

BEFORE THE NATIONAL GREEN TRIBUNAL, CENTRAL ZONAL BENCH, BHOPAL

Original Application No. 57/2013 (CZ)

Shree 1008 Kunwar Raj Rajeswari Vs. Sunil Sharma & Ors.

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

PRESENT : Applicant : Shri Hari Sharma
Respondent No. 1 : Shri Prakhar Dhengula, Advocate
Respondent No. 2 : Shri Sachin K.Verma, Advocate
Shri Govind Sharma, OIC
Respondent No. 3 : Shri Shivendu Joshi, Advocate for
Shri Purushindra Kaurav,Advocate
Respondent No. 4 : Shri Suman Mandal, Advocate
Intervener : Shri Ajay Gupta, Advocate

Date and Remarks	Order of the Tribunal
Item no. 4 11th February, 2014	<p>Shri Sachin K. Verma, Learned Counsel for the State has filed compliance report along with a copy of the joint inspection report dtd. 06.2.2014, of the District Project Co-ordinator, <i>Sarva Shiksha Abhiyan</i>, Gwalior and Regional Officer, MP Pollution Control Board (MPPCB), Gwalior. We find from the para 2.2 of the said inspection report that the School which has been newly constructed under the '<i>Sarva Shiksha Abhiyan</i>' at Naka Pata, Bilowa, has been found to be less than 500 meters in distance from the eight stone crushers located in the area. It has also been stated that as per the Rules the minimum distance between crushers and school should not be less than 500 meters. In all 13 stone crushers are reported to be under operation in the vicinity. It has also been brought to our notice that in the same area of Bilowa two schools, one at Chirpura & the other at Rafatpura had stone crushers running at a distance less than 500 meters whose 'consent to operate' was withheld by the MPPCB and the Hon'ble Principal Bench of the National Green Tribunal has also directed the closure of the said crushers as a result.</p> <p>The Respondents in their report have made certain suggestions for mitigating the effects of pollution as a result of running of the 8 crushers in</p>

close proximity of the newly opened school at Naka Pata.

Shri Ajay Gupta, Learned Counsel appearing on behalf of the Association of the Stone Crusher Units at Bilowa, after having considered the inspection report, pointed out that the school was constructed by the administration being fully aware that it was at a distance of less than 500 mtrs. from the crusher units which were already existing. As such the Rules/guidelines on which the MP Pollution Control Board seeks to rely should not be made applicable in absolute terms so as to warrant closure of the aforesaid 8 units, reference to which finds place in para 2.2 of the joint inspection report.

Shri Ajay Gupta, Learned Counsel further pointed out that looking to the various factors including the location of the mines, the non availability of the raw material at any other place in close proximity as well as the need for the raw material by the crushing units which have already made commitments for supply of crushed material for various projects including works undertaken for public convenience and importance, neither the closure of the crushing units nor the mining activity would be conducive to the development. After consulting the representatives of the Association, who are present in the Court, the learned counsel produced a Google Satellite imagery indicating certain open spaces on Government revenue land near Natho Ki Basti in Village Naka Pata for constructing a new building in lieu of the aforesaid school which has come up under the 'Sarva Shiksha Abhiyan'. It was submitted that the Association would be willing to meet the cost of construction / relocation of the school on the same pattern as the one already constructed if the aforesaid alternate site is made available. It was further stated that this alternate site located at a distance of not more than 1 Km. from the residential area, the condition of establishing new school within 1Km from the residential localities to encourage /enable the parents to enroll their children in the schools, as

stated by the District Collector, Gwalior during last hearing, would be fulfilled and it will avoid the problem of providing transportation facilities for the children by the Association. Shri Ajay Gupta, Learned Counsel has also stated that the measures which have been pointed out in para 2.4 of the joint inspection report may be made applicable to the school to be constructed at new site to the extent possible. The Learned Counsel further prayed that the matter may be listed in court on 14.02.2014 by which time he would be in a position on behalf of the Association of the Operators of the Crushers at Bilowa to file an affidavit with proposals as well as financial commitment apart from the Rs. 50 lakhs already contributed by the Association.

The District Collector shall depute a responsible officer to take a stand on the matter in response of the above proposals given today by the Association before the Tribunal. The District Collector shall also direct the concerned officer to visit the area for the purpose of identification of the suggested alternate site for relocation of the school as proposed by Shri Ajay Gupta, Learned Counsel on the Google Map copy of which has been given to Shri Sachin K. Verma, Learned Counsel for the Govt. of M.P. and the officer of the Mining Department, who is present.

The Applicant has also filed an affidavit alleging that he is being harassed by the Police officers. The SHO, Police Station, Vishwavidyalaya, District Gwalior shall file his affidavit in this regard and shall remain present on 14.02.2014 before this Tribunal.

Stand over to **14.02.2014**.

.....JM
(DALIP SINGH)

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