

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

Original Application No. 16/2013 (CZ)

CORAM:

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

**Hon'ble Mr. P.S.Rao
(Expert Member)**

In the matter of

Tribunal at its own motion

सत्यमेव जयते

.....*Suo-motu*

Versus

1. The Secretary
Ministry of Environment & Forests,
Govt. of India,
New Delhi
2. The Chief Secretary
State of Madhya Pradesh,
Bhopal.
3. The Principal Secretary
Forest, Government of MP,
Bhopal.
4. The Secretary,
Mining Department, Government of MP,
Bhopal.
5. The Member Secretary
MP Pollution Control Board
Bhopal.
6. District Collector, Mandla,
Madhya Pradesh
7. Shri Dharmendra Modi,
Age – 50,
Padmanabhpur,
Durg (C.G.)
8. Shri Alike Mineral,
Prop. Sapten Bano, Dharamshala,

- Wardkoshta, Mohalla,
Mandla (M.P.)
9. Shri Kusum Minerals Company,
Prop. Bhikamchand Jain,
Malviya Nagar,
Durg (C.G.)
 10. Narmada Mineral,
Prop. Robin Agrawal,
Mandla (M.P.)
 11. Shri Umakant Patel,
Kakaiya,
Mandla
 12. Shri Arun Dongsera,
Mandla (M.P.)
 13. Shri Ganpati Minerals,
Shobhakant Jha,
Mandla (M.P.)
 14. Taal Minerals,
Laxmi Agrawal,
Civil Line,
Mandla (M.P.)
 15. Shri Prabhat Shankar Agrawal,
39/4 Nehru Nagar East,
Bhilai (C.G.)

.....Respondents

1. Narmada Minerals
through proprietor, Robin Agrawal
Age-29, S/o Shri V.K. Agrawal
Civil Lines, Mandla (M.P.)
2. Salaasar Minerals
through proprietor, Naveen Kariwaal,
Age – 40, C/o Vibhor Agrawal,
Civil Lines, Mandla (M.P.)
3. Pooja Minerals
Through proprietor, Narendra Sihare,
Age – 55,
Civil Lines, Mandla (M.P.)
4. Precious Minerals
Through proprietor, Shri Shail Pandey,
Padmanabhpur Durg(C.G.)

5. Salaasar Minerals
Through proprietor, Naveen Kariwaal,
Age – 40, C/o Vibhor Agrawal,
Civil Lines, Mandla (M.P.)
6. Hanumaan Mines & Minerals Pvt. Ltd.
Through proprietor, Balram Agrawal,
Age-40, 212 Arihant Complex,
Raipur (C.G.)
7. Anjan Harlalka
Through proprietor, Anajan Harlalka,
Age 40,
Raipur (C.G.)
8. Gupta Industries Pvt. Ltd.
Through proprietor, Shri Krishna Gupta,
Age -35, Shriram Tower,
Nagpur (M.H.)
9. Sobhakant Jha
Through proprietor Sobhakant Jha,
Age 42 H. N. 53, Radhkrishna Ward,
Mandla (M.P.)
10. Sumedha Minerals
Through proprietor Smt. Suman Agrawal,
Age 38, MIG – 375, Padmabhpur Durg,
11. Aruna Dolmite Mines,
Through proprietor Smt. Aruna Sihare,
Age – 50, Civil Lines, Mandla,
Madhya Pradesh.
12. Kamlesh Mohan Jhikram
Through proprietor Kamlesh Mohan
Jhikram Age 50,
Badi Khairi Mandla, M.P.
13. Jai Shri Shyam Minerals
Through proprietor Santosh Agrawal,
Age – 48, Bamhni Banjar, Mandla,
Madhya Pradesh.
14. Raghvendra Singhanian
Through, Raghvednra Singhanian,
C/o Bhikam Chand Jain,
Raipur (C.G.)
15. Santosh Jain
Through proprietor, Santosh Jain,
C/o Nitin Soni,

Raipur (C.G.)

16. M/s Mahavir Minerals
Through Partner, Nirmal Jain
Durg (C.G.)
17. Nitin Kumar Agrawal
Through proprietor, Nitin Kumar Agrawal,
Age-32, Civil Line, Mandla (M.P.)
18. M/s Vinod Kumar Agrawal
Through proprietor, Vinod Kumar Agrawal,
Age-52, Civil Lines,
Mandla (M.P.)
19. M/s Vinod Kumar Agrawal
Through proprietor, Vinod Kumar Agrawal,
Age-52, Civil Lines,
Mandla (M.P.)

.....Interveners

Counsel for Respondents:

- Shri Om S. Shrivastava, Advocate : Respondent No.1
- Shri Sachin K. Verma, Advocate &
Sh. Ayush Dev Bajpai, Advocate : Respondent Nos. 2, 3, 4 & 6
- Shri Shivendu Joshi, Advocate : Respondent No. 5
- Shri Deepesh Shukla, Advocate : Respondent No.7 to 14

Counsel for Interveners :

Shri Naman Nagrath, Sr. Advocate
with Shri Qasim Ali, Advocate

Dated: April 4th, 2014

J U D G E M E N T

1. In the Bhopal edition of daily newspaper 'Times of India' dated 10th April, 2013 a news item was published on the front page under the caption "**Dolomite mining a threat to Tiger corridor in Kanha - Foresters want ban on mining in Mandla District**". Considering the gravity of the news item *suo-motu* cognizance was taken by this Tribunal and notice was issued to the Respondent Nos. 1 to 6 on 10th April, 2013 with a direction to place on record

the particulars of Mining Leases (in short 'ML') mentioned in the news item. In response to the above notice, the Respondent No.5, Madhya Pradesh State Pollution Control Board (in short 'MPPCB') submitted reply dated 29th April, 2013 stating that the officials of the MPPCB inspected the Dolomite mines in Mandla District and monitored the Ambient Air Quality (in short 'AAQ') in different locations where Consent to Operate the mines was granted to 36 ML holders. Out of 36 mines, 26 mines are having valid Consent to Operate and during the inspection they were found to be under operation. Of the remaining 10 mines for which Consent to Operate has expired, it was found that 2 mines are still under operation which is irregular and 8 mines are closed. Therefore show notice was issued for closure of the aforesaid 2 mines. With regard to AAQ it is reported that the standards are within the permissible limits and no pollution is observed. However, not satisfied with the above reply of the MPPCB, during the hearing of the case on 1st May, 2013 this Tribunal directed the MPPCB to furnish full particulars of all the Dolomite mines in Mandla District.

2. Vide their additional return filed on 7th May, 2013 the MPPCB stated that the lease holders of 2 mines for which Consent to Operate had expired, applied for extension of the consent and their applications are pending with the MPPCB. It was further stated in the return that after verification of the record obtained from the Asst. Mining Officer, Mandla District it was found that there are 8 more Mining Leases granted in the area making a total of 43 mines. These 8 Mining lease holders have not sought any consent so far from the MPPCB and therefore being unaware of their existence, the MPPCB had submitted their earlier reply dated 29th April, 2013 listing only 36 mines. However, the aforesaid 8 mines, listed at Sl. No. 36 to 43 in the list enclosed with the reply, are not under operation and they have not yet applied for the consent. Based on

the reply of MPPCB notices were ordered to be issued by this Tribunal in its order dated 9th May, 2013, to the erring ML holders Respondent Nos. 7 to 15. Further, in compliance of the orders of this Tribunal on 05.08.2013 as to how many mines have obtained the Environmental Clearance (for short 'EC'), a status report dated 10th August, 2013 was filed by the MPPCB wherein it was stated that the Collector (Mines), District Mandla is having direct control over the mines and the mine owners submit their monthly production details/returns to the Office of the Collector (Mines) and after obtaining information about the mines sanctioned and material extracted from the office of the Collector (Mines), a list of 43 mines was furnished vide their previous return dated 07.05.2013

3. On 22nd August, 2013 this Tribunal directed the MPPCB to constitute a committee to inspect all the 24 Dolomite Mines under operation and furnish detailed report. Accordingly, in their reply the MPPCB stated that a committee was constituted and the committee members inspected the mines from 29th to 31st August, 2013. At the time of inspection it was found that almost all the mines are temporarily not working due to heavy rains in the locality. However certain deficiencies were found in the mines and hence they were allowed 15 days time to submit their explanation. The MPPCB stated that out of 24 ML holders 15 ML holders have submitted their reply and after considering the replies in detail appropriate action will be taken.

4. In their further affidavit dated 27.09.2013, the MPPCB submitted that out of 43 mines 24 are having valid ML and are under operation and therefore they do not immediately require the EC as EC is required only at the time of their renewal. However, out of 24 units which are under operation 2 units already obtained EC. In respect of the ML of Shri Santosh Jain consent expired

on 31.08.13 and the renewal application is pending with the Board. Thus in all, out of 43, 19 units (placed at Annexure R-2 of the affidavit) are not under operation and prosecution against the following 8 units which were found operating without obtaining consent from the MPPCB and also against the concerned Mining Officer for allowing lease holders to continue mining operations without obtaining consent from MPPCB, has been launched.

- i. Sheel Devi Jha – ML No. 1
- ii. Sheel Devi Jha - ML No. 2
- iii. Kusum Minerals - ML No. 1
- iv. Kusum Minerals - ML No. 2
- v. Alika Minerals
- vi. Arun Dongsare
- vii. Dharmendra Modi
- viii. Rock Minerals

It was also submitted in the reply of the MPPCB that the MPPCB has communicated to the Mining Officer to make sure that extraction of the mineral beyond the permissible limits is not allowed and strict compliance of the conditions, imposed while granting the consent, is ensured.

5. Again as per the orders of this Tribunal issued on 27th September, 2013 a joint inspection team was constituted by the MPPCB and the team conducted inspection of mines from 21st to 23rd October, 2013. The report states that the mines are located in clusters at villages Mugdara and Bhatiyatola towards the western side of Banjar river and at Bhawartal, Kakaiya and Katamal villages located towards eastern side of the Banjar river. The following aspects were taken on record while inspecting the mines.

- i. Status of plantation
- ii. House keeping status inside the mine area
- iii. Water / Air / Noise quality
- iv. Wire fencing around the mine area
- v. Over burden Dump management

6. The Respondent MPPCB further stated in their reply that all these Dolomite Mines are doing open cast mining as per the mining plan approved by the Indian Bureau of Mines (IBM). As per the list of mines enclosed with the reply the lease area of the 24 mines under operation is ranging from 0.78 hectares to 19.223 hectares but most of them are below 5 hectares falling in the range of 2 to 3 hectares.

7. The Respondent No. 2, 3, 4 & 6 filed combined reply along with the affidavit of the Divisional Forest Officer, West Mandla division, Asst. Geologist, Directorate of Geology and Minerals and Mining officer, Office of the Collector, Mandla. It was stated in the reply that as on 1st April, 2013 a total of 43 Dolomite MLs were sanctioned by the Department of Mines out of which MPPCB has given Consent to Operate (filed at Annex R-1-A) to 26 MLs and therefore rest of the 17 MLs (filed at Annex R-1-B) are not under operation. These 26 mines under operation are located within 250 mt. from the forest boundary. Out of 17 mines not under operation, renewal applications in case of 10 MLs are under consideration of Respondent No. 6 and since the MPPCB has also not given any further consent the Department of Mines has stopped providing transit passes to these 10 ML holders (filed at Annex R-1-C). It was further stated in the reply that so far only 3 MLs where the lease period expired and another 10 mines whose lease period is going to expire shortly, have applied for renewal within the prescribed time limit of 12 months within the purview of the Rule 24-A of the Mineral Concession Rules, 1960 (filed at Annex R-1-D & R-1-E).

8. It was further stated in the reply that as per the Forest Department Circular No. F-5/16/81/10-3 Bhopal dated 7th October, 2002 in ordinary course ML will not be sanctioned within 250 mt. from the forest area / boundary. In

that event if the District Collector, considering the importance of the mining, decides that it is necessary to sanction the ML, the matter will be referred for consideration of Panchayat Level Committee consisting President, Zila Panchayat, District Collector and the Divisional Forest Officer. However it was mentioned in the Circular that 250 mt. rider will not be applicable to the existing MLs sanctioned prior to 7th October, 2002. Subsequently in the Circular dated 29th May, 2008 (filed at Annex R-1-G) the circular issued earlier on 7th October, 2002 was amended and it was directed not to proceed for granting ML within 250 mt. from the forest boundary. Later on, in the Circular dated 27th August, 2008 (filed at Annex. R-1-H) State Level Committee headed by the Chief Secretary, was constituted to consider the MLs within 250 mt. of the forest area / boundary. Vide order dated 31st July, 2012 (filed at Annex.R-1-I) the State Government constituted a Divisional Level Committee for considering the cases of granting ML within 250 mt. and this committee is presently examining and recommending the cases in the state of Madhya Pradesh.

9. It was further stated in the reply that 3 MLs were sanctioned in the 'forest land' after obtaining permission of the Central Government under Section 2 of the Forest (Conservation) Act 1980. However certain violation of the terms and conditions was noticed by the Divisional Forest Officer who has given show cause notice (filed at Annex. R-1-J) and imposed penalty upon these 3 ML holders after examining their terms and conditions (filed at Annex. R-1, J, K, L & M).

10. It was further reported that 3 mines have been given approval for working within 250 mt. of the forest area / boundary by the State Level Committee (filed at Annex. R-1-O) and Forest Department has written to

Respondent No. 6 Collector, Mandla to direct the mining operators to obtain transit passes from the Forest Department and the proposal is pending before the Respondent No. 6 (filed at Annex. R-1-P). Subsequently, the Divisional Forest Officer addressed the Collector (Mines) on 6th April, 2012 and on 7th April, 2012 to close the MLs existing within the 250 mt. from forest area / boundary (filed at Annex. R-1-Q & R). In reply to the letter of the Divisional Forest Officer the Mining Officer, Mandla vide letter dated 14th March, 2013 informed that as per the Circular dated 7th October, 2002 the criteria of 250 mt. from the forest area / boundary is not applicable to the MLs sanctioned prior to 7th October, 2002 and it is applicable only at the time of their renewal (filed at Annex. R-1-RA). The Divisional Forest Officer expressed concern that information regarding the lease conditions and sanctioned area is not furnished to the Forest Department by the Mining Department and ML holders are also reluctant to provide the information to the Forest Department (filed at Annex. R-1-S).

11. The Respondent No.1, Ministry of Environment and Forests (for short 'MoEF') filed their reply on 3rd August, 2013 enclosing a copy of the field inspection report on the inspection of mines carried out by the officers of the Regional Office, MoEF, Bhopal from 2nd to 4th July, 2013 wherein all the 43 mines located in the villages noted below, were inspected.

S.No.	Name of the Tehsil	Name of the Village	No. of Mines
1	Bicchiya	Bhawartal	11
2	-do-	Katamal	04
3	-do-	Kakaiya	04
4	-do-	Katajar	01
5	Nainpur	Bhatiyatola	15
6	-do-	Mugdara	08
Total No. of Mines			43

12. Out of the 4 mines at the Village Katamal 3 are located 1 km. away from the forest boundary and the remaining mine has been closed since last two years. In case of the rest of 39 mines in Bhatiyatola, Bhawartal, Kakaiya, Mugdara and Katajar villages they are located within 250 mt. from the forest boundary. It was also stated in the reply of the MoEF that necessary action may be initiated by the competent authority against the encroachments and for violation of forest laws by the ML holders. However the DFO has already requested the Collector for reviewing the ML of Ms. Raghvendra Singhania (area 0.78 hectare) of Village Bhawartal. The reply of the MoEF further says that during the site inspection it was observed that the mining operations are going on without any scientific and technical inputs. Overburden is dumped in the mining area without marking any designated place and without any sloping and terracing leading to loss of valuable top soil. The mine water is being pumped without any treatment and allowed to settle in the nearby natural water bodies. It was also stated that during the field visit wild animals such as wild boar, deer, jackal etc. were found in the area. It was also suggested that for the violation of the conditions by the ML holders, the MPPCB may be directed to enquire and necessary action may be ordered to be initiated. It was also stated that EIA study can be carried out for the group of mines located in the aforesaid villages and an Environment Management Plan (EMP) may be prepared for implementation of environmental safeguard measures.

13. Subsequently, as per the orders of this Tribunal dated 5th August, 2013 as to how many Mining Leases require EC the MoEF, Regional Office, Bhopal furnished details, wherein it was stated that no EC was granted by the MoEF and only in respect of 2 mines EC was granted by the State level Environment Impact Assessment Authority (for short 'SEIAA'). in the list of mines enclosed with the reply of the Respondent No. 1 details of exact distance of the MLs

from the adjacent forest boundary were also included and the distance is ranging from 0 (zero) to 250 mt. indicating that some of the mines are located just on the boundary of the notified forest itself.

14. Subsequently, in compliance of the orders of the Tribunal issued on 12th August, 2013 additional submissions were made by the Respondent No. 1, MoEF on 22th August, 2013 stating that a minimum of 13 mines require EC by SEIAA out of which 2 mines have already been given EC. The details were furnished at Annexure -1 of the reply.

15. In compliance of the orders of this Tribunal dated 5th December, 2013 the Respondent No. 2, 3, 4 & 6 have submitted Misc. Application No. 04/2014 enclosing Annexure CS-1 to CS-7 wherein it was submitted that under the chairmanship of the Chief Secretary, Govt. of Madhya Pradesh a meeting was called with the Senior Officers of the Forest Department including the Chief Wildlife Warden, Principal Secretary, Department of Housing and Environment and Additional Secretary, Department of Mineral Resources, Govt. of Madhya Pradesh. It was recorded in the minutes of the meeting that generally the Tigers and other wild animals are reported to move in and around the areas outside the Tiger Reserves and National Parks, which is considered to be a good sign for forestry and the State of Madhya Pradesh has got 10,862 Sq. Km. of Protected Areas constituting 11.4% of the total forest area in the state against the national average of 5%. It was further stated that the area in question where the mines are located, is more than 10 km. from the Kanha National Park and 200 Km. from the Pench and Bandhavgarh National Parks. The mining sites in question do not fall in the corridor between Kanha, Pench and Bandhavgarh National Parks. It was further stated in the minutes that the Chief Wildlife Warden had informed that the Tigers and other wild animals use continuous forest route for

their dispersal and not a broken forest cover route. Therefore there is no possibility of notifying the area in question as a Tiger Reserve in future. It was further stated that Eco Sensitive Zone (for short 'ESZ') has not yet been notified around these Protected Areas in the State of Madhya Pradesh and even if the deemed ESZ is considered to be 10 km. from the boundary of the above stated Protected Areas, the Dolomite mines in question are situated away from the aforesaid Protected Areas and hence beyond any possible declaration of the areas under the ESZ. It was also recorded in the minutes of the meeting that the Department of Mineral Resources sanctioned 43 Dolomite mines in Mandla District out of which 24 mines are under operation and rest of the 19 are not under operation. Out of these 19 mines, 3 are sanctioned in the forest area and 11 mines are due for renewal and are pending for consideration, including 5 Mining Leases which have expired.

16. It was also recorded in the minutes of the meeting that in the Circular No. F-5/16/81/10-3/Bhopal dated 07.10.2002 250 mt. rider was imposed for maintaining a minimum distance from the forest boundary for sanctioning MLs. But this provision will not be applicable for the existing mines sanctioned prior to 7th October, 2002. Therefore in case of all the aforesaid mines this condition is not applicable.

17. Misc. Application No. 05/2014 was filed by a group of 19 ML holders with a request to permit them to intervene and submit their pleadings stating that all of them are under operation and only in respect of 2 MLs the extent of area is exceeding 5 hectares, namely M/s. Vinod Kumar Agrawal and Aruna Dolomite Mines requiring EC and accordingly they obtained EC from the MoEF. They pleaded that they are having all the necessary sanctions for operating the mines and therefore if any adverse orders are passed against them

they will be suffering with irreparable damage and hence they may be permitted to intervene. Their plea has been accepted and they were permitted to intervene.

18. As per the directions of this Tribunal dated 3rd January, 2014, Asst. Inspector General of Forests, National Tiger Conservation Authority (for short 'NTCA'), MoEF, Govt. of India filed an affidavit dated 25th February, 2014 stating that the GPS co-ordinates of the mining sites were obtained from the Chief Wildlife Warden, Government of Madhya Pradesh and the same were forwarded to Wildlife Institute of India, Dehradun for their comments with respect to location of the mines under dispute *vis-à-vis* Tiger corridors identified at macro-level during 2012 All India Tiger Estimation. It was stated in the affidavit that the following remarks were received on 11th February, 2014 from the Wildlife Institute of India, Dehradun.

“...the proposed mines are in close proximity to a very important source population of Tigers in Central India. Though they do not lie in any important connecting corridor, they do occur within the forested landscape that has Tiger occupancy and which serves to host dispersing aged individuals from the Kanha source. In this context, the disturbance and habitat loss caused by the mines and its associated infrastructure development would be detrimental for the source value of Kanha. If the communication route to and fro from these mines is from the south or south-west, then it can have disastrous effects of reducing the corridor connectivity between Kanha and Pench Tiger sources. Therefore, all caution needs to be used before granting approval if at all it is to be given.”

19. Shri Narendra Kumar, Principal Chief Conservator of Forests (Wildlife) and Chief Wildlife Warden, Forest Department, Madhya Pradesh, Bhopal submitted affidavit dated 14th March, 2014 in compliance of the orders of the Tribunal dated 3rd January, 2014 with his remarks which are reproduced below :-

“ That, the area in question is about 10 km. from the Kanha National Park and more than 200 km from the Pench and Bandhavgarh National Parks. The perusal of the maps shows that the land in question having broken cover, does not form a viable corridor between the Kanha and Bandhavgarh National Parks and the Tiger and other wild animals would, due to obvious reasons use the continuous forest route for their dispersal, and not a broken forest cover route. Continuous forest cover exists between Kanha and Bandhavgarh via Achanakmar area of Chhattisgarh, making it a viable corridor between the two National Parks.

That, Department of Forest had sent the Coordinates of the Land in question to the National Tiger Conservation Authority after the Directions of the Hon’ble Tribunal.

That, the deponent most humbly submits that, neither the State Government has any proposal or intention to notify the area in question as a Tiger Reserve nor the National Tiger Conservation Authority (NTCA) has made any recommendations to the State Government for notifying the area in question as a Tiger Reserve.

That, it is further most humbly submitted that, the area in question being a multiple use area, I find no reason from Wildlife Management angle to recommend any ban on the mining activities in question duly sanctioned by the concerned authorities.”

Discussion and Conclusions

20. Having gone through the record placed before us and having heard the Learned Counsel for the parties at length it is required to examine and discuss the issues to arrive at a conclusion whether any environmental laws are violated while granting MLs and whether any ecologically sensitive areas were subjected to illegal activities resulting damage to the environment in general and wildlife habitat in particular more so in case of Tiger.

21. We are conscious of the fact that under Schedule-I of the National Green Tribunal Act, 2010 Wildlife (Protection) Act, 1972 is not listed and therefore this Tribunal has no jurisdiction to adjudicate the matters related to Wildlife. But in this particular case the issue to be examined is whether these mines are sanctioned and allowed to operate in violation of provisions of the

Environment (Protection) Act, 1986 (for short 'Act of 1986') and Rules made thereunder.

22. As defined under the Act of 1986 '*Environment*' includes water, air and land and the inter relationship which exists among and between water, air and land and human beings, other living creatures, plants, micro organisms and property. We are of the opinion that occurrence of Wildlife in a particular ecosystem having relation with the environment has to be considered as a part of environment and therefore the matters related to wildlife are liable for adjudication and can be definitely brought under the environmental jurisprudence more so in cases pertaining to ESZs and therefore the matter being dealt in this OA is not just a Wildlife issue *par se* to be adjudicated under the Wildlife (Protection) Act 1972. Certainly the provisions of the Act of 1986 and Rules made thereunder are liable to be examined in this case. Section 3 of the Environment (Protection) Act, 1986 gives powers to the Central Government to take all measures which it feels are necessary for protecting and improving the quality of environment and to prevent and control environmental pollution. To meet this objective, the Central Government can restrict areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards [Section 3 (2) (v)]. Rule 5 (1) of the Environment (Protection) Rules, 1986 states that the Central Government can prohibit or restrict the location of industries and carrying on of certain operations or processes on the basis of considerations like the biological diversity of an area (clause v) maximum allowable limits of concentration of pollutants for an area (clause ii) environmentally compatible land use (clause vi) proximity to Protected Areas (clause viii).

23. Wildlife is a part of environment and any action that is causing damage to the wildlife or that may likely to lead to damage to the cause of wildlife, cannot be excluded from the purview of this Tribunal. Therefore, movement of Tigers in a particular locality which is in proximity to the Protected Area requires certain measures to be taken for protection. The National Wildlife Action Plan (NWAP) 2002-2016 indicates that "Areas outside the Protected Area network are often vital ecological corridor links and must be protected to prevent isolation of fragments of biodiversity which will not survive in the long run. Land and water use policies will need to accept the imperative of strictly protecting ecologically fragile habitats and regulating use elsewhere". The Action Plan also indicates that "All identified areas around Protected Areas and wildlife corridors to be declared as ecologically fragile under the Environment (Protection) Act, 1986."

24. This whole issue of regulating mining activities in the area in question is due to the fact that it is reported that in the vicinity of these mines movement of Tiger which is a flagship wildlife species and declared as a National animal and which has got a special threatened status, is noticed. Latest reports reveal that the efforts made by the Forest Departments across the country under the strict regime of Wildlife laws enacted for the protection of wildlife and through regular monitoring and support of the MoEF and NTCA and also as the issue of protecting Tiger in the wild is reviewed at the highest level and given maximum thrust, the Tiger population in the wild in the country is reported to have gone up from 1411 in 2006 to 1706 2010 which augurs well for this charismatic big cat but the concern here is that during the same period the Tiger occupancy area is reported to have gone down from 94,000 Sq. Km. to 82,000 Sq. Km. across the Tiger bearing States. Corresponding decrease in the Tiger occupancy area is

leading to territorial conflict among the Tigers pushing the sub adults and old and infirm among them to the fringes of the Protected Areas leading to escalation of man animal conflict. The frequent incidents of Tigers straying into human habitations around the Protected Areas clearly indicate a rise in their population. Reports also indicate that Tigers are getting killed in territorial fights, with their population increasing. The incidents which have been widely reported during the past one year and statistics compiled by the NTCA support this argument and it is reported that a number of human deaths have occurred and still occurring in various parts of the country. It is reported that in the landscape nearer to the Central Western Ghats which consists of forests in Karnataka and adjacent parts of Kerala and Tamil Nadu and also in the Badhavgarh Tiger Reserve in Madhya Pradesh there is highest concentration of Tigers in the wild in the world. It is also reported that Tiger populations in some well protected reserves, have dramatically rebounded with their numbers attaining near saturation densities of 10-15 per 100 sq. km. Therefore the concern here is that there is bound to be further escalation of man animal conflict. The recent spate of increase in Tiger attacks has made the striped animal unpopular. The population of Tigers is increasing in the wild whereas their habitat is shrinking and is under severe threat because of various anthropogenic activities. Mining is one of the most disturbing activities in these sensitive areas.

(emphasis supplied)

25. The recent reports further reveal that due to increase in their population, because of good management practices, it is not only leading to increase of incidents of human animal conflict but the Tigers are trying to migrate/disburse to the nearest Protected Area/wildlife habitats by establishing corridor even in non forest tracts crossing human habitations and criss cross

road net work. The best example is the recent news report wherein it was stated that one male Tiger is moving from Panna Tiger Reserve and heading towards Bandhavgarh Tiger Reserve which is about 120 km. distance crossing the fragmented habitat. It is reported that earlier the corridor from Panna to Bandhavgarh was freely accessible for movement of wildlife but of late, increase the anthropogenic activity caused its discontinuity. This incident gives an indication how even the areas well beyond 10 km. from the boundaries of the Protected Areas and restoration of lost corridors connecting the habitat of this magnificent animal are critical and there is urgent need to minimize the human interference in these areas particularly from the activities such as mining.

26. Forest corridors play an important role in movement of Tigers from one locality to the other and thus help avoid inbreeding and maintain genetic variation among the Tigers. Therefore there is every need to restore the corridors wherever possible and increase the size of buffer areas around the Protected Areas if scientific management of the Tigers has to be sustained keeping pace with their increase in numbers in the wild. A new mechanism is required to be put into place adding as many buffer areas including non forest lands adjacent to the Protected Areas / forest areas, as possible. The private landscapes which are contiguous to the Reserved Forests also can be identified through an innovative mechanism within the framework of the existing environmental and wildlife provisions based on the scientific and objective criteria and developed as ecologically viable buffers which will increase opportunities and create viable buffers to existing Tiger habitats in the Protected Areas and reserves. Further, maintaining gene flow between isolated Tiger population is very important in order to avoid deleterious effects of low genetic diversity and inbreeding.

27. As per the guidelines issued by the MoEF itself, it was held that in cases where sensitive corridors connectivity and ecologically important patches, crucial for landscape linkage are even beyond 10 km. width, these should be included in the ESZ. In the context of a Protected Area the distribution of an area of ESZ and the extent of regulation may not be uniform all around and it could be variable in width and extent. ESZs are meant to act as shock absorbers for regulating and managing the activities around such Protected Areas and they are not meant to hamper day to day activities but insist for protecting the precious forest / Protected Areas in their locality from any negative impact. The areas surrounding the Protected Areas require well planned management and interventions. The National Tiger Conservation Authority (NTCA) is required to ensure that areas connecting Tiger habitats are not diverted for ecologically unsustainable activities except in public interest and with the approval of National Board for Wildlife.

28. Considering all the above issues one can safely conclude that wildlife and its habitats are part and parcel of environment and preservation of environment shall form the centre stage of implementation of management practices and therefore it is for the authorities to examine how far the existing Dolomite mines in Mandla District are permitted to continue their operations as these mines are located in close proximity to the wildlife habitats though it is contended by the Chief Wildlife Warden of the State himself that presently they are not required to be brought under ESZ as they do not fall within 10 km. from the boundary of the Protected Areas.

29. In case of 8 mines among the total list 43 mines, it is reported by the Regional Office, MoEF, Bhopal that the distance from the mines to the notified forest boundary is 'zero' indicating that the mines are touching the forest

boundary. It was clear in the report of the MPPCB & Regional Office, MoEF, Bhopal that some of the ML holders have resorted to irregularities including encroachment of forest land and it appears that so far no concrete action has been taken against the erring ML holders as per the record placed before us.

30. It is reported that the Dolomite mined from these mines in Mandla District is of superior quality, highly valued and is in good demand in the market. It is also reported that this superior quality mineral is not found elsewhere in the country. However mining is required to be taken up only if it is compatible with the objective of protecting the environment, more so in the context of location of Dolomite mines relatively in close proximity to Kanha National Park. While the objective of granting ML forms part of the development process of the country, it is the duty of the Central Government and the State Government to take steps to protect the environment which includes wildlife and maintain the ecological balance and prevent damage that may be caused by mining operations. The Hon'ble Supreme Court in *Sansar Chand v. State of Rajasthan, (2010) 10 SCC 604* held that

“All efforts must be made to implement the spirit and provisions of the Wild life (Protection) Act, 1972; the provisions of which are salutary and are necessary to be implemented to maintain ecological chain and balance. The Stockholm Declaration, the Declaration of United Nations, Conventions on Human Environment signed in the year 1972, to which India is the signatory, have laid down the foundation of sustainable development and urged the nations to work together for the protection of the environment. Conventions on Biological Diversity, signed in the year 1962 at Rio Summit, recognized for the first time in International Law that the conservation of biological diversity is a common concern of human kind and is an integral part of the development process”.

31. The Hon'ble Supreme Court in *Centre for Environment Law, WWF-I v. Union of India & Others (I.A. No. 100 in Writ Petition (Civil) No. 337 of 1995)* enumerated the legal structure for protection of wildlife as follows:

“We notice for achieving the objectives of various conventions including Convention on Biological Diversity (CBD) and also for proper implementation of IUCN, CITES etc., and the provisions of the Wild Life (Protection) Act, Bio-diversity Act, Forest Conservation Act etc. in the light of Articles 48A and 51A(g), the Government of India has laid down various policies and action plans such as the National Forest Policy (NFP) 1988, National Environment Policy (NEP) 2006, National Bio-diversity Action Plan (NBAP) 2008, National Action Plan on Climate Change (NAPCC) 2008 and the Integrated development of wildlife habitats and centrally sponsored scheme framed in the year 2009 and integrated development of National Wild- life Action Plan (NWAP) 2002-2016. In Lafarge case (supra) this Court held that National Forest Policy 1988 be read together with the Forest (Conservation) Act, 1980. In our view, the integrated Development of Wildlife habitat under the Centrally Sponsored Scheme of 2009 and the NWAP (2002-2016) have to be read along with the provisions of the Wildlife (Protection) Act”.

32. The Hon'ble Supreme Court in *Centre for Environment Law, WWF-I v. Union of India & Others* further enumerated the doctrine of Sustainable development in following words.

“It has been argued by various eminent environmentalists, clearly postulates an anthropocentric bias, least concerned with the rights of other species which live on this earth. Anthropocentrism is always human interest focussed thinking that non-human has only instrumental value to humans, in other words, humans take precedence and human responsibilities to non-human are based benefits to humans. Eco-centrism is nature-centred, where humans are part of nature and non-humans have intrinsic value. In other words, human interest does not take automatic precedence and humans have obligations to non-humans independently of human interest. Eco-centrism is, therefore, life-centred, nature-centred where nature includes both humans and non-humans”.

33. The Hon'ble Supreme Court in *Centre for Environment Law, WWF-I v. Union of India & Others* further stated :

“Article 21 of the Constitution of India protects not only the human rights but also casts an obligation on human beings to protect and preserve a species becoming extinct, conservation and protection of environment is an inseparable part of right to life”.

(emphasis supplied)

34. Considering the above, we direct that a meeting may be convened immediately at the highest level under the chairmanship of the Chief Secretary to the Government of Madhya Pradesh involving the officials of the State Forest Department, National Tiger Conservation Authority, Officer in-charge of Regional Office, MoEF, Bhopal, Principal Secretaries, Environment and Mines and Minerals, Government of Madhya Pradesh, Chairman, State Pollution Control Board, Madhya Pradesh, District Collector, Mandla and examine and take following actions in accordance with law duly fixing a time limit for each of the issues to be taken up and completed with promptitude by the authorities concerned.

- i. Necessary penal action shall be initiated against those ML holders who were found violating the provisions of Water (Prevention & Control of Pollution) Act, 1974 and Air (Prevention & Control of Pollution) Act, 1981 as well as the ML conditions and Forest Act and even revoking their licence if repeatedly found violating the provisions of law.
- ii. Though, ML area of most of the mines is limited and below 5 hectares, they are located in clusters in the limits of aforesaid 6 villages. Heavy human activity in these clusters involving high concentration of labour, deployment of machinery, movement of trucks to and from the mine sites shall definitely have a cumulative impact. Therefore, it may be examined whether these mines require cumulative Environment Impact Assessment (EIA) study and then

only granting EC under cluster approach as envisaged in EIA Notification, 2006 and amendments made therein from time to time and in accordance with guidelines issued by the MoEF from time to time. In the meanwhile, movement of vehicles and mining activities shall be regulated in consultation with the Forest Department so as to not to disturb the wildlife in the area.

- iii. The reply filed on behalf of the State Govt. functionaries reveal that there is no coordination between the Mining and Forest Departments atleast in case of those mines which are located in the Forest area and which are in close proximity to the forest boundary. In the reply filed on behalf of the Respondents No. 2, 3, 4 and 6 it was stated that the local Forest officials have expressed their deep concern pertaining to the mines sanctioned in the Reserved Forest and mine operators are required to obtain transit passes from the Forest Department. It was also stated that the ML conditions are not informed to the Forest Department and the ML holders are also reluctant to provide the information to the Forest Department. There is a need to put full stop to this state of affairs and streamline the entire procedure of sanctioning & operating the mines. The Government should evolve a suitable mechanism to avoid such conflicting situation and ensure coordination among all the law enforcing authorities in the state.
- iv. The irregularities pointed in the reply filed by the Regional Office, MoEF shall be taken up seriously and all the mines found violating the provisions & ML conditions as well as Environmental laws shall be dealt with seriously in accordance with law.
- v. Keeping in view the concern expressed by the NTCA in their affidavit dated 25.02.2014 dealt under para 18(*supra*), all the necessary caution

needs to be taken before reviewing the existing MLs and granting / renewing EC and also before granting the Consent to Operate the mines.

- vi. Even though the mines are under operation for a long period, it is surprising to note that such grave irregularities have been noticed only during the inspection of mines by the officials of the Regional Office, MoEF that too after the case was taken up *suo motu* by this Tribunal and no record was placed before us to the effect that any severe action has been taken against the defaulting ML holders. The Chief Secretary shall get the whole issue enquired and initiate action against the erring officials if it is found that they indulged in dereliction of duty by allowing the mines to continue to operate violating the law.
- vii. With regard to those mines which are located on the boundary of the notified forest itself the issue may be examined in details and action may be taken to revoke their licence in accordance with law, if no such provision of granting MLs touching the notified forest boundary, exists.

35. With the above directions, we dispose of this Application. **However, with a view to ensure compliance of our order, we direct that the matter be listed in the Court on 31st July, 2014.**

Bhopal:
April 4th, 2014

(Mr. Justice Dalip Singh)
Judicial Member

(Mr. P.S. Rao)
Expert Member