

BEFORE THE NATIONAL GREEN TRIBUNAL, CENTRAL ZONAL BENCH,  
BHOPAL

M.A.No. 403/2015

and

Original Application No. 49/2015 (CZ)

**Amarkant Mishra Vs. State of MP & 3 Ors.**

**CORAM : HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER  
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER**

**PRESENT : Applicant: Shri Dharamvir Sharma, Advocate  
Respondent State & } : Shri Sachin K.Verma, Advocate  
Mining Corporation }  
MPPCB: Ms. Parul Bhadoria, Advocate for  
Shri Purushaindra Kaurav, Adv.**

<b>Date and Remarks</b>	<b>Order of the Tribunal</b>
<b>Order No. 7 3<sup>rd</sup> August, 2015</b>	<p style="text-align: center;"><b><u>M.A.No. 403/2015</u></b></p> <p>After allowing M.A.No. 405/2015, Learned Counsel for the State has sought to argue the Review Application No. 403/2015 filed against our order of 20.07.2015 by which the operation of the order passed by the State Government on 30.06.2015 granting a blanket extension with regard to sand mining operation beyond 30.06.2015 up to 31.07.2015 has been stayed by this Tribunal and it has been directed that no sand mining in the river bed would be permissible.</p> <p>Learned Counsel for the State Shri Sachin K.Verma arguing the review application drew our attention to the order of the Hon'ble Principal Bench of the National Green Tribunal in Review Application No. 18/2015 in Original Application No. 123/2014 in the matter of MP State Mining Corporation Vs. Ministry of Environment &amp; Forest &amp; Ors. in Himmat Singh Shekhawat Vs. State of Rajasthan &amp; Ors. dated 24.07.2015. Learned Counsel for the State on the basis of the order dated 24.07.2015 drew out attention to the second contention raised before the Hon'ble Principal Bench with regard to the extension of time. The second contention which were taken up for consideration is as</p>

follows:

*“2.The application for obtaining Environment Clearance has been moved by large number of persons. From the information available at the website of SEIAA, MP, it is reported that not even a single application has been dealt with and decided till date. This is causing serious prejudice to the Applicants and therefore in any case there should be extension of time given to the Applicants.”*

While dealing with the aforesaid second contention, the Principal

Bench held as follows:

*“In the light of the above, we direct that MoEF shall constitute additional teams under SEIAA and SEAC immediately to clear the back log of large number of applications for obtaining EC that are pending before SEIAA in the State of M.P. The Committee shall be temporary under SEIAA and would deal with the Applications expeditiously and clear the back log within three months from today.*

*We further direct that the Units and mine operators who have applied for obtaining EC, can operate for a period of three months from today. But the Units who have not applied for EC till date would be directed to be closed. This obviously will have no application to fresh leases and they shall start operation only after getting EC.”*

Based upon the above two directions of the Principal Bench in the order dated 24.07.2015, Learned Counsel for the State has filed this review application with the prayer to recall our order dated 20.07.2015 and that the same may be made operative to only to the extent of 61 quarries wherein a special condition No. 5 has been laid down. We appreciate the concern of the Learned Counsel for the State and the clarity with which the prayer has been made in the review application as the Hon’ble Principal Bench also, while granting the extension, has not granted any blanket extension but has made very clear that the extension would apply only in the case of mine operators who have applied for EC. So far as the units who have not applied for EC and fresh leases, this order of 24.07.2015 has not been made applicable. Thus, in the case of specific cases, where the blanket extension has not been granted and in our case also while dealing with the issue in our order dated

20.07.2015, we have made this distinction, particularly, in the case of sand mining in the river bed where the SEIAA and SEAC being conscious of this fact regarding the breeding season of fish and river life, has imposed condition that sand mining in the river beds would be permissible only w.e.f. 1<sup>st</sup> November to 31<sup>st</sup> May i.e. no sand mining between 1<sup>st</sup> June to 31<sup>st</sup> October and that is the principle which we have adopted in our order of 20.07.2015 keeping in view Constitutional mandate with regard to “having compassion for all living beings”. We are conscious of the fact that while passing the order on 20.07.2015, two sets of order were shown to us; one in the case of 61 mining lease where such condition No. 5 had been imposed regarding the ban and another set where no such ban has infact been imposed. Yet looking to the similarity, we had in our order taking the Constitutional mandate into account directing that even in cases where the aforesaid condition No. 5 as in the case of 61 mining leases has not been imposed, the aforesaid condition would be read into those ECs. In that view of the matter, the order dated 24.07.2015 of the Hon’ble Principal Bench, which has not dealt with this particular issue regarding ban in the river beds during the monsoon season between 1<sup>st</sup> June to 31<sup>st</sup> November, with, as such the Review Application based upon the said order cannot be maintained.

Accordingly, M.A.No. 403/2015 stands dismissed.

Since the issue is one which shall occur every year particularly in the case of sand mining in the river beds, we would direct notices to be issued to SEIAA and SEAC to explain why this distinction has been maintained in the case of 61 mining leases wherein Condition No.5 has been incorporated and in the case of remaining 63 mining leases out of the 124 where such condition has not been incorporated. The notice be given to the Learned Counsel appearing for the MPPCB who will

convey our above order along with the notice to SEIAA and SEAC.

Let the matter be listed for hearing the issue finally after receipt of the reply / comments of SEIAA and SEAC on the matters.

List the matter on **31<sup>st</sup> August, 2015.**

.....,JM  
(DALIP SINGH)

.....,EM  
(BIKRAM SINGH SAJWAN)

