

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

Review Application No. 39/2023
In
Original Application No. 496/2023
(IA No. 861/2023)

Satyendra Rawat

Review Applicant

Versus

Medical Pollution Control Committee & Ors.

Respondent(s)

Date of hearing: 14.02.2024

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
(THROUGH VIDEO CONFERENCE)
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Applicant: Mr. Saurabh Rajpal, Mr. Vinay Singh & Mr. Siddhant Singh, Advs. for
Review Applicant

Respondent: Mr. D.N. Goburdhan, Senior Advocate with Mr. Anshul Gupta & Mr.
Shubham Kaushik, Advs. for R - 1
Ms. Shilpi Satyapriya Satyam, Adv. for MoEF & CC (Through VC)

ORDER

1. This Review Application has been filed seeking review of order dated 05.10.2023 passed in O.A. No. 496/2023. Review Applicant was Respondent No. 1 in the Original Application. In the OA, order dated 27.07.2023 granting Consolidated Consent to Operate and Authorization to the Review Applicant, was questioned by the Original Applicant. Tribunal after giving an opportunity of hearing to all the concerned parties and after considering their response had found that the Chief Environment Officer, Circle-4 (CEO-4) had the jurisdiction to decide the application whereas the CEO-1, Vivek Roy (Respondent No. 6) had pulled the file from the online portal of the Regional Officer, UPPCB, Agra in an unauthorized manner and had granted the permission even before the verification report

and recommendations could be placed on portal. The Tribunal by order dated 05.10.2023 had found that the CCA dated 27.07.2023 was unauthorizedly issued by the CEO-1 and had accordingly set it aside.

2. Submission of learned Counsel for the Review Applicant is that the earlier application for grant of CCA was rejected by order dated 13.07.2023 and thereafter, the Review Applicant had made a complaint to the Minister for Forest and Environment, Government of UP, Lucknow who had sent the complaint to the Chairperson of the UPPCB on 27.07.2023 and Chairperson had transferred the Consent/Authorization Application to CEO, Circle-1 who had granted the CCA on 27.07.2023. Hence, there was no error in issuing the CCA by CEO-1.

3. Having heard the learned Counsel for the applicant and on perusal of the record, we find that the issue involved in the OA was duly considered after taking into account respective plea of the parties. It was undisputed that CEO, Circle-4 had the jurisdiction to decide the application as the unit of the Review Applicant is located at Agra. Earlier application of the Review Applicant for grant of CCA was also rejected by CEO-4 by order dated 13.07.2023 by assigning due reasons. The order dated 13.07.2023 was appealable but no appeal was filed against that order and within 11 days, on 24.07.2023, a fresh application was filed by the Review Applicant. The Tribunal while deciding the OA had duly considered the reply of respondent no. 5, UPPCB stating that the CEO-1 had pulled the file from the online portal of Regional Officer, UPPCB, Agra in an unauthorized manner before the Field Verification Report and recommendation could be placed on the portal by the Regional Officer and further that the CCA was issued without the recommendation and knowledge of Member Secretary, Respondent No. 5. The Tribunal has also considered the clear stand of Respondent No. 2, Ministry of Environment, Forest and Climate Changes that the

Consolidated Consent and authorization granted by the UPPCB dated 27.07.2023 appeared to be incomplete as the principle regulation for grant of authorization to a CBWTF operator was as per the Bio-Medical Waste Management Rules, 2016 and not Hazardous and Other Waste (Management and Transboundary Movement) Rules, 2016. Though clear allegation of acting beyond jurisdiction was made against CEO-1 (Respondent No. 6 in the OA) but he had not come forward to justify his action.

4. In the aforesaid background, the Tribunal by order dated 06.10.2023 had set aside the CCA dated 27.07.2023. Order of the Tribunal does not suffer from any error apparent on the face of record.

5. So far as the plea of the applicant regarding transfer of the application for CCA to CEO Circle 1 is concerned, no order of transfer has been placed on record. There is variation in the Hindi version and English Translation of Annexure-A12 which is stated to be the complaint made to the Minister. Even as per the English version, the Minister had only directed an investigation by some other competent officer.

6. Counsel for the review applicant has relied upon Annexure-R13 and submitted that it was the screen shot of the online portal pertaining to the applicant's consent application and its transfer. It's a new document filed for the first time in the review. From the screen shot it cannot be inferred that it relates to the same application on which order under challenge in OA was passed. Moreover, screen shot on page 102 mentions about forwarding of some application on 28.07.2023 whereas the CCA under challenge in the OA was issued prior on 27.07.2023 i.e. prior to that. Even otherwise such a plea is contrary to the stand taken by the official respondents in their reply in OA. That apart, there are other reasons

recorded by the Tribunal in the order dated 05.10.2023 passed in OA No. 493/2023 for setting aside the CCA.

7. In the garb of Review Petition, applicant is trying to reopen the entire matter. It is the settled position in law, re-appreciation of the entire matter is not permissible in Review (AIR 1995 SC 455). It is also settled that the error should be self-evident not requiring process of reasoning (1997 (8) SCC 715).

8. Having regard to the aforesaid, we are of the view that no case for reviewing the order dated 05.10.2023 passed in OA No. 493/2023 is made out.

9. Accordingly, the Review Application is rejected.

10. IA No. 861/2023 also stands disposed of accordingly.

Prakash Shrivastava, CP

Sudhir Agarwal, JM

Arun Kumar Tyagi, JM

Dr. A. Senthil Vel, EM

February 14, 2024
Review Application No. 39/2023
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(IA No. 861/2023)
SN.