

Item No. 01

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

Original Application No. 573/2018
(Earlier O. A. No. 24/2014 (SZ))

Parapati Teja Rao & Ors.

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 28.01.2019

**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. Ritwick Dutta, Mr. S. Balakrishna, Sany
Antony, Advocates

For Respondent (s):

Mr. T. Sai Krishnan, B. Lakshminarasimhan,
Advocates for R-2
Mr. G.M. Sayed Nurullah Sheriff, Advocate for
MoEF&CC

ORDER

1. This application which was initially taken up on 14.03.2014 alleges violation of the Environmental Clearance dated 09.04.2009 granted in favour of Respondent No. 3, M/s East Coast Energy Pvt. Ltd.
2. The primary contention of the applicant is that the Respondent No. 3 deviated from the original project for which the Environmental Clearance had been granted by acquiring an additional area of 250 acres for providing a garland drain around the project and also earmarking 77 acres for Corporate Social Responsibility (CSR) activities. This as per the applicant was in violation of condition No. 6 of the Environmental Clearance.

3. It may be relevant to note that the Environmental Clearance was granted by the Ministry of Environment, Forest and Climate Change (MoEF&CC) to the Respondent No. 3 for setting up 2640 MW Bhavanapadu Thermal Power Project in Srikakulam District, Andhra Pradesh. The project involved actual utilization of 1317 acres out of 1995 acres. For the purpose of this application, we need not go into further details of the breakup of 1317 acres which form part of 1995 acres for which the Environmental Clearance had been granted. It would be sufficient to note that the applicant's grievance is only with regard to 14 km garland drain involving 173 acres for which, according to the applicant, no Environmental Clearance had been obtained and is also in violation of an order passed by the National Environment Appellate Authority (NEAA).

4. During the course of proceedings, returns were called for from the respondents, including the MoEF&CC. In its affidavit, the Respondent No. 2, Andhra Pradesh Pollution Control Board (APPCB), contended that the project proponent had acquired additional land of 250 acres beyond the total area specified in condition no. (ii) in the Environmental Clearance and had constructed 14 km garland drain with varying widths in 173 acres earmarking 77 acres for CSR activities. This was in compliance of the Environmental Clearance conditions for which the project proponent had obtained approval of the State Government subject to approval of the Ministry at the earliest.

5. It is further stated that condition no. 3(v) of the Environmental Clearance stipulated preparation of drainage system and its implementation to ensure that the ecology of the area is not disturbed. The records reveal that there were intermittent

correspondence exchanged between the MoEF&CC and the project proponent on the subject leading to a meeting of the Monitoring Committee constituted as per EC conditions being held on 07.11.2014 in which it was noted that the garland drain was formed outside the project site for a distance of about 14 kms and was implemented in view of public hearing commitment and compliance of the Environmental Clearance. The drain was noted to be functioning well for flow of storm water into the sea.

6. This was followed by a request made by the Respondent No. 3 to the MoEF&CC to confirm that Environmental Clearance was not required for the additional land of 250 acres, since (i) it was outside the boundary limits of project area and (ii) the garland drain had been prepared in compliance of the Environmental Clearance and for carrying out CSR activities both of which were for public purpose and not for the power project. This was noted in the 38th meeting of the Expert Appraisal Committee (EAC) called by the MoEF&CC on Environment Impact Assessment (EIA) of the project recommending that the matter required further consideration after a site visit by a Sub-Group of the EAC. This culminated in the EAC holding its 45th meeting on 29th and 30th October, 2015 convened by the MoEF&CC in which observations and recommendations of the Sub-Group of the EAC was discussed and finally approved the recommendation for amendment of the Environmental Clearance for inclusion of 173 acres acquired for construction of garland drain and of 77 acres for CSR activities which were outside the core project area for flood management and additional fishing ground for fishermen.
7. Considering the above facts and circumstances, we find that the grievance expressed in the original application is misconstrued.

8. Mr. Ritwick Dutta, learned Counsel for the applicant contended that at present the power plant was not in operation for reasons best known to the project proponent but suggested that recommendation no. 4(iii) of the Sub-Group of the EAC which in substance required that the area under Nawapada Swamps together with 1200 acres of APIICL area at the southern end of the power project site and Tekkali-Bhavanapadu creek complex, should be declared as conservation reserve by the Government of Andhra Pradesh.

9. In so far as the main contention of the applicant raised in the original application is concerned, we do not find anything left to be determined. However, as regards the suggestions of the applicant for implementation of the 3rd recommendation of the Sub-Group referred to above is concerned, we leave it upon the wisdom of the State Government of Andhra Pradesh to take a decision as it appears to be in the interest of protection of the environment of the area in question.

10. With the above observations, this application stands disposed of with no order as to costs.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

January 28, 2019
Original Application No. 573/2018
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