

Item No. 1

(Court No. 2)

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

(Through Physical Hearing with Hybrid V.C. Option)

M.A No. 90/2023 & M.A No. 94/2023

In

Original Application No. 774/2022

Gaurav Garg

...Applicant

Versus

Union of India & Ors.

...Respondents

Date of hearing: 09.10.2023

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

Applicant: Mr. Gaurav Kumar Bansal, Advocate for the applicant.

Respondents: Mr. Ajay Bansal, Mr. Gaurav Yadav, Ms. Veena Bansal and
Mr. Sourav Jindal, Advocates for Respondent No. 8-Project
Proponent.

**Application under Section 18(1) Read with Section 14 Of the National
Green Tribunal Act, 2010**

ORDER

1. The applicant-respondent no. 8-M/s Synergy Waste Management Pvt. Ltd. has filed M.A No. 90/2023 that vide order dated 02.03.2023 this Tribunal directed respondent no. 8 to apply for EC within one month from the date of receipt of a copy of this order and directed the UPPCB to allow the respondent no. 8 to run the CBWTF for at least three months till filing of the application and consideration of the same for grant of EC ex-post facto, subject to extension in case of delay in disposal of the application for grant of EC. This Tribunal further directed that in case of any further delay in disposal of the application for grant of EC the respondent no. 8-Project Proponent may apply to UPPCB for extension of the validity period of

consents to operate and may also move this Tribunal by appropriate proceedings for such extension. Respondent no. 8 applied to SEIAA for EC on 01.04.2023 and made a representation to UPPCB for grant of consent. UPPCB granted consent on 05.06.2023, with effect from 12.05.2023 till 11.08.2023. Respondent no. 8 again applied to UPPCB for grant of consent but UPPCB did not allow extension and rejected the same. The applicant filed M.A No. 63/2023 on which this Tribunal vide order dated 11.08.2023 directed SEIAA to dispose of the application for EC within 30 days. Scheduled Meetings of SEIAA/SEAC could not take place and grant of EC is likely to take more time. Orders dated 02.03.2023 and 11.08.2023 have not been complied by the respondents. The applicant-respondent no. 8 has prayed for issuance of directions to UPPCB to grant consent to operate and to SEIAA to consider the application for grant of EC.

2. The original applicant- Mr. Gaurav Garg has filed M.A No. 94/2023 for issuance of directions to the respondents Authorities for taking action against the illegal operation of CBWTF by the respondent no. 8 without obtaining consents to operate and environmental clearance. The original applicant has submitted that respondent no. 8 applied for EC on 01.04.2023 and could not obtain the same and consents to operate expired on 11.01.2023. Respondent no. 8 is illegally operating CBWTF. The original applicant made complaints to the concerned respondents-Authorities but no action has been taken on the same and concerned respondents-Authorities be directed to take action against respondent no. 8 and to submit report in a time bound manner.

3. Learned Counsel for the respondent no. 8 has submitted that SEIAA and UPPCB have not complied with orders dated 02.03.2023 and 11.08.2023 and appropriate directions may be issued to them for considering the applications of the applicant-respondent no.8 and also for grant of extension of time for

operation of CBWTF in terms of order dated 02.03.2023 and 11.08.2023.

4. Learned Counsel for original applicant has submitted that in its order dated 11.08.2023, this Tribunal merely directed SEIAA to dispose of the application of respondent no. 8 as early as possible say within 30 days and no such extension of time can be granted as such extension will amount to review of order dated 11.08.2023.

5. The original application no. 774/2022 was disposed of by this Tribunal vide order dated 02.03.2023. The relevant part of the order dated 02.03.2023 reads as under:-

“67. In these facts and circumstances of the case the application is disposed of with the directions to the Respondent No.8 to apply for EC within one month from the date of receipt of a copy of this order and (iii) to the UPPCB to allow the Respondent No.8 to run the CBWTF for at least three months till filing of the application and consideration of the same for grant of EC ex post facto, subject to extension in case of delay in disposal of the application for grant of EC.

68. The Questions raised by the applicant and enlisted by this Tribunal in the present order are answered in terms of the above discussion.

69. In view of peculiar facts and circumstances of the case the parties are left to bear their own costs.

70. In case of any further delay in disposal of the application for grant of EC the Respondent No. 8-Project Proponent may apply to UPPCB for extension of the validity period of consents to operate and may also move this Tribunal by appropriate proceedings for such extension.

71. The Applicant shall also be at liberty to move this Tribunal by appropriate proceedings in case of violation of the BMWM Rules 2016, the CBWTF Guidelines 2016 EC/Consent Conditions and environmental norms.”

6. Learned Counsel for the original applicant and respondent no. 8 appearing before us have conceded that no appeal or writ petition has been filed against order dated 02.03.2023 passed by this Tribunal. Consequently, said order has become final.

7. No doubt, this Tribunal vide order dated 11.08.2023 directed UPSEIAA to dispose of the application of respondent no. 8 for EC as early as possible say within 30 days but this Tribunal did not thereby review or modify order dated 02.03.2023 in any manner and order dated 02.03.2023 will operate on its own force.

8. In view of order dated 02.03.2023, UPPCB is bound to allow respondent no. 8 to run the CBWTF till consideration of the application for grant of EC *ex-post facto* by UPSEIAA. Vide order dated 02.03.2023 UPPCB was directed to do so initially for three months but UPPCB was also directed to extend the same in case of delay in disposal of the application for grant of EC. Therefore, UPPCB is bound to extend the validity period of consents to operate till disposal of the application for grant of EC by UPSEIAA. In view of order dated 11.08.2023 UPSEIAA is bound to dispose of the application for grant of EC expeditiously. UPSEIAA and UPPCB cannot be allowed to flout the orders in the name of any vacancy or lack of infrastructure. *Prima facie* there appears to be no valid justification for any such non-compliance by these authorities with orders passed by this Tribunal which would also constitute an offence under Section 26 of the National Green Tribunal Act, 2010.

9. Let notices of both the miscellaneous applications be issued to the opposite parties.

10. List for further consideration on 30.10.2023.

11. In the mean while till further orders to the contrary respondent no. 4- UPPCB is directed to grant consents to operate to respondent no. 8 till disposal of its application for grant of EC by UPSEIAA.

12. However, nothing in this order shall debar UPPCB from taking action

against respondent no. 8-Project Proponent for environmental violations in accordance with law and principles of natural justice.

13. In view of the facts and circumstance of the case, we also consider personal appearance of the Member Secretaries, UPPCB and UPSEIAA, physically on the next date of hearing for explaining the circumstances of non-compliance with the orders passed by this Tribunal and also for assisting this Tribunal in just and proper adjudication of the questions involved in the miscellaneous applications and they are accordingly directed to remain present before this Tribunal on that date with the relevant record.

14. A copy of this order be supplied to the Member Secretaries, UPPCB and SEIAA by email for requisite compliance.

Arun Kumar Tyagi, JM

Dr. Afroz Ahmad, EM

October 09th, 2023
AG

