

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

**Original Application No. 117/2014 (CZ)
Dr. Subhash C. Pandey Vs. Union of India & Ors.**

**CORAM : HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER**

**PRESENT : Applicant : In person
Respondent No. 5 & 7 : Shri Sachin Verma, Advocate
Dr. Asha Upwanshi
Respondent No. 8 : Ms Parul Bhadoria Advocate, Adv for
Shri Purushaindra Kaurav, Adv.
Respondent/MoEF&CC : Shri Om Shankar Shrivastav, Adv.**

Date and Remarks	Orders of the Tribunal
Item No. 6 13th October, 2015	<p>The State has filed a reply in response to our order of 06.10.2015 which is taken on record. We have heard the Learned Counsel appearing for the State.</p> <p>On 06.10.2015 some of the farmers who had been affected as a result of our order passed on 19.12.2014 directing that farming of vegetables with the use of sewage water should be prohibited with immediate effect filed their petition / affidavit before us contending that the PHE Department has stopped water to their fields. While taking care of the affected farmers livelihood issues since they had been carrying on the aforesaid activity and supporting their families since a long time we had directed the Government through the order dated 19.12.2014 to provide necessary guidance and infrastructure and support for alternate farming such as floriculture etc. so that the livelihood of these farmers is not adversely affected.</p> <p>On 21.07.2015 a project report on diversification of sewage</p>

water irrigated farming system in Bhopal District “from unhealthy vegetables to colourful flowers to sustain livelihood of farmers” was submitted on behalf of the Government to us. While several issues on the technical aspect have been dealt with in the said report and after taking note of the number of persons (farmers) who will be affected as a result of the immediate ban on the cultivation of vegetables in the sewage farming, it has been provided in the said report that the Department of Horticulture and farm forestry aspires to take up cultivation of flowers with following objectives : (1) to provide alternate livelihood options for the farmers who depends upon sewage water for irrigating their crops. (2). To improve standard of living of farm community. (3) To generate employment opportunity for skilled and unskilled employed people. (4) to provide economic aid to encourage farmers to adopt modern flower cultivation techniques.

These objectives with the plan for diversification was in the view of what has been stated in the said report “.....*this will help sustain the livelihoods of various farmers who are at the verge of losing their source of livelihoods..... hence as a means to create alternative livelihood it is envisaged that through extension of floriculture as flowers can be grown in these lands, livelihoods of various farmers will be sustained*”. We had appreciated the aforesaid plan of the State on the humanitarian aspect for protecting the livelihood and sustainable activity rights of the affected persons. However, it was not brought to our notice as has been submitted in the reply today that the Government vide order and notice dated 21.07.2015 which is incidentally the same date

which was the date of hearing when the State 'project report' referred to above was submitted before us that termination of the lease of the affected persons had been done by the Government in the PHE Department as the original lease reportedly was also granted by the said department of the State. In the orders that were issued which have been filed today before us it has been stated that the termination of the lease is in the background of the decision taken with condition no. 3 as follows:

"3. 48 कृषको को दिए गए अस्थाई पट्टे को निरस्त किये जाकर, संपूर्ण भूमि लोक सवास्थ यांत्रिकी विभाग को दी जावेगी. लोक सवास्थ यांत्रिकी विभाग उक्त भूमि को योजना के उन्नयन कार्य, विभाग के कार्यालय एवं अन्य उपयोग करेगा. अस्थाई पट्टे निरस्तीकरण के कार्यवाही उद्यानिकी विभाग द्वारा एवं ४८ कृषको को अन्य शासकीय योजनाओं के अन्तर्गत दिए जाने वाला लाभ भी कृषि विहभ एवं कलेक्टर, भोपाल द्वारा दिए जावेंगा."

These decisions were taken in the meeting conducted on 20.03.2015, however till date none has approached the farmers to apprise them about what options and benefits and under which scheme they are going to be provided any relief and rehabilitation for the purposes of livelihood.

While environment necessarily focus the focal point for the purposes of adjudication by this Tribunal, however, at the same time an activity providing livelihood and sustenance to large number of families for more than 40 years cannot be lost sight of. It was in this background that while dealing with the case and imposing the restriction on the cultivation and production including marketing of vegetables grown from sewage water without the same having been treated that the state functionaries were directed to prepare action plan for providing alternative means of livelihood and for this purpose it was considered safe to a

large extent to go for floriculture activity. On the last date of hearing, i.e. 06.10.2015 it was brought to our notice that for the aforesaid purpose of floriculture water was not being provided by the PHE Department but the fact regarding cancellation of the leases had not been brought to our notice. It has not been in dispute that neither under the decisions taken on 20.03.2015 meeting for providing alternatives under the schemes of the Government to the affected persons, have any steps been taken by the collector or the Agriculture Department nor any steps in respect of the said land was submitted before us on 21.07.2015 in respect of floriculture as an alternative activity for taking care of the livelihood issues of the affected persons by the Government.

We would therefore, direct that till such time as the decision taken on 20.03.2015 is not implemented with options to take recourse to alternative sources of livelihood under various schemes of the Government, the affected persons shall be allowed to cultivate their portion of the land irrespective of whether possession on paper has been taken by the State in terms of the notices issued to them. The State PHE Department and the District Collector in the meanwhile shall frame scheme of reasonable instalments over a period of three years for payment of the outstanding dues and if any of the outstanding is disputed to be adjudicated before an officer to be deputed for the said purpose. In the meanwhile relief and rehabilitation measures under the schemes of the Government shall be brought to the notice of each of the affected person to take recourse to the same within a reasonable period. However they will not be compelled to hand

over possessions before 01.06.2016. With the aforesaid directions the affected persons may carry out the activity of floriculture in accordance with policy and the project prepared by the Horticulture Department of the Government of M.P as was submitted on 21.07.2015. The concerned officials of the Horticulture Department as well as the revenue officials of the Government and District Collector of Bhopal shall provide all necessary assistance in this behalf. The PHE Department is directed to provide necessary supply of water for the aforesaid purpose at regular intervals as may be necessary. The official from the PHE Department also submitted that the land is required for the expansion and enhancement of the capacity of the sewage treatment plant for the water coming from the Shahpura Lake. We direct the PHE Department to submit their plans for the same and area that is required and the extent of the present area under various leases of the affected persons granted to them since 1975. They shall also submit the work schedule with estimated costs and financial sanction / allocation by the Government for this purpose on the next date.

For reporting compliance of the above order, let the matter be listed on **2nd December, 2015.**

.....,JM
(DALIP SINGH)

.....,EM
(PROF. A.R. YOUSUF)