involving any Forest land but it is more than 250 mt. away from the notified Forest there is nothing wrong with the proposal dated 09.09.2008 sent by the Respondent No. 1 to the Central Government recommending the case of Respondent No.5.

10. In compliance of the Hon'ble High Court order dated 18.02.2011, the Respondents No. 1, 2 & 4 have placed on record the Scientific (Research) Report titled '*Bio-Physical Environment of Amarkantak, M.P.*', prepared by Department of Applied Geology, Barkatullah University, Bhopal and sponsored by Environmental Planning and Coordination Organization (for short, 'EPCO'), Govt. of M.P. relating to Bauxite mining carried out by HINDALCO & BALCO companies at around AABR plateau wherein the Bauxite mining activities of these two companies have already been stopped. It was further stated that as per the scientific report the mining by the aforesaid companies relates to area at and around Amarkantak plateau whereas the impugned proposal dated 09.9.2008 pertains to village Garhidadar which is approximately 25 km. away from the Amarkantak plateau.

11. In continuation of the above submissions and in compliance of the Hon'ble High Court order dated 18.02.2011 the Respondents No. 1, 2 & 4 made further

submissions on 25.07.2011 enclosing a list of MLs and PLs granted to various persons between 2002 to 2010 with the sanctioned areas ranging from 0.669 hectares to 148.181 hectares in Anuppur District located in the limits of AABR. It was mentioned in the additional submission that no ML has been granted in the AABR falling in the limits of village Garhidadar.

12. During the course of hearing of the case before this Tribunal, the State was directed to file Landscape/ Management Plan for the AABR. Accordingly the Respondent No. 4, DFO, Anuppur filed an affidavit enclosing Landscape/ Management Plan of proposed PL for Bauxite mine in Garhidadar plateau stating that the approved PL of the Respondent No. 5 falls in the Transition Zone of AABR and the same was indicated on maps filed as Annexures G & L of the affidavit. It was further stated in the affidavit that if ML is granted subsequent to prospecting by the Respondent No. 5, the mineral has to be transported through the road passing through in the notified forest land and therefore for utilizing the forest road for transportation of mineral it requires permission under the Indian Forest Act, 1927.

13. The DFO in his affidavit further indicated the demarcation of Core Zone, Buffer Zone and Transition Zone in the AABR carried out by the Tropical Forest Research Institute (for short, 'TFRI'), Jabalpur and a map showing these areas has been filed at Annexure 'L' in the Landscape Plan.

14. The Respondent No. 2, MoEF in compliance of the order of the Hon'ble High Court dated 12.08.2010 has filed a copy of the Guidelines issued by it in October, 2007 on constitution of Biosphere Reserves in India. Subsequently, the

MoEF has also filed para-wise reply dated 24.09.2011 stating that under the project or activity "*Mining of Mineral*" mineral prospecting is exempted from the requirement of Environmental Clearance (for short, 'EC') as per notification issued in S.O. No. 3067 (E) dated 01.12.2009. The MoEF further stated that the area in question falls in Buffer Zone of AABR and even though no legal issues are involved it has to be ensured that the activities carried out in the Buffer Zone do not cause any negative impact on the Core Zone and as per the communication received from the EPCO, Bhopal there is no record in the MoEF to the effect that any Scientific study has been carried out in the area and the Bio-Physical Environment Study done during 1995 on the mining sites of the HINDALCO & BALCO in Anuppur region, has got no relevance in this case.

15. The MoEF further stated that the constitution of AABR falling in the states of Madhya Pradesh and Chhattisgarh is through a letter issued by the MoEF dated 30.03.2005 and this is nothing but giving recognition to the area as it is unique and representative of major eco-system types of the world. This letter is not legally binding and is only advisory in nature. It is the averment of the MoEF that since the Applications are submitted to the State Government for granting PL by the prospective miners, a decision has to be taken by the State Government with regard to environmental implications that may arise if such mining activity is permitted to be carried out in the area in question which is rich in mineral resources and therefore EPCO, Government of M.P., will be advised to take a scientific assessment and study possible impact on Core Zone including the river Narmada because as per report of the EPCO, there is no record available about any scientific study of the area. The MoEF further stated that the State Government has recommended the Ministry of Mines, Government of India for granting PL to Respondent No. 5 & 6 and as per the response received from the

EPCO, the drainages from this area ultimately join river Narmada near Majholi at about 15 to 20 km. distance in south west direction.

16. However, not satisfied with the above para-wise reply of the MoEF the Hon'ble High Court of Madhya Pradesh in its orders dated 13.08.2012 and 21.09.2012 directed the Secretary, MoEF to file a personal affidavit either after personally inspecting the area or after getting the area inspected by a responsible officer and answer the following questions which arise in this case:

- “1. *Whether the land on which license has been granted for mining related activity to Respondents No. 5, 6 & 7 by the State Government comes within the Core Zone or the Buffer Zone of the Amarkantak biosphere reserve, as declared by the Union of India, Ministry of Environment ?*
2. *If the land or any part of it comes within such zone, whether mining or mining related activity can be permitted on such land.*
3. *If such activity cannot be permitted whether the licenses granted to Respondents No. 5, 6 & 7 by the State Government are liable to be quashed?”*

Accordingly, the Secretary, MoEF filed personal affidavit stating that as per the guidelines issued with regard to constitution of Biosphere Reserves in the country, the Governments of Madhya Pradesh & Chhattisgarh, were conveyed with the MoEF communication dated 30.03.2005 for establishment of AABR having considered that the area is rich in biodiversity and having ecologically diverse landscape. As per the information provided by the Additional Principal Chief Conservator of Forests (for short, 'APCCF'), Regional Office, MoEF, Bhopal the Respondents No. 5 & 6 have been issued with PL by the Ministry of Mines, Government of India and the Respondent No. 7 was granted permission for mining by the Government of Madhya Pradesh.

17. The Secretary, MoEF further stated that in compliance of the Hon'ble High Court order dated 13.08.2012 the MoEF, vide its order dated 06.09.2012, constituted a committee under the chairmanship of APCCF, Regional Office, MoEF, Bhopal comprising the following responsible senior officers as members to inspect the site and report.

- (1) Member Secretary, Madhya Pradesh State Biodiversity Board
- (2) Member Secretary, Madhya Pradesh State Pollution Control Board
- (3) Member Secretary, Chhattisgarh Environment Conservation Board
- (4) Member Secretary, Central Pollution Control Board, Delhi
- (5) Director, Tropical Forest Research Institute, Jabalpur
- (6) Conservator of Forests, Regional Office, MoEF, Bhopal

18. The committee inspected the site on 30.10.2012 along with the officials of the Mining, Revenue and Forest Departments of the state of Madhya Pradesh and held a detailed discussion with the District Collector, Anuppur. A copy of the report of the committee has been filed at Annexure 'C' of the reply of the Secretary, MoEF. The Secretary, MoEF further stated that the PL/ML granted to the Respondents No. 5, 6 & 7 are falling within the Buffer Zone of AABR and according to the BR guidelines of October, 2007 issued by the MoEF, the uses and activities in the Buffer Zone of the BR are required to be managed in such a way that they protect the Core Zone and there is no specific mention about the mining among the uses and activities mentioned therein. However, as per the guidelines issued on constitution of Biosphere Reserves which stipulate sustainable use of natural resources through most appropriate technology for improvement of economic well-being of the local people, developmental activities including mining and mining related activities, are required to be regulated to ensure sustainable use of natural resources in the Buffer Zone as per the existing

regulations by using most appropriate and viable technology and after preparation of a detailed Landscape Plan by the concerned State Governments.

19. The Secretary, MoEF finally stated that in the present scenario, the PL granted to Respondents No. 5 and 6 by the Ministry of Mines, Government of India, and the ML granted to the Respondent No. 7 by the Government of Madhya Pradesh, be kept on hold/suspended until the Landscape Plan for the AABR is prepared and the decision on the validity of these PLs and ML, be taken up subsequent to the Landscape Plan drawn by the concerned State Government.

20. During the course of hearing the Respondent No. 5 made an objection to the aforesaid affidavit of the Secretary, MoEF stating that only Core and Buffer Zones were mentioned in the affidavit but in the official website of TFRI, Jabalpur 'www.icfre.org/userfile/file/institute-TFRI-2011/2012/Achanakmar-170712.pdf' which is under the control of MoEF, Transition Zone along with Core & Buffer Zones was also demarcated and the site where the PL granted to his firm, falls in Transition Zone. Therefore the Counsel for the MoEF was asked to file detailed report duly explaining the position with regard to issue of demarcation of Transition Zone apart from the Core and Buffer Zones, raised by the Respondent No. 5. Accordingly one, Dr. S.K. Lal, Scientist-'B', MoEF, Regional Office, Bhopal filed affidavit stating that as per the original letter of the MoEF dated 30.03.2005 while declaring the AABR only Core Zone (551.55 sq. km.) and Buffer Zone (3283.96 sq.km.) were indicated, but subsequently as per the revised guidelines of MoEF issued in October 2007 the structure and design of the BR is proposed in such a way that it requires three zones i.e., 'Core', 'Buffer' and 'Transition'. This classification is in tune with the Nomination Form of MAB Programme of UNESCO and the TFRI, Jabalpur prepared the Nomination Form

along with related documents for AABR as per the MAB of UNESCO. The Nomination Form was duly endorsed by the States of Chhattisgarh & Madhya Pradesh who are responsible for management of the AABR and the same was duly forwarded to the UNESCO on 20.10.2010 through Ministry of Human Resources Development, Government of India for inclusion of AABR in the World Network of BRs under UNESCO programme and the delineation of Transition Zone in the map prepared by the TFRI, out of the already declared Buffer Zone is only as per the prescription contained in the Nomination Form of the MAB Programme of UNESCO.

21. The Respondent No. 5, M/s Katni Minerals Pvt. Ltd. filed their reply dated 17.08.2009 before the Hon'ble High Court. It is the contention of the Respondent No. 5 that after thoroughly examining their Application, recommendation dated 09.09.2008, was made to the Central Government by the Respondent No.2 for granting PL. They further stated that initially they have applied for PL over an area measuring 284.77 hectares in Garhidadar village but the answering Respondents having taken into consideration of the entire aspects, reduced the area and recommended PL for 152.655 hectares only. The site applied for PL falls in the Buffer Zone of the AABR where mining activities are not prohibited and even after completing the prospecting of mineral, if ML is applied, it is imperative to obtain EC which will be issued only after detailed investigation including Environmental Impact Assessment (for short, 'EIA') is done after looking into all the environmental and pollution aspects and therefore there is no bar on granting of PL in the Buffer Zone. The Respondent No.5 has also drawn attention to the letter dated 30.03.2005 of the Respondent No. 2, MoEF wherein under clause 4 (b) it is clearly mentioned that manipulation activities may be permitted in the Buffer Zone of the AABR. Moreover the Respondents No. 1, 3 & 4 in their

proposals dated 09.09.2008, sent to the Central Government, have already considered all the relevant issues and reduced the PL area which is more than 250 mt. away from the forest land and there will be no damage to the flora and fauna in the area as alleged by the Applicant. Subsequently, even if ML is granted and even if there is some disturbance to ecological balance, as feared by the Applicant, detailed Environment Management Plan (for short, 'EMP') will be done reducing the environmental problems. The Respondent No.5 further stated that the Respondent No. 4, DFO, Anuppur has issued NOCs dated 05.08.2005, 06.11.2007, 28.03.2008 & 01.08.2008 in favour of several other persons for granting PL/ML in the vicinity and one such case is granting NOC in favour of Respondent No. 6.

22. Subsequently, vide his additional submissions dated 31.07.2010 the Respondent No.5 stated that the District Collector, Anuppur, who is the Chairman of the District Level Field Coordination Committee for the AABR got the area inspected by the committee members who opined that the area in question does not fall in the Core Zone and the Nallahs originating in the area join the Narmada river at village Majholi which is situated at a distance of about 18-20 km. from the PL site. He further stated that there is no flora and fauna in the PL area and there is no possibility of causing any damage or adverse effect in the area. It was further stated by the Respondent No. 5 that as per the document obtained by him under the RTI Act the aforesaid committee in its meeting dated 13.07.2010 has recommended granting of NOC for enhancing production capacity of the existing Bauxite mining leases in the said area and therefore his case also deserves favourable consideration in the light of the above inspection and recommendations of the District Level Field Coordination Committee. Subsequently, in compliance of the Hon'ble High Court order dated 10.09.2012 further affidavit has been filed

on behalf of the Respondent No.5 stating that the site in question at village Garhidadar, Tehsil Pushparajgarh, District Anuppur, which was inspected on 30.10.2012 by the committee constituted by the Secretary, MoEF is 10 km. away from the State Highway Katni-Amarkantak and from the State Highway right up to the site at Garhidadar village there is a WBM road which is fully motorable even during rainy season.

23. The Respondent No.6, M/s Ganpati Minerals who was impleaded in the amended Application, filed their reply dated 14.06.2010 stating that they were granted PL over an area of 11.237 hectares for a period of 2 years in Village Garhidadar, District Anuppur on the same grounds on which the Respondent No. 7 was also granted PL, and the Petitioner challenged the granting of PL on 03.11.2009 after more than one year of the granting. During this period the Respondent No.6 completed the prospecting of the mineral and based on the result of prospecting they were also granted ML for mining of Bauxite. Therefore, at this juncture after completion of prospecting and after granting the ML the petition filed by the Petitioner is not maintainable. The Respondent No. 6, further stated that the land in question is a private land owned by them along with other private persons whose consent was taken and the ML was granted. The DFO, Anuppur vide letter dated 05.08.2005 has given the NOC to the answering Respondent and after due consideration of the Application and based on the recommendation of the District Collector proposals were sent to the Central Government for granting the PL. The Respondent No. 6, further contended that the objection raised by the Petitioner that the mining site is falling in AABR and hence not permissible is not tenable and in fact the AABR project document itself permits mining activity and under clause 4 (b) it is specifically mentioned manipulation that the activities are

allowed in Buffer Zone where their site is located. In the above circumstances the Respondent No. 6 pleaded dismissal of the petition.

24. The Respondent No. 7, Imtiaz Khan who was also impleaded by the Petitioner vide amended Application dated 03.01.2009 contended that his site where the ML was sanctioned, does not fall under the Core Zone of the AABR but in fact it is located in the Buffer Zone far away from the Core Zone at a corner of the AABR. He further stated that his Application for granting PL was forwarded to the Government of India by the Mineral Resources Department, Government of Madhya Pradesh vide letter No. 2-247/2000/12/2 dated 11.08.2003 and accordingly the Ministry of Mines, Government of India accorded approval for grant of PL for a period of one year vide their order dated 31st August, 2004 and thereafter the State Government granted the PL for an area of 13.10 acres (5 acres of Khasra No. 24/2 plus 8.10 acres of Khasra No. 24/3) at Village Garhidadar, District Anuppur for a period of one year vide order dated 08.10.2004 and the prospecting of the area was completed on 11.03.2005 i.e. before the date of notification (dtd. 30.03.2005) of the AABR. The Respondent No.7 stated that after prospecting the mineral, he submitted Application dated 30.04.2005 for granting ML and District Collector, Anuppur recommended the case over an area of 12.20 acres falling in the aforesaid Khasra numbers and thereafter the State Government submitted proposals to the Government of India and finally after examining the proposals ML was granted to him by State Government vide order dated 7.08.2008 over an area 12.20 acres for a period of 20 years. The Respondent No. 7 further stated that after completing all the formalities and after obtaining clearance/consent from the Indian Bureau of Mines, State Pollution Control Board etc, he has taken up the regular mining activities in the sanctioned area which is located far away from the Core Zone and thus his lease does not have any

shortcomings and it is legally valid and extraction of the minerals is in accordance with the law.

25. The Respondent No.8, Ministry of Mines, Government of India in compliance of the orders of the Hon'ble High Court of Madhya Pradesh dated 22.10.2013 filed their reply stating that on the receipt of proposals from the Government of Madhya Pradesh, the Ministry of Mines accorded prior approval of the Central Government for (i) grant of ML for Bauxite for an area of 12.2 acres in the aforesaid Village in favour of Respondent No. 7 Imtiaz Khan for a period of 20 years vide their letter dated 17.04.2007 (ii) grant of ML for Bauxite for an area of 11.237 hectares in the aforesaid village in favour of Respondent No. 6 M/s Ganpati Minerals for a period of 30 years vide their letter dated 4.08.2009 and (iii) grant of PL for Bauxite for an area of 152.665 hectares in favour of Respondent No. 5, M/s Katni Minerals for a period of 2 years vide their letter dated 07.09.2009. It was further stated in the affidavit by the Ministry of Mines, Government of India that the prior approvals of the Central Government in all the afore mentioned cases was subject to necessary statutory clearances and approvals and therefore it is for the State Government to take subsequent action towards the grant of ML considering all aspects and in the light of the provisions of the Mines and Mineral Development Regulation Act, 1957, Mineral (Concession) Rules 1960 and relevant Environmental and Forest laws.

26. Discussion and Conclusion:

As noted above, this case was originally filed as PIL before the Hon'ble High Court of Madhya Pradesh in the year 2009 and was transferred to this Tribunal to deal with it under the National Green Tribunal Act, 2010 as per the orders dated 5-12-2013 of the Hon'ble High Court. The legal backing for the Applicant's case is therefore to be found within the four corners of the NGT Act

i.e. whether the case involves 'a *substantial question relating to environment*' and if so, whether it falls within the Scheduled Acts as it is the case of the Applicant that the grant of ML/PL would cause great harm to the biodiversity and ecology of the AABR from where the river Narmada originates and also whether it affects the livelihood of the local communities which according to the Applicant, is against the objective and purpose of establishing Biosphere Reserves. Therefore, in the absence of any specific law dealing with the BRs in the acts listed under the Schedule-I of the NGT Act, environmental issues involving BRs are required to be examined keeping in view the related laws i.e. Water (Prevention and Control of Pollution) Act, 1974, Air (Prevention and Control of Pollution) Act, 1981 and Environment (Protection) Act 1986 listed under schedule-I of the NGT Act, 2010. The record placed before us shows that there is no express provision banning manipulation activities in the Buffer and Transition zones of the BRs. However, these activities have to be in consonance with the purpose of constitution of BRs under MAB Programme of UNESCO and the Guidelines issued by the MoEF in 2007. Nevertheless, having gone through the pleadings and having heard the Counsel for the Petitioner and the Respondents at length we feel that the following points are required to be examined in this case.

- I. Under what provision the BRs are constituted and what is the legal backing for the issues/objections raised by the Petitioner in respect of granting PL and ML in the AABR located outside the Core area.
- II. Whether the Central Government or the State Government is vested with any authority or powers to restrict/prohibit the activities in the BR and if so, what are the activities which can be restricted/prohibited and under what provisions of the law.

- III. Whether any provisions have been made under the law for preparation of Landscape Plan and if so who is the competent authority and what aspects have to be taken into account while preparing such Landscape Plan.
- IV. Whether permission for undertaking mining activities, in Buffer and Transition zones of a BR, are contrary to the basic objectives of creating and maintaining Biosphere Reserves which are rich in biodiversity.
- V. Whether any scientific evidence has been produced by the Applicant or the Respondents that the PL and MLs in question, granted in the Buffer and Transition Zones of the AABR will lead to adverse impact on the biodiversity, cause pollution as well as on the livelihood opportunities of the local communities.

27. We may now examine the above points one after the other as follows:

- I. Under what provision the BRs are constituted and what is the legal backing for the issues/objections raised by the Petitioner in respect of granting PL and ML in the AABR located outside the Core area.**

Before we examine the above point it is appropriate to place the following relevant extracts of the MoEF letter dated 30-3-2005, addressed to the Chief Secretaries of the states of Madhya Pradesh and Chhattisgarh on the establishment of AABR.

- 1. A project document for designating Achanakmar-Amarkantak area as Biosphere Reserve (BR) was prepared by the State Government of Madhya Pradesh (undivided) through Environmental Planning and Coordination Organization (EPCO), Bhopal. Having considered the project document in accordance with the guidelines issued by Government of India in this regard and stakeholder consultation in the workshop at Raipur on 27th & 28th January 2005, the Government of India*

have decided to designate the proposed Achanakmar-Amarkantak area as a Biosphere Reserve (BR).

2. The BR will be deemed to have come into being with effect from the date of issue of this notification.
3. The details of the area to be marked for manipulation activities such as forestry, agriculture, eco-restoration, agro-forestry etc., will be worked out by the project authorities.
4. The following will be important aspects of the Achanakmar-Amarkantak BR:
 - a. **Core Zone:** The core zone of the BR will be kept free from all human pressures external to the system.
 - b. **Buffer Zone:** The manipulation activities, which may be permitted in the Buffer zone, will be in conformity with general guidelines for management of biosphere reserve.
 - c. **Transition Zone:** The State Governments will further demarcate the heavily populated / disturbed areas of the Buffer zone to be designated as Transition zone /restoration zone for priority intervention to restore/improve the general condition in accordance with the guidelines.
 - d. **Legal status:** The constitution of the BR by itself will not in any way change the status of legal ownership of land and forests nor affect the rights of tribal and local people in any way.
 - e. **State Level Steering Committee (SLSC):**The State Governments will constitute a State Level Steering Committee for the Biosphere Reserve in accordance with the guidelines for ensuring Scientific Management of the BR in their areas, to be headed by Chief Secretary or Additional Chief Secretary or Pr. Secretary (Forests). The committee will have a nominee of Union Ministry of Environment and Forests.
 - f. **Field Level Coordination Committee (FLCC):** The State Government will set-up a Biosphere Reserve Management Committee at field level for coordination and implementation of the activities of the various departments for the BR area under their control to be headed by Divisional Commissioner / District Collector depending on if the Biosphere Reserve spreads over more than one district.
 - g. **Central Assistance:** The Government of India will provide financial assistance on 100% grant basis, separately to each State for approved items of expenditure included in the

Management Action Plan to be prepared by the respective State Governments for the areas in their control.

- h. **Administrative Structure:** The State Governments will nominate an officer as Director of the BR. He/She may be existing functionary who may not necessarily be an exclusive functionary for this purpose.*
- i. **Inter-State Coordination Committee (ISCC):** A small inter-State Coordination Committee may be constituted under the chairmanship of Special Secretary/Addl. Secretary in the Union Ministry of Environment and Forests for resolution of inter-State matters.*
- j. **Obligation of Lead Centre:** A research institution will be identified and designated as lead centre by the Central Government in consultation with the State Government to collect, synthesize and disseminate research based information in respect of the BR from all sources. Undertake project documentation resource inventorisation, monitor and review the progress at regular intervals and prepare documents for submission to 'UNESCO' for recognition of BR on international network.*
- k. **Obligation of BR Managers:** The BR Manager are expected to have a proactive interface with various research institutions like CSIR, ZSI, BSI, ICAR and ICFRE etc. and to incorporate research findings in the management plans".*

As per the information furnished by the Respondent No. 2 MoEF the BR is an international designation made by UNESCO for representative parts of natural and cultural landscapes extending over large area of terrestrial or coastal/marine ecosystems or a combination thereof. These areas are internationally recognized within the framework of UNESCO's MAB Programme, after receiving consent of the participating country. The MAB Programme initiated, in 1972, is a broad based ecological programme aimed at improvement of the relationship between man and the environment; to predict the consequences of today's actions on tomorrow's world and thereby to increase man's ability to manage the natural resources of the biosphere efficiently. BRs are designated to deal with one of the most important questions of reconciling the conservation of biodiversity, the quest

for economic and social development and maintenance of associated cultural values. One of the primary objectives of MAB is to achieve a sustainable balance between the goals of conserving biological diversity, promoting economic development, and maintaining associated cultural values. BRs are thus special environments for both people and the nature and are living examples of how human beings and nature can co-exist while respecting each others' needs. The approach emphasizes research and training and seeks scientific information to find solution to problems in management and conservation of natural resources.

The concept of Biosphere Reserves, especially its zonation, into Core Area(s) (dedicated to conservation), Buffer Area(s) (sustainable use) and Transition Area(s) (equitable sharing of benefits) were later broadly adopted under the Convention on Biological Diversity (for short, 'CBD') process which entered into force on 29th December, 1993. The CBD has two principal objectives, namely '*Conservation and Sustainable Use of Biological Diversity*' and '*Fair and Equitable sharing of benefits arising from its utilization*'. CBD calls for *in-situ* and *ex-situ* conservation, incentives for conservation and sustainable use, research and training, awareness and education, impact assessment, regulating access to genetic resources, access and transfer of technology and provisions of financial resources. While dealing with these issues, CBD emphasizes on nationally determined priorities, capacity and needs and with full and effective participation of local communities. Biosphere Reserves are special entities (sites) for both the people and the nature and are living examples of how human beings and nature can co-exist while respecting each other's needs. These reserves contain genetic elements evolved over millions of years that hold the key to future adaptations and survival. The high degree of diversity and endemism and associated traditional

farming systems and knowledge held by the people in these reserves are the product of centuries of human innovation and experimentation. These sites have Global importance, having tremendous potential for future economic development, especially as a result of emerging new trends in Biotechnology.

Relevant extracts of Nomination Form submitted to UNESCO under MBR programme with regard to AABR by the Ministry of Human Resources Department, Government of India are reproduced below for ready reference:

AREA:

The total area of the proposed BR is 383551.0 ha.

Size of Core Area (s):55155.0 ha

Size of Buffer Zone (s): 195587.5 ha

Size of Transition Area: 132808.5 ha

Brief rationale of this zonation (in terms of the various roles of biosphere reserve) as it appears on the zonation map. In the cases where a different type of zonation is also in force at the national level, please indicate how it can co-exist with the requirements of the biosphere reserve zonation system.

Most of the area of the proposed Achanakmar-Amarkantak BR is dense, open degraded and blank forest with rich biodiversity along with agriculture fields in between. The total forest area in the BR is mostly reserved forest or protected forest and partly managed forests. It is about 63.19% of the total geographical area of the BR Zonation of proposed BR is determined on the basis of existing Indian Wildlife Protection Act and no new restrictions have been imposed. It is designed to integrate knowledge on ecogeographical aspects, socio-economics of local communities and magnitude of biodiversity and categories of people who use it. The zonation, where the protected Core Zone is surrounded by Buffer Zone, makes clear the ecological and socio economical impendence between the area. A brief on each zone is as hereunder.

- a. Core Zone*** – *consisting of 55155.0 ha in area, is a protected forest under Lami range and Achankmar range and Game range. It is most undisturbed with conserved habitat in terms of vegetation and wildlife. Nearly 1498 species of flora belonging to 799 plant genera and 327 species of fauna belonging to 257 genera are known and many species are still to be taxonomically identified from this area. All the forestry operations including collection of NTFP have been stopped by Government of India and State Government from the Core*

Zone. Some forest living tribes inhabit in the Core Zone. Their population is low and distributed sparsely from each other.

- b. **Buffer Zone** – consists of 195587.5 ha and surrounds the Core Zone. It consists of protected and reserve forests as well as small agricultural land in between, running water, small temporary water check dams, built up areas and scattered settlements. In all, 93 villages and suburban areas exist in the Buffer Zone in Chhattisgarh and Madhya Pradesh states.*
- c. **Transition Zone** - is the outermost area of the BR. It consists of 132808.5 ha in area and covers the Buffer Zone. It has a part of reserve forest, managed forests, agricultural land, built up areas and settlements villages. Of which, 303 villages and suburban areas of both the states exists in Transition Zone. In all, about 4,36,128 people live in the BR as per recent census 2001. Tribal population residing in BR consists of 56.11% and scheduled caste population is 6.9%. The literacy rate is also only 26.48%. Inhabitants in these villages enjoy road transport, schooling, horticultural, agricultural, sericulture and many other schemes being introduced by the Government agencies like Departments of Agriculture, Horticulture, Apiculture, Sericulture, Animal Husbandry, Fisheries, Rural and Khadi Village Industry, Irrigation, Soil and Water Conservation etc. and Non-Government agencies like World Wildlife Fund etc. The zonation also assists in further developing the promoting the concept that is possible to have ecological integrity, sustain biodiversity and have integration between rural and urban lifestyles while utilizing the natural resources in a responsible manner.*

As stated above, the BRs are not declared/notified under any Law and the affidavit filed by the MoEF specifically states that no legal issues are involved. However, in the case of Core area of AABR it was already declared as a PA before it was included in the AABR which is now surrounded by the Buffer and Transition zones. The BRs capture the areas rich in biodiversity and are living examples of how man and nature can co-exist while respecting each other's needs. Therefore, there is no legal backing for the objections raised by the Applicant.

However, having held so, we are of the opinion that some of the issues raised in the Application and as framed by us need to be examined as they involve substantial question of law of general importance for taking policy decisions in this as well as such like matters and hence we proceed to examine the same in

public interest, in general, as well as in the interest of protection of the environment.

II. Whether the Central Government or the State Government is vested with any authority or powers to restrict/prohibit the activities in the BR and if so, what are the activities which can be restricted/prohibited and under what provisions of the law.

Here it is appropriate to refer to the relevant extracts of “*PROTECTION, DEVELOPMENT, MAINTENANCE AND RESEARCH IN BIOSPHERE RESERVES IN INDIA -GUIDELINES AND PROFORME*” issued by the MoEF in Oct. 2007 which are reproduced below for ready reference.

***Biosphere Reserves: Indian Approach
Introduction***

The idea of 'Biosphere Reserves' was initiated by UNESCO in 1973-74 under its Man and Biosphere (MAB) Programme. The MAB, launched in 1970 by UNESCO, is a broad based ecological programme aimed to develop within the natural and social sciences a basis for the rational use and conservation of the resources of the biosphere and for the improvement of the relationship between man and the environment; to predict the consequences of today's actions on tomorrows world and thereby to increase man's ability to manage efficiently the natural resources of the biosphere. The approach emphasizes the importance of the structure and functioning of ecological systems and their mode of reaction when exposed to human intervention including impact of man on the environment and vice-versa. MAB is primarily a programme of research and training and seeks scientific information to find solution of concrete practical problems of management and conservation. MAB's field projects and Biosphere reserves constitute the main goal of the whole programme.

The Indian National Man and Biosphere (MAB) Committee identifies and recommends potential sites for designation as Biosphere Reserves, following the UNESCO's guidelines and criteria.

2. Definition

Biosphere Reserve (BR) is an international designation by UNESCO for representative parts of natural and cultural

landscapes extending over large area of terrestrial or coastal/marine ecosystems or a combination thereof. BRs are designated to deal with one of the most important questions of reconciling the conservation of biodiversity, the quest for economic and social development and maintenance of associated cultural values. **BRs are thus special environments for both people and the nature and are living examples of how human beings and nature can co-exist while respecting each others' needs.**

These areas are internationally recognized within the framework of UNESCO's Man and Biosphere (MAB) programme, after receiving consent of the participating country. **The world's major ecosystem types and landscapes are represented in this network.**

3. Characteristics of Biosphere Reserves

(1) Each Biosphere Reserves are protected areas of land and/or coastal environments wherein people are an integral component of the system. Together, they constitute a worldwide network linked by International understanding for exchange of scientific information.

(2) The network of BRs includes significant examples of biomes throughout the world.

(3) Each BR includes one or more of the following categories:-

(i) BRs are representative examples of natural biomes.

(ii) BRs conserve unique communities of biodiversity or areas with unusual natural features of exceptional interest. It is recognized that these representative areas may also contain unique features of landscapes, ecosystems and genetic variations e.g. one population of a globally rare species; their representativeness and uniqueness may both be characteristics of an area.

(iii) BRs have examples of harmonious landscapes resulting from traditional patterns of land-use.

(iv) BRs have examples of modified or degraded ecosystems capable of being restored to more natural conditions.

(v) BRs generally have a non-manipulative core area, in combination with areas in which baseline measurements, experimental and manipulative research, education and training is carried out. Where these areas are not contiguous, they can be associated in a cluster.

4. Functions of Biosphere Reserves

Conservation

- To ensure the conservation of landscapes, ecosystems, species and genetic variations.
- To encourage the traditional resource use systems;

- To understand the patterns and processes of functioning of ecosystems;
- To monitor the natural and human-caused changes on spatial and temporal scales;

Development

- To promote, at the local level, economic development which is culturally, socially and ecologically sustainable.
- To develop the strategies leading to improvement and management of natural resources;

5. Beneficiaries

Direct Beneficiaries of the Biosphere Reserves are the local people and the ecological resources and **indirect beneficiaries** are scientists, government decision makers and the world community.

6.

7. Biosphere Reserves: Indian approach

7.1 Bio-geographical Regions in India:

7.2 National Biosphere Reserve Programme:.....

7.3.

7.4. Objectives

It may be noted that BRs are not a substitute or alternative, but a re-enforcement to the existing protected areas. The objectives of the Biosphere Reserve programme, as envisaged by the Core Group of Experts, are as follows:

- To conserve the diversity and integrity of plants and animals within natural ecosystems;
- To safeguard genetic diversity of species on which their continuing evolution depends;
- To provide areas for multi-faceted research and monitoring;
- To provide facilities for education and training; and
- To ensure sustainable use of natural resources through most appropriate technology for improvement of economic well-being of the local people.

These objectives should be oriented in such a way that the BRs are the Units wherein the Biological, socio-economic and cultural dimension of conservation are integrated together into a realistic conservation strategy.

7.5.

7.6. Structure and Design of Biosphere Reserves

In order to undertake complementary activities of biodiversity conservation and development of sustainable management aspects, Biosphere Reserves are demarcated into three inter-related zones.

These are (I) natural or core zone (ii) manipulation or Buffer zone and (iii) A Transition zone outside the Buffer zone.

The Core Zone:

The core zone is kept absolutely undisturbed. It must contain suitable habitat for numerous plant and animal species, including higher order predators and may contain centres of endemism. Core areas often conserve the wild relatives of economic species and also represent important genetic reservoirs. The core zones also contain places of exceptional scientific interest. A core zone secures legal protection and management and research activities that do not affect natural processes and wildlife are allowed. Strict nature reserves and wilderness portions of the area are designated as core areas of BR. The core zone is to be kept free from all human pressures external to the system.

The Buffer Zone:

In the Buffer Zone, which adjoins or surrounds core zone, uses and activities are managed in ways that protect the core zone. These uses and activities include restoration, demonstration sites for enhancing value addition to the resources, limited recreation, tourism, fishing and grazing, which are permitted to reduce its effect on core zone. Research and educational activities are to be encouraged. Human activities, if natural within BR, are likely to be permitted to continue if these do not adversely affect the ecological diversity.

The Transition Zone:

The Transition Zone is the outermost part of a Biosphere Reserve. This is usually not delimited one and is a zone of cooperation where conservation, knowledge and management skills are applied and uses are managed in harmony with the purpose of the Biosphere Reserve. This includes settlements, crop lands, managed forests and area for intensive recreation, and other economic uses characteristic of the region.

In Buffer Zone and the Transition Zones, manipulative macro-management practices are used. Experimental research areas are used for understanding the patterns and processes in the ecosystem. Modified or degraded landscapes are included as rehabilitation areas to restore the ecology in a way that it returns to sustainable productivity.

7.7. Legal Framework

Rules and regulations provide a broad planning approach to conservation and wise use of resources of BRs. These aim to ensure that:

(1) National land and water use planning measures take full account of the functions and values of BRs, and

- (2) *Conservation of their biodiversity is guaranteed for sustainable use of benefits of BRs.*

The Action Plan of BRs must therefore, be developed and implemented in conformity with other relevant national policies affecting BRs, relevant sections of Plan documents, National Conservation Strategy & Policy Statement on environment and Development (1992), the National Action Plan on Biodiversity (1997), the National Forest policy (1988), the National Water Policy (1987), Coastal Regulation Zones (CRZ), Environmental Protection Act (1986), Wildlife (Protection) Act, 1972 and its amendment (1991) and other relevant acts together with the relevant planning documents.

At present BRs are established within the framework of existing laws including Wildlife (Protection) Act, 1972. Rules and Regulations specifically for BRs can be examined by the respective State Governments, if existing laws are inadequate to deal with the requirements of the Biosphere reserves.

7.8 How Biosphere Reserves are different from Protected Areas such as National Parks (NP) and Wildlife Sanctuaries (WS)?

*It may be noted that the BR is not intended to replace existing protected areas but it widens the scope of conventional approach of protection and further strengthens the Protected Area Network. Existing legally protected areas (National Parks, Wildlife Sanctuary, Tiger Reserves and Reserved/Protected forests) may become part of the BR without any change in their legal status. On the other hand, inclusion of such areas in a BR will enhance their national value. It, however, does not mean that Biosphere Reserves are to be established only around the National Parks and Wildlife Sanctuaries. **However, the Biosphere Reserves differ from Protected Areas due to their emphasis on:***

- (i) Conservation of overall biodiversity and landscape, rather than some specific flagship species, to allow natural and evolutionary processes to continue without any hindrance.*
- (ii) Different components of BRs like landscapes, habitats, and species and land races.*
- (iii) Developmental activities, and resolution/mitigation of conflicts between development and conservation,*
- (iv) Increase in broad-basing of stakeholders, especially local people's participation and their training, compared to the features of scheme on Wildlife Sanctuaries and National Parks.*
- (v) Sustainable environment friendly development, and sustained coordination amongst different development organizations and agencies.*
- (vi) Research and Monitoring to understand the structure and functioning of ecological system and their mode of reaction when exposed to human intervention.*

8. The Government: Role and Responsibilities

8.1 The Central Government:

At the national level the Central Govt. assumes responsibility of overall coordination at international & national level. The Central Government is responsible for the following:

- *Financial assistance for implementation of the approved items of the programme.*
- *Technical expertise and know-how including training of personnel; and*
- *Detailed guidelines covering all aspects of management for implementation by the State/UTs machinery.*
- *Evaluation.*

8.2 The State Governments/UT Administration and other Stakeholders.

As per the constitutional framework, the States' are the proprietors and custodians of 'Land' and 'Forests'. Accordingly, the local management of the BRs is the responsibility of the concerned State Government/UT Administration.

8.2.1 Other stakeholders.

The management activities are to be implemented involving effectively the local communities, local govt. agencies, Scientists, economic interest groups, cultural groups and other stakeholders.

8.2.2 Policy/ Planning and Management Mechanism.

The State Government must ensure that each BR will have effective and long term management policy or plan and an appropriate 'Authority' or mechanism' to implement it. The management of a BR should include:

- A mechanism to protect the core zone;*
 - Appropriate facilities to undertake research and monitoring. The management Authority must ensure encouragement to research and monitoring by Research Institutions.*
 - Adequate provision for people's participation by enlisting their cooperation.*
- (Local and regional understanding in planning and managing the area for conservation and sustainable development is important for human benefit).*

8.2.3 Mechanism to oversee the programme:

The State Governments would constitute :

- State level Steering Committee to be headed by Chief Secretary or Additional Chief Secretary or Principal Secretary (Forests) of the State to oversee the programme.*

(ii) **Local Level Committee** to be headed by Commissioner or Project Director (who may be sufficiently Senior IFS Officer) should co-ordinate activities of various Departments and recommend suitable management interventions for incorporation in the Management Plans.

9. Conservation, Development and Logistics Support.

Development of Biosphere Reserves will have 3 components i.e. Management Action Plans for Conservation and Development, Research and Monitoring and Education and Training for work support which are generally eligible for Central Government assistance.

9.1 Management Action Plans (MAPs) for Conservation and Development

Management which includes the management of the Buffer zone, and in a way that ensures local community participation in conservation and utilization of the resources in a sustainable way as well as evolve ways and means by which economic wellbeing of local people is secured. It also involves development of management measures that protect the core by relieving pressures on its natural resources. Since the thrust of the programme is on creation of Supplementary and Alternate livelihoods to reduce biotic and anthropogenic pressure, synergy should be developed among the employment-generating programmes of other Departments, and involvement of various line Departments such as Agriculture, Rural Development, Tribal Affairs, Irrigation, Rural and Khadi Village Industry, Soil and Water Conservation, Women and Child Development, Horticulture, Animal Husbandry, Fisheries and Tourism should be ensured. Assistance for marketing local produce should also be provided.

At present the MAP for each BR is prepared by the concerned State Government. In general, the responsibility to manage Biosphere Reserves is given to the Forest Departments. This has resulted in inadequate participation of other relevant departments. It is therefore desirable that a **Biosphere Reserve Management Authority** is established as an autonomous body for effective coordination, management and development of BRs on a scientific basis involving various stakeholders which is expected to include officers and staff from Forest Departments and other line Departments as mentioned above. **The staff handling this subject in respective Departments can be pooled to constitute the proposed body.** This is necessary to facilitate more effective participation of various stakeholders in the programme.

Depending on local socio-economic features, involvement of Eco-Development Committees (EDCs), Panchayats, Forest Protection Committees (FPCs), Self Help Groups (SHGs), Biodiversity Management Committees (BMCs), Joint Forest Management Committees (JFMCs) could be ensured in various management interventions which may not only facilitate people's participation, but also lead to greater transparency.

Although items of intervention shall differ in each Biosphere Reserve , generally the following components are eligible for financial assistance:

a) Value addition activities

Formulation of comprehensive resource inventory and augmentation of required expertise and prioritization of activities with reference to additional income generating activities will be given priority. These include popularization of energy alternatives, range land and grassland management, habitat improvement, animal husbandry, aquaculture, apiculture and encouragement for continuance of traditional crops including wild relatives of cultivated species for agro-biodiversity conservation, adoption of technologies that make resource utilization sustainable, and cottage industries based on local raw material with eco-friendly processing and production process.

b) Setting up of Pilot plots

Among other preferred activities are ecologically appropriate forestry, production of biomass, cultivation of medicinal plants, traditional agriculture and horticulture, facilities for ex-situ conservation measures and development of practices for sustainable use of threatened economically important species.

c) Rehabilitation of landscapes of threatened species and ecosystems Pockets within BR harbouring threatened species should be demarcated for special attention.

d) Socio-economic upliftment of local communities.....

e) Facilitating and Associating Conservation of Critical habitats in Buffer Zones.

Acquiring critical habitats.

There are many Critical habitats in Buffer zones which are sometimes privately owned but important for long term survival of the eco-system. These habitats should be given special appropriate attention.

f) Maintenance and protection of corridor areas

To augment continuity of ecological processes and regulate movement of wild animal population from one habitat to the other in search of water, food and shelter, corridor areas in Buffer zones should be critically monitored. Appropriate viable livelihoods provided to residents in the vicinity of the corridor areas.

g) Development of communication system and Networking

Development of viable linkages between various Biosphere Reserves, stakeholders and government & non-government

agencies operating in the region to facilitate protection measures and exchange of information.

h) Development of Eco-tourism

The thrust of the management is to augment appreciation of people for nature, generate income through eco-tourism, provide means for the people who live and work within and around BR, to attain a balanced relationship with the natural world and to show a more sustainable future while contributing towards the needs of the society. Local community participation in planning and management of BR must be ensured.

Development of management practices that ensure the maintenance of high species diversity, establishment of research, education and training units should be given priority so as to create research facilities for undertaking research by concerned experts/organizations.

The afore-stated guidelines issued by the MoEF in October, 2007 and the Nomination Form submitted to UNESCO under the MAB programme stress man's ability to manage the natural resources of the BR efficiently. Here there is no bar on utilization of natural resources, provided they do not have any adverse effect on the ecological diversity. However, these economic uses should be characteristic of the region in the Buffer & Transition zones and should be in consonance with the site conditions giving more emphasis on rehabilitation of the area and restoring the ecology in a way that it turns to sustainable productivity and must involve the local communities besides utilizing the natural resources in a rational and responsible manner and for the well being of the local people besides contributing to economic development of the Nation.

III. Whether any provisions have been made under the law for preparation of Landscape Plan and if so who is the competent authority and what aspects have to be taken into account while preparing such Landscape Plan.

The Nomination Form submitted to UNESCO under the MBR by the Ministry of Human Resources Department, Government of India states that the creation of BR is to assist in developing and permitting the concept i.e. possible to have ecological integrity, sustainable biodiversity and have integration between rural and urban life style while utilizing natural resources in a responsible manner. Even the guidelines issued by the Ministry of Environment do not prohibit the economic activities in the BR and in fact the guidelines clearly states Manipulation of Macro Management Practices in Buffer zone / Transition zone as well as economic uses characteristic of the region and the rules and regulations provide a broad planning approach to conservation and wise use of natural resources of the BR without compromising the biodiversity and life style of the local communities. However, role of the stakeholders in the process should be ensured and the corporate sector may be included and EIA notification and restoration of degraded eco system with the BRs has to be integrated into the planning process.

As brought out in the guidelines issued by the MoEF, State of Madhya Pradesh has to constitute State Level Steering Committee and Field Level Steering Committee/Local Level Committee for the purpose of critically examining the management action plans and make appropriate recommendations and co-ordinate the activities of various departments and recommend suitable management intervention for incorporation in the management plans, respectively.

In the case of AABR area falling in the jurisdiction of Madhya Pradesh the Government of Madhya Pradesh has made Department of Housing and Environment as nodal department on implementation of the BR programme and the District Level Co-ordination Committee was constituted under the chairmanship of the District Collector and the State Level Steering Committee

under the chairmanship of the Chief Secretary. The EPCO under the control of Housing and Environment Department has been designated as nodal agency on behalf of the Government of Madhya Pradesh for implementation of the Management Action Plans. Whereas AABR area falling in the Chhattisgarh State is managed separately by Chhattisgarh Government. Though, the general guidelines prescribed that Local Level Committee to be headed by the Commissioner or Director (who may be sufficiently senior IFS officer) should co-ordinate activities of various departments with regard to preparation of Landscape plan for the areas falling in the Buffer zone and Transition zone it is desirable to entrust the task to the EPCO in the case of AABR. Conservation and maintenance of biological diversity, sustainable utilization of natural resources, and stabilization of the terrain; improvement and regulation of hydrological regime; people's involvement in planning and management of natural resources and fulfilling socio-economic and livelihood needs of the people have to be taken into account while preparing the Landscape plan.

IV. Whether permission for undertaking mining activities, in Buffer and Transition zones of a BR, are contrary to the basic objectives of creating and maintaining Biosphere Reserves which are rich in biodiversity.

As already noted above, replies filed by the Respondent State says that the Core zone of the BR is a Protected Area measuring 551.55 sq. km. and it falls in Chhattisgarh state. It is surrounded by Buffer and Transition Zone area of 3283.96 sq. km., out of which 2058.98 sq. km. lies in Bilaspur and Marwahi forest divisions of Chhattisgarh and 1,224.98 sq. km in Dindori and Anuppur forest divisions of Madhya Pradesh. Its topography varies from rice fields in Bilaspur

and Anuppur districts, and wheat fields in Dindori district to the hills of Maikal ranges of Satpura. The topography, in combination with perennial streams and valleys has created micro-climatic conditions in the area to provide diverse environmental conditions, encouraging luxuriant growth for several species of Thallophytes, Bryophytes, Pteridophytes (Ferns), Gymnosperms, Angiosperms and many species of wild fauna of economic importance. Achanakmar - Amarkantak BR is blessed with many seasonal monsoon dependent and permanent streams, rivers like the Narmada, the Johilla and the Sone, many rivulets and two dams.

The basic concept of BR is for the conservation and rational use of the natural resources and for the improvement of relation between the man & environment. Therefore, sustainable mining activity in Buffer/Transition zone does not itself lead to a direct conflict with the objectives of constitution of BRs. There is no bar in undertaking such activities of utilizing natural resources in a responsible manner in areas falling outside and located far away from the Core zone provided the basic conditions prescribed for constitution and maintenance of BR are fulfilled, ecological integrity is maintained, biodiversity is sustained and 100 % foolproof EIA study is done, EC is granted and no deviation is allowed from the conditions prescribed while granting the EC. However before the above exercise is done, detailed Landscape Plan shall be prepared as the AABR is ecologically sensitive and rich in flora and fauna.

V. Whether any scientific evidence has been produced by the Applicant or the Respondents that the PL and MLs in question, granted in the Buffer and Transition Zones of the AABR will lead to adverse impact

on the biodiversity, cause pollution as well as on the livelihood opportunities of the local communities.

A perusal of the study report on the Bauxite mining done by HINDALCO & BALCO gives a clear picture of the effect of Bauxite mining in the Amarkantak region. Relevant extracts of the report are:

“Amarkantak, by virtue of being source of the Narmada, Sone and Johilla rivers, is a very important and holy place which has its own importance in cultural and mythological heritage of the country. The unique and remarkable feature of Amarkantak region are the trijunction of three major hill ranges namely Satpura, Vindhya and Maikal and river basins (the Narmada, the Mahanadi and the Ganga). The Bauxite ore at trijunction of Mandla, Bilaspur and Shahdol districts is quantitatively the largest and qualitatively the best in the state. Bauxite mining here is being carried-out by HINDALCO and BALCO since 1962 and 1970 respectively. The indiscriminate mining of Bauxite resources from such an important religious place has caused adverse effects on the environmental and ecological balance of the regions.

The environmental impact of opencast Bauxite mining in Amarkantak region can be classified into the following categories:

- i. Impact on land and soil: Land degradation, landslide, soil erosion, change in land use/landscape.*
- ii. Impact on flora and fauna; deforestation, wildlife migration.*
- iii. Impact on water: impact on riverine system, disruption of water regimes, natural drainage and pollution of surface and subsurface water.*
- iv. Air pollution: Air quality deterioration due to discharge of particulate matter and gasses generated during mining operation.*
- v. Noise pollution and vibration problems.*
- vi. Socio-economic problems.*

Opencast Bauxite mining causes inevitable disturbances to land and therefore the landscape of leased area changes drastically from lush green forest to varied coloured pits dominated by brownish red colour, but the importance of land reclamation cannot be denied in this context of increasing mechanization and mounting pressure on land due to other competitive use such as forestry, park, playground, reservoir etc.

The initial stages of surface mining comprises of removal of vegetation and top soil of the area. Opencast Bauxite mining upsets the natural ecosystem due to the land degradation and dumping of overburden. The very beginning of opencast mining involves in the excavation of laterite overburden to reach the Bauxite which is not useful and has to be dumped in and outside the mining pit, thus creating a twofold disadvantage, namely (i) devastating the land involved in actual extraction and (ii) land required for dumping the excavated overburden. The latter is much more greater than the land involved in actual mining operation. The average stripping ratio of overburden to Bauxite ore is reported to be 5:1 in Amarkantak region. The depth of mines usually vary from 3 meters to 15 metres. The top fertile black cottons oil containing humus and organic contents on Bauxite plateau varies in thickness from few centimetres to about a meter followed by loose lateritic (ferruginous, pisolites) soil.

The various environmental problems are produced due to the over exploitation of both renewable and non-renewable natural resources. In the process, the ecological balance is upset, and the environment gets degraded, thereby leading to depletion of resources beyond sustainable limits. Environmental protection and monitoring is not restricted to the spheres of urban or industrial pollution of water, air and land but also extends to the misuse of the scarce land resources. It follows that the assessment of limits of exploitation of various natural resources and monitoring the total environmental situation are essential steps for a conservation and eco-restoration strategy. The various mining method and practices have gone through a sea change over the past several decades resulting in adoption of more scientific modes of operation with relatively less adverse consequences to the environment. But during opencast mining the land cover is completely stripped off and in the process, land directly gets degraded.

To protect environment from the impact of mining, it is very essential to design carefully and implement the environmental management programs in mining areas.

It may be concluded that an effective environmental management plan can minimize the disturbance of ecological balance and environmental problems of the mining area and this vital sector can very well survive the onslaught of pollution threat. The bauxite mining site may be transformed into lush green forest after few years of mining which may become more valuable and beautiful than earlier forest in the original land".

The above report on the environmental impact of Bauxite mining done by the HINDALCO & BALCO in the Amarkantak region has definitely shown that it caused a negative impact on the local eco-system. However, these mines were located in the Amarkantak plateau itself more so where hill slopes have been

disturbed but as brought out by the MoEF in their reply these mines which are subsequently closed down, are away from the mines in question and they are not relevant to the present case. It was also categorically stated by the MoEF that the mines in question are falling in the Buffer/Transition zone. It is a fact that the MLs granted in the past over large extent of area even in luxuriant forests and ecologically highly sensitive areas including that of mines sanctioned to HINDALCO & BALCO, decades ago, before the advent of Forest (Conservation) Act and Environmental laws in the country and without conducting EIA study and before the concept of 'Sustainable Development' came into prominence, lead to unscientific and indiscriminate mining causing immense damage to the local ecosystem besides degrading the land and creating air and water pollution.

28. As seen from the above, the basic concept of Biosphere Reserves and their constitution and as per the guidelines issued in this regard by the MoEF the focus is on environmental stability, biodiversity monitoring and management, restoration of ecological balance of the disturbed areas and improve the livelihood opportunities/standards of local people in consonance with local practices. Therefore it is clear that management of BRs may be not just for protection but for sustainable utilization of natural resources which may include mining. BRs recognize that quality economies require quality environments and that conservation is important for both.

29. The BR program is entirely voluntary. Ownership of the property and authority over land and water use does not change when a BR is designated. A BR does not create any new regulations and does not restrict the rights of citizens. In BRs, nature is not isolated from man, but it is conserved through using it. Hence, they are places where livelihood is sustained.

30. BRs are areas that are for developing innovative approaches, testing them and sharing the results; more importantly to combine many different approaches in a vast diversity of policy and management fields, towards a balanced relationship between mankind and nature and total banning of commercial activities in the Buffer and Transition Zones on mere presumption that these activities cause further damage to the biodiversity may not be an appropriate proposition.

31. Provisions have to be made to integrate aspects of biodiversity protection and commercial activities in the BRs critically assessing the sustainability, accompanied by a set of related quantitative, qualitative or descriptive attributes. These attributes when measured or assessed periodically, should indicate the direction of change for each aspect of sustainable management of natural resources especially in the present state of increase of anthropogenic pressure.

32. The activities that are permitted in BRs vary from one BR to other and even within the same BR and blanket banning of such activities simply because they are taken up in the BR is not plausible. If we do not understand what it is that we are trying to protect and what activity we have to allow just because that the activity is located in a BR then it will be impossible to maintain a rationale for protection.

33. It is a fact that mining and biodiversity conservation have historically been in conflict. But we need to recognize that nature and development have to complement each other as they are interdependent. There is a need to optimize how these inter-dependencies can play out in perpetuity at a landscape level.

Bauxite mining activity may not be necessarily inconsistent with the maintenance

of the integrity of the BR particularly if they are combined with measures to strengthen protection of these areas from other threats.

34. Although mining and other related industries impact negatively on biodiversity and communities, both directly and indirectly, they can make a significant contribution to sustainable development when environmental, social, and corporate governance issues are effectively managed. Where residual impacts of mining are unavoidable, the technology must be developed in such a way that they can be offset through careful Environmental & Social Impact Assessment procedures and the impacts can be completely avoided or mitigated or at least minimized as all impacts on areas of biodiversity value need careful planning and management plans appropriate to the level of impact or protection and mining under question in the Buffer/Transition zone of AABR can be regulated accordingly if they are permitted based on the Landscape plan on the principle of sustainable development though avoidance and direct mitigation of potential negative impacts should be at the forefront of planning.

35. Within a Buffer Zone or Transition Zone fragile areas vulnerable for threats to damage to ecology require more rest and commercial activities including mining have to be completely stopped or controlled as per the Landscape plan. Thus it cannot be said in general that activities like mining shall be totally banned when such areas falling in the Buffer Zone or Transition zone are not notified as PA or ESZ under the law and they can't be compared with the regulations that are applicable to PAs which are notified under the Wildlife (Protection) Act, 1972.

36. However, based on the Landscape plan and after concluding that the mines in question are not located in ecologically sensitive sites as those which are highly

sensitive in the Buffer and Transition zones in the same BR, the fact that sometimes these sites fall in the areas which act as vital ecological corridor links and therefore, they must be protected to prevent isolation of fragments of biodiversity, shall also be taken into account and if justified, it requires reconsideration of permitting the mines.

37. Preparation of detailed Landscape Plan is required in the beginning itself followed by detailed EIA study for a particular project and ecological integrity is maintained.

As the AABR has been constituted almost a decade back and scientific studies have already been undertaken by the TFRI, Jabalpur and the data is being regularly collected and updated it is always left to the Central Government to examine the Buffer & Transition Zones which together extend to more than 3000 sq.km. and declare parts thereof as Ecologically Sensitive Zone under the Environment (Protection) Act, 1986 which then legally prohibits/restricts the activities including mining in such ESZ areas. The relevant rule position is as follows.

- (i) *Section 3 of the Environment (Protection) Act 1986 (EPA) gives power to the Central Government i.e. the Union Ministry of Environment and Forests to take all measures that it feels are necessary for protecting and improving the quality of the environment and to prevent and control environmental pollution. To meet this objective, the Central Government can restrict areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards [Section 3 (2) (v)].*
- (ii) *Rule 5 (1) of the Environment (Protection) Rules, 1986 (EPR), states that the central government can prohibit or restrict the location of industries and carrying on certain operations or process on the basis of consideration like the biological diversity of an area (clause v) maximum allowable limits of concentration of pollutants for an area*

(clause ii) environmentally compatible land use (clause vi) proximity to protected area (clause viii).

38. As already brought out, granting of PL/ML in question in the areas which are not notified as 'Forest' and which are located in the Buffer/Transition zone of AABR *per se* does not convince us that there is any violation of Environmental/Forest Laws. Further, there is no evidence to show that such mining activities if permitted to be taken up in a sustainable manner in the Buffer/Transition zone located far away from the Core zone without leading to any adverse effect, will be causing irreparable damage to the environment particularly to the river Narmada which originates in Amarkantak plateau.

39. In the above circumstances we are not fully convinced with the averments made by the Applicant that the PL and ML in question granted in the Buffer/Transition zone located far away from the Core zone, will lead to irreparable loss to biodiversity and cause damage to the local ecosystem including that of the river Narmada. Moreover, mere sanction of PL to Respondent No. 5, *ipso facto* does not entitle them to undertake regular mining which will be permitted only after detailed EIA study is done, scrutinized by the Expert Appraisal Committee (for short, 'EAC') and then only the EC is granted to the Project Proponent under the EIA Notification, 2006. It is always left to the authorities to impose additional conditions and restrictions, if required keeping in view the site specific conditions and improve the monitoring mechanism when the project is under operation.

With regard to livelihood opportunities of local people, unsustainable mining activity, if carried may lead to damage to the flora and fauna, their agricultural fields, water resources etc. which may affect their livelihood and

hence there is a necessity of preparation of detailed Landscape plan which will depict the true ground position.

40. In the case of *T.N. Godavaraman Thirumulpad Vs. Union of India* (2008) 2 SCC 222 the Hon'ble Supreme Court observed that

“3. As a matter of preface, we may state that adherence to the principle of Sustainable Development is now a constitutional requirement. How much damage to the environment and ecology has got to be decided on the facts of each case. While applying the principle of Sustainable Development one must bear in mind that development which meets the needs of the present without compromising the ability of the future generations to meet their own needs is Sustainable Development. Therefore, courts are required to balance development needs with the protection of the environment and ecology. It is the duty of the State under our Constitution to devise and implement a coherent and co-ordinated programme to meet its obligation of Sustainable Development based on inter-generational equity”.

In the *Intellectuals Forum, Tirupathi Vs. State of A.P.* (2006) 3

SCC 549 the Hon'ble Supreme Court observed that

“Sustainable Development

56. The respondents, however, have taken the plea that the actions taken by the Government were in pursuance of urgent needs of development. The debate between the developmental and economic needs and that of the environment is an enduring one, since if environment is destroyed for any purpose without a compelling developmental cause, it will most probably run foul of the executive and judicial safeguards. However, this Court has often faced situations where the needs of environmental protection have been pitched against the demands of economic development. In response to this difficulty, policy makers and judicial bodies across the world have produced the concept of "sustainable development". This concept, as defined in the 1987 report of the World Commission on Environment and Development (Brundtland Report) defines it as "Development that meets the needs of the present without compromising the ability of the future generations to meet their own needs". Returning to the Stockholm Convention, a support of such a notion can be found in Paragraph 13, which states:

In order to achieve a more rational management of resources and thus to improve the environment, States should adopt an integrated

and coordinated approach to their development planning so as to ensure that development is compatible with the need to protect and improve environment for the benefit of their population.

Subsequently the Rio Declaration on Environment and Development, passed during the Earth Summit at 1992, to which also India is a party, adopts the notion of sustainable development. Principle 4 of the declaration states:

In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it”.

41. In the case of *Essar Oil v. Halar Utkarsh Samiti* AIR 2004 SC 1834 the Hon’ble Supreme Court held:

“This, therefore, is the sole aim, namely, to balance economic and social needs on the one hand with environmental considerations on the other. But in a sense all development is an environmental threat. Indeed, the very existence of humanity and the rapid increase in population together with the consequential demands to sustain the population has resulted in the concreting of open lands, cutting down of forests, filling up of lakes and the pollution of water resources and the very air that we breathe. However there need not necessarily be a deadlock between development on the one hand and the environment on the other. The objective of all laws on environment should be to create harmony between the two since neither one can be sacrificed at the altar of the other.

42. A similar view was taken by the Hon’ble Supreme Court in the case of *Indian Council for Environ-Legal Action v. Union of India* (1996) 5 SCC 281 where it observed:

“While economic development should not be allowed to take place at the cost of ecology or by causing widespread environmental destruction and violation; at the same time the necessity to preserve ecology and environment should not hamper economic and other developments. Both development and environment should go hand in hand, in other words, there should not be development at the cost of environment and vice versa, but there should be development while taking due care and ensuring the protection of the environment”.

43. In *Sarang Yadwadkar and Ors. Vs. The Commissioner, JNNURM Office*

MANU/GT/0051/2013 this Tribunal observed:

“29. The above stated principles illustratively demonstrate that judicial balance of both these concepts would not permit undue significance being attached to either of them at the cost of the other. The concept of sustainable development in essence admits to balance the scale between the quantity of development and the quality of environment. The earlier school of thought was that development and ecology are opposed to each other but with the passage of time and development of law, this concept has undergone a tremendous change and is no longer acceptable and now prevails the doctrine of 'sustainable development'. The principle of sustainable development takes within its ambit the Application of the 'principle of proportionality' and the 'precautionary principle'. In other words, one must, while permitting development, not only ensure that no substantial damage is caused to the environment but also take such preventive measures which would ensure no irretrievable damage to the environment even in future on the premise on intergenerational equity. All these principles have to be examined and applied on the touch stone of "reasonable person's test". As already indicated, we are a developing country, and therefore, have to take somewhat liberal approach towards development but certainly not by compromising the environmental interest. The precautionary principle can be explained to say that it contemplates that an activity which poses danger and threat to environment is to be prevented. Prevention is better than cure. It means that the State Governments and the local authorities are supposed to anticipate and then prevent the causes of environmental degradation. The likelihood of danger to the environment has to be based upon scientific information, data available and analysis of risks. Ecological impact should be given paramount consideration and it is more so when resources are non-renewable or where the end result would be irreversible. The principle of precaution involves anticipation of environmental harm and taking measures to avoid it or to choose the least environmentally harmful activity. Again it is based on scientific uncertainty.

44. In the case of *Smt. Mithlesh Bai Patel Vs. State of Madhya Pradesh*
MANU/GT/0027/2014 this Tribunal held:

“21. While the objective of granting PL for mining is for systematic development of minerals which forms part of the development process of the country, it is the duty of the Central Government and the State Government to take steps to protect the environment and maintain the ecological balance and prevent damage that may be caused by prospecting and mining operations. The Hon'ble Supreme Court in the case of M. C. Mehta vs. Union

of India, {2009) 6 SCC 142} while stressing the need for regulating the mining activities in a sustainable way in view of the large scale environmental concerns raised across the country and also to prevent further environmental degradation, inter alia, held that;

“.....Mining within the principles of sustainable development comes within the concept of ‘balancing’ whereas mining beyond the principle of sustainable development comes within the concept of ‘banning’. It is a matter of degree. Balancing of the mining activity with environment protection and banning such activity are two sides of the same principle of sustainable development”.

Thus it is mandatory on the part of the authorities to apply the principle of Sustainable Development and therefore any person applying for undertaking mining operations for both major and minor minerals is required to take prior EC from the authority concerned i.e. MoEF at the central level or State Environment Impact Assessment Authority (SEIAA) at the State level. Hence in future if ML is going to be granted over the land in question after the prospecting is done, the authorities shall take into account of the issues raised by the Applicant in this OA along with the EIA report”.

45. Therefore, preparation of Landscape plan is imperative for permitting the PL/ML granted to the Respondents. Preparation of Landscape plan is a highly technical job and now-a-days technological advancements like remote sensing, GIS, GPS, computational and analytical systems are available for preparation and for real time monitoring of dynamics of BRs which can be taken into account while preparing the plan and assessing the resources and their sound management. Of course, not compromising with the basic principle ‘Sustainable Development’

46. Further, it should always be borne in mind that management should be more people centric and oriented to provide the best possible for their benefit in Buffer and Transition zones with an emphasis on ecological services as no human interference is allowed in the Core zone of AABR. We must also recognize that

quality economies require quality environments and that conservation is important for both.

47. In the light of above observations we feel it is fit to issue the following directions in this case.

- (i). As rightly averred by the Secretary, MoEF till detailed Landscape plan is prepared for the mines in question the PL/ML granted to the Respondents No. 5, 6 & 7 shall be kept on hold.
- (ii). The so called Landscape plan prepared and produced before this Tribunal by the DFO, Anuppur does not take into account the effect of such mining on the local biodiversity and ecology and mere statement of the DFO that the PL granted to Respondent No.7 does not involve Forest land and it is a private land without any vegetation and necessary action will be taken to keep the boundary demarcated, will not satisfy the condition of preparation of Landscape plan in which one has to look into all the aspects and satisfy the principle of sustainable development .
- (iii). We direct that the nodal agency for the State of Madhya Pradesh, EPCO shall prepare detailed Landscape plan in coordination with the line departments and arrive at a conclusion whether the PL and ML granted to the Respondents No. 5, 6 & 7 satisfy the principle of sustainable development by looking at various parameters that have been taken into account and observations and recommendations that have been made in the Barkatullah University report on *Bio-Physical Environment study on HINDALCO & BALCO*.

- (iv). This exercise should be carried out within 3 months from the date of issue of this order.
- (v) Once the EPCO prepares the Landscape plan after going into the various aspects the plan should be reviewed by the State Level Steering Committee headed by the Chief Secretary/Principal Secretary (Forests) and take a decision within one month thereafter whether to allow such mining activities to be carried out in the Buffer/Transition zone of AABR and the decision of the State Level Steering Committee shall be final. Till then the interim orders passed on 17th July, 2009 by the Hon'ble High Court of Madhya Pradesh shall continue to operate.

48. With the above directions we dispose of this Application. However, there is no order as to costs.

Bhopal:
October 1st, 2014

(Mr. Justice Dalip Singh)
Judicial Member

(Mr. P.S. Rao)
Expert Member

NGT