

Item No. 01

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(Through Video Conferencing)**

Appeal No. 13/2019 (EZ)
(I.A. No. 76/2019 & I.A. No. 77/2019)

R. Sreedhar

Appellant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 28.05.2020

**CORAM: HON'BLE MR. JUSTICE S. P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER
HON'BLE MR. SIDDHANTA DAS, EXPERT MEMBER**

For Appellant(s): Mr. Saurabh Sharma, Advocate

ORDER

1. Case taken up by video conference on *Vidyo App*.

Appeal No. 13/2019 (EZ)

2. This Appeal is directed against an amended Environmental Clearance (EC) dated 03.09.2019 granted to the Respondent No. 2, M/s. Adani Power (Jharkhand) Ltd., (Project Proponent) by the Ministry of Environment, Forest and Climate Change (MoEF&CC), permitting drawl of water from

the river Ganga for the Thermal Power Project set up by the said Respondent No. 2.

3. According to the Appellant, earlier Appeal No.47/2018 had been filed as the project proponent, instead of drawing water from river Chir as per the EC, attempted to draw water from the river Ganga. That Appeal was disposed off *vide* order dated 07.01.2019 with liberty to the Appellant to file a fresh Appeal. Appeal No. 02/2019 was thus filed primarily on the ground that the project proponent had changed the scope of a crucial aspect of the project relating to drawing of water from river Ganga to meet the requirements of the Thermal Power Plant regarding which had not been mentioned in the EIA that was considered by the EAC for appraisal.
4. When Appeal No. 02/2019 was being heard, it had been submitted on behalf of the project proponent that an application for amendment of the EC had been submitted before the MoEF&CC altering the source of water for the project from river Chir to river Ganga and that the proposal was still pending consideration of the Ministry and that, until such time the application was decided by the MoEF&CC, cause of action to file appeal could not be said

to have arisen. In view of this, the Appellant was permitted to withdraw the appeal with liberty to the Appellant to file appeal afresh. On 03.09.2019 the impugned amended EC was granted to the project proponent changing the source of water from river Chir to river Ganga on. The present Appeal was thus filed in terms of the liberty granted earlier.

5. The Appeal has been preferred mainly on the ground that the Project Proponent had changed the scope of a crucial aspect of the project relating to drawing of water from river Ganga to meet the water requirements of the Thermal Power Plant though the same was never mentioned in EIA or placed before the public during Public Hearing. The Justification given for change of scope of the project was wrong and in variance with the EIA on a number of issues. Although the Source Sustainability Study for drawl of water from river Ganga for the proposed Thermal Power Plant at Godda, Jharkhand, July, 2019 got prepared by Adani Power (Jharkhand) Limited was placed before the EAC in its March, 2019 meeting and considered, the said report, however, was never made a part of the draft EIA to be placed before public in the public hearing.

6. There are also a number of other issues raised by the Appellant in assailing the EC which are:- (i) Impact on fauna of the Ganga at the Sahebganj and nearby area where there is presence of Gangetic Dolphins, Otters and many other wildlife species which have not been considered in the Source Sustainability Study Report: (ii) The Source Sustainability Study Report is also not reliable for a several reasons mentioned in this Appeal: (iii) Site selection for the project is in violation of siting criteria prescribed by the MoEF&CC: (iv) Failure on the part of the Project Proponent to disclose vital information while submitting Form I: (v) Failure of the EAC to examine the Project, EIA Report thoroughly which had been prepared without consideration of relevant and material facts/studies: (vi) The requirement to implement zero liquid discharge system having not been met: (vii) The proposed project not confirming to fuel linkage, etc.

7. Heard.

8. Issue notice returnable in 30 days.

9. The Appellant to furnish requisites within one week from hence.

10. However, in view of the prevalent situation caused by the pandemic, the Applicant is at liberty to serve notice by e-mail apart from the formal notice.

11. List on 03.08.2020.

I.A. No. 77/2019

12. In view of the facts and circumstances set out in the application, delay in filing the Appeal is condoned subject to objections that maybe raised by the respondents.

I.A. No. 76/2019

13. The respondents shall show cause within 30 days as to why the interim reliefs sought for by the Appellant be not granted.

14. To 03.08.2020.

S.P. Wangdi, JM

Dr. Nagin Nanda, EM

Siddhanta Das, EM

28th May, 2020
Appeal No. 13/2019 (EZ)
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