

**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.**

**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  
Intervener : Shri Shantanoo Saxena, Advocate  
MPPCB: Ms. Parul Bhadoria Bhadoria, Advocate  
Bhopal Municipal Council : Shri Neel Choudhary, Advocate for  
Shri Vijay Choudhary, Advocate

<b>Date and Remarks</b>	<b>Orders of the Tribunal</b>
<b>Item No. 18</b> <b>7<sup>th</sup> October, 2015</b>	<p>Shri Sachin K.Verma appearing for the District Collector and the BMC has filed submission for compliance of our order dated 03.08.2015.</p> <p>We have heard Shri Shantanoo Saxena appearing on behalf of the Applicant in M.A.No. 399 on behalf M/s Virasha Heights. The said M.A. seeking interrogatory reply on behalf of the State was also filed. In substance the case of the State is that while a retention wall does exists on the river front constructed by M/s M/s Virasha Heights and land filling has been done in the 33 meter area, the construction itself is beyond the 33 meter No Construction Zone as provided under Para 4.47 of which reference has been made in our judgement dated 20.08.2014, the Applicant / Dr. Subhash Pandey drew our attention to the document filed on 20.07.2015 by the State wherein it has been indicated that notice to M/s Virasha Heights has been given and action in accordance with the provision of law has been initiated against them including removal of the debris used for land fill in the area.</p> <p>Learned Counsel Shri Shantanoo Saxena submitted that unlike several other persons who have challenged the notice his</p>

client has accepted the liability and is going ahead with the compliance of the directions contained in the notice. During the course of hearing, it was also brought to our notice that the project itself was amenable for the requirement of EC under the EIA notification and till date no such EC has been granted. Learned Counsel Shri Shantanoo Saxena submitted that an application online has been submitted which is pending consideration before the SIEAA. It was also submitted that all requirements as per the EIA notification relating to sewage treatment, dual plumbing, etc. have been complied and any further directions in the event of grant of EC as incorporated in the EC shall also be complied with. In the light of the above, we are inclined to accept the application on the following conditions:

- (1) That the Applicant M/s Virasha Heights would comply with the conditions of the notice issued by the BMC and other Government authorities to which our attention was drawn along with the reply and compliance submitted on 20/07/2015.
- (2) The occupants of the building of the remaining portion shall only be permitted once EC is granted.
- (3) All conditions in the event of the grant of the EC shall be required to be fulfilled and on fulfilment of the same, inspection will be carried out for the grant of completion certificate and if found in order, the completion certificate should be granted within 15 days of the inspection.
- (4) In the 33 meter plantation would be carried out in consultation with the Government agencies like CPA and for this purpose, the developers abutting on such

33 meter belt shall provide all the cost to be incurred.

The agency which would carry out the plantation along the river front in 33 meter belt would not be guided by the mere criteria in the T&CP Guidelines. The said cost for developing will not be passed on to the occupants and purchasers of the property and shall be borne by the developer. No additional cost other than what was advertised shall be recovered from any of the purchaser and cost of purchase on the ground of additional measure for sewage treatment, MSW collection and such like provision of maintaining a green belt on their areas in question.

These conditions which we have imposed while disposing of the MA of M/s Virasha Heights will also be applicable in the event of such premises being found in order subsequently of any other developer from the river course.

From the side of the Government and BMC to engage a consultant for development of this river front with green belt in the 33 meter zone and also ensure that the same is developed on the lines of the Sabarmati front and such like areas. The development plan shall be submitted within 60 days before this Tribunal after completing the task of removing the debris and the unauthorised constructions in the 33 meter No Construction Zone.

**M.A. No. 313/2015**

Shri Sachin K. Verma, Learned Counsel submitted that the task of demarcation of the river front and the 33 mtrs. area has been completed. He undertakes that the remaining conditions of development of the 33 mtrs. 'no construction zone' and the river front shall be carried out, the State would provide all necessary

financial assistance and grant to the BMC or any other agency or authority for the aforesaid purpose. He submits that the order that was passed by the Tribunal on 30.03.2015 taking into account the fact that compliances have not been made despite the judgment having been given 6 months ago, from the State further seeking time to comply with the directions on which account and restriction was imposed by the said order that no construction within 200 mtrs from the 33 mtrs. green belt would be permitted, the same in the light of the subsequent development as has been submitted by the compliance submitted today may be revoked and vacated. In view of the fact that compliances are now been made in the area and demarcation of the river front and the 33 mtrs. 'no construction zone' has been carried out, though as per the Applicant not satisfactorily and efforts are ongoing while by issuing of notices to defaulting parties for action against them, we are inclined to vacate the said order dtd. 30.03.2015, imposing restriction on construction within 200 mtrs. from the 33 mtrs. green belt. The M.A.No. 313/2015 stands allowed and accordingly disposed of.

It was also brought to our notice that in the garb of our said order the electricity department was refusing to grant electricity connections to bonafide persons even though they were beyond the said limits. This is something which to say the least amounts harassment on the part of such authority of the electricity board of innocent and bonafide person. Such pending applications need to be taken up and decided immediately and in case any persons file any compliant before us that within 15 days such application have not dealt with in accordance with law for providing the necessary

connection they would be liable for penalty from this Tribunal.

As far as the remaining task is concerned and the ongoing task in pursuance of the notices issued we expect that Municipal Authority and the District Administration would complete the same within **60 days** from today.

List on **10<sup>th</sup> December, 2015.**

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

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

