

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH**

(By Video Conferencing)

Original Application No.328/2022

Sanjeev Agrawal

...Applicant

Versus

Forest Department, Chhattisgarh
& Anr.

...Respondents

Date of hearing: 02.08.2022

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: Mr. Akshhat Agrawal son of the applicant.

ORDER

1. Mr. Sanjeev Agrawal, RTI Activist, Raipur, Chhattisgarh has filed the present application seeking issuance of directions prohibiting mining activity in Section 254 measuring 144 hectares Balodabazar Vanmandal Baghmarg Gold Block, Chhattisgarh.

2. The applicant has averred that Vedanta Ltd., has applied to Government of Chhattisgarh for mining gold through 58 borewells in reserved forest area, measuring 607.944 hectares, of Balodabazar Vanmandal Baghmarg Gold Block under Forest (Conservation) Act 1980. The mining area includes section 254 measuring 144 hectares which is having dense forest with basswood and other medicinal trees/plants and rich wildlife. The Principal Conservator of Forests, Government of Chhattisgarh had vide letter dated 06.10.2017 proposed inclusion of Section 254 in expansion of 22 sections of Devpur area but some Officers of Government of Chhattisgarh are bent upon favouring the Project Proponent and granting lease to the Project Proponent on the basis of Report of another Committee

constituted for this purpose which contradicted and negated earlier report submitted by Senior Officers from the Forest Department that no mining was possible without deforestation in the area.

3. Vide order dated 09.05.2022, this Tribunal constituted a Joint Committee comprising of Regional Office of MoEF & CC, Nagpur, Principal Secretary, Mines, Government of Chhattisgarh, Principal Chief Conservator of Forest (HOD), Government of Chhattisgarh, State PCB and Collector, Balodabajar and directed the same to submit factual and action taken report within two months. The relevant part of the order is reproduced hereunder:-

“The averments made in the petition raise substantial questions relating to environment arising out of the implementation of the enactments specified in Schedule-I to the National Green Tribunal Act, 2010 and need due verification and immediate remedial action. Accordingly, we constitute a Joint Committee of representative of Regional Office of MoEF & CC, Nagpur, Principal Secretary, Mines, Government of Chhattisgarh, Principal Chief Conservator of Forest (HOD), Government of Chhattisgarh, State PCB and Collector, Balodabajar and direct the Joint Committee to meet within four weeks and undertake site visits, look into the grievances of the applicant, consider both the reports referred to in the application and make recommendations/take requisite action particularly with respect to the environmental damage caused and restoration of environment by following due process of law. The State PCB will be the Nodal agency for coordination and compliance. Factual and action taken report may be furnished within three months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF....”

4. In compliance thereof, the Joint Committee inspected the area on 20.06.2022 and has submitted report vide email dated 10.05.2022. In its Report, the Joint Committee has submitted that the prospecting (preliminary survey) has not commenced and the trees have not been cut and no degradation of environment has taken place; proposed mining site is in the area of Balodabazar forest division and lies outside the area of Barnawapara Sanctuary and its eco-sensitive zone and that no decision has yet been taken by the State Government regarding inclusion of land measuring 144.60

hectares of Kaksh/Division no. 254 in the area of Barnawapara Sanctuary and that as per permission granted, four inch diameter drilling is to be done by use of foldable machine in 51 bore holes without causing any damage to trees in land measuring 3.23985 hectares by way of prospecting (preliminary survey) for mineral exploration by using already existing extraction path which is to be monitored by Committee constituted under the Chairmanship of Principal Chief Conservator of Forests and Wildlife.

5. Additional District Magistrate, Balodabazar-Bhatapara did not agree with the Report of Joint Committee and has sent dissent letter dated 22.07.2022 expressing his opinion that the proposed mining project will adversely affect the ecology of the sensitive area and will cause degradation of environment and forest.

6. Notices alongwith the application and the report of the Joint Committee and letter of Additional District Magistrate, Balodabazar-Bhatapara be issued to (i) Project Proponent- M/s Vedanta Limited through Mr. Gaurav Dua, Head of Exploration, Vedanta Limited, 1st Floor, 'c' wing, Unit 103, Corporation Avenue, Atul Projects, Chakala, Andheri (East) Mumbai-400093, Maharashtra, (ii) Secretary, MoEF & CC, (iii) State of Chhattisgarh through Chief Secretary, Government of Chhattisgarh, (iv) Principal Chief Conservator of Forests (Forest) and (v) Principal Chief Conservator of Forests (Wild Life), Government of Chhattisgarh, (vi) State PCB and (vii) Collector, Balodabazar requiring them to file their response/ reply within one month at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF. The present status of the proposal for including Kaksh/Division no. 254 comprising of 144.6 hectare area in the sanctuary of Barnawapara Wildlife Sanctuary be also mentioned in the reply/response.

7. In the facts and circumstances of the case presence of the Director, Directorate of Geology and Mining, Government of Chhattisgarh and Principal Chief Conservator of Forests (Forest) before this Tribunal on the next date of hearing, either through video conferencing or physically, is considered to be essential for assisting this Tribunal in effective and proper adjudication of questions involved in the case and accordingly, Director, Directorate of Geology and Mining, Government of Chhattisgarh and Principal Chief Conservator of Forests (Forest) are accordingly directed to remain present before this Tribunal on the next date of hearing fixed.

8. Section 20 of the National Green Tribunal Act, 2010 mandates that this Tribunal shall, while passing any order or decision or award, apply the principles of sustainable development, the pre-cautionary principle and the polluter pays principle.

9. In view of the precautionary principle, we direct that preliminary survey by way of drilling in 51 borewells in land measuring 3.23985 hectares out of Baghmarg gold block area of 414.415 hectares falling in the reserved forest area of Balodabazar Forest Division shall remain in abeyance till the next date of hearing.

10. List for further consideration on 14.09.2022.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

August 02, 2022
AG