

BEFORE THE NATIONAL GREEN TRIBUNAL, CENTRAL ZONAL BENCH, BHOPAL

Original Application No. 131/2013 (CZ) (THC)

Ram Swaroop Yadav Vs. State of Rajasthan & Ors.

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

PRESENT : Applicant : Shri Shantanoo Saxena, Advocate

Respondent No. 2 PCCF, Govt. of Raj. : Mr. Guljari Lal, ACF

Respondent No. 3(R.S.P.C.B.) : Shri Sandeep Singh, Advocate

Date and Remarks	Orders of the Tribunal
<p>Item No. 7</p> <p>4th March, 2014</p>	<p>Shri Shantanoo Saxena, Advocate appearing on behalf of the Rajasthan State Pollution Control Board/R-3 prays for sometime on the ground that the notice period of the notices issued to the operators of the stone crushing units located in Khasra Nos. 627, 628, 630 is yet to expire and they will be in a position to submit action taken report on the expiry of the aforesaid period. It has also been brought to our notice that some of the persons who were operating the crushers have approached the Civil Court by means of suits for injunction and the said Civil Courts have issued orders of temporary injunction in favour of the owners of the stone crushing units despite there being a clear bar under Section 29 of the National Green Tribunal Act, 2010 which clearly provides that “no civil court shall have jurisdiction to entertain any appeal in respect of any matter which the Tribunal is empowered to determine under its appellate jurisdiction”.</p> <p>The action by the Respondents had been initiated pursuant to the hearing made on 24th February, 2014 before this Tribunal and in some cases even prior to the aforesaid order. Before the application was registered before this Tribunal, the matter was being dealt with by the Hon'ble High Court of Rajasthan by way of Public Interest Litigation (PIL) in the writ jurisdiction being DB PIL Writ Petition No. 1000/2013 and came to be transferred to this Tribunal under the orders of the Hon'ble High Court dated 23rd September, 2013.</p> <p>We feel that this fact needs to be brought to the notice of the Hon'ble High Court and the Registrar General of Rajasthan High Court at Jodhpur is requested to place the same before the Hon'ble Chief Justice so that Civil Courts may be apprised about the existing</p>

position of law.

We have noticed that the matter involves the alleged change of the classification of the land bearing Khasra Nos. 627, 628 and 630, Gram Bhopiya, Tehsil Neem-ka-Thana, District Sikar which was earlier recorded as forest land but subsequently altered and declared as Sawai Chak. Thereafter, the land is alleged to have been allotted to various persons who had in turn either themselves or after sale purchased by various persons have set up the stone crushers. It is, however, not understood as to in what manner after coming into force the Forest (Conservation) Act, 1980 the State Government or its functionaries could unilaterally allowed forest land to be denotified and thereafter permitting its allotment and sale and setting up of stone crushing units contrary to the provisions of the Forest (Conservation) Act, 1980. It appears that the matter needs to be brought to the notice of the concerned officials at the highest level and we would, therefore, direct the Respondent No. 2 Principal Chief Conservator of Forests, Government of Rajasthan as well as Respondent No. 4 the District Collector, Sikar to appear in person before this Tribunal on the next date of hearing with all the relevant record and explain the factual position in this behalf.

Copy of this order shall be sent by the Registrar, Central Zone, NGT to the Principal Chief Conservator of Forests and to the Collector Sikar. However, we also direct learned counsel appearing for the Respondent No. 3 to inform the Member Secretary, Rajasthan State Pollution Control Board also to remain personally present with the record to show in what manner 'consent to establish' and 'consent to operate' were granted to the stone crushing units in Khasra Nos. 627, 628 & 630 in Gram Bhopiya

List this matter on **12th March, 2014.**

.....,JM
(DALIP SINGH)

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