

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

Original Application No. 654/2019
(Writ Petition Nos. 51509/2016 & 52176-52179/2016)

(With report dated 07.08.2019)

Sri T. M. Umashankar & Ors.

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 26.09.2019

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s): Mr. Darpan K.M., Advocate

For Respondent(s): Mr. Devraj Ashok, Advocate for State of
Karnataka
Mr. Ravi Varma, Mr. Abhinav Sharma, Advocate
for R-5
Mr. Chirag Jain, Advocate for R-6

ORDER

1. The matter has been transferred to this Tribunal by the High Court of Karnataka vide order dated 10.01.2019 to deal with the subject matter of *W.P. (C) Nos. 51509/2016 and 52176-52179/2016* on the file of the High Court.
2. The Writ Petition before the High Court giving rise to the present proceedings was for a direction for closure of Treatment, Storage and Disposal Facility (TSDF) established by M/s Ramky Enviro Engineers Ltd. and M/s Ramky Infrastructure Ltd. on the direction of State of

Karnataka, Karnataka State Pollution Control Board and Karnataka Industrial Area Development Board on the ground that super fund, Residual Liability Fund and Environment Relief Fund had not been established, as required under the Hazardous and other Waste (Management and Transboundary Movement) Rules, 2016 and there are violations of norms in operating the TSDF facility.

3. The order of the High Court further shows that a sum of Rs. 3.2 crore was transferred to an ESCROW account under the order of the High Court dated 28.11.2018. Further sum of Rs. 11,61,011/- was deposited in pursuance to order of the High Court dated 12.12.2018.
4. According to the Writ petitioners, working of TSDF needs to be audited to ensure compliance of environmental laws, apart from ensuring deposit of funds by the service provider in the manner statutorily required. It is alleged that the environmental clearance, as required, has not been taken nor post establishment preventive and remedial steps taken to comply with the requirement of Air (Prevention and Control of Pollution) Act, 1981, Water (Prevention and Control of Pollution) Act, 1974 and the Environment (Protection) Act, 1986. The service provider is liable to pay environmental cost for the failure.
5. In view of above, vide order dated 22.04.2019, this Tribunal directed constitution of a joint Committee comprising the representatives of the Ministry of Environment, Forest & Climate Change, (MoEF&CC), Central Pollution Control Board (CPCB) and Karnataka State Pollution Control Board (KSPCB). The Committee was to furnish a report to this Tribunal.

6. Accordingly, report has been furnished by the joint Committee on 07.08.2019 finding the TSDF to be compliant except that consent to operate for a period from 01.07.2016 was refused by the SPCB against which an appeal was pending and the Appellate Authority directed maintenance of *status quo*. It is further stated that while Environmental Clearance (EC) was taken for incinerator, the same EC was being treated as EC for TSDF which does not meet the mandate of the rules. However, it is suggested that at this stage, separate EC may not be directed to be required. The concluding part of the report is as follows:

“Considering above facts and observations, the Joint Committee is of the opinion that the Rule 2 of the Environmental Impact Assessment Notification -2006, clearly mandates the Projects / Activities require Prior Environmental Clearance, before establishing / even before starting any construction work of the Projects / Activities and secondly, the facility has followed /obtained (i) compliances of Location Criteria as specified in the "Criteria for Hazardous Waste Landfills" (ii) the provisions of Rule 8 of Hazardous Waste (Management & Handling) amendment Rules, 2003 to build and operate environmentally sound hazardous waste management facility (TSDF) (iii) no significant non-compliances / environmental impact noticed based on the Environmental monitoring data (iv) even the facility was established by obtaining Consent for Establishment (CFE) and successfully operated for many years with Consent For Operation (CFO) from KSPCB and also there was no any major non-compliances reported (iv) obtained NOC from Govt. of Karnataka for setting up TSDF and EI.W. Incinerator from time to time (v) also MoEF & CC has issued EC for setting up Incinerator for disposal of incinerable waste within the existing ISDF, as an integrated facility considering existing TSDF, and (vi) the facility completed the establishment of above, the Joint Committee is of the view-that it would not be appropriate to Hazardous Waste Incinerator and it is ready for commissioning, So in view of direct the facility to conduct EIA & obtain separate EC only for TSDF at this stage. The Environmental Clearance (EC) issued by MoEF& CC as integrated facility (incinerator & landfill) may be considered.”

7. In view of above, while we do not interfere with the functioning of the TSDF, we direct that the TSDF must comply with the law and the requisite EC may be obtained. The project proponent may apply for EC within two months. The Appellate Authority may deal with the

appeal said to be pending for about three years expeditiously in accordance with law.

The application is disposed of.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

September 26, 2019
Original Application No. 654/2019
DV

