

Item No.05

(Court No. 2)

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

(Through Physical Hearing with Hybrid Option)

Original Application No.539/2022

Omaram Banjara

...Applicant

Versus

State of Rajasthan & Ors.

...Respondents

Date of hearing: 27.03.2023

**CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER.
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER.**

Applicant: None.

Respondent: Respondent No. 5 Nayara Energy Ltd. Mr. Sanchit Garg, Advocate alongwith Pankaj Tripathi (Legal Manager). Mr. Nishant Awana, Advocate for Rajasthan PCB with Proxy Counsel Tirupati Gaurav Shahi.

Application is registered based on a letter petition received by Email.

ORDER

1. The grievance in the application is that Nayra Energy company is indulging in illegal mining of soil from Goucher(Pasture) land, public ponds and water bodies of nearby villages and uprooted thousands of trees in Chotila, Tehsil Rohat, District Pali (Rajasthan) and thereby damaged the environment.
2. Vide order dated 05.09.2022, this Tribunal constituted a Joint Committee comprising of the State PCB, DFO and Collector, Pali with direction to submit report within one month. In compliance thereof report of the Joint Committee was filed vide email dated 02.12.2022.

3. Vide order dated 06.12.2022, notices were ordered to be issued to Respondents no. 1 to 5 thereby impleaded. As per office report notices have been duly served on the respondents.
4. Replies have been filed by respondent no. 3 RSPCB vide email dated 24.03.2023 and by respondent no. 5 vide email dated 25.03.2023.
5. In their replies respondents no. 3 and 5 have mentioned that respondent no. 5 had got its infrastructure/establishment work carried out through M/s. NMC Industries Railway Siding and M/s. SP Constructions.
6. In its report the Joint Committee had mentioned that penalty of Rs. 7,90,000/- was imposed on M/s. NMC Industries Railway Siding and M/s. SP Constructions for the violations.
7. In view of the facts and circumstances of the case, we consider the presence of Director Mines and Geology, M/s. NMC Industries Railway Siding and M/s. SP Constructions to be essential for just and proper adjudication of the questions involved and accordingly they are impleaded as respondents no. 6, 7 and 8 respectively.
8. The registry is directed to issue notices to Respondents no. 6, 7 and 8 requiring them to file their replies/responses within one month by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.
9. In the present case notices were issued to Respondent no. 2-Principal Secretary, Department of Industries, Government of Rajasthan and Respondent no. 4-District Collector, Pali but none has appeared for them.
10. The proceedings before this Tribunal cannot be treated as part of adversarial litigation where the concerned defendants may opt out to remain absent and suffer *ex-parte* proceedings. On the other hand, the State and its instrumentalities are under constitutional and statutory obligations to ensure compliance with environmental norms and, therefore, the State and its

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instrumentalities have to ensure submission of their replies/response with relevant details and also their representation through duly authorised representatives/Counsel before this Tribunal. Since, State of Rajasthan and some of its instrumentalities are not generally appearing before this Tribunal and filing their replies/response in response to the notices served on them, we consider it appropriate that the matter be brought to the notice of the Chief Secretary, Government of Rajasthan and learned Advocate General, Government of Rajasthan for issuance of appropriate instructions for compliance with notices issued by this Tribunal and submission of reply/response and ensuring representation through their authorized representative/counsel before this Tribunal, as may be required.

11. Replies by Respondents no. 2 and 4 be filed within one month by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Supported PDF and not in the form of Image PDF.

12. List for further consideration on 27.07.2023.

13. A copy of this order be sent to the Chief Secretary, Government of Rajasthan, learned Advocate General, Government of Rajasthan, Principal Secretary, Department of Industries, Government of Rajasthan and District Collector, Palibh email for requisite compliance.

Arun Kumar Tyagi, JM

Dr.Afroz Ahmad, EM

March 27, 2023

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