

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 4178/2023

SANTOSH KUMAR SINGH

APPELLANT(S)

VERSUS

STATE LEVEL ENVIRONMENTAL IMPACT
ASSESSMENT AUTHORITY & ORS.

RESPONDENT(S)

O R D E R

1. The appellant filed an Appeal before the National Green Tribunal (for short, "the NGT") established under the National Green Tribunal Act, 2010, for quashing an environmental clearance granted on 24th January 2023 by the State Level Environmental Impact Assessment Authority to the second respondent. One of the grounds of challenge was that it is not made clear whether the exercise required to be undertaken in terms of clause 2(b) of the Revised Guidelines for Common Bio-medical Waste Treatment Facilities (for short, "the Revised Guidelines") was in fact carried out by the State Pollution Control Board before the environmental clearance was granted. A notice was issued on the Appeal by the NGT to the respondents, including the fourth respondent, which is the State Pollution Control Board.

2. A perusal of the impugned order shows that an opportunity was not granted by the NGT to any of the respondents to file a counter affidavit. In fact, looking at the challenge to the environmental clearance, it was the duty of the NGT to satisfy itself that all the conditions precedent for the grant of environmental clearance

were complied with. It is the duty of the NGT to ensure that the environmental clearance is lawfully granted. One of the duties of the NGT is to uphold and preserve the right to a healthy environment guaranteed under Article 21 of the Constitution. In this case, the NGT should have directed the fourth respondent to produce on record material to show whether compliance was made with clause 2(b) of the Revised Guidelines. The NGT has not examined the same.

3. However, the NGT has interpreted clause 2(b) of the Revised Guidelines in a particular manner. Clause 2(b) reads thus:

“2) Criteria for development of a new Common Bio-medical Waste Treatment and Disposal Facility for a locality or region.

”
b) SPCB/PCC is required to conduct gap analysis w.r.to coverage area of the bio-medical waste generation and also projected over a period of next ten years, adequacy of existing treatment capacity of the CBWTF in each coverage area of radius 75 KM, as given in Annexure-I”

4. The NGT, based on a view taken earlier, has virtually substituted the requirement of the coverage area of a radius of 75 KM by 40 KM. Clause 2(b) cannot be read in this fashion. The learned senior counsel appearing for the appellant relying upon a subsequent decision of the NGT dated 5th July, 2024 in Appeal No.04/2024 [Indotech Waste Solution vs. Uttar Pradesh State Impact Assessment Authority (UP SEIAA)] submitted that the NGT has now taken the view that the Guidelines including clause 2(b) have a statutory force.

5. The learned counsel appearing for the second respondent seeks to contend that the requirements of clause 2(b) have been met. He objects to the appellant's locus.

6. The NGT has not rejected the Appeal filed by the appellant on the grounds of lack of locus, but the NGT has interpreted the requirement of clause 2(b) in a particular manner.

7. In our considered view, the NGT ought to have directed the fourth respondent to place on record the material to show that compliance was made with the requirements of clause 2(b) of the Revised Guidelines. Thereafter, the NGT could have gone into other issues, such as whether there is a power to relax the guidelines, the locus of the appellant, etc.

8. Hence, to enable the NGT to make an elaborate enquiry as warranted by law, we set aside the impugned order dated 13th April 2023 and restore Appeal No.05/2023 to its original number on the file of the National Green Tribunal, Principal Bench at New Delhi. We direct the NGT to decide the restored Appeal afresh after calling upon the fourth respondent to produce the material on record regarding compliance with clause 2(b) of the Revised Guidelines. The respondents shall be permitted to file counter. The restored Appeal shall be decided afresh in accordance with law.

9. The Registry of this Court shall forward a copy of this order to the Registrar of the National Green Tribunal, Principal Bench at New Delhi. The Registrar of the NGT will ensure that the restored Appeal is listed for directions on 9th September, 2024 at 10:30 a.m.

All the parties which are before this Court shall appear before the NGT on that day.

10. The Appeal is, accordingly, partly allowed on the above terms.

11. All contentions of the parties are left open to be decided by the NGT.

.....J.
(ABHAY S. OKA)

.....J.
(PRASHANT KUMAR MISHRA)

.....J.
(AUGUSTINE GEORGE MASIH)

NEW DELHI;
JULY 25, 2024.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO(S). 4178/2023

SANTOSH KUMAR SINGH

APPELLANT(S)

VERSUS

STATE LEVEL ENVIRONMENTAL IMPACT
ASSESSMENT AUTHORITY & ORS.

RESPONDENT(S)

(IA No. 124368/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 124369/2023 - STAY APPLICATION, IA No. 124370/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 167096/2023 - EXEMPTION FROM FILING O.T., IA No. 124372/2023 - EXEMPTION FROM FILING O.T. AND IA No. 259388/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 25-07-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASHI

For Appellant(s) Mr. Devashish Bharuka, Sr. Adv.
Mr. Yash Mishra, Adv.
Mr. Anuj Rathee, Adv.
Mr. Nirmal Goenka, AOR

For Respondent(s) Mr. Rajiv Yadav, AOR
Mr. Nishant Bhatia, Adv.
Mr. Rahul Bali, Adv.

Ms. Garima Prashad, Sr. A.A.G.
Mr. Sudeep Kumar, AOR
Ms. Manisha, Adv.

Mr. Pradeep Misra, AOR
Mr. Daleep Dhyani, Adv.
Mr. Manoj Kumar Sharma, Adv.
Mr. Suraj Singh, Adv.

Mr. Vikramjit Banerjee, A.S.G.
Mr. Gurmeet Singh Makker, AOR
Ms. Bansuri Swaraj, Adv.
Mr. Prahlad Singh, Adv.
Mr. Rohit Pandey, Adv.
Mr. Saransh Kumar, Adv.

Ms. Sweksha, Adv.
Ms. Swarupama Chaturvedi, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The Appeal is partly allowed in terms of the signed order.
Pending applications stand disposed of accordingly.

(ASHISH KONDLE)
COURT MASTER (SH)

(AVGV RAMU)
COURT MASTER (NSH)

[THE SIGNED ORDER IS PLACED ON THE FILE]