

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

Original Application No. 837/2018  
(M.A. No. 1549/2018 & I.A. No. 290/2019)

Sandeep Mittal

Applicant(s)

Versus

Ministry of Environment, Forests &  
Climate Change & Ors.

Respondent(s)

Date of hearing: 29.04.2019

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

For Applicant(s): Mr. P. Mishra and Mr. Rahul Rathi, Advocates

For Respondent (s): Ms. Shivani Luthra Lohiya, Advocate and Dr.  
Sudheer Chintalapati, Scientist-D for MoEF&CC

**ORDER**

1. The question for consideration is the effectiveness of monitoring mechanism for compliance of Environmental Clearance (EC) conditions as per Notification dated 14.09.2006 under the Environment (Protection) Act, 1986. Environment Impact Assessment is an essential component of 'Precautionary' principle as well as 'Sustainable Development' principle under Section 20 of the National Green Tribunal Act, 2010 which are to be enforced under Section 15 of the Act. Such impact assessment is regulated by statutory notification dated 14.09.2006. Laying down conditions for EC is not enough unless compliance thereof is monitored.
2. Faced with the grievance that there is flagrant violation of conditions of Environmental Clearance in the present case and no monitoring

was taking place, vide order dated 30.10.2018, the Tribunal observed that compliance of conditions of Environmental Clearance must be monitored on periodical basis, atleast once in a quarter. Accordingly, the Ministry of Environment, Forest and Climate Change (MoEF&CC) was directed to evolve an appropriate mechanism to that effect.

3. The matter was considered further on 10.01.2019 in the light of response of MoEF&CC that the direction could be carried out only by empanelling institutions of national repute for carrying out this task. The Tribunal required the MoEF&CC to furnish the data about the number of cases in respect of which such monitoring was done and the result thereof. The data so furnished was considered by the Tribunal vide order dated 14.03.2019. The data being inadequate, the officer who had filed an affidavit in the matter was required to remain present in person. Accordingly, Dr. Sudheer Chintalapati, Scientist-D (MoEF&CC) is present in person and has filed further response signed by Dr. Shruti Rai Bhardwaj, Scientist-E (MoEF&CC) to the effect that there are 10 Regional Offices of the MoEF&CC for effective environmental management. One of their functions is to analyse six monthly reports of the project proponents with regard to conditions of the Environmental Clearance. Based on the data furnished by the Regional Offices, monitoring has been done in respect of 8% of the projects of category-B and 67% of the projects of category-A for the period from 2013-2019 (the data of Chennai Regional Office has not been furnished).
4. On due consideration of status of monitoring, we find the same to be highly inadequate. There is no monitoring to the extent of 92% of category -B projects and 33% of category-A projects. Further, the

monitoring mechanism only involves issuance of show cause notices and seeking action taken reports but there is no application of 'Polluter Pays' principle by assessing and recovering compensation where violations are found. Apart from there being no data from the Chennai, there is no separate data with regard to category A and B projects. In respect of compliance status, we find that even where major non-compliance has been found, no compensation has been recovered even for such major violations. This calls for urgent remedial action.

5. Let remedial measures be taken forthwith by incorporating the requirement of recovery of compensation for the violation of environmental conditions on laid down scale and method of online maintenance of data with regard to category A and B projects separately. In spite of repeated adjournments, MoEF&CC has not been able to give adequate and correct data which shows that urgent measures need to be taken.
6. We also note that there is plea of inadequate staff which is sought to be remedied by outsourcing from empanelled institutions. Primary and essential regulatory functions must be discharged by the statutory authorities and it is only validation which may be outsourced. Wholesale outsourcing may make it difficult to have any accountable mechanism.
7. Let remedial measures be taken by the MoEF&CC for meaningful compliance of environmental Rule of law and protection of environment. The mechanism may provide for 100% checking of Environmental Clearance conditions with respect to category-A projects and a reasonable percentage of category-B projects in view of

significance of the subject. A revised affidavit be filed by the concerned Joint Secretary, MoEF&CC who may remain present in person for assistance of the Tribunal on the next date of hearing.

8. In respect of the project involved in the present case, a Joint Committee of representatives of SPCB, CPCB, SEIAA and Regional Office of MoEF&CC may furnish a report of the status of compliance of Environmental Clearance conditions with reference to the allegations in the application within two months by e-mail at [ngt.filing@gmail.com](mailto:ngt.filing@gmail.com). The nodal agency will be the SIEAA for coordination and compliance.

9. A copy of this order be sent to SPCB, CPCB, SEIAA and Regional Office of MoEF&CC by e-mail for compliance.

10. The applicant may furnish a set of papers each to SPCB, CPCB, SEIAA and Regional Office of MoEF&CC and affidavit of service be filed within one week.

List for further consideration on 23.07.2019.

Adarsh Kumar Goel, CP

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

April 29, 2019  
Original Application No. 837/2018  
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