

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE
HON'BLE SHRI SANJEEV SACHDEVA,
ACTING CHIEF JUSTICE
&
HON'BLE SHRI VINAY SARAF
ON THE 18th OF JULY, 2024
WRIT PETITION No. 17208 of 2023
SUMAN LATA RAI
Versus
THE STATE OF MADHYA PRADESH AND OTHERS**

Appearance:

Shri R.N. Tiwari- Advocate for Petitioner.

Shri S.S. Chouhan- Government Advocate for the respondent no.1, 3 and 4.

Shri Shubham Manchani- Advocate for respondent no.2.

Shri Pushendra Yadav- Deputy Solicitor General for respondent nos.5 and 6.

Shri Anil Khare- Senior Advocate with Shri Priyank Agrawal- Advocate for intervener.

ORDER

Per: Sanjeev Sachdeva, Acting Chief Justice

By this Public Interest Litigation, the Petitioner has sought removal of the Amlai Coal Siding situated at Nagar Parishad, Bakho, District

Shahdol alleging that the same was illegally established and causing serious health problems.

2. It is disputed by the Respondents that the siding was illegal. It is contended that coal siding was lawfully established and was being operated for last over 25 years.

3. With regard to the allegation of the Petitioner that there was pollution caused on account of the use of the siding, this Court on 25.04.2024 had noticed that Pollution Control Board by its order dated 20.11.2020 had issued a closure order of the siding till the operator complied with the conditions mentioned in the closure order and thus directed that the closure order shall be put into effect in letter and spirit.

4 It is submitted by Shri Pushpendra Yadav, Deputy Solicitor General appearing for the Railway authority that it was not brought to the notice of the court that the joint inspection had taken place on 15.03.2023 wherein the officers of the Pollution Control Board had observed compliance with regard to the pollution control norms. He further submits that because of stoppage of coal siding, the coal is not reaching the electricity generating power stations and grave prejudice is being caused.

5. Reference may be had to the closure order issued by the Pollution Control Board dated 20.11.2020 which stipulates the following conditions, prior to commencing the operations:

“ आप निम्नानुसार कार्यवाही पूर्ण करने के उपरांत ही पुनः उत्पादन प्रारंभ करेंगे:—

अ. परिदेशीय वायु में फ्यूजिटिव डस्ट के नियंत्रण हेतु प्रेसराइज्ड मिस्ट स्प्रे सिस्टम माउन्टेड ऑन मोबाइल टैंकर की व्यवस्था की जाये।

ब. डस्ट प्रदूषण नियंत्रण हेतु सेशनरी वाटर स्पिंकलर को नियमित रूप से संचालित किया जायेगा, यह कि डस्ट प्रदूषण नियंत्रण हेतु आपके द्वारा स्थानीय प्रजाति के पौधों का वृक्षारोपण कर सघन हरित पट्टिका विकसित की जाये।

स. आपके द्वारा साईडिंग की दूसरी तरफ भी लगभग 16 फीट विण्ड ब्रेकिंग बाउंड्रीवाल की स्थापना की जायेगी। ”

6. Thereafter, a joint survey was conducted under the supervision of Regional Officer, Pollution Control Board and the joint survey report dated 15.3.2023 was prepared. The joint survey report is as under:

“1. प्रदूषण की रोकथाम के लिए पानी के छिड़काव हेतु 16 स्पिंकलर मशीन लगे हुए एवं कार्य करते हुए पाया।

2. उक्त साईडिंग में पानी के छिड़काव हेतु 20 हजार क्षमता वाले वॉटर टैंक (ट्रक) एवं 5 हजार लिटर क्षमता वाले (ट्रैक्टर) द्वारा भी साईडिंग में पानी छिड़काव करते हुए पाया गया।

3. उक्त साईडिंग में विण्ड ब्रेकिंग बाउंड्रीवाल (जी आई ग्राउंड शीट), जिसकी ऊंचाई 24 फीट है, साईडिंग में लगाई गई एवं साईडिंग के विपरीत साइड ट्रैक (लाइन) के बाजू से लगभग 300 मीटर ग्रीन नेट लगाई गई है।

4. उक्त साईडिंग में स्पिंकलर द्वारा पानी छिड़काव एवं वॉटर टैंक में पानी भराव हेतु, के.डी.इंडस्ट्रीज तथा महावीर बेनीफिकेशन द्वारा अलग अलग बोस्वेल एवं स्ओरेज टैंक का निर्माण किया हुआ पाया गया।

5. उक्त साईडिंग में कोयले के धूल से बचाव हेतु ट्रको पर ग्रीन शीट का उपयोग करते हुए पाया गया।

6. साईडिंग के चारों तरफ प्रदूषण की रोकथाम हेतु बड़े बड़े लगभग 800 वृक्ष लगे हुए पाये गए।

7. साईडिंग परिसर में, वाहनों के आवागमन हेतु प्रयुक्त परिवहन मार्गों पर कांकीटिकृत रोड पायी गई।

8. साईडिंग के मध्य में अतिरिक्त स्पिंकलर मशीनों को लगाने हेतु के.डी. इंडस्ट्रीज एवं महावीर बेनीफिकेशन के प्रतिनिधि को निर्देशित किया गया।

9. साईडिंग के फ्यूजेटिव डस्ट उत्सर्जन, प्रेसराइस्ड वॉटर मिस्ट स्प्रे फागिंग मशीनें लगाने हेतु के.डी.इंडस्ट्रीज एवं महावीर बेनीफिकेशन के प्रतिनिधि को निर्देशित किया गया।

10. वर्तमान में अमलाई साईडिंग में प्रकाश की व्यवस्था नहीं होने के कारण, रेलवे द्वारा तीन हाइ मास्ट टावर उपलब्ध कराया गया जिसे जल्द से जल्द रेलवे के बिजली विभाग द्वारा कार्यान्वित हेतु अप्रैल-2023 तक सुनिश्चित किया जाएगा।”

7. The Regional Officer, Pollution Control Board after noticing the presence of above pollution control measures directed as under:

- “▪ ओ.पी.एम. ट्रेक के समीप के रोड पर भी छिड़काव किया जाये।
- प्रथम मुख्य गेट के दाहिने साईड वृक्षारोपण की अतिरिक्त कतार बनाई जाये।”

8. It is pointed out by learned counsel for the petitioner that by order dated 11.01.2019, the consent to operate was granted only till 19.11.2023 and thereafter there is no consent to operate.

9. Learned Deputy Solicitor General submits that consent to operate was not granted, however, an application has been filed with the Pollution Control Board for grant of consent to operate.

10. Learned counsel appearing for the Pollution Control Board submits that he has no clear instructions as to why the consent to operate was not granted after 19.11.2023. He submits that the same could be because of pendency of the present petition and also because of the stay order dated 25.04.2024 passed by this Court.

11. As noticed herein above, the closure order dated 20.11.2020 mandated that prior to commencement of any operation, the operator had to ensure strict compliance with the conditions stipulated therein. Further, the joint inspection report dated 15.03.2023 after noticing the pollution control measures further mandated for taking of additional steps as noticed in the said report as well as extracted herein above.

12. Learned counsel for the petitioner submits that the petitioner would be satisfied as of now in case it is directed that any permission

which is granted for future operation strictly complies with the directions of the Pollution Control Board and by putting in place the pollution control measures.

13. In view of the above, this petition is disposed of directing that in case any permission is granted for carrying out coal siding at the subject site, same shall be strictly in accordance with the conditions stipulated by the Pollution Control Board for taking adequate pollution control measures *interalia* the measures as noticed in the joint survey report dated 15.03.2023.

14. Respondents shall strictly comply with the conditions as may be prescribed by the Pollution Control Board by putting in place adequate pollution control measures.

(SANJEEV SACHDEVA)

ACTING CHIEF JUSTICE

(VINAY SARAF)

JUDGE

P/-