

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

Review Application No. 28/2023

IN

Original Application No. 691/2022
(I.A. No. 664/2023 and I.A. No. 863/2023)

Rama Shanker Awasthi

Applicant(s)

Verses

State of Uttar Pradesh & Ors.

Respondent(s)

Date of hearing: 21.12.2023

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

For Applicant(s) : Mr. Sanjeet Paliwal, Advocate (through VC)

For Respondent(s): Mr. Pradeep Misra, Advocate for UPPCB
(through VC)
Mr. Alok Aggarwal and Mr. Sanjeev Kumar
Singh, Advocates for R-6 and 7
Mr. Gigi C. George, Advocate for CGWA
Ms. Priyanka Swami, Advocate for
SEIAA (through VC)

ORDER

I.A. No.664/2023:

1. Heard Learned Counsels for the parties. There is a delay of about 138 days in filing this Review Application. The delay has been satisfactorily explained, even Learned Counsel appearing for respondent does not oppose the application at the time of arguments. The application is allowed. Delay in filing Review Application is hereby condoned.

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2. We have gone through the explanation given by Consultant (Judicial) dated 12.12.2023 and Deputy Registrar (Judicial) with regard to non-compliance of order dated 04.10.2023, pertaining to notices to be issued to the respondents. The explanation is that Judicial Assistant-Shri Sourabh Mohan Rout has resigned and relived and he did not bring record of the proceedings to the notice, therefore, the order remained un-complied with. We fail to understand when orders are daily passed by Court with regard to some procedure/steps whether it is not the duty of Consultant (Judicial) and Deputy Registrar (Judicial) to go through the same and ensure compliance of those orders. We are clearly of the view that in this case, there is negligence on the part of Consultant (Judicial) and Deputy Registrar (Judicial) and we find it appropriate to issue warning that in future, no such negligence shall be repeated otherwise we will be compelled to pass more serious order for strict action against them. Consultant (Judicial) and Deputy Registrar (Judicial) should be careful and must discharge their duties more carefully and sincerely.

3. Coming to the merits of Review Application, we have heard Learned Counsels appearing for the parties.

4. This Review Application, filed under Rule 22 of National Green Tribunal (Practices and Procedure) Rules, 2011, seeks review of judgment dated 13.02.2023 passed by this Tribunal, disposing Original Application (hereinafter referred to as '**OA**') No. 691/2022 finally.

5. The ground pressed before us, seeking review is that the order dated 13.02.2023 has been passed in violation of principles of natural justice in as much as report dated 10.02.2023 which has been relied by Tribunal in passing order dated 13.02.2023 was neither supplied to the

applicant nor even was uploaded on the website of Tribunal till the date of the order i.e., 13.02.2023 so as to enable applicant to go through it and file objections if any. Reliance is placed on Supreme Court's judgment in ***Civil Appeal No. 3856/2022, Singrauli Super Thermal Power Station vs. Ashwani Kumar Dubey and Ors.***

6. Learned Counsels appearing for respondents stated that if applicant has any grievance, Tribunal has permitted to raise his grievance before Pollution Control Board but could not dispute that when order dated 13.02.2023 was passed, till then, applicant did not have any opportunity either to peruse the report or to have copy of the same and to file any objections, if any though applicant has a right to file objections to the report. This right of the applicant is also violated. Considering above, we are satisfied that effective opportunity to applicant has not been granted and order dated 13.02.2023 *ex-facie* is in violation of principle of natural justice.

7. The application is allowed. Order dated 13.02.2023 is hereby recalled. OA shall be restored to its original number and be placed before the Bench for consideration on merits.

8. Learned Counsel appearing for applicant prays for three weeks' time to file objections to the report. Time is allowed.

9. Learned Counsels appearing for respondents 6 and 7 stated that though it has dealt with issue on merits also in its reply already filed but since applicant is now being given opportunity to file objection to the report, therefore, respondents 6 and 7 may also be allowed opportunity to file their detailed reply dealing with the merit of the matter. Similar request is made by Learned Counsels respectively appearing for respondents 1 to 5. They may do so within one month.

I.A. No.863/2023:

10. Learned Counsel appearing for respondents 6 and 7 stated that since they propose to file a detailed reply on the merits of the matter again, this IA is not pressed. It is accordingly rejected.

11. List this matter on 15.02.2024.

Sudhir Agarwal, JM

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

December 21, 2023
Review Application No. 28/2023
In Original Application No. 691/2022
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