

**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  
**M.A. No. 408/2015**

**CORAM : HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER  
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER**

**PRESENT : Applicant: Dr. Subhash C. Pandey  
Respondents 1, 3 & 4: Shri Sachin K. Verma, Advocate  
Respondent No. 7 : Ms. Parul Bhadoria, Adv. for  
Shri Purushaindra Kaurav, Advocate.  
BMC : Shri Neel Choudhary, Adv. for  
Shri Vijay Choudhary, Advocate.**

<b>Date and Remarks</b>	<b>Orders of the Tribunal</b>
<b>Item No. 13 3<sup>rd</sup> August, 2015</b>	<p>Learned Counsel for the State has filed an M.A.No. 408/2015 dated 28.07.2015 with the prayer to take on record the report of the team constituted by the District Collector, Bhopal pursuant to order dated 06.07.2015. The said M.A. is allowed. The M.A. along with the report Annexure SA/1 is ordered to be taken on record.</p> <p>M.A.No. 408/2013 stands disposed of.</p> <p>As per the aforesaid report in Para No. 3, it has been submitted that the work of laying the boundary pillars along the 59 kms length of the river (left &amp; right banks), 54 kms. in Bhopal and the remaining 5 kms. which falls in Raisen District has been completed. Though, it has been stated that the aforesaid task of putting the boundary pillars is along the entire length, we assume that it has been done on both sides of the river on the entire 29.5 kms length of the river which on the right and left banks put together comes to 59 kms. It is stated that 1912 pillars have been put on the edge of the river boundary and at a distance of the 33 meters which as per Para 4.7 of the Town &amp; Country Planning guidelines is required to be maintained as Green</p>

Belt along the course of the river and would be a 'No Construction Zone'. It is further stated that identification of the constructions based upon such boundary pillars being fixed has been done and they require one month's time to submit the list of such construction falling within the 33 meter Green Belt area.

A month's time, prayed for, is granted for submitting the list of such illegal construction which have been identified within the 33 meter Green Belt.

We also find that there is complete absence of the compliance with regard to creating Green Belt along the 29.5 kms length of the river on the right and left bank. The Respondents shall submit their response with regard to the same and compliance made in this behalf for creating the Green Belt in both Bhopal and Raisen District on the next date.

As far as the encroachment made by land filling in the river Kaliasot is concerned, on 20.07.2015 along with the compliance report, an enquiry report (Annexure DC/3) had been filed. It had been stated in the said Prativedan (enquiry report) as follows

“दिनांक 13.07.2015 को जाँच दाल के द्वारा भ्रमण कर संयुक्त स्थल निरीक्षण किया गया तथा मौके पर उपस्थित लोगो से बातचीत कर यह जानकारी प्राप्त करने का प्रयास किया गया की नदी में मिटटी भराव के लिए जिम्मेदार कौन है तथा भराव हेतु सामग्री का स्रोत किया है. परन्तु इस सम्बन्ध में वह उपस्थित तथा आस-पास के व्यक्तियों द्वारा इस सम्बन्ध में कोई जानकारी देने में असमर्थता जताई.

जाँच दल द्वारा मौके का निरीक्षण करने पर यह पाया गया की कलियासोत नदी के दोनों ओर स्थित बहुमंजिलीय भवनो के पीछे की ओर नदी से लगकर रिटेनिंग वाल बनाकर भराव किया गया है. ये रिटेनिंग वाल संभवतः निर्माण कार्य आरम्भ करने के पूर्व की बनी है तथा भराव भी ताज़ा न होकर बहुत पुराना है.

जाँच दल के द्वारा यह भी देखा गया की सागर होम्स जो की दामखेड़ा में स्थित है की बाउंड्री वाल के बहार की ओर लगभग १५ फीट तक का अर्ध वृत्ताकार क्षेत्र में कोपरा पत्थर एवं मिटटी का ताज़ा भराव किया गया है.

इसके अतिरिक्त अमरवेलि जो सनखेड़ी में स्थित है, के पीछे नदी की ओर एक रिटेनिंग वाल जो की पुरानी प्रतीत होती है में भराव किया गया है जिसमे कुछ स्थानो पर ताजा मिटटी एवं कोपरा का भराव प्रतीत होता है.”

The findings of this report does not at all inspire confidence. Neither any responsibility has been fixed nor the persons identified, who were responsible for having put the material in the river bed nor the source from where such material in large quantity was brought and at whose instance. There is no whisper as to who has benefitted as a result of the aforesaid act of land filling into the river.

In view of the above, we have no option but to hold the District Collector, Bhopal and the Municipal Commissioner of Bhopal Municipal Corporation within whose jurisdiction the aforesaid illegal activity has taken place responsible. Since the area and the quantity is substantial, it cannot be presumed that this happened overnight and without being noticed by the authorities. *Prima facie*, we would hold the District Collector and the Commissioner Bhopal Municipal Corporation responsible for having allowed damage to the environment within their jurisdiction. The District Administration as well as the Municipal Corporation shall be responsible for removing the entire debris. We are *prima facie* of the view that the cost of same shall be borne by the responsible officers who may have been negligent in their supervision and allowed this to happen within their jurisdiction particularly when this entire matter has been the centre of discussion and action pursuance to the filing of this application and the decision given by this Tribunal.

If in the meanwhile, the authorities concerned *bonafide* are able to identify the persons responsible, and submit their details with their findings as had been directed earlier, this Tribunal may consider

the alteration of the responsibility with regard to the cost to be borne for restoration of the river back to its original course.

Since the 33 metres belt as per the T&CP guidelines contained in part 4.47 (a) require the 33 meters to be kept as open area and plantation to be carried out, we direct that all along the identified area in the 59 kilometres stretch of Bhopal and Raisen comprising the left and right banks, the District Administration along with the Forest Department and other agencies shall take steps for creating the Green Belt area with suitable protection including fencing etc. Since it is the monsoon season this opportunity should be availed of by the Respondents. A plan for carrying out the plantation with specified tree species which have soil binding capacity and are ornamental, flowering trees and fruit trees shall be drawn up and implemented during the current monsoon season. Based upon the affidavit filed on 06.07.2015 those premises which have been identified already as falling within the 33 metres 'No Construction Zone' and Green Belt area shall be dealt with in accordance with law and such illegal constructions ordered to be removed.

This compliance shall be reported on **7<sup>th</sup> October, 2015** to this Tribunal.

.....,JM  
**(DALIP SINGH)**

.....EM  
**(BIKRAM SINGH SAJWAN)**