

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

M.A.No. 329/2014 and M.A.No. 369/2014

and

**Original Application No. 162/2014 (CZ)
Dr. Subhash C. Pandey Vs. Union of India & Ors.**

**CORAM : HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER
HON'BLE MR. P.S.RAO, EXPERT MEMBER**

**PRESENT : Applicant : Shri Subhash C. Pandey
Respondent No. 1 : Shri Rajendra Babbar, Adv.
Respondent No. 4 &5: Ms. Parul Bhadoria Adv. for
Shri Purushendra Kaurav, Adv.
Shri P.S.Bundela, MPPCB.
Respondent No.2, 6 & 9: Shri Sachin K Verma, Adv.
Shri A.M. Saxena, OI, UADD
Respondent No. 7: Shri Rajendra Giri, Adv.**

Date and Remarks	Orders of the Tribunal
Order No. 5 4th August, 2014	<p style="text-align: center;"><u>M.A. No. 369/2014</u></p> <p>Learned counsel for the State Shri Sachin K. Verma has filed M.A. No. 359/2014 praying for the documents RR9/A and RR9/B to be taken on record which pertain to the permission granted by the Town & Country Planning Department, Govt. of Madhya Pradesh for conversion and development of land in Mandideep, District Raisen and the adjacent District of Bhopal. Copy of this application along with the documents has been furnished to the learned counsel for the parties as well as the Applicant.</p> <p style="text-align: center;">The prayer made is allowed. The documents are taken on record. This M.A. stands disposed of.</p> <p style="text-align: center;"><u>Original Application No. 162/2014</u></p> <p>Learned counsel Shri Sachin K. Verma pointed out various paragraphs of the above two documents both of Raisen and Bhopal</p>

District to show that various conditions have been incorporated for providing certain steps to be taken which are of environmental concern in the form of requirement for the Applicant (Developer) to provide street lights, water overhead tank, septic tank, development of parks and open areas as well as planting of trees alongside the roads and in the open area provision for solid waste disposal and other essential services. They have pointed out that under the terms of the provision, steps for rain water harvesting and roof water harvesting are mandatory. It is also submitted that plantation of trees @ 15 per hectare has to be carried out by the Applicant/ Developer. Two such conditions which are essential and important so far as the issues involved in the present case are concerned and which have been highlighted to indicate that while granting the permission the Town and Country Planning Department has imposed the following conditions which includes condition No. 22 requiring installation of sewage tank, overhead tank, garbage disposal facility as well as collection of municipal solid waste and its disposal to be carried out by preparation of a scheme and making provision for the same by the Applicant/Developer.

The last condition of the order reads as follows : -

“उपरोक्त किसी भी शर्त का उल्लंघन करने पर यह अनुज्ञा मध्य प्रदेश भूमि विकास नियम, 2012 के नियम 25 के तहत रिवोक की जा सकेगी।”

The aforesaid condition finds place both in the order in respect of the Raisen as well as for Bhopal and has been incorporated in terms of the Rules of 2012. In the case before us it has been stated and also found during various inspections that were carried out by the Pollution Control Board, that adequate steps have not been taken with regard to the segregation, collection and disposal of municipal solid waste as well

as treatment and disposal of sewage from the municipal area. This has resulted in considerable pollution in the Betwa and Kaliasot rivers by allowing untreated waste and sewage to be discharged into the rivers Betwa and Kaliasote and the conditions of the permission are being flouted as a general rule and no action as per the above quoted clause for revocation of permission is being exercised.

We are of the view that it is necessary to ensure as provided in the Condition No. 4 for obtaining and submitting the Completion Certificate by the Applicant (Developer) from the local authorities which in turn has to be submitted to the Town and Country Planning Department in terms of condition No. 4 as provided in the order in the case of Raisen District. In both the orders placed before us there is a provision that if any of the conditions is found flouted or not complied with, the permission so granted is liable to be revoked under Rule 25 by the Town & Country Planning Department. There is also an important condition in the permission order to the effect that disposal of any solid waste in and around the premises shall be prohibited. However, as has been revealed during the course of hearing, the above conditions are being flouted without exception.

We would, therefore, direct that all such permissions which have been granted, should be reviewed and the premises of all such developers and applicants to whom permissions have been granted, shall be inspected both by the State Pollution Control Board officials as well as District Administration and wherever the conditions are found to be flouted or any of the developer not having obtained the Completion Certificate, action shall be initiated against such applicant (developer) by the Town and Country Planning Department. We would

accordingly, direct the Principal Secretary, Housing and Environment to issue necessary instructions to all the District Collectors to review the cases of such permissions and also seek the opinion of the occupants who are residing in such developed areas. Applicants (Developers) to whom such permissions have been granted shall be at liberty to carry out the necessary works at their expense after having carefully studied the conditions of the permissions granted to them and fulfil all the requirements and obtain the Completion Certificates as required by law. If such Completion Certificates are not obtained duly verified by the competent officers, the applicants and developers shall be liable for suitable action including recovery for damage to the environment and for getting the works executed by attachment of property including bank accounts. It would be open for the local authority as well as District Administration to issue notice to such developers for carrying out necessary task and obtaining Completion Certificates within three months.

Looking to the fact that adequate provisions with regard to the responsibility of the developer post completion of the project does not find mentioned in the permissions granted to such developers, we would recommend to the Government that necessary inclusion of such conditions with regard to making the developer liable post the completion of the project in assisting the local authority including municipality for proper disposal of waste and treatment of sewage and use of grey water needs to be included in such permission and mere formation of societies of the investors and occupiers will not serve the purpose in this behalf.

It may also be considered whether with a view to augment the

resources of the local bodies including the municipalities, some amount on a regular basis both prior to the grant of permission and post completion, should be collected from the developers for compliance and for fixing responsibility towards the disposal of Municipal Solid Waste as well as for providing civic amenities like treatment of sewage, etc.

List on **10th November, 2014.**

M.A.No. 329/2014

In view of our above order, the applicant does not wish to press the M.A.No. 329/2014. The same is accordingly disposed of.

.....JM
(DALIP SINGH)

.....EM
(P.S.RAO)

