

BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI

Original Application No. 285/2013  
(M.A. No. 805/2013)

Nirankar Singh V/s Government of India & Ors.

**CORAM:** HON'BLE SHRI JUSTICE DR. P. JYOTHIMANI, JUDICIAL MEMBER  
HON'BLE SHRI JUSTICE S.N. HUSSAIN, JUDICIAL MEMBER  
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER  
HON'BLE SHRI RANJAN CHATTERJEE, EXPERT MEMBER  
HON'BLE SHRI B.S. SAJWAN, EXPERT MEMBER

Applicant / Appellant : Mr. Arvind Kumar Rai, Adv.  
Respondents No. 1 & 2 : Ms. Neelam Rathore, Adv.  
Respondent No. 3 : Ms. Savitri Pandey, Adv.

Date and Remarks	Orders of the Tribunal
<p><b>Item No. 1</b> <b>October 08, 2013</b></p>	<p>In continuation of the earlier order passed by this Tribunal yesterday, it is now informed by the Learned Counsel appearing for the MoEF that the Joint Secretary is on training in overseas and that is the reason why he was unable to appear yesterday and today before this Tribunal and he is to reach India only on 19.10.2013. In such a view of the matter, since we see that there is a genuine reason, we dispense with the presence of the Joint Secretary, I.A. Division, MoEF.</p> <p>The Application is filed for a direction against the Respondent No. 2 (MoEF) to consider the Application of the Original Applicant dated 14.09.2012 in respect of granting Environmental Clearance (EC) for the proposed sand mining at Village Semrahavan, District Sidharthnagar, State of UP. The Applicant also prays that his application may be considered in accordance with the direction issued by the Hon'ble Apex Court in the case of "<i>Deepak Kumar etc. Vs. State of Haryana &amp; Ors.</i>" It is needless to state that in the said judgment of the Hon'ble Apex Court delivered on 27.02.2012, it was held that in respect of sand mining even if the extent is less than 5 hectare, the same requires the proper clearance from the authorities concerned. Thereafter, it appears that pursuant to the direction of the Hon'ble Apex Court, the MoEF has taken some policy decision</p>

since it is incumbent on their part to issue necessary Gazette Notification amending the Regulation, 2006. Ultimately, it is seen that the amended Notification has been issued on 09.09.2013

While considering the application of the Original Applicant dated 14.09.2012 for the purpose of issuance of EC, the MoEF has taken a stand as it is seen in the letter dated 13.09.2013 informing the Original Applicant that pursuant to the judgment of the Hon'ble Apex Court, the Government of India has issued necessary amendment by a Notification dated 09.09.2013 by which the power has been delegated to the State Level Environment Impact Assessment Authority (SEIAA) for the purpose of considering such application and, therefore, the Applicant was directed to move the SEIAA.

Learned Counsel for the Applicant would contend that the term of period of the SEIAA in the State comes to an end by 12.10.2013 and by the lethargic attitude of the Respondent No. 2 in keeping the application pending for nearly one year, there is every possibility for the SEIAA whose term expires on 12.10.2013 to direct the Applicant to make fresh application which may be detrimental to the interest of the Applicant. There is also possibility to the MoEF to direct the Applicant to make fresh application even though it is pending for one year. It is his submission that for the delay caused by the MoEF, the Applicant cannot be unnecessarily penalised. We definitely see some reason in the said argument raised by the Learned Counsel for the Applicant. However, the Learned Counsel for the MoEF would clearly submit that the Government of UP has already taken steps to send necessary proposal for the purpose of reconstitution of SEIAA and as soon as such proposal is received, the MoEF will immediately pass necessary orders approving the reconstitution so as to enable the SEIAA to consider the pending applications. Learned Counsel for the UP Government would also submit that on such approval by the MoEF for reconstitution of the

Committee, the application dated 14.09.2012 of the Original Applicant will be taken on priority basis and necessary orders will be passed. In such a view of the matter, we dispose of the application with a direction to the State Government of UP to send its proposal for the purpose of reconstitution of SEIAA to the MoEF for its approval within a period of two (2) weeks from today and thereafter the MoEF shall pass necessary orders of approving reconstitution of the Committee within two (2) weeks. On such approval, the SEIAA shall take up the application of the Original Applicant dated 14.09.2012 and pass appropriate orders in accordance with law within a period of four (4) weeks.

This application stands disposed off in the above terms. All the miscellaneous applications filed in this Application are accordingly disposed of.

....., JM  
(Dr. P. Jyothimani)

....., JM  
(S.N. Hussain)

....., EM  
(Prof. A.R. Yousuf)

....., EM  
(Ranjan Chatterjee)

....., EM  
(B.S. Sajwan)

