

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA**

**Original Application No. 77/2014/PB/1/EZ
&
M.A. No. 200/2014
&
M. A. No. 07/2014/EZ**

Subhas Dutta Vs MoEF & Ors

CORAM: Hon'ble Justice Dr. P. Jyothimani, Judicial Member
Hon'ble Prof. (Dr.) P. C. Mishra, Expert Member

PRESENT: Applicant for M.A. 07/2014 Mr. B. Bhattacharyya & Ardhendu Das,
Advocates

Applicant	Mr. Subhas Dutta in person
Intervenors	Mr. R. S. Mantha, Adil Rashid & Mr. R. K. Khandelwal, Advocate
Respondent 1	Mr. Gora Chand Roy Chowdhury, Advocate
Respondent 2	Ms. Papiya Banerjee Bihani, Advocate
Respondent 3	Mr. Raj Panjwani, Senior Advocate Mr. Pramod Kumar, Advocate
Respondent 4	Mr. Surendra Kumar, Advocate

Date & Remarks	Orders of the Tribunal
Item No. 1 & 2 August 14, 2014	<p style="text-align: center;"><u>M.A. No. 07/2014/EZ</u></p> <p>This is an application filed by some other villagers, who are residing in the area, to implead themselves as a party.</p> <p>We understand that the applicants are villagers and they are supporting the projects for various benefits available to them from the project including employment, health facilities etc.</p> <p>Mr. Raj Panjwani, Senior Counsel for the Project Proponent would fairly submit in favour of the impleadment of the villagers who are supporting the original application and he has also no objection. Mr Panjwani states that the matter is to be decided on merit as the stands taken by the newly added villagers will be heard during the course of hearing. Considering the fact that on earlier date we have impleaded the group of villagers, we direct the impleadment and accordingly M.A. No. 07/2014/EZ stands allowed and closed. There is no need to file any additional documents. Registry shall make necessary amendments.</p> <p style="text-align: center;"><u>Original Application No. 77/2014/PB/1/EZ</u></p> <p>We have heard all the respective counsel who have made their submissions regarding this matter. Mr. Subhas Dutta who appeared in person brought to the notice of this Tribunal that the State Pollution</p>

Control Board has in its report stated that there was water contamination through the drain which according to him must have been contributed by the Project Proponent. He has also brought to our notice that the State Pollution Control Board has prescribed certain conditions to the Project Proponent. Learned Senior Counsel appearing for the Applicants impleaded earlier states that the EIA Notification issued by the Ministry of Environment & Forests, Govt. of India dated 14.09.2006 required Petrochemical process units to obtain prior environmental clearance as per the regulation. Therefore, the 3rd respondent Project Proponent which is also a petrochemical based unit be not allowed to carry out its operation until and unless environmental clearance is obtained from the Ministry of Environment & Forest. He has also referred to some invoices of the project proponent unit procuring petrochemicals. We find in the EIA report prepared by the project proponent has mentioned the raw materials as coaltar and petrochemical based. The learned senior counsel for the 3rd respondent, the project proponent states that their unit is coaltar based and as per the Govt. of India 2006 notification, it does not attract provisions of EC regulations.

Mr. Raj Panjwani, the learned senior counsel appearing for the project proponent has also stated that the new amended notification issued by MoEF dated 25.06.2014 has included coaltar processing units under EIA regulations which requires prior EC and it shall be prospective in nature. Therefore, all industries existing prior to issuance of this amendment shall continue to operate till expiry of consent to operate.

However, we find that the report of the State Pollution Control Board and the CPCB are contradictory. We are of the view that the project proponent should be given an opportunity to file surrejoinder by the next date of hearing.

The learned senior counsel, Mr. Raj Panjwani has also brought to the notice of the Tribunal that as per the directions of the Hon'ble Principal Bench in its order dated 08.07.2014 the State Pollution Control Board as well as Central Pollution Control Board have inspected the units of the project proponent to find out if the industry is zero discharge.

We find that one industry M/s. Continental Industries, Gaziabad, UP in the order dated 29.03.2011 while granting EC the MoEF has put certain conditions viz. 5.0 "All the carbon black manufacturing units are covered under petrochemical based processing units and listed at S.N. 5 (e) under category A' due to location outside notified industrial area and appraised at the central level."

Since as per the notification issued by the MoEF, Govt. of India dated 25.06.2014, the project proponent should make necessary application for the purpose of taking EC and considering the aforesaid facts and averments made by the counsel, we issue the following directions:-

1. The project proponent shall initiate the process to obtain prior environmental clearance from the MoEF within two months from today.
2. The MoEF is directed to clarify the condition no. 5 in the EC letter issued to M/s. Continental Industries Limited dated 29.03.2011

and its origin.

3. The project proponent shall file surrejoinder by the next date of hearing about the raw materials used for the purpose of the manufacturing units and reason for procuring petrochemicals.

4. The State Pollution Control Board shall submit copy of the original application/proposal filed by the project proponent based on which first consent to establish and consent to operate were granted, by the next date of hearing.

5. We also direct the CPCB and WBPCB to see that the project proponent manufacturing units confirm to the pollution norms and file a status report on the next date of hearing.

At present we are not inclined to close the units for various reasons as we are yet to be satisfied on the violation of pollution norms for the alleged pollution stated to have been caused by the project proponent. In such circumstances we are of the view that the matter will be settled in course of time. We place on records that all the respective counsel will exchange their pleadings before the next date of hearing.

Stands over to 12/09/2014.

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Dr. P. Jyothimani, JM

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Prof. (Dr.) P. C. Mishra, EM

