

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

Original Application No. 135/2014 (CZ)

Dr. Subhash C. Pandey & 2 Ors. Vs. State of MP & 6 Ors.

and

Original Application No. 48/2014 (CZ)

**Pradeep Kumar Pandey & 5 Ors. Vs. Mandakini Housing Society through it's
President & 4 Ors.**

**CORAM : HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER**

PRESENT : Applicant: **Dr. Subhash C.Pandey**
Respondents 1, 3 & 4: **Shri Sachin K. Verma, Advocate**
Shri V.P.Kulshreshtha, Joint
Director, T&CP Department
Respondent No. 7 : **Ms. Parul Bhadoria, Adv. for**
Shri Purushaindra Kaurav, Adv.
BMC : **Shri Neel Choudhary, Adv. for**
Shri Vijay Choudhary, Adv.
Shri Amit Gajbhiye, OIC

Date and Remarks	Orders of the Tribunal
Item No. 4 & 5 30th March, 2015	<p style="text-align:center">Files pertaining to some of the areas / scheme for which building permissions were granted were submitted for perusal of the Tribunal.</p> <p style="text-align:center">Learned Counsel for the State submitted that based upon the permissions granted and on the spot survey of the same shall be carried out and wherever breach of the condition will be found, the developers concerned shall be made to comply.</p> <p style="text-align:center">One of the issues pertains to the requirement of Rule 4.4 which requires that from the bank of the river Kaliasot, on either side, 33 meter area will be kept open and shall be liable for plantation of</p>

trees being carried out. Wherever such plantation has not been carried out, it should be the responsibility of the State Government in the T&CP Department along with the municipal authorities concerned to ensure that the said conditions is carried out and observed.

Learned Counsel for the State submitted that the survey work have been stopped for the present awaiting further directions from the Tribunal. We make it clear that this Tribunal had at no point of time restrained the Government from carrying out land survey and settlement along the river Kaliasot. The aforesaid work shall be completed within a period of six weeks. It has been brought to our notice that on the google maps of satellite imaging, the respondents have already plotted the survey land which has been shown in green colour, the new settlement revenue map line which has been shown in orange colour and the old revenue map line along with river Kaliasot which has been shown in blue colour. Based upon the survey line, which is in existence, the State Government and the District Administration shall complete the survey along the river Kaliasot within six weeks from today.

We have also been given to understand that on the right bank downstream of river Kaliasot, already settlement operations have been carried out. We find that majority of constructions are also existing on the right bank of the river Kaliasot. As such the State and its functionaries shall complete the settlement operations and survey

on the right bank of the river Kaliasot in the first instance, at least up to a distance of 15 kms from source.

The State through Learned Counsel Shri Sachin K.Verma prayed for six months time for being allowed to carry out the settlement operations. However, we are of the view that such prolonged time, if granted will not help in any manner on account of the fact that till the settlement and surveys are not completed, construction activities with regard permissions granted along the river Kaliasot cannot be allowed to be carried out. Along the river Kaliasot, we would restrict the construction activity within 200 meters of the green land as indicated in the satellite imagery map shown before us. Beyond 200 meters green land, it would be open for the construction activity to be resumed. We take note of the fact that imposition of blanket ban is counter-productive as all construction activity would come to a halt and the labourers are liable to be laid off which would result in undue hardship to such low income group of people.

Wherever, we find that the building permissions have been compromised, we would, while considering the alternates to carrying out demolition in the event where at the time of granting of such permission, the provisions of Rule 4.47 of the building permissions had been taken into account and the permissions granted accordingly and constructions carried out in accordance with the same but due to change in the course of the river or the present boundary of the river

having altered, the situation with regard to the same has changed, such projects and developers would be liable to take compensatory measures including afforestation by acquiring additional lands or carrying out development work to the extent requiring changed course of river in accordance to a plan to be prepared jointly by the Water Resource Department, Bhopal Development Authority and Bhopal Municipal Corporation. It has also been suggested that check-dams along the course of the river of minimum height to ensure the availability of water along the river up to a distance of 10 kms in the first instance shall also be planned. Wherever permission letters have been granted to the developers along the course of river and in other areas which are releasing untreated sewage into the river and are flouting the conditions of permission granted to them, shall be required to install the requisite Sewage Treatment Plant and ensure that no pollutants are discharged into the Kaliasot river and would maintain the operational capabilities of the same at all times. The Municipal Corporation and Town & Country Planning Department shall ensure that this condition is observed in its entirety. The defaulting parties shall be informed before this Tribunal on the next date of hearing by the Town & Country Planning Department as well as the Municipal Corporation after carrying a detailed survey in this regard with issuance of show-cause notice to all such defaulting parties to comply with the conditions there in the permission granted for installation of STPs. We make it clear that if in cases where such

requirement was not made applicable at that point of time when permission were granted, the Municipal Authorities shall insist upon the developers to install the same failing which the Municipal Authorities and the Town & Country Planning Department would furnish a list of their ongoing projects, and if necessary, this Tribunal will not hesitate in issuing suitable directions with respect to the same against developers on the principle of "Polluter Pays".

List the matters on **25th May, 2015.**

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(DALIP SINGH)

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(RANJAN CHATTERJEE)