

**BEFORE THE NATIONAL GREEN TRIBUNAL  
(WESTERN ZONE) BENCH, PUNE  
APPLICATION No. 6/2014(WZ)  
M.A.Nos.26,34,35,36/2014**

**CORAM:**

**Hon'ble Shri Justice V.R. Kingaonkar  
(Judicial Member)**

**Hon'ble Dr. Ajay A.Deshpande  
(Expert Member)**

**B E T W E E N:**

**Shri. Dnyaneshwar s/o Kisanji Gadhve**

Aged about 45 years, Occ: Business  
R/o Village Betala, Tahsil Mohadi,  
District Bhandara.

....Applicant

**A N D**

- 1. Ministry of Environment and Forest,**  
Paryavaran Bhavan, CGO Complex,  
Lodhi Road, New Delhi-110 003
- 2. State of Maharashtra**  
In the Department of Revenue and Forest,  
Mantralaya, Mumbai-400 032  
Through its Chief Secretary.
- 3. The Principal Secretary,**  
Environment Department,  
Maharashtra State, Madam Cama Road,  
15<sup>th</sup> floor, the New Admn. Buld,  
Mumbai-400 032.
- 4. The State Environment Impact  
Assessment Authority, (SEIAA)**  
Room No.217, Annex,  
Mantralaya, Mumbai-400 032.
- 5. The Collector, Nagpur**
- 6. The Collector Bhandara. ....Respondents**

**Counsel for Applicant:**

Mr. R.B.Mahabal.

**Counsel for Respondent(s):**

Mr. Krishna D. Ratnaparkhi for Respondent No.1

Mr. D.M.Gupte w/ Supriya Dangare for Respondent Nos.3,4

Mrs, Ujwala Pawar DGP for Respondent Nos.5,6.

Mrs. F.M. Mesquita for Intervener: (Arundaya Magaswargiya Mazur Kamgar Sahakari Sangthana Ltd.)

Mr. Asim Sarode for Intervener : (M.Z. Enterprises)

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**Date: March 14, 2014**

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**ORAL JUDGMENT**

**P.B:**

1. Heard learned Counsel.
2. By this Application, the Applicant has sought following reliefs:

*(i) Quash and set aside the auction of sand beds of Nagpur & Bhandra districts that are being contrary to Hon'ble Apex Court Judgment and the policy framed by the State Government & O.M.dt. 24/12/2013.*

*(ii) direct the concerned authorities to first obtain Environment Clearance for mining projects, that are within 1 km distance on any side, as cluster & B1 category with EIA study,*

*(iii) during pendency of the present application stay all further process of e-auction and work on ground,*

*for Nagpur & Bhandara mines as being held by respondent no.5 & 6, on 6/12/2013 & 7/12/2013*

**3.** The Application is filed under Section 18 (1) read with Sections 14 and 15 of the National Green Tribunal Act, 2010.

**4.** The Applicant is aggrieved mainly because of non-compliance of the directions of the Apex Court, which are issued vide Judgment dated February, 27, 2012, in the case of "Deepak Kumar Vs State of Haryana and Ors, 2012 4 SCC 629." According to the Applicant, the sand mining policy was expected to be followed in view of the guidelines of MoEF, which are enumerated in the Judgment of the Apex Court. Model guidelines were, however, not adhered to when environmental appraisal was done in respect of pockets of the sand beds for the purpose of e-auction of Nagpur and Bhandara districts by the State Government. The Environment Impact Assessment Notification dated September 14, 2006, was required to be followed before granting clearance by SEIAA. It is alleged that there was no State Environment Appraisal Committed (SEAC) in existence and therefore, SEIAA could not have granted EC.

**5.** The Applicant further alleges that mapping pockets/blocks of the sand bed was not properly done and the distance which was required to be maintained, in accordance with the norms, between two (2) blocks was

not verified at all. It is the case of the Applicant that SEIAA, did not properly consider the fact that blocks are contagious and some of them do not qualify the parameters for the purpose of eligible criteria to be applied in the context of e-auctioning process.

**6.** We have gone through the record, rival contentions, affidavits of the parties, as well as relevant maps produced by them.

**7.** So far as first contention of the Applicant is concerned, it is not necessary for us to decide whether as per recommendatory Committee was authorized to make recommendation or that the Committed headed by Mr. Buddiraja, could have made such recommendation, when it was dealing with some other subject like dealing with construction activities in the territory of Mumbai Metropolitan Region (MMR). The decision of SEIAA is of relevance and recommendatory Authority, where one Authority or other, is not significant in the process because ultimate decision making Authority is accountable in the legal parameters. Needless to say, on this ground the entire process of e-auction cannot be said to be illegal and void.

**8.** Now, it is imperative that first objection raised by the Applicant relates to finding of fact in relation to the distance of two (2) blocks/pockets of the sand bed. The maps produced by the Mining Authority, appears to have

been considered by the SEIAA, while taking decision in its meeting. Mr. Mahabal, learned Counsel for the Applicant seriously challenged authentication of the maps. He has placed on record some of the maps drawn on the basis of google imaginary. He submits that contagiousness visa-a-visa, location of the river bed is relevant and the distance visa-a-visa of village is irrespective for the purpose of consideration of auctioning process.

**9.** We mentioned Judgment of Apex Court in Deepak Kumar Vs State of Haryana and Ors, (supra), the order dated February 27, 2012, tendered by the Apex Court, reveals that by way of interim order the direction has been issued for leases of mining minerals, including from renewal for area of 5 Ha be granted by the State/Union Territory, only after getting Environment Clearance (EC) from MoEF.

**10.** In our opinion, if the State Authority has committed any disobedience of the said order, the Applicant is at liberty to initiate competent proceedings against the Authority. The Tribunal is not, however, executing agency, as such, and the directions are issued to the State Authority to follow the model guidelines. We do not have a mechanism to know whether such model guidelines are really complied with by the State Authority. We cannot proceed on assumptive basis that such guidelines have been flouted by the State Authority. Still,

however, in the interest of justice, we are of the opinion that it would be appropriate for SEIAA to consider representation and maps prepared by the Applicant and re-visit the proposal before final action. The process, however, shall be completed within period of one (1) week. The Applicant may immediately submit representation or copy of the present Application along with maps before SEIAA and within one (1) week, decision regarding approval of beds may be taken, if so required by affirming earlier decision, or as may be deemed proper. Ad-interim order (under Section 151 of the Code of Civil Procedure) to continue for period of ten (10) days and thereafter it will automatically deemed as vacated without any order. The Application is accordingly disposed of. No costs.

.....,JM  
**(Justice V. R. Kingaonkar)**

....., EM  
**(Dr. Ajay.A. Deshpande)**



**NGT**