

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

Review Application No. 22/2019
IN
Execution Application No. 32/2016
IN
O. A. No. 295/2016
WITH
Review Application No. 29/2019
IN
Execution Application No. 32/2016
IN
O. A. No. 295/2016

Amresh Singh

Applicant(s)

Versus

Union of India &Ors.

Respondent(s)

Date of hearing: 26.04.2019

**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. Rajiv Bansal, Sr. Advocate, Mr. Anirudh Singh, Ms. Akshita Rao, Advocates
Mr. Krishnan Venugopal, Sr. Advocate, Ms. Aanchal Mullick, Ms. Deepanshi, Advocates for HCC

For Respondent (s):

ORDER

1. These Review Applications have been filed by Gammon India Ltd. and Hindustan Construction Company Ltd. respectively for review of the order dated 12.02.2019. By the said order, this Tribunal

directed both the said applicants to pay interim compensation of Rs. 1 crore each and furnish a performance guarantee in the like amount with the Central Pollution Control Board (CPCB) pending determination of actual damages by the Committee constituted by this Tribunal vide order dated 24.08.2018.

2. The matter involves control of pollution caused in the course of four lanning of National Highway from Udhampur to Banihal in Jammu and Kashmir by the Gammon India Limited and the Hindustan Construction Co. Ltd.

3. This Tribunal directed inspections to be carried out to determine the question whether environmental norms were being carried out. The matter was considered by this Tribunal in its order dated 24.08.2018 in the light of earlier order dated 29.01.2018 and report dated 23.04.2018 and inspection report dated 24.04.2017. The reports dated 24.04.2017 and 23.04.2018 are based on visits to the site and showed damage to the environment on account of dumping of muck without adequate precautions. The Committee suggested measures, including proper preparation of dumping site, construction of Plane Concrete Cement (PCC) grids or anchored RCC grid, re-assess gabion structures in vulnerable hilly eco-system, having sufficient heights of the gabion walls, construction of RCC walls instead of gabion walls in steep slopes, repair of damaged gabion walls and proper monitoring. The reports were accepted and directed to be complied.

4. A further report was sought from the Committee appointed by this Tribunal. The same was considered on 12.02.2019 and was accepted with a direction to pay interim compensation and furnish performance guarantee as above.
5. The ground for review is that Gammon India Ltd. and Hindustan Construction Company Ltd. were not heard before the order was passed.
6. As noted from the record, particularly order dated 24.08.2018 which was passed in the presence of counsel for the said parties, damage to environment by Gammon India Ltd. as well as Hindustan Construction Company Ltd. was proved from the inspection reports on record dated 24.04.2017 and 23.04.2018. Further, inspection was with a view to verify whether remedial steps had been taken. Though inspection report considered on 12.02.2019 may be with reference to the stretch which is being dealt with by Hindustan Construction Company Ltd. and not by Gammon India Ltd., the fact that Gammon India Ltd. had violated the environmental norms as found in earlier inspection reports noticed in the order of this Tribunal dated 24.08.2018 passed in the presence of all the learned counsel for the parties cannot be ignored.
7. There is thus no ground to say that interim compensation required to be paid pending the determination of actual extent of

damage for which the Committee has to make its recommendation after all the sites are visited is uncalled for.

8. We are also of the view that having regard to the above reports and damage having been caused on the environment in the course of execution of the construction activities by Gammon India Ltd and Hindustan Construction Company Ltd. without taking due precautions required under the environmental law, it is necessary to get an environment audit conducted by the Committee already appointed. While undertaking the exercise for assessment of damage, the Committee may take into account the entire damage right from the beginning of the project and not merely what was observed during a particular visit.

9. The Committee may visit all the existing designated and non-designated dumping sites and give report regarding current practices of muck/debris dumping therein, remedial measures proposed to secure the designated dumping sites including its capacity, quantity of debris/muck received, balance quantity to be received, illegal dumping of mucks and debris on entire stretch along with the quantum of muck dumped and file report within two months by email at ngt.filing@gmail.com. The damage may be assessed with reference to all the stretches involved. Liability of both the companies executing the work may be specified, apart from liability of NHAI, if any.

10. A copy of this order be sent to the Committee through the J&K Pollution Board by email.

The review applications are disposed of.

Adarsh Kumar Goel, CP

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

April 26, 2019
Review Application No. 22/2019
& Review Application No. 29/2019
AK

