

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

**Original Application No. 158/2014 (CZ)**

**Prateek Singh Vs. Secretary, State of M.P. Mining Dept. & 8 Ors.**

and

**Original Application No. 159/2014 (CZ)**

**Rashid Noor Khan Vs. State of M.P. & 8 Ors.**

and

**Original Application No. 163/2014 (CZ)**

**Shiva Corporation India Ltd. vs. State of M.P. & 2 Ors.**

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

**PRESENT : (O.A.No. 158/2014)**

**Applicant : None.**  
**Respondent No. 1 to 7 : Mr. Sachin Verma, Advcoate**  
**Respondent No. 8 : Ms. Parul Bhadoria, Adv. for  
Mr. Purushaindra Kaurav, Adv.**  
**Respondent UoI : Mr. Om S.Shrivastav, Adv.**

**(O.A.No. 159/2014)**

**Respondent 1 to 4: Mr. Sachin Verma, Advocate**  
**Respondent No. 5 & 6: Ms. Parul Bhadoria, Advocate**  
**Respondent No. 8 & 9: Ms. Anjum Feroz, Adv. for  
Mr. Deepesh Joshi, Advocate**

<b>Date and Remarks</b>	<b>Orders of the Tribunal</b>
<b>Item No. 2,3 &amp;4 19<sup>th</sup> March, 2015</b>	<p>While hearing these application, it has been brought to our notice that in the case of applicants who have raised issue that mining operations are being conducted by way of commercial activity in the garb of having obtained temporary quarry permits under Rule 68 of the Minor Mineral Rules, 1996 of the State of MP which as per the contention of the State does not require sanction of mining lease and therefore even the SEIAA did not entertain the applications submitted by the permit holders on the ground that since no mining lease had been granted, as such consideration of the same by SEIAA for grant of EC is not required.</p> <p>We are of the view that the question which has been raised before us in terms of Section 14 of the National Green Tribunal Act, 2010 is the substantial question of law as to whether in the garb of</p>

obtaining temporary quarry permit under Rule 68, commercial activity of removal of mineral amounts mining or not irrespective of whether such mineral is bring removed in the name of levelling the land which may be in the tenancy of an agriculturist or the mineral / material may be required to be removed for the purpose of carrying developmental activities.

We are of the view that MoEF which is the custodian of the environment, needs to take a call on the aforesaid issue and examine the import of Rule 68 as to whether in the garb of Rule 68, the provision of the Environment (Protection) Act, 1986 and the Rules made thereunder are being flouted by taking recourse to the provisions of Rule 68 as in the given case, we find that extraction of the material (sand in O.A.No. 158/2014 and O.A.No. 159/2014) is from the banks of river, in such cases whether the issues pertaining to environment need to be taken into account requiring approval and EC for the concerned body. We feel that after examination of matter in detail, if the MoEF needs to issue direction for guidelines, it must take up the same so that preparation, protection and improvement of environment which is the mandate of Article 48(A) of the Constitution of India is fulfilled and State agencies and officers who grant such permits and permission under Rules 68 enter into the issues which should be highlighted by the MoEF even where such quarrying permits and licence are issued. We find that no guidelines are issued which are required to be taken into consideration on the issues of granting permission for quarrying which gives lot of subjectivity and room for unbridled exercise of power by the concerned authority resulting in even violation of Article 48 (A) of the Constitution of India.

Shri Om S.Shrivastav, Learned Counsel appearing for MoEF is directed to get response of the MoEF on the issues.

Let the matter be listed on **21<sup>st</sup> April, 2015.**

.....,JM  
**(DALIP SINGH)**

.....,EM  
**(P.S.RAO)**

