

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

**Original Application No. 113/2015**

**CORAM:**

**Hon'ble Mr. Justice Dalip Singh  
(Judicial Member)**

**Hon'ble Dr. Satywan Singh Garbyal  
(Expert Member)**

**BETWEEN:**

Tilok Ram S/o Shir Ram Lal,  
Aged About 44 Years  
R/o village-Gurjaro Ka Bas,  
Sardar Samand, Tehsil Sojat,  
District Pali,  
Rajasthan 306401

**.....Applicant**

**Versus**

1. State of Rajasthan  
Through Chief Secretary, Secretariat,  
Jaipur (Rajasthan)
2. The Collector  
District Pali (Rajasthan)
3. State of Rajasthan  
Through Secretary, Department of Mines and Geology,  
Jaipur (Rajasthan)
4. Member Secretary,  
Rajasthan State Pollution Control Board,  
Jhalana Dungri, Institutional Area Jaipur,  
Jaipur (Rajasthan)
5. Divisional Forest Officer, Pali  
District: Pali, Rajasthan.
6. Mining Engineer,  
Tehsil Sojat. District Pali Rajasthan

7. Ministry of MoEF & CC,  
Govt. of India,  
Through it's Secretary,  
Indira Paryavaran Bhawan,  
Jor Bagh Road, New Delhi – 1100013

8. Central Ground water Board,  
Through its Chairman, Bhujal Bhawan,  
NH-IV, Faridabad - 121001

.....Respondents

Applicant

Counsel for State of Raj./RSPCB :

Counsel for CGWB & CPCB:

Counsel for RIICO :

None

Shri Sandeep Singh, Adv.

Shri Yadvendra Yadav, Adv.

Shri Om S. Shrivastav, Adv.

## J U D G E M E N T

Reserved on February 15<sup>th</sup>, 2017  
Pronounced on February 20<sup>th</sup>, 2017

- 1) Whether the judgement is allowed to be published on the internet -  yes /  no
- 2) Whether the Judgement is to be published in the All India NGT Report -  yes /  no

1. Applicant had filed this Original Application wherein it was alleged that the very existences of Sardar Samand Lake in Distric Pali, Rajasthan is in danger due to ongoing illegal mining in the catchment area of the lake. It has been stated that this lake is the only source of water for the surrounding villages. It has also been submitted that this lake was yet to be notified by the State of Rajasthan as Wetland under the provisions of the Wetland (Conservation and Management) Rules, 2010. It has further been submitted that several species of flora and fauna including Black Buck which is an endangered species exist in the surrounding area of the lake. It has also been alleged that the natural flow of water in the

catchment area is obstructed due to illegal mining activities leading to depletion in the ground water level.

2. The Applicant has, therefore, prayed for stopping illegal mining as well as any non eco-friendly activities in the surrounding area of Dhulagiri Plateau and Sardar Samand Dam. It has also been prayed that State may be directed to formulate citing guidelines for doing mining / crushing / industrial activities in the area and to form comprehensive policy for protection of the surrounding area of Dhulagiri Plateau and Sardar Samand Dam as the same is highly eco-sensitive and till then no mining / crushing / industrial activities may be permitted.
3. The judgment of the Hon'ble High Court of Rajasthan in the case of *Abdul Rahman vs. State of Rajasthan*, D.B. Civil Writ Petition No. 1536/2003 dated 02.08.2004 was brought to the notice of this Tribunal. As per the aforesaid judgment detailed directions were given to the State Government in pursuance to the recommendations of the expert committee constituted vide order dated 18.07.2003.
4. When it was given out during the course of hearing by the Learned Counsel for the Applicant that Respondent No. 1 intends to establish an industrial park in the close vicinity of Sardar Samand Lake at District Pali, this Tribunal directed on 01.08.2016 restraining RIICO from proceeding with the development work with regard to industrial park around Sardar Samand Lake.

5. Meanwhile, the Applicant filed an application under Order 26 CPC 9 for constituting a Court Commissioner to inspect the area and submit the report. Accordingly, Shri Rohit Sharma, Learned Counsel was directed on 17.11.2016 to act as Court Commissioner on behalf of the Tribunal and submit his report with regard to the catchment area and ongoing activities and their impact on the Sardar Samand Lake.
6. Shri Rohit Sharma, Learned Counsel, the Court Commissioner submitted his report on 15.02.2016, copies of which was also given to all the parties. During inspection the Court Commissioner observed that the level of water available was 13 feet though the maximum capacity is 25 feet and the entire area was densely vegetated having varieties of birds including migratory birds, Neelgai and Black Bucks. Hillocks which were 100-120 meters high were found to have been allotted to some project proponent for mining purposes. The hillocks were found to have been partially excavated though at the time of inspection no mining activities were found to have been going on. The distances of hillock from the water body at full capacity was approximately half a kilometre i.e. 500 meters. Though this is not made clear if this distance is from the Full Tank Level (FTL) or the existing shore line. The villagers have informed the Court Commissioner that the lakes serve their daily requirement and also that it retains run off from the hillock. It was informed that Sardar Samand Dam used to receive considerable amount of water from Sukri river though at present there was no water

and area was auctioned for the purpose of sand mining. However, no mining was allowed to take place by the villagers. There were nearly 80 annicuts most of which were broken.

7. The Court Commissioner in his report has recommended as follows :

1. *That, unlike the other parts of Rajasthan, this area consisted of adequate greenery and vegetation. Even the water in the Sardar Samand Dam was adequate to cater the needs of the villages surrounding the Dam. The most important thing which was observed was the existence of several species of animals, which made evident that there is ample Flora and Fauna in this part of the State.*
2. *That, looking at the topography of the area and the dark zone, it would be appropriate to not allow interference of any commercial or industrial activities in the area in question, as unlike in the other parts of the State, there is dense vegetation existing in this region which according to me should not be disturbed.*
3. *The Water Resource Department should find solutions of channelizing the inflow of water into the Sardar Samand Dam, as despite sufficient rainfall this Year, the water level did not reach upto its original height.*
4. *That, any interference in this part of the area might have an adverse impact on the Flora & Fauna existing here which look like a natural habitat for various species like Neelgay, Black Buck etc.*
5. *That, vide variety of Birds existing here, depicts that the ecological balance in this area is still balanced and if the area is not preserved from exploitation by means of industrialization or excavation, the species of birds might reduced considerable due to change in ecology.*

6. *That, the hillock existing nearby the Sardar Samand Dam should remain untouched, as it acts as a catchment for the Sardar Samand Dam and also to the small reservoirs build by the villages for their daily needs.*
7. *That, as per some newspaper cuttings, the government is planning to establish an I.T. Park in this area which can surely have a detrimental effect on the ecology existing in this area.*
8. We have considered the aforesaid submission as stated in the Application as well as made before us on behalf of the Respondents and the material on record including report of the Commissioner submitted on 15.02.2017. From the material on record it is no doubt that area in dispute regarding which an inspections was carried out even by the Central Ground Water Board and by the Court Commissioner appointed by this Court it is clear that the area around Sardar Samand Lake, District Pali is in ecologically sensitive area. Sardar Samand Lake itself has a significant role to play in the conservation, storage of water as well as recharging of the ground water resources. From the report of the Central Ground Water Board it is clear that this particular area has been categorized as 'over exploited'. As mentioned on page no. 10 of the report under the paragraph titled as 'Titanic Ground Water Resources'. It has also been observed that 'the Decadal water level trend from November, 2005 to November, 2014 which shows declining trend of (-) 1 to 0 m/year in the block.
9. As regards underground water, the report of the Central Ground Water Board states that 'the quality of water has two

major problems that is 'salinity and fluoride'. Thus so far as the importance of the surface water in Sardar Samand Lake is concerned that assumes considerable importance even for the local population as the underground water as has been mentioned in the paragraph 'sub surface hydrology' does not appear to be very conducive as opposed to the surface water of the lake.

10. In the light of the above, the importance of this lake has to be seen both in terms of the requirement for the human being residing in and around the area as also its impact on the environment particularly the ecology and the requirement of the flora and fauna. A perusal of the Court Commissioner report and the map filed along with the same is very significant. The map indicates the location of the ridge within the block marked in red lining as provided at page no. 21 of this report as 'A, B, C, & D' wherein ridge can be prominently seen over which mining leases were granted. The ridge is also important apparently on account of it being water shed contributing towards the flow of the water into the lake. At the same time on the opposite side also the ridge acts as a water shed and the water on the opposite side flows into the Chundlai lake. In that view of the matter any excavation by way of mining lease being granted over the ridge marked as 'A, B, C & D' in the map provided at page no. 21 of the report of the Court Commissioner would be absolutely destructive, in so far as the catchment towards the lake is

concerned and allowing water to flow into Sardar Samand Lake is concerned.

11. At the same time as has been mentioned in the report of the Court Commissioner this area on account of its vegetation and availability of water has been found to be very conducive for the flora and fauna and protection to the Black Bucks and other animals which are said to be found in sufficient number, any interference with the catchment area of the lake being detrimental to the existence of the lake itself would directly have an impact, in our opinion, over the ecology and environment both in terms of the preservation of the water body as also for the flora and fauna which has developed and is acting as a safe sanctuary for these species. It is also commonly known that the migratory birds and other water birds as mentioned in the report of the Court Commissioner use lake as their habitat particularly during the winter season as can be visualised from the photographs that have been filed along with the report which appear as page no. 6 & 7 which show that several species of local as well as migratory birds use this Sardar Samand Lake as their habitat.
12. We, therefore, inclined to agree with the report of the Central Ground Water Board as well as the Learned Court Commissioner that the Sardar Samand Lake and its adjoining areas should be kept free from mining operations in particular and other industrial activities which may be detrimental to the eco system that has been preserved in this area.

13. The issue of conservation of lakes particularly in Rajasthan has been a subject matter of litigation both before the Hon'ble High Court as also before this Tribunal. As early as in the year 2004 the Hon'ble High Court of Rajasthan in its judgment dated 02.02.2004 in D.B. Civil Writ Petition No. 1536/2003 (*Abdul Rahman vs. State of Rajasthan*) had given detailed directions to the State Government not only for preserving and preparing data base of the existing locations and the other water bodies but also to take steps for their preservation. Thus, any activity which runs counter to the aforesaid direction in our opinion would run counter to the judgment of the Hon'ble High Court of Rajasthan as well.

14. Shri Om Shankar Shrivastav, Learned Counsel appearing on behalf of the RIICO when asked whether the Respondent No. 1 intended to establish a industrial hub in the area stated that at present there was no such plan. We welcome the aforesaid stand of the RIICO in this behalf.

15. In view of the observations and recommendations of the Court Commissioner and the findings of the Central Ground Water Board and other material on record, we direct as follows :

1. Mining or Stone crusher or any industrial activities will be prohibited within 5 kilometers from the boundary of the water body as well as the rivers Luni & Sukni which have significant role of recharging the Sardar Samand Lake.

2. Water Resource Department would take up soil conservation and moisture retention activities in the hillocks surrounding Sardar Samand Lake as also restoration of the mined area and pits.
3. State would formulate a policy for protection and conservation of Dhulagiri Plateau and Sardar Samand Lake and notify Sardar Samand Lake as Wetland under Wetland Rules, 2010.
4. All obstructions that prevent flow of water from catchment to the Sardar Samand Lake would be removed.

With the above directions this Original Application is **disposed of**. State will file compliance of above directions as directed above on **18<sup>th</sup> April, 2017**.

**(Mr. Justice Dalip Singh)**  
**Judicial Member**

**(Dr. S.S. Garbyal)**  
**Expert Member**

**Bhopal**

**February 20<sup>th</sup>, 2017**