

Item No. 08 (Through VC, Bhopal)

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 17/2019 (CZ)
(I.A. No. 25/2019)

Vikas Ojha

Applicant(s)

Versus

Mineral Resource Department & Ors.

Respondent(s)

Date of hearing: 26.11.2019

CORAM:

**HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

For Applicant(s)

Mr. Sanjay Upadhyay, Mr. Salik Safique, and Mr. Nishant Awana, Advocates

For Respondent(s)

Mr. Sachin K. Verma, Advocate
Mr. Dharamvir Sharma, Advocate
Mr. Deepesh Joshi and Mr. Manav Tanwani, Advocates
Mr. Sumeer Sodhi, Advocate for Mr. Varun Tankha and Ms. Shreya Nair, Advocates

ORDER

This original application has been filed on 25.05.2019, with the following prayers *inter-alia*:

1. *Cancel the permissions granted by the Respondent No. 4 in pursuance of Mineral Policy 2018 of all the sand stockyards belonging to the Mineral Dealers/Stockists in the vicinity of River Tawa and Narmada.*
2. *Direct the Respondent No. 1 and 2 to impose a strict ban on setting up of sand stockyards on land where there is a pre-deposit of sand in the close proximity of river bed.*
3. *Direct Respondent No. 1 and 2 to formulate a policy with the intent of keeping a check on the sand stockyards established in the State of MP and ensuring abidance of environmental norms by the Licensees.*

At the outset it is relevant to mention that State of Madhya Pradesh has issued a notification on 30.08.2019 wherein Chapter-VIII relates to disposal/permit of sand available on private land and Chapter-IX relates to storage of mineral sand. The extracts of said chapters are as under:

Chapter -VIII

Disposal/ Permit of mineral sand available on Private Land-

- (1) All the License/ Permissions granted for mining of sand on private land under the provisions of M.P. Sand Rules, 2018 prior to commencement of these rules shall be deemed to be cancelled from the date of publication of this notification, the royalty deposited in advance, if any shall be refunded by the Collector to the licensee.*
- (2) During the agreement period, permission for excavation of additional quantity of sand on private land may be given to the valid contractor of any group, on the basis of consent from land owner.*
- (3) The contractor of the nearest group shall submit application in Form-VII to the Collector for obtaining license for sand available on private land. The fees of Rs. 5000 (Five Thousand Rupees) per hectare or part thereof, shall be deposited in prescribed head along with application. The applicant shall submit khasra Panchsala of applied land and an affidavit of the consent of the land owner and an affidavit stating that, no royalty or any other govt. dues are outstanding against him.*
- (4) The Collector after making necessary enquiry and on the basis of quantity available may dispose-off the application of 1.00 hectare area. Where the applied area is more than 1.00 hectare, the Collector shall send the proposal to the Director to take appropriate decision for grant of license.*
- (5) The quantity in license to be granted on private land shall not exceed more than 10% of the mineable quantity of that group.*
- (6) An amount equal to 50% of calculated royalty of available/estimated quantity in the license area shall be deposited as security amount. This security amount shall be adjustable against the royalty payable in the advance. The permission to issue transit pass for the transportation of the sand from the license area shall be given only after depositing 50% amount of calculated royalty of available/estimated quantity in the license area.*
- (7) The period of License shall not be more than one year.*

- (8) *The Licensee shall start the mining operation only after obtaining statutory permissions required under these rules.*
- (9) *The permission for transport of the excavated sand shall be given after depositing payment in advance at the rate of per cubic meter according to the highest tender amount received for the group.*
- (10) *The transportation of sand from place of license to the destination shall not be done without the transit pass.*
- (11) *The permissible quantity for mining shall be limited to (Mining plan, Environmental clearance, Water and Air consent) whichever is less. In case of violation the permission may be liable to be cancelled with immediate effect and as per rule the value of additional quantity excavated shall be recoverable.*
- (12) *The private land owner shall not be given direct permission for mining and sale of sand.*

Chapter -IX

Storage of mineral sand-

- (1) *All the License granted for storage of sand prior to the commencement of these rules shall be deemed to be cancelled from the date of publication of this notification. The permission for disposal of sand validly stored shall be given. The licensee shall furnish details of quantity of mineral stored on storage place to the Collector within a period of 7 days from the date of notification.*
- (2) *The licensee, after the publication of this notification shall not store stock of sand, of storage place.*
- (3) *The Collector shall, after receiving such details, enquire and verify the quantity of mineral stored. The permission may be accorded, to the licensee to remove/dispose-off quantity upto 1.00 lakh cubic meter sand stored legally, within a maximum period of 30 days. The arrangement for special permission for disposal shall be made on portal by the corporation, the period fixed may not be enhanced and the licensee may not be granted permission more than once from one storage place.*
- (4) *If the quantity of mineral stored on storage place is more than 1.00 lakh cubic meter, the Collector after verification shall send proposal with recommendation to the Director. The Director after examining and fixing the period shall proceed for granting permission. The Director may grant maximum 90 days period for disposal of sand stored.*
- (5) *In case of non-disposal of whole quantity of sand from the storage place within the period given by Collector/Director as above, the Collector shall forfeit remaining quantity, disposal of the same shall be done as per the procedure prescribed by the State Government.*

(6) The permission to the contractor of the group for storage of sand mineral for commercial purpose shall only be given beyond 2 km but within the limit of 5 km from the valid sand quarry.

Provided, permission to any person other than the valid contractor shall be given for storage, beyond the 50 km. periphery from any sanctioned sand quarry:

Provided further that the above restrictions shall not be applicable in the Bhopal, Jabalpur, Indore and Gwalior Districts:

Provided further that, the final decision shall be taken by the State Government, if any practical difficulty arises in relation to above restriction.

(7) The application for grant of storage license shall be submitted as follows:-

(a) Application in Form-VIII.

(b) Copy of challan alongwith application fee of Rs. 5000 deposited under prescribed head under these rules.

(c) Latest revenue maps and khasrs panchasala of place of storage.

(d) NOC issued by Tehsildar in case the storage place is a govt. land and affidavit showing the consent of land owner in case of private land.

(e) Affidavit of applicant for storage license stating that no mineral revenue or govt. money is outstanding against him.

(8) The Collector by verifying the fact from the corporation that there is no sand quarry within 50 km periphery from storage place and after such enquiry as he deems fit shall grant, storage license.

(9) The period of license shall not exceed than the period of contract of group and in case of cancellation or expiration of contract the license shall expire automatically.

(10) The sand, stored in a storage place shall not be transported anywhere without prescribed transit pass (e-TP).

(11) In case of expiry or cancellation of the contract the licensee shall remove the sand available on the storage place within a period of one month from the date of such expiry or cancellation of the contract, otherwise the mineral available on storage place shall be forfeited. Such forfeited mineral shall be disposed off by the Collector as per the procedure prescribed by the State Government and the amount so received shall be deposited in the Government treasury.

(12) No License shall be required at construction place for storage of sand upto maximum of 20 cubic meters for private construction work (not for commercial purpose) and upto maximum of 50 cubic meters for commercial purpose to contractors for private construction work:

Provided that in case of government construction works the Collector, may be grant permission for storage of 50%

quantity of sand sanctioned in estimate at construction site on the basis of a certificate issued by the competent authority of the works department.

Further it may be mentioned that in so far as cancellation of permission/sanction orders granted by respondents in pursuance of minerals policy 2018 of all the sand stockyards/stack yards is concerned, the said permission after coming into effect the notification of 30.08.2019 stands cancelled. Similarly, the License granted for all sand stockyards/stack yards are also cancelled by the notification of 30.08.2019. In other words the primary relief sought by the applicant in prayer clause no. 1 and 2 have been fulfilled and the application, to that extent, has become infructuous.

However, in respect of the relief that respondent should impose a strict ban on setting up of sand stockyards/stack yards on the land in close proximity of river bed is concerned, it is stated by the learned counsel for the State of Madhya Pradesh that no such sand stockyards/stack yards would now be permitted to be established near the proximity of river belt. He has also invited attention to sub Clause- VI of 18 which reads as under:

(6) The permission to the contractor of the group for storage of sand mineral for commercial purpose shall only be given beyond 2 km but within the limit of 5 km from the valid sand quarry.

Provided, permission to any person other than the valid contractor shall be given for storage, beyond the 50 km. periphery from any sanctioned sand quarry:

Provided further that the above restrictions shall not be applicable in the Bhopal, Jabalpur, Indore and Gwalior Districts:

Provided further that, the final decision shall be taken by the State Government, if any practical difficulty arises in relation to above restriction.

(8) The Licensee shall start the mining operation only after obtaining statutory permissions required under these rules.

However, we make it clear that no permission for establishment of stockyards/stack yards should be given within 5 km of any river, stream and water bodies.

In view of the above, the Original Application No. 17/2019 (CZ) stands disposed of, with no order as to cost.

I.A. No. 25/2019

This interlocutory application does not survive for consideration as the main application itself stands dismissed as withdrawn.

I.A. No. 25/2019 is disposed of, accordingly.

Justice Raghuvendra S. Rathore, JM

Dr. Satyawan Singh Garbyal, EM

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