

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.229 OF 2024

KATIYA HAIDARALI AHMADBHAI & ORS.

...Appellant(s)

Vs.

SANJEEV KUMAR IAS & ORS.

...Respondent(s)

O R D E R

Heard the learned counsel appearing for the appellants. None appears for the respondents.

2. An Original Application was filed by the appellants before the National Green Tribunal (for short, the "NGT"). The Original Application was decided by the NGT, Principal Bench, New Delhi by the order dated 23rd September, 2020. An application styled as an Execution Application was moved by the appellants before the NGT, Western Zone Bench, Pune basically invoking Sections 26 and 28 of the National Green Tribunal Act, 2010 (for short, the "NGT Act"). The allegation in the application is that 15 opponents named in the Execution Application are allegedly guilty of the failure to comply with the order dated 23rd September, 2020 passed by the NGT. By the impugned order, the NGT has come to the conclusion that Execution Application cannot proceed against respondent Nos. 1 to 15 who were not impleaded in

their personal capacity in the Original Application. Therefore, a direction was issued to delete their names and implead the original respondents in the Original Application. This is the order impugned in the present appeal.

3. Sections 26 and 28 of the NGT Act read thus:

"26. Penalty for failure to comply with orders of Tribunal. - (1) Whoever, fails to comply with any order or award or decision of the Tribunal under this Act, he shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to ten crore rupees, or with both and in case the failure or contravention continues, with additional fine which may extend to twenty-five thousand rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention:

Provided that in case a company fails to comply with any order or award or a decision of the Tribunal under this Act, such company shall be punishable with fine which may extend to twenty-five crore rupees, and in case the failure or contravention continues, with additional fine which may extend to one lakh rupees for every day during which such failure or contravention continues after conviction for the first such failure or contravention.

(2) Notwithstanding anything contained in the code of Criminal Procedure, 1973 (2 of 1974), every offence under this Act shall be deemed to be non-cognizable within the meaning of the said Code.

xxx

28. Offences by Government Department. - (1) Where any Department of the Government fails to comply with any order or award or decision of the Tribunal under this Act, the Head of the Department shall be deemed to be guilty of such failure and shall be liable to be proceeded against for having committed an offence under this Act and punished accordingly:

Provided that nothing contained in this section shall render such Head of the Department liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any officer, other than the Head of the Department, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly."

(underlines supplied)

4. Therefore, there is a provision to punish a person who fails to comply with any order of the NGT. If a Government Department fails to comply with the order of the NGT, by a legal fiction under sub-section (1) of Section 28, the Head of the Department shall be deemed to be guilty of such failure and shall be liable to be proceeded against.

Relying upon these provisions, the officers of the State were impleaded as party respondents.

5. At the stage of issuing notice, the NGT could not have interfered. The reason is that after service of notice, the respondents could have come before the NGT and raised all permissible defences, including the defence that they were not responsible for complying with the order which is sought to be implemented and executed. Therefore, the impugned order deserves to be set aside while keeping all contentions of the respondent Nos. 1 to 15 expressly open.

6. Accordingly, the impugned order is quashed and set aside. The NGT, Western Zone Bench, Pune shall issue notice to respondent Nos. 1 to 15. After the notice is served, it will be always open for the said respondents to raise all available defences before the NGT. Needless to add that we have made no adjudication on the question whether the respondent Nos. 1 to 15 are responsible for the breach or violation of the order dated 23rd September, 2020 passed by the NGT in the Original Application. This issue is left open to be decided by the NGT.

7. The application for impleadment cannot be considered, as the appeal arises out of an application where action is sought for non-compliance of the final order passed on the Original Application filed by the appellants. The application for impleadment is accordingly disposed of. However, remedies of the applicant in accordance with law are kept open.

8. The appeal is allowed on the above terms.

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

.....J.
(AHSANUDDIN AMANULLAH)

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

NEW DELHI;
September 11, 2024.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 229/2024

KATIYA HAIDARALI AHMADBHAI & ORS.

Appellant(s)

VERSUS

SANJEEV KUMAR IAS & ORS.

Respondent(s)

(IA No.5623/2024-EX-PARTE STAY
IA No. 60532/2024 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 60518/2024 - INTERVENTION/IMPLEADMENT)

Date : 11-09-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

For Appellant(s)

Mr. Anand Mishra, AOR

For Respondent(s)

Ms. Swati Ghildiyal, AOR (Not present)

Mr. Ashutosh Dubey, AOR
Mr. Rahul Mishra, Adv.
Ms. Rajshri Dubey, Adv.
Mr. Amit P. Shahi, Adv.
Mr. Rahul Sethi, Adv.
Mr. Shashibhushan Nagar, Adv.
Mr. Abhishek Chauhan, Adv.

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

The appeal is allowed in terms of the signed order.

Pending applications also stand disposed of.

(ANITA MALHOTRA)
AR-CUM-PS

(AVGV RAMU)
COURT MASTER

(Signed order is placed on the file.)