

Item No. 32

Court No. 2

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

Original Application No. 405/2023

Dharmendra Kumar Singh

Applicant

Versus

State of U.P.

Respondent

Date of hearing: 30.05.2023

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. Dharmendra Kumar Singh, applicant in person

Application is registered based on a complaint received by post/e-mail

ORDER

1. Heard applicant who has appeared in person.
2. Letter petition dated 02.05.2023 sent by Dharmendra Kumar Singh, S/o Hardev Singh, R/o Village Sarni, Post Koth, District Ballia, U.P. has been taken upon note and thereupon this Original Application has been registered under Section 14 and 15 of National Green Tribunal Act, 2010 (hereinafter referred to as 'NGT Act, 2010').
3. Grievance is that there is a bird sanctuary named as "Surhatal Bird Sanctuary" in district Ballia which has been so declared vide UP Government's Notification dated 27.03.1991 issued in exercise of powers under Section 18(1) of Wildlife Protection Act, 1972. Copy of the said Notification is placed on record as Annexure-1 to the application.

4. It is also pointed out that later Government of India by Notification dated 08.03.2019, published in Gazette of India (Extraordinary) dated 11.03.2019 declared the above bird sanctuary, named as “Jai Prakash Narayan (Surhatal) Bird Sanctuary” as an Eco-Sensitive Zone to the extent of 1 km uniform around the boundary of Jai Prakash Narayan (Surhatal) Bird Sanctuary in exercise of powers under sub section (1) and clauses (v) and (xiv) of sub-section (2) and sub-section (3) of Environment Protection Act, 1986 (hereinafter referred to as ‘EPA, 1986’) read with Rule 5 (3) of EPA, 1986. Notification dated 08.03.2019 is on record as Annexure-2 to complaint.

5. Now, Nagar Palika Parishad, Ballia is constructing/raising a waste processing plant in buffer zone of the notified area in the said bird sanctuary/eco-sensitive zone, though, any construction in the said zone is prohibited by above Notifications.

6. Our attention is drawn to para 3 of the notification dated 08.03.2019 wherein, measures permissible for the State to be taken are enumerated and in respect to the solid waste at item no. 09, it is said as under:-

“9) Solid wastes-Disposal and Management of solid wastes shall be as under-

(a) The solid waste disposal and management in the Eco-sensitive Zone shall be carried out in accordance with the Solid Waste Management Rules, 2016, published by the Government of India in the Ministry of Environment. Forest and Climate Change vide notification number S.O 1357 (E) dated the April, 2016, the inorganic material may be disposed in an environmental acceptable manner at site identified outside the Eco-sensitive Zone.

(b) Safe and Environmentally Sound Management (LSM) of Solid wastes in conformity with the existing rules and regulations using identified technologies may be allowed within Eco-sensitive Zone.”

7. It is argued that establishment of a waste processing plant is not a permissible activity under the above Notification. Our attention is also drawn to para 4 of the Notification dated 08.03.2019 where list of activities prohibited or regulated within eco-sensitive zone is given. In item 2 of the table under head- "Prohibited Activities", setting up of industries causing pollution is prohibited.

8. Considering entire facts and circumstances and the facts disclosed in the complaint and in furtherance of the letter of Regional Director, Department of Social Forestry, Ballia that the waste processing plant in question is under Surhatal Bird Sanctuary, we find that a substantial question relating to environment due to implementation of Scheduled Enactments under NGT Act, 2010 has arisen but before taking any further action in the matter, we find it appropriate to obtain a factual report. Accordingly, we direct District Magistrate, Ballia to collect relevant information and submit a factual report in the capacity of Chairman of Monitoring Committee for monitoring eco-sensitive zone notification constituted under para 5 of the Notification dated 08.03.2019 within two months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image.

9. We also issue notice to Nagar Palika Parishad, Ballia who shall submit its response, showing authority permitting establishment/installation of waste processing plant in the notified eco-sensitive zone. Details may also be provided on capacity of the plant authorization granted and routing of waste to the plant. It shall submit its response within 2 months by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image.

10. List the matter on 18.08.2023.

11. A copy of this order, along with copy of complaint, be forwarded to District Magistrate, Balia and Nagar Palika Parishad, Ballia by e-mail for compliance.

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

May 30, 2023
Original Application No. 405/2023
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