

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(Through Video Conferencing)**

Appeal No. 02/2021/EZ
(I.A. No. 23/2021/EZ)

Prafulla Samantray

Appellant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 23.03.2022

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER**

For Appellant(s) : Mr. Suarabh Sharma, Advocate

For Respondent(s): Mr. Soumitra Mukherjee, Advocate for R-1,
Mr. Shakti Prasad Panda, AGA for R-2,
Ms. Papiya Banerjee Bihani, Advocate for R-3,

ORDER

1. Mr. Surabh Sharma, learned Counsel is present for the Appellant.
2. Mr. Soumitra Mukherjee, learned Counsel submits that the instructions which have been given to him contained certain inconsistencies in support of which he has placed before us the copy of the communication/e-mail dated 22.03.2022 received from the Ministry of Environment, Forests and Climate Change; the same is taken on record.
3. The communication of the Ministry of Environment, Forests and Climate Change dated 22.03.2022 reads as under:-

"Dear Sir,

With reference to the trailing mail, it is too inform you that the issues raised in the Appeal have been examined thoroughly in the Ministry. While examining the concerns raised by the Appellant about the location of the project cover area, it has been observed that:

1. *The project proponent vide proposal no. IA/OR/THE/67938/2017 applied for grant of EC wherein it*

informed under Form No.2 at S. no. 23.1 regarding 'Details of Ecological Sensitivity' that "IB Valley which is 4 km away from the project site falls under SPAs".

- 2. The EAC during appraisal of the proposal in its meeting held on 10.04.2020 observed that the "Project is part of IB valley and Jharsuguda critically polluted area. The additional precautionary measures to be proposed to prevent pollution load in the region."*
- 3. Further, the EAC during its meeting held on 28.07.2020 mentioned that "Polluted areas stipulated 40% greenbelt instead of 33%. As the project is in Ib valley, critically polluted area, the extent of the greenbelt needs to be increased in line with the OM."*
- 4. However, during the EAC meeting held on 17.11.2020, it was observed that "After reducing the ash pond area from 340 acres to 175 acres, the total project area is about 1282 acres (1447 acres-165 acres). The proponent had earlier proposed greenbelt development in an area of 252 acres. In line with the Ministry's OM dated 31.10.2019, greenbelt shall be developed in an area of 40% of the total project area instead of 33% as the project is located near Ib valley critically polluted area. As proposed, the additional area is to be acquired for meeting the target of 40% greenbelt of the total project area."*
- 5. The State Pollution Control Board (SPCB) and Central Pollution Control Board (CPCB), Odisha vide email dated 10.02.2022 and 24.02.2022 subsequently has confirmed that M/s Neyveli Lignite Corporation Ltd. (NLCIL) fall in Jharsuguda Industrial area.*

Keeping in view the aforementioned inconsistent statements, the Ministry has decided to relook the facts in this regard so as to submit an appropriate factual position before the Hon'ble Tribunal against the concerns raised by the Appellant, which may require examination of facts in consultation with EAC/CPCB/SPCB also.

Therefore, in light of the requirement of factual re-verification, you are requested to urge the Hon'ble Tribunal to grant two months' time for filing the reply affidavit on behalf of the MoEF&CC."

4. In this communication the Ministry has sought two months time for filing the reply affidavit. However, considering that this Appeal was entertained on 07.06.2021 which is the date of the first order of the Tribunal and more than ten months have already passed, we grant the Ministry of Environment, Forests and Climate Change further six weeks time for filing its counter-affidavit.
5. No one has put in appearance on behalf of the Respondent No.4, M/s NLC India Ltd.
6. We direct Mr. Saurabh Sharma, learned Counsel for the Applicant to serve notice on the Respondent No.4. M/s NLC India Ltd. through its officer-in-charge by whatever designation called through registered post within one week and file affidavit of service.
7. The Respondent No.4 shall file its counter-affidavit by the next date of listing.
8. **List on 18.05.2022.**

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B. Amit Sthalekar, JM

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Saibal Dasgupta, EM

March 23, 2022
Appeal No. 02/2021/EZ
(I.A. No. 23/2021/EZ)
AK