

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

**Appeal No. 04/2013 (CZ)**

**CORAM:**

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

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

**BETWEEN:**

Vidhan Mishra,  
S/o Shri Chandrika Prasad Mishra,  
R/o Gram Mura, Block Tilda,  
District Raipur, Chhattisgarh

**.....Appellant**

Versus

1. Union of India  
Through the Secretary,  
Ministry of Environment and Forests  
Paryavaran Bhawan, CGO Complex  
Lodhi Road, New Delhi.
2. The Secretary,  
Ministry of Water Resources,  
Union of India,  
Shram Shakti Bhawan,  
Rafi Ahmed Kidwai Marg, New Delhi
3. The Secretary,  
Ministry of Coal,  
Union of India,  
Shastri Bhawan, New Delhi.
4. State of Chhattisgarh,  
Through the Secretary,  
Department of Revenue, Mantralaya,  
DKS Bhawan, Raipur (CG).
5. The Secretary  
Department of Water Resources,  
Mantralaya, D.K.S. Bhawan, Raipur.

6. The Collector,  
District Raipur, Chhattisgarh
7. Chhattisgarh Environment Conservation Board  
Through the Member Secretary  
1-Tilak Nagar, Shiv Mandir Chowk,  
Main Road, Avanti Vihar, Raipur  
Chhattisgarh – 492001.
8. M/s G.M.R. Energy Ltd.  
Old Udaan Bhawan, 2<sup>nd</sup> Floor,  
Terminal – I, IGI Airport, Palam,  
New Delhi – 110037.

.....Respondents

**Counsel for the Appellant : Shri Shantanoo Saxena, Advocate**

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

**Counsel for Respondent No. 2 & 5 : Shri Om Shankar Shrivastav, Advocate**

**Counsel for Respondent No. 7 : Ms. Parul Bhadoria, Advocate for  
Shri Purushaindra Kaurav, Advocate**

**Counsel for Respondent No. 8 : Shri A.D.N. Rao, AOR with  
Shri D.Ravindra Varma, AGM (Legal)**

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Dated : August 28<sup>th</sup> , 2014

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**Delivered in Open Court by  
Hon'ble Mr. Justice Dalip Singh, Judicial Member**

1. This appeal was registered under the provisions of Section 16 of the National Green Tribunal Act, 2010 after the Original Writ Petition No. 17/2012 filed by the Appellant before the Hon'ble High Court of Judicature at Bilaspur, Chhattisgarh was transferred in terms of the directions of the Hon'ble Supreme Court in the case of Bhopal Gas Peedith Mahila Udyog Sangathan and Others Vs. Union of India & Others (2012) 8 SCC 326. Initially, the Writ Petition was transferred to

the Principal Bench of the National Green Tribunal (NGT) at New Delhi and subsequently on constitution of Central Zone Bench of National Green Tribunal at Bhopal the case was transferred to Central Zone Bench and has since been heard here.

2. The Respondent No. 8 filed Misc. Application No. 42/2013 on 02.09.2013 raising the objection that the appeal was barred by limitation. After hearing the parties, vide order dated 28.11.2013, this Tribunal heard the matter on the aforesaid primary objection and came to the conclusion that so far as the appeal against the grant of Environmental Clearance (for short, 'EC') dated 09.05.2011, filed under Section 16 of the National Green Tribunal Act, 2010 is concerned, it was barred by limitation.
3. However, with regard to the issues raised in the Appeal apart from challenging the EC which the Learned Counsel for the Appellant has submitted, it was ordered that the same would be considered by the Tribunal particularly regarding the issue of non-compliance of the conditions of the EC dated 09.05.2011 and hence to this limited extent as contained in the EC the matter was kept pending.
4. Notices were issued to the Respondent No. 7 Chhattisgarh Environment Conservation Board (for short, 'CECB') through its Member Secretary as well as Respondent No. 8 the Project Proponent to submit their response with regard to the compliance of the conditions contained in the EC (Annexure P-4).
5. During the course of the hearing, the main issues which were highlighted by the Learned Counsel for the Appellant with regard to the

compliance of the terms of the EC are concerned, the specific points raised were particularly with reference to specific Condition No. (xxviii) and (xxix) which read as follows :

*“(xxviii) A time bound implementation of the CSR shall be formulated within six months and submitted to the Ministry. While identifying CSR activities it shall be ensured that need based assessment for the nearby villages within study area shall be conducted to study economic measures with action plan which can help in upliftment of poor section of society. Income generating projects consistent with the traditional skills of the people shall be undertaken. Development of fodder farm, fruit bearing orchards, vocational training, etc. can form a part of such programme. Company shall provide separate budget for community development activities and income generating programmes. Vocational training programme for possible self employment and jobs shall be imparted to identified villagers free of cost.*

*(xxix) An amount of Rs. 33.16 Crores shall be earmarked as one time capital cost for CSR programme as committed by the project proponent. Subsequently a recurring expenditure of Rs. 6.63 Crore per annum shall be earmarked as recurring expenditure for CSR activities. Details of the activities to be undertaken shall be submitted within six months along with road map for implementation.*

6. With regard to the aforesaid specific issues raised by the Appellant, the Respondent No. 8 submitted an affidavit on 26.08.2014 wherein the General Manager of Respondent No. 8 Project Proponent has given the details of the works under the CSR activity undertaken by the Respondent No. 8 which are as follows :

*“5. That the Answering Respondent herein in terms of the aforesaid Conditions as a part of its Corporate Social Responsibility has adopted Seven Villages namely (Raikheda, Bhatapara, Gaitera, Sontara, Chicholi, Gaurkheda and Mura) falling in the Panchayats of Raikheda, Sonatara, Chicholi and Murra having a population of nearly 12,000 people.*

*6. It will not be out of context to submit that initially the activities were extended only to Raikheda, Chicholi, Gaitara the three Project Affect Villages.*



7. Later on the Answering Respondent have extended its reach to Sontara, Bhatapara and Gaurkheda in June 2012 and in July 2013 have extended it to the new peripheral village "Murra" the village from where the Applicant herein belongs to.

8. That the CSR activities of the Answering Respondent are mainly carried out through a foundation established by the Answering Respondent. For this very purpose GMR Varalaxmi Foundation which is a non-profit Company was registered under Section 25 of the Companies Act with a specific mandate to develop social infrastructure and enhance the quality of the life of people / communities around the location where the Answering Respondent and its associated companies are located.

9. That the Answering Respondent has in terms of Condition No.29 submitted all CSR activities with it the implementation/ proposed / Expenditure Plan to the Ministry of Environment and Forest. A true copy of which is being filed herewith marked as **Annexure R8-1**

10. That in terms of Condition No.30 the Answering Respondent have also got an Annual Social Audit done by M/s. GPR strategies and Solutions Pvt. Ltd ( An ISO: 2008 certified Sec. 25 Non Profit Organisation) along with Government College Saraspur Lohara Distt. Kabirdham (C.G.) Aff. To Pt. Ravishankar Shukla University Raipur (C.G.) (A State Government University, Chattisgarh.)

A true copy of the Social Audit Report for the year 2013-2014 would be placed before the Hon'ble Tribunal if necessary during the course of the hearing.

11. I submit that the Answering Respondent has divided its CSR activities into the following thrust areas:

- i. Education
- ii. Health Hygiene & Sanitation
- iii. Empowerment & Livelihood
- iv. Community Development

with the following strategies respectively:

- Quality Improvement through provision of Para – Teachers, coaching, Alternate Learning, Computer based Learning & Libraries.
- Infrastructure Supplementations by improving facilities in Govt. Schools.

- *Preventive Measures through awareness creation & Sanitation*
- *Curative measures through Community Dispensaries & Ambulance*
- *Care & Support for children in need*
- *Empowerment through capacity building of women & farmers*
- *Livelihood Generation by vocational trainings & Income Gen. Program.*
- *Providing Community Facilities like drinking water & approach roads*
- *Observing Days of national & cultural importance.*

12. *That in the field of Education as on date 260 children have attained minimum learning standards as a result of the Tuition's provided for the children by the Answering Respondent at 4 different Tuition Centers, 13 youth have passed Teachers's Eligibility Test, 19 Volunteers upgraded their qualifications by virtue of the Pratibha Coaching Center established by the Answering Respondent, 9 Students got admitted into the Navodaya Schools benefiting from the Coaching received from the Navodaya Entrance Coaching established by the Answering Respondent. As a result of the 2 Computer establishments established by the Answering Respondent to provide computer based learning for kids 444 kids have become computer literate. As a result of the Saksham Scholarship, being provided by the Answering Respondent, 5 youths are pursuing Engineering & Nursing course, under the Para- Teachers programme namely providing teachers in the Government schools nearly 300 children have received higher secondary education, in the six libraries established by the Answering Respondent there are nearly 950 regular readers.*

*That similarly, the Answering Respondent in order to enhance the education of the Girls are providing transport facilities for girls and in furtherance of the same has also provided 60 Bicycles for girls exclusively. The girls students are being provided Karate training also. In the villages adopted by the Answering Respondent the dropout rate of the girls from the education section has been reduced drastically.*

13. *That the Answering Respondent are providing infrastructure to the schools by way Building, Furniture, Play Equipment, Electrification etc.*

14. *That in the field of Health and Sanitation the Answering Respondent had established six Community Dispensaries,*

*provided one Ambulance, two public toilets at places where it was very essential, provided support to the Blood Bank, X-Ray units, Support to differently abled persons, carried out specific Health Camp, Health Awareness / Education programmes which have benefited the villagers in various aspects of health and sanitation.*

*15. The Answering Respondent also carried out / and carry on fogging activities to prevent people from the mosquitoes menace and has benefited nearly 200 families.*

*16. That under the head Empowerment and Livelihood the Answering Respondent have established 29 Self health groups wherein all the groups are linked with the banks.*

*17. That the Answering Respondent have also provided for skill enhancement (through Vocational Training, Basic tailoring & Computer Literacy programme) as a result of which nearly 600 people have being vocationally settled while the others have benefited immensely.*

*18. I submit that as a part of the Community Development the Answering Respondent have covered nearly 162 families wherein their income has been either generated / enhanced.*

*19. I submit that as a part of its Community Development the Answering Respondent are committed to improve the quality / availability of the drinking water, strengthen the approach roads, renovation / maintenance of ponds and other community facilities.*

*20. I submit that part of its activity programme towards Empowerment, livelihood and community development the Answering Respondent have planted the following fruits bearing trees:*

- i. Amla*
- ii. Sitha Phal*
- iii. Rama Phal*
- iv. Guava*
- v. Jamun*
- vi. Lemon*
- vii. Mosambi*
- viii. Mango*
- ix. Sapota*
- x. Ber*
- xi. Litchi*
- xii. Jackfruit*
- xiii. Pomegranate*
- xiv. Orange*



*in an area admeasuring approximately 73 acres.*

*21. That the said trees would be ready for reaping the fruits during the financial year 2016-17. That in order to reap the benefits of the fruits the Answering Respondent have entered into an Agreement with the Chirag Mahila Vikas Samiti which comprise of 300 Members who are resident of the project affected villages. The fruits grown in the aforesaid area of 73 acres would be given to the Chirag Mahila Vikas Samithi free of cost by the Answering Respondent.*

*22. I submit that apart from the aforementioned Community Development programmes/ benefiting the villagers of Raikheda, Bhatapara, Gaitera, Sontara, Chicholi, Gaurkheda and Mura the Answering Respondent have initiated certain Animal Welfare measures also.*

*23. That in the three project affected villages there is a cattle population of 1,872 which require a fodder of 3,416 metric tonnes per annum whereas presently only 2,600 metric tonnes per annum is available.*

*24. The answering Respondent have undertaken to meet the deficit of 800 metric tonnes per annum and would continue to do so.*

7. With a view to verify the aforesaid EC conditions, the CECB was also directed to submit their response on the aforesaid. The Respondent No. 7 CECB in their reply to the issues raised, has stated as follows :

*“2. That, in compliance of the directions issued by the Hon’ble Tribunal, the Board has prepared a point wise compliance status report of 1370 (2x685) MW Thermal Power Plant regarding the Environmental Clearance granted to the Industry dated 09.05.2011. The compliance status report has been enclosed.*

- i. The High Efficiency Electrostatic Precipitator has been installed ensuring emission level  $< 50 \text{ mg/Nm}^3$ . An amendment has been obtained from MoEF on this condition for installation of ESP alone.*
- ii. The vision document specifying the prospective plan for site has been enclosed. The dust extraction system and water spray system has been installed in coal handling plant. There is no existing de-generating water body within 5.0 km of the site.*



- iii. *The industry has obtained "Railway Transport Clearance" from railway authorities for the transportation of coal as per information submitted by the industry. The letter has been enclosed.*
  - iv. *Water availability study has been conducted by the WRD Chhattisgarh. Letter has been enclosed.*
  - v. *Rain water harvesting pond has been constructed. Seasonal monitoring of the ground water level and quality is being done.*
  - vi. *The implementation of the CSR activities of the CSR activities will be done with budget of Rs. 33.16 Crores. The social Audit report has also been submitted by the industry.*
  - vii. *The arrangements for Effluent Treatment Plant (ETP) and Sewage Treatment Plant (STP) have been made by the Industry.*
  - viii. *The copy of the Public Notice has been enclosed. The same has also been sent to the concerned panchayat."*
8. On the basis of the above, we find from the affidavits submitted by the CECB, the issues which have been highlighted and the works undertaken by Respondent No. 8 in their affidavits, stand corroborated and after filing of the replies no specific objections have been raised by the Appellant.
9. Be that as it may, the need as was pointed out by the Learned Counsel for the Appellant is to ensure that the requirement under specific condition no. xxv of the EC ensuring the creation of green belt consisting of three tiers of plantation of native species must not be merged with the requirement of the development of fruit orchards as required under Condition No. xxvii.
10. While disposing of this appeal, we would like to get a specific information from the CECB on the aforesaid issue whether the

requirement of establishment of green belt under condition no. xxv is a separate and distinct one and has been implemented as such by the Project Proponent Respondent No. 8 or not and also direct the Respondent No. 8 to submit its response on the same by way of an affidavit.

11. Learned Counsel for the Respondent No. 8 also admitted before us that so far as the requirement of the development of the fruit orchards is concerned at present, the Project Proponent has developed orchard in an approximate area of 40 acres and the remaining 33 acres shall be developed in due course in a phased manner as required under the Conditions of CSR.
12. It has also been submitted that Respondent No. 8 has created an organization named 'Chirag Mahila Vikas Samithi' comprising 300 women members of 8 project affected villages. This Samithi would ultimately be maintaining the orchard and will be responsible for marketing of the product, benefit sharing etc. amongst themselves for which comprehensive scheme has already been drawn up. The CECB shall submit before us a copy of the specimen of By-laws which may have been framed with regard to the above Samithi. In case no such By-laws, rules or regulations have been drawn up, it will be the responsibility of the Project Proponent alongwith the CECB to draw such By-laws for taking care of the aforesaid issues.
13. Similarly, the issue with regard to creation of fodder banks is also very important as the requirement under the conditions of EC for creation of fodder banks was particularly introduced on account of the fact that

major portion of the pasture lands (charagah) used by the famers and their cattle in the project affected villages have been handed over to the Project Proponent for establishment of their plant. While creation of fodder banks is important, a company such the Respondent No. 8 which has expertise as well as manpower, can certainly guide the project affected persons for developing fodder farms and cultivating good quality fodder for their cattle. The present trend of cutting and uprooting of weeds and grass should be replaced by the aforesaid means by scientific cultivation.

14. The responsibility for ensuring the compliance of the terms and conditions of the EC mainly lies with the CECB and it shall be their responsibility to carry out periodical inspection with regard to the same and submit quarterly report on the aforesaid through the Regional Office in this behalf.
15. While going through the affidavits submitted by the Respondent No. 8 dated 26.08.2014, we have noticed that the Respondent No. 8 has developed the village approach road for the benefit of the project affected persons. We find that all along the road, so developed by the Project Proponent, there is total absence of any avenue of trees. The Learned Counsel appearing for the Respondent Project Proponent, after having taken instructions from his client submitted that within the next two months, i.e. during the present monsoon season itself, they would take steps for raising avenue plantation with tall plants of local tree species as far as possible all along the approach road and also take steps for ensuring regular watering, protection and survival by placing tree

guards around the trees planted so to protect them from any damage from stray animals, etc. as also employ the project affected persons on preferential basis for the above task.

16. The need, as we have already stated above is to ensure continuous monitoring of CSR activities as well as their continuance. With the requirement of CSR having been introduced in the Companies Act itself, the company like Respondent No. 8 must come forward with the task of carrying out the CSR activities as has been envisaged under the Company Act i.e., a minimum of 2% of the average net profit. For the aforesaid, a plan shall be drawn up and submitted before the CECB and also for identifying issues of CSR, the requirement and needs of the people of the area and the project affected persons shall be taken into account by calling a meeting of the local panchayats or the village samitis which have been created in the area or presenting proposals during the meetings of the Gram Sabhas.
17. Since the issue that was left after our order dated 28.11.2013 pertains only to carrying out and complying with conditions of the EC, which we are satisfied has been carried out by the Project Proponent/Respondent No. 8, as evident from the affidavit of Respondent no. 7, we are inclined to dispose of this Appeal. However, while disposing of this appeal, the compliance on the issues which have been highlighted above and points that have been raised requiring further action on the part of the Respondent No. 8, the compliance shall be made to that effect within two months and compliance report and affidavits be filed in the matter within one month thereafter.

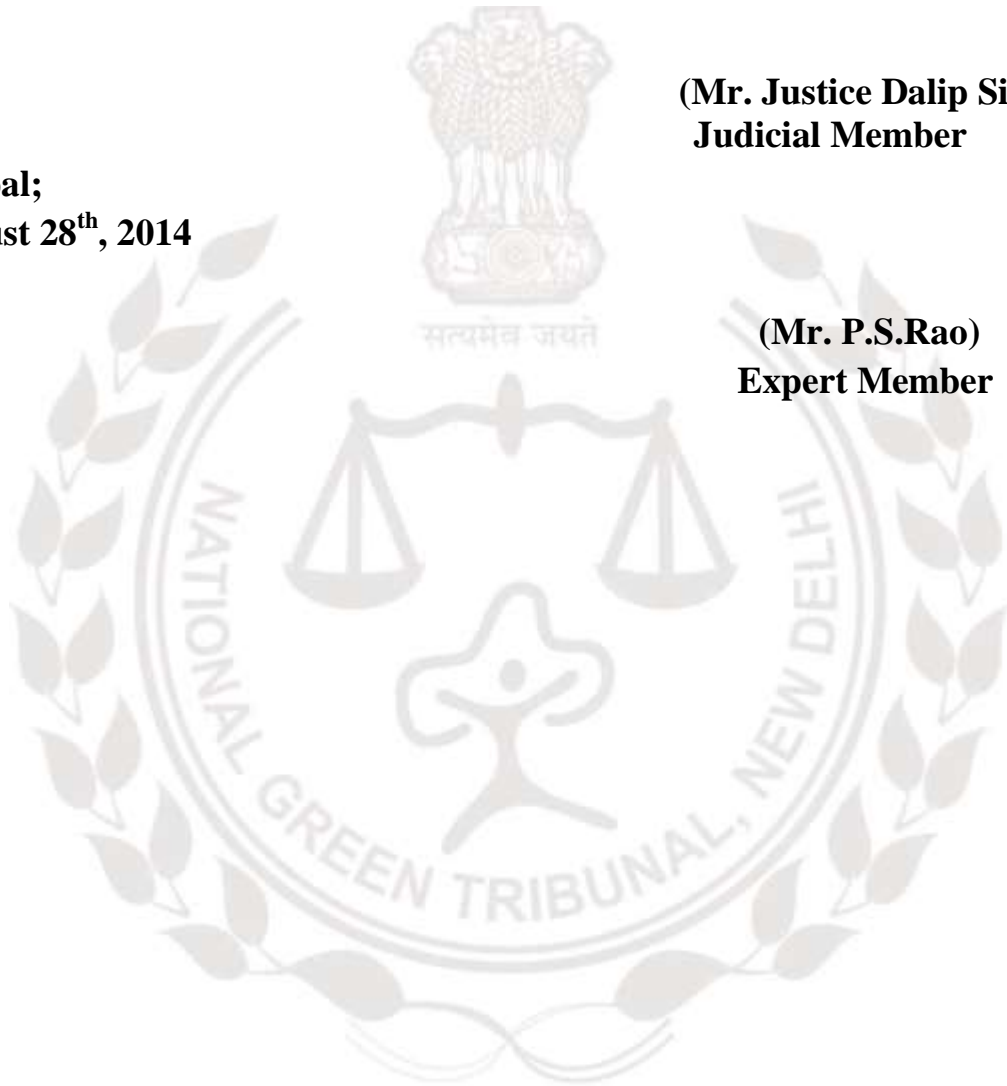


18. The Appeal No. 04 of 2013 accordingly stands disposed of. There shall be no order as to cost.
19. **The matter be listed for compliance on 4<sup>th</sup> December, 2014.**

**Bhopal;  
August 28<sup>th</sup>, 2014**

**(Mr. Justice Dalip Singh)  
Judicial Member**

**(Mr. P.S.Rao)  
Expert Member**



**NGT**