

Item No. 06

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

Original Application No. 90/2016 (WZ)  
(M.A. No. 407/2016)

Kandla Juth Machimar Sahkari Mandal Ltd.

Applicant

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 16.01.2020

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

For Applicant(s): Ms. Shilpa Chohan and Ms. Shawahi Q Siddizui,  
Advocates

For Respondent(s): Mr. Vikram Nankani, Senior Advocate a/w Mr.  
Saket Mone and Mr. Subit Chakrabarti i/b  
Vidhii Partners for Respondent No. 7.  
Mr. Rahul Garg, Advocate for Respondent No.1  
(MoEF&CC).

**ORDER**

1. This matter has coming before us for the first time after 18.07.2018. The Applicant alleges violation of the condition of the Environmental Clearance (EC) pertaining to work of laying of pipeline in Nakti Creek and the intertidal zone being undertaken by the Respondent No. 7.
2. Relying upon a joint site inspection undertaken by the MoEF&CC, Gujarat Coastal Zone Management Authority (GCZMA) and Gujarat State Pollution Control Board (GPCB) on 29.12.2016, it is contended on behalf of the Applicant that there can be no doubt that the Horizontal Directional Drilling (HDD) having not been adopted by the project proponent in the mud flat area near the landfall point, is a

clear violation of the EC condition and conditions of the CRZ Clearance granted by the MoEF&CC thereby attracting the provisions of the Environment (Protection) Act, 1986.

3. A perusal of the joint Inspection Report of the MoEF&CC, GCZMA and GPCB indeed reveals that the project proponent had adopted the Open Trench Method (OT) method instead of the HDD and, therefore, it was recommended that a separate study be undertaken by an expert agency of repute to be identified by the MoEF&CC to ascertain *inter alia* the following:-

**“ii. The laying of the pipeline using the adopted Open Trench Method has caused any adverse impact on the marine biodiversity, accordingly, loss of livelihood and impact on food security of marginalized fisher folk of surrounding villages is to be ascertained. Actual impact on the mangroves and other marine species including fisheries due to implementation of Open Trench method as compared to Horizontal directional drilling stipulated by MoEF&CC, New Delhi. In accordance with the condition no. 20 of the recommendations for CRZ clearance issued by the Gujarat CZMA, the cost to be incurred for the said study will be borne by M/s. Welspun India Limited.”**

4. On behalf of the Respondent No. 7, Mr. Vikram Nankani, learned Senior Counsel, submits that an additional affidavit has been filed to place on record the fact that the matter has been considered by the MoEF&CC and upon examination, it had been found that prescription of adopting the HDD method as a condition in the EC was an error as the entire EIA studies had been undertaken based upon proposal of the project proponent to adopt the OT method. According to the learned Senior Counsel, it was also the opinion of the MoEF&CC that the OT method was more preferable to HDD considering the lesser environmental impact.

5. These facts shall be crucial for consideration while disposing off this application which could have been done today but, as the learned Counsel for the Applicant submits that copy of the report was served upon her only yesterday, she would require some time to examine and respond before the matter is heard.

6. In view of the above, the case stands adjourned to 30.01.2020 for hearing.

S. P. Wangdi, JM

Siddhanta Das, EM

16th January, 2020  
O.A. 90/2016 (WZ)  
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