

BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Original Application No. 456/2018
(Earlier O.A. No. 146/2014(CZ))

IN THE MATTER OF:

Nityanand Mishra Vs. State of M.P. & Ors.

**CORAM : HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Present: Applicant: Mr. Siddharth Singh, Adv.

	Date and Remarks	Orders of the Tribunal
	<p>Through Video Conferencing</p> <p>Item No. 03</p> <p>July 31, 2018</p> <p>DV & SS</p>	<p>1. This application raises a concern for protection of population of Gharials in the context of unregulated sand mining in the area of 200 km stretch of Son River.</p> <p>2. Case of the applicant is that there is illegal mining in the area of Gharial sanctuary at Churhat, Khadbada, Piparohar, Patpara, Gaughat and Akauri (near Koldaha Bridge) from the river bed Akauri (near Koldaha Bridge) which is 5 kms short of Churhat. Even the enforcement staff of the Forest Department or the Police Department are unable to check the same. The applicants rely upon the photographs as well as the RTI information to the effect that no sanction has been granted for the sand mining. It is stated that according to IUCN, since 1946 Gharial population was declined up to 96-98% moreover the India government also listed it as Protected species by wildlife protection act 1972. The Mating in Gharial occurs in December and January, followed by nesting in the dry season of March and April. The female lays up to 95 eggs in a hole in a riverside sand or silt bank, and the young hatch out in July just before the monsoon the</p>

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<p>Through Video Conferencing</p> <p>Item No. 03</p> <p>July 31, 2018</p> <p>DV & SS</p>	<p>Committee to the effect that there was decline in the population of Gharials as a result of reduction in the flow of water into the river at Ban Sager Dam. The barrage constructed by M/s. Jaypee Power Plant, Nigrie has adversely affected the habitat and breeding of the Gharials. Thereafter, on 29th September, 2014 this Tribunal also considered the impact of 5 other projects viz. (1) HINDALCO (2) DB Power (first stage Hardi), (3) DB Power (second stage Hardi), (4) Suryachakra Power Ventures Ltd. and (5) Jaypee Nigrie Super Thermal Plant which are located upstream and one project i.e. Reliance Power Chitrangi, Sasan Project located downstream the river. The Tribunal, vide order dated 08th December, 2014, directed the State of Madhya Pradesh to take stringent measures against the illegal mining. The Tribunal again noted in the order dated 14th January, 2015 the difficulties faced by the Administration in checking the illegal sand mining and its adverse impact on the population of Gharials.</p> <p>6. On 07th April, 2015, the Tribunal suggested measures like constitution of Forest Management and Welfare Committees of villagers and also imposition of ban on the movement of vehicles for transportation of sand.</p> <p>7. Again, on 14th May, 2015, the situation was reviewed specially with regard to deployment of adequate force for patrolling of illegal mining.</p> <p>8. On 21st July, 2015, this Tribunal directed the Ministry of Environment, Forest and Climate Change to convene a meeting along with the representative of Ministry of Water Resources for maintenance of flow in</p>
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	<p>Through Video Conferencing</p> <p>Item No. 03</p> <p>July 31, 2018</p> <p>DV & SS</p>	<p>the river.</p> <p>9. On 15th September, 2015, this Tribunal noted the fact that the Centre Water Commission (CWC) had constituted a six Member Committee.</p> <p>10. The Tribunal later considered the steps taken for protection of Gharials and for checking of illegal mining. Study report prepared by the CWC was also considered.</p> <p>11. Various orders so far passed show that in spite of the directions of the Tribunal and steps claimed to have been taken by the State of Madhya Pradesh, there is hardly any achievement on the subject of stopping illegal mining or protection of the species of the wildlife which are seriously threatened. There is no significant achievement in the direction of maintaining minimum ecological flow downstream the Dam.</p> <p>12. Having considered the proceedings taken in the last four years before this Tribunal and various reports submitted, we are of the view that finally strong continuous measures are necessary.</p> <p>13. Accordingly, we constitute the following Committee to prepare an action plan having in mind the object of checking illegal mining, conservation of Gharials and turtles and maintenance of minimum ecological flow downstream the Ban Sagar Dam:-</p> <ol style="list-style-type: none">i. Representative from the Indian Institute of Forest Management, Bhopal, who will be the Convener.ii. Representative from the Wildlife Institute, Dehradun.iii. Representative from the Indian School of Mines, Dhanbad.
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	<p>Through Video Conferencing</p> <p>Item No. 03</p> <p>July 31, 2018</p> <p>DV & SS</p>	<p>iv. Nominee from the National Judicial Academy, Bhopal.</p> <p>v. The Collector, District Sidhi.</p> <p>vi. Representative from the MoEF & CC.</p> <p>The Committee may be constituted within two weeks from today and prepare an action plan within one month thereafter.</p> <p>14. The outstation members will also be at liberty to participate by video conferencing if they find it difficult to visit personally. The Committee may consider the reports already submitted by the Committees earlier constituted. The logistics support will be provided by the District Administration.</p> <p>15. After three months of working, the Committee may give its report to this Tribunal by E-mail.</p> <p>16. Report of the CWC may also be taken into consideration.</p> <p>17. The Committee will also be at liberty to interact with the concerned States or other stakeholders. The applicant and other stakeholders are free to put forward their suggestions for consideration of the Committee. The District Administration may strictly maintain vigil on the illegal mining, as already directed and book the culprits. The District Administration may provide adequate police force to check illegal mining and protection of the wildlife.</p> <p>18. This application will stand disposed of. However, the report submitted by the Committee be put up before the Tribunal for further consideration.</p> <p>19. List for consideration of report of the Committee</p>
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	<p>Through Video Conferencing</p> <p>Item No. 03</p> <p>July 31, 2018</p> <p>DV & SS</p>	<p>on a Tuesday in the 2nd week of February. 2019</p> <p>20. Copies of this order to be sent to the agencies mentioned above by E-mail.</p> <p>....., CP (Adarsh Kumar Goel)</p> <p>....., JM (Dr. Jawad Rahim)</p> <p>.....,JM (S.P. Wangdi)</p> <p>.....,EM (Dr. Nagin Nanda)</p> <p>31.07.2018</p>
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