

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

Civil Appeal No 2940 of 2020

Aegis Logistics Limited

Appellant(s)

Versus

Charudatt Pandurang Koli and Others

Respondent(s)

ORDER

- 1 The National Green Tribunal is seized of Execution Application No 5 of 2018 in Original Application No 40 of 2014 and connected cases in which an order dated 30 June 2020 has led to the filing of the present proceedings.
- 2 An application was filed before the NGT by the first to fourth respondents pertaining to the issue of air pollution caused in and around Ambapada and Mahul in Mumbai by industries which were alleged to be the source of pollution.
- 3 By its judgment dated 18 December 2015, the NGT, *inter alia*, found that the appellant, and certain other entities - M/s Sea Lord Containers Limited, Bharat Petroleum Corporation Limited (BPCL) and Hindustan Petroleum Corporation Limited (HPCL) were the source of the deterioration of the air quality leading to a threat to the health of the residents. The NGT directed the Maharashtra Pollution Control Board to prepare an action plan for control

of air pollution. It also directed that a health impact study and a study as regards Volatile Organic Compounds (VOCs) be carried out together with remedial actions.

- 4 An execution application was filed before the NGT for enforcement of its directions. The NGT considered the report of the Joint Committee which had suggested steps for the control of the VOCs. The NGT directed remedial action and assessment of compensation on the basis of the polluter pays principle. The polluting units were required to submit an action plan to the Central Pollution Control Board (CPCB). Certain directions were issued on 7 March 2019. On 15 July 2019, the CPCB was directed to assess the value of damage to the environment and to public health and that the amount be recovered from the polluting units. The CPCB submitted a report on 18 March 2020 assessing the damages payable by the appellant at Rs 288.2 crores. In addition, damages were assessed against the HPCL, BPCL and Sea Lord Containers Limited. Objections against the report of the CPCB were placed before the NGT which have been dealt with by the impugned order.
- 5 Before the NGT, the units had sought a direction to the CPCB to disclose the basis on which it had assessed the quantum of VOCs attributable to them. This was opposed by the CPCB, which stated that the basis of estimation was the data which was furnished by the units in response to a questionnaire, as mentioned in the report.
- 6 By its order, which is impugned in the present proceedings, the NGT directed the CPCB to provide the basis of the calculation of the quantum of emission by 13 July 2020 by e-mail, upon which the parties were permitted to file their

submissions. The CPCB filed its report on the assessment of VOC emissions on 20 July 2020 before the NGT. Following the report which was filed by the CPCB, the appellant filed an application before the NGT on 22 July 2020, seeking to draw its attention to certain issues, before the final order is passed. The grievance of the appellant is that the application has not been listed by the NGT and without hearing the applicant on the CPCB report dated 20 July 2020, by the impugned order, the NGT has closed the proceedings for orders which are to be uploaded by 17 August 2020. According to the appellant, since the NGT by its impugned order had directed the CPCB to furnish the basis of its calculation of the quantum of emissions and the respondents before it were granted liberty to file further written submissions, it is only appropriate and proper that the parties are heard before the final judgment is delivered. It has been submitted that in the absence of a hearing, there would be a serious breach of the principles of natural justice.

- 7 Mr Mukul Rohatgi, learned senior counsel appearing on behalf of the appellant has submitted that the appellant desires to place its submissions before the NGT in respect of the clarification report which has been filed by the CPCB on 20 July 2020, after the proceedings were closed for orders. This submission has been supported by Mr K V Vishwanathan, learned senior counsel appearing on behalf of HPCL, which is one of the parties before the NGT. Mr Vishwanathan urged that HPCL has also filed an application on 10 July 2020 which has not been listed before the NGT.

- 8 Mr Nikhil Nayyar, learned senior counsel has appeared on caveat on behalf of the first to fourth respondents, who are the parties who have moved the proceedings before the NGT.
- 9 Since the proceedings are pending before the NGT, we clarify that we have not entered upon any aspect of the disputes on merits in the present appeal. We, however, are of the view that since the NGT had by its impugned order directed the CPCB to file a report on its estimation of VOC emissions, which was done by the CPCB on 20 July 2020, and liberty was granted by the Tribunal to the affected units to file their submissions in regard to the report, it would be only appropriate and proper if a brief hearing is given to the parties in regard to the CPCB report.
- 10 We accordingly request the National Green Tribunal to hear the appellant on the application which has been filed on 22 July 2020, raising objections to the CPCB report, which has been filed on 20 July 2020 after the last hearing before the Tribunal when the matter was closed for judgment. It is appropriate and proper that the NGT does so in order to obviate the grievance that the final judgment is delivered without complying with the principle of natural justice. We request the NGT to hear the appellant preferably within a period of two weeks from today in regard to the CPCB report which has been filed on 20 July 2020. As regards the prayer of Mr K V Vishwanathan, who has appeared for HPCL with the same prayer which has been made on behalf of the appellant, we observe that it would be open to the HPCL or for any other parties to make a proper request for hearing before

the NGT which can be suitably addressed.

- 11 We dispose of the appeal by requesting the NGT to give an opportunity of being heard to the appellant in respect of its objections to the report of CPCB before it proceeds to pronounce the judgment.
- 12 The appeal is accordingly disposed of.
- 13 Pending applications, if any, stand disposed of.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[K.M. Joseph]

**New Delhi;
August 14, 2020**

ITEM NO.26

Court 4 (VC)

SECTION XVII

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.2940/2020

AEGIS LOGISTICS LIMITED

Appellant(s)

VERSUS

CHARUDATT PANDURANG KOLI & ORS.

Respondent(s)

(With appn.(s) for exemption from filing judgment, stay, exemption from filing affidavit and permission to file documents/facts/Annexures)

Date : 14-08-2020 This appeal was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE K.M. JOSEPH

For Appellant(s)

Mr. Mukul Rohatgi, Sr. Adv.
Mr. Maninder Singh, Sr. Adv.
Mr. Rajendra Barot, Adv.
Ms. Liz Mathew, AOR
Mr. Vivek Shetty, Adv.
Mr. Aniket Nimbalkar, Adv.
Mr. Asadulla Thangal, Adv.
Mr. Navneet R., Adv.

For Respondent(s)

Mr. Nikhil Nayyar, Sr. Adv.
Mr. Sangramsingh R. Bhonsle, Adv.
Mr. Sameer Abhyankar, AOR
Ms. Samridhi S. Jain, Adv.

Mr. K.V. Vishwanathan, Sr. Adv.
Mr. Sanjay Kapur, AOR
Ms. Megha Karnwal, Adv.
Mr. Sambit Panja, Adv.

Mr. Mukesh Verma, Adv
Mr. Yash Pal Dhingra, Adv.

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

- 1 The appeal is disposed of in terms of the signed order.
- 2 Pending applications, if any, stand disposed of.

(CHETAN KUMAR)
AR-cum-PS

(SAROJ KUMARI GAUR)
BRANCH OFFICER

(Signed order is placed on the file)