

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

**Original Application No. 142/2014
And
Original Application No. 134/2014**

**Mr. Rajeev Suri V/s Ministry of Urban Development & Ors.
And**

Mr. Rajiv Suri Vs. Ministry of Urban Development & Anr.

**CORAM: HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER
HON'BLE DR. G.K. PANDEY, EXPERT MEMBER
HON'BLE MR. BIKRAM SINGH SAJWAN, EXPERT MEMBER**

Present: Applicant / Appellant : Mr. Rajiv Suri, In person
Respondent Nos. 1,3&5 : Mr. B.V. Niren, CGSC
Respondent No. 4 : Ms. Sakshi Popli, Adv.
 (Original Application No. 134/2014)

Present: Applicant/Appellant(s) : Mr. Rajiv Suri
Respondent No. 1 : Mr. B.V. Niren, CGSC
Respondent No. 2 : Mr. J.P. Singh, Sr. Adv. & Mr. Manoj Kumar Dass, Adv.
Respondent No. 4 : Mr. Biraja Mahapatra, Adv. Mr. Dinesh Jindal, Law Officer
MoEF : Mr. Vikas Malhotra and Mr. M.P. Sahay, Adv.

Date and Remarks	Orders of the Tribunal
Item Nos. 2 & 3 September 23, 2014	<p>Heard. Perused.</p> <p>Respondent Nos. 3 and 5 adopt the reply filed on behalf of the Respondent No. 1 (Ministry of Urban Development). Pleadings are complete.</p> <p>The Respondents have raised plea of limitation. Learned Counsel appearing for the Respondent No. 2- Project Proponent (NBCC Ltd.) submits that the entire application-Original Application No. 134/2014 revolves around the Environmental Clearance (EC) dated 13/08/2012 and as such the challenge to the EC ought to have been made within the period prescribed under the NGT Act, 2010. He points out that the Project Proponent had notified to the public at large the fact of grant of EC by publishing in three daily newspapers that is issues dated 23/10/2012 of 'Indian Express', 'Financial Express' and</p>

'Jansatta' the grant of EC to the project in question as well indicated therein uploading of the EC along with conditions and safeguards prescribed on the website of the DPCC and its availability on the website. According to him, the present application miserably falls to tide over its prescribed period of limitation, the application being filed two years thereafter.

According to the Applicant, the National Green Tribunal Act, 2010 is the creation of a philosophy enunciated under the 'Doctrine of public trust' and as such the merits should govern the maintainability of the present application and not period of limitation as prescribed under the National Green Tribunal Act, 2010. He further submitted that the 'Doctrine of public trust' has gained precedence with the Hon'ble Apex Court over law in dealing with the matters governing the environment.

After hearing the parties and upon considering the rival pleadings, we find that the application as framed seeks revocation of the Environmental Clearance (EC) on the basis of incorrect declarations and concealment of issues of grave environmental concerns and thereupon questions the propriety of the works undertaken by the NBCC Ltd. at Kidwai Nagar East, New Delhi. Essentially to our mind, this is not a challenge to the EC by way of an appeal as envisaged under section 16 of the National Green Tribunal Act, 2010. The Applicant is seeking the revocation of the EC as is envisaged under para-8, sub-clause-vi of the Environmental Regulation, 2006. If that be so, it is the duty of the Respondents raising the plea of limitation to point out from the pleadings as to when the first cause of action for seeking such remedy arose and the period of

limitation prescribed under the National Green Tribunal Act, 2010 for such kind of application.

On perusal of the application, we find that the pleadings therein are not in conformity with Form No. 1 prescribed under the National Green Tribunal Rules, 2011 in as much as there is no clear and candid expression regarding the limitation governing the said application.

We grant liberty to the applicant to make suitable amendments in the application so as to incorporate therein the pleadings regarding the limitation particularly as regards the cause of action for the application. The Applicant shall carry-out such amendment within a week and furnish copies of the amended application to the Respondents. The Respondents shall file responses to such amended application within two weeks thereafter. Advance copies of the responses shall be furnished to the Applicant, who may file rejoinder thereto, if any, within a week thereafter.

The Applicant to cite case law in support of his submissions and apprise the Respondents of such case law in advance.

List the matter on 27th October, 2014.

....., JM
(U.D. Salvi)

....., EM
(Dr. G.K. Pandey)

....., EM
(B.S. Sajwan)