

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

Original Application No. 61/2013 (CZ)

CORAM:

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

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

BETWEEN:

1. Smt. Jayshree Dansena
W/o Shri Hemant Dansena,
Aged 36 years,
R/o Village & Post,
Singhitarai, via –Adbhar, Tehsil Dhabhra,
District Janjgir- Champa,
Chhattisgarh

.....Applicant

Versus

1. M/s Athena Chhattisgarh Power Private Ltd.
7-1-24, B-Block, 5th Floor,
Roxana Towers, Green Lands,
Begumpet, Hyderabad (A.P.)
2. The State of Chhattisgarh
Through the Secretary, Forest Department,
Mantralaya, D.K.S. Bhavan, Raipur (C.G.)
3. The State of Chhattisgarh
Through the Secretary, Irrigation Department,
Mantralaya, D.K.S. Bhavan, Raipur (C.G.)
4. The State of Chhattisgarh
Through the Secretary, Mining Department,
Mantralaya, D.K.S. Bhavan, Raipur (C.G.)
5. The State of Chhattisgarh
Through the Chairman, Chhattisgarh Environment
Conservation Board, Commercial Complex
Chhattisgarh Housing Board Colony, Kabir Nagar,
Raipur (C.G.)
6. Union of India
Through the Secretary, Ministry of Environment &
Forests, Paryavaran Bhawan, CGO Complex,
Lodi Road, New Delhi- 110003

7. The District Administration
Through the Collector,
District Janjgir Champa,
Collectorate, Janjgir – Champa (C.G.)

.....Respondents

Counsel for Applicant: Shri Deepesh Joshi, Advocate

Counsel for Respondent No.1 to 4: Shri Sachin K.Verma, Advocate

Counsel for Respondent No. 1 : Shri K.V. Sivaprasad, Advocate

Counsel for Respondent no. 5 : Shri Shivendu Joshi, Adv. for
Shri Purushaindra Kaurav, Adv.

Counsel for Respondent No.6 : Shri Om S Shrivastava, Advocate

**Counsel for Respondent No.2,3, :
4,& 7:** Shri S.S. Chauhan, Advocate

Dated : April 30th, 2014

Delivered by Hon'ble Mr. Justice Dalip Singh, Judicial Member

1. This application has been filed under section 18 read with Section 14 and Section 15 of the National Green Tribunal Act, 2010 with the following prayer.

This application is moved for the purpose of protecting lives and health of the people of the villages Singhitarai, Katharrapali, Singhitarai, Nimuhi, Odeker, District –Janjgir – Champa and to make villages free from pollution and unless suitable orders have passed by this Hon'ble Tribunal it would endanger the lives of the people of the villages.

- A. *Applicant prays your Lordship for an order or direction upon the respondent no. 1 to stop the dynamite blasting at project site Gram Singhitarai.*
- B. *Applicant prays your Lordship for an order or direction to construct the damage wall of School and houses in Gram- Singhitarai.*
- C. *Applicant prays your Lordship for an order or direction to provide sanitation arrangements for the drivers and other contract workers.*

D. Applicant prays your Lordship for a order or direction to provide alternative drinking water to the people of gram – Singhitarai.

E. Applicant prays your Lordship pass such order as may deemed fit and proper in the facts and circumstances of the application and considering the gravity of the situation including after appointing a committee of experts and obtaining report and recommendation as the Tribunal may deem fit and proper in the facts and circumstances of the application and your applicant.

2. After registration of the application notices were ordered to be issued on 13.11.2013 to the Respondents with direction to identify the property which was allegedly damaged due to alleged blasting being carried out by the respondents at the project site. Also with respect to the alleged pollution in the neighboring areas as a result of construction and also to submit response with respect to observance of Environmental Clearance (in short EC) conditions particularly restoration of environment as contained in the EC condition No. 8 onwards.

3. The replies were submitted after service upon the respondents on 05.02.2014. After the Miscellaneous Application was filed by the applicant the Respondent No. 1 was directed to submit their response through an affidavit of their Chief Operating Officer (in short COO) indicating expenditure incurred under various activities including those at serial no 9 & 16 by way of Corporate Social Responsibility (in short CSR) and observance of EC conditions.

4. The Respondent No. 1 denied the allegation of damage to the property as a result of the alleged blasting at the project site during construction of the project. The Respondent No. 5 Chhattisgarh Environment Conservation Board (in short CECB) in its reply submitted that the Applicant had made a similar complaint to it in May 2013 as a result of which the CECB issued notice to the Respondent No. 1. The respondent No. 1 submitted its reply dated 13.05.2013 to the notice issued by the CECB which was found to be non satisfactory and therefore the CECB issued

another letter dated 14.06.2013. The issues raised in this letter dated 14.06.2013

were as follows.

- a. *Project Proponent is supposed to maintain 33% of the Project area as Green Belt, but Project Proponent (ACPL) has planted only 20000 nos. of the plants so far ever since the commencement of construction activity. Therefore, specific instructions have been issued to ACPL to develop Green Belt in the area of 100 Acres as phase wise manner. Similarly Air Pollution mitigation activities and dust suppression measures not been taken by Respondent No.1.*
- b. *Measures Taken by the Project Proponent for Water Sprinkling in the Project Site.*
- c. *The Project Proponent has not laid, Cement Road, reason to be furnished.*
- d. *Details of Community Development Program being carried out by the Project Proponent under CSR activities.*

5. The Respondent No. 1 submitted its reply to the letter of June 14th, 2013 along with the action plan for development of green belt and sprinkling of water to control dust emission. Noting their action plan the Respondent No. 5 sent its report to the Head of Office of the CECB in Raipur. However, after the notices were issued by this Tribunal fresh inspection was carried out by the CECB and the following points were observed by the CECB.

- a. *The Area/spot where blasting was carried such as Raw Water Reservoir Area has been inspected. At present there is no blasting being carried out and blasting has been stopped since June 2013. It is observed that the Raw Water Reservoir is situated near Singhitarai Village. We have inspected the structures viz (i) The Government Primary School, Singhitarai, (ii) Middle & High School, Singhitarai which are situated adjacent to Raw Water Reservoir. We have not observed any cracks due to blasting. We have interacted with Head Master of the Primary School Mr. Uma Shankar Dansena and Principal of the High School Mr. C.S. Siddar. Both the Teachers during interaction denied any damage to the School during blasting. We have also visited the houses which are very close to the Raw Water Reservoir which are thatched in nature and mud hutments. There are no cracks observed in those Houses also.*

- b. *The house of one, Mr. Dilip Dansena, Singhitarai is also visited. We met his brother Mr. Ramesh Dansena. There are some superficial minor cracks observed in the house. But it does not appear to be due to blasting. The house is located in an approximate distance of 250 mtrs. from the Reservoir. There is a Water Logging outside the huse of Dilip Dansena. The superficial minor cracks observed seem to be due to settlement of foundation. It may be noted that the old and mud houses which are situated very close to Raw Water Reservoir Area did nt develop any crack due to blasting.*
- c. *The plant is under Construction Phase, Regular Water Sprinkling is being carried out in the Internal Roads to Suppress the Fugitive Emission. Similar arrangement is also made by the Project Proponent for the Village Roads to ensure Dust Suppression.*
- d. *Compliance Report is being submitted by the Project Proponent to MoEF with a copy to CECB regularly.*
- e. *Green Belt has been developed inside the main plant area, ash pond area and colony area. As of now, there are about 66000 nos. of plants have been planted in an area of about 70 acres in and outside the plant area.*
- f. *There is a pond in the Village. The villagers are using the pond for daily need.*

6. A perusal of this inspection report shows that no blasting is being carried out and the same ceased to happen after June 2013. It is also reported that a school is situated near the water reservoir and no cracks have been observed in the school building as a result of the alleged blasting. The Head Master of the school has also denied occurrence of any cracks. The report also shows that no cracks have occurred to hutments or thatched houses near the reservoir. Some superficial minor cracks were observed in the house of Shri Dilip Dansena but they could not be attributed to the blasting as this house was situated at a distance of about 250 mts. from the reservoir. It was further reported that regular sprinkling of water is being done on village and inner roads of the project to contain fugitive emissions and 66,000 (Sixty Six Thousand) trees have been planted in an area of about 70 (seventy) acres for development of green belt. A regular project report is also being submitted by the Project Proponent to the MoEF with a copy to the CECB.

7. Further, in response to our order dated 05.02.2014 the Director/COO of the Respondent No. 1 has filed an affidavit stating as follows.

I further submit that initially this Respondent Company had proposed to allocate a Capital Budget of Rs. 12.50 Crores towards CSR Activities and a sum of Rs. 2.40 Crores on recurring basis every year during the operation phase of the project. However, MoEF had directed this Respondent Company to increase the said Capital Budget towards CSR Activities to Rs. 22.50 Crores and Annual Budget during the operation of the plant from Rs. 2.40 Crores to Rs. 4.50 Crores. It is submitted that the Respondent No. 1 Company had conveyed its confirmation for such increase in capital budget vide its letter dtd. 30th April 2010.

It is further submitted that though, the Respondent had committed to spend a sum of Rs.22.50 Crores to MoEF vide letter dtd. 30th April, 2010 after allocation and apportionment of the capital budget, the Respondent Company had to increase the capital budget from the Commitment Budget of Rs. 12.50 Crores to Rs. 22.80 Crores. It is further submitted that the said capital budget amount of Rs. 22.80 Crores has been apportioned among five key areas which are essential for the growth and prosperity of the vicinities of the project namely (a) Education and Training (b) Health Care (c)Infrastructure Development and (d) Sports and Cultural Development. It is further submitted that the details of the year wise allocation among the above said key areas out of the budgeted amount of Rs. 22.80 Crores is enclosed herewith and referred to as Annexure-I to this Affidavit.

It is further submitted that after the commencement of the construction activity in the project, this Respondent Company has spent, in all, a sum of Rs. 10.59 Crores from October, 2011 to March, 2014(i.e. 2 years 6 months) as against the total 4 years budgeted amount of Rs. 22.80 Crores, as aforesaid. Apart from this, this Respondent Company is also in the process of spending another sum of Rs. 13.42 Crores on the Activities which are under progress. The details of expenditure incurred and being incurred is enclosed herewith and referred to as Annexure-II in the list.

8. Having heard the Learned Counsels and having perused the records and more particularly the reply well as the inspection report of Respondent No. 5 and the Reply of the Respondent No. 1 and the affidavit of the COO of Respondent No. 1 filed on 25.03.2014 with respect to the query raised by the Tribunal on CSR

commitment, we are of the view that the issues raised by the Applicant have been satisfactorily taken care of.

9. As regards controlling the pollution we find from the report of Respondent No. 5 a green belt of 70 acres has been developed by the Project Proponent. It shall be the responsibility of the Respondent No. 5 to ensure that the Respondent No. 1 ensures a good survival rate of the trees already planted in the green belt and the establishment of entire green belt as required by the EC to the extent mentioned therein in para XIX that “A green belt of adequate width and density shall be developed around the plant periphery in 200 acres area preferably with local species” shall be completed before the project is commissioned. Since presently only 70 acres green belt has been developed the remaining 130 acres shall be developed by the Respondent No. 1 and preparatory works for the same shall be started before the onset of monsoon this year and required number and variety of tall plants shall be arranged in advance.

10. The sprinkling of water shall continue till the construction of *pucca* roads in the area to contain fugitive emissions.

11. We are of the opinion that no direction needs to be issued with respect to the allegations of blasting and damage to the school building in view of the inspection report of the Respondent no. 5 stating that no blasting is taking place and also the School Head Master has denied any damage to the school buildings.

12. As far as the issue of sanitation and drinking water is concerned we find from the annexed documents and the affidavit of the COO of Respondent No 1 that under the head of infrastructure under item no. 8 “improvement of sanitation facility” and item No. 9 “provision of drinking water supply as well as development of community bore well to augment water supply”, has been made and sufficient funds have been prescribed. The respondent No 1 shall carry out the aforesaid task of improvement of sanitation and supply of drinking water and

intimate the CECB and the Applicant year wise as the said task is to be carried out every year for four years as per the Annexure-1.

13. In view of the above, we are of the opinion that no further directions need to be issued by this Tribunal. However, the CECB shall monitor the above aspects on regular basis and ensure compliance as the aforesaid issues form part of EC conditions and non compliance of these conditions will entail consequences in accordance with law.

14. This petition is accordingly disposed of.

Bhopal
April 30th, 2014

(Mr. Justice Dalip Singh)
Judicial Member

(Mr. P.S.Rao)
Expert Member

NGT