

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

Review Application No.38/2023
in
Original Application No. 341/2023
(I.A. No. 805/2023 to I.A. No. 807/2023)

Vipin Kumar

Applicant

Versus

Uttarakhand Pollution Control Board & Ors.

Respondent(s)

(Jai Mata Brick Field: Review Applicant)

Date of hearing: 05.12.2023

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

Applicant: Mr. Neeraj K. Sharma, Mr. Harsh Basaya & Ms. Nidhi Agarwal, Advs. for
Review Applicant (Jai Mata Brick Field) in R.A 38/2023

ORDER

1. This Review Application has been filed by respondent no. 5 seeking review of the order dated 12.10.2023 passed in O.A. 341/2023. The OA was filed by the original applicant questioning the operation of the Brick Kiln of the review applicant in violation of the siting criteria set out in the MoEF&CC's Notification dated 22.02.2022. The Tribunal by the order dated 12.10.2023, after calling for the report from the independent committee and after considering the counter affidavit of respondent nos. 5 & 6 and also after hearing Counsels for the contesting parties had recorded that the Review Applicant was operating illegally till it obtained the CCA on 13.01.2023. The Tribunal had also taken note of Clause 6 of the Notification dated 22.02.2022 and the mandate of Hon'ble Supreme

Court in the matter of *NCR Brick Kiln Association v. Central Pollution Control Board and Ors.* dated 08.04.2022 in *Civil Appeal Diary No. 18213/2021* and had found that CCA was issued to the review applicant by the competent authority without considering the siting criteria prescribed in the notification dated 22.02.2022, therefore, CCA dated 13.01.2023 has been set aside with a direction to the competent authority to reconsider the application for grant of CCA filed by review applicant after duly considering the siting criteria prescribed in the notification.

2. Submission of the Learned Counsel for the review applicant is that a factually wrong submission has been noted in the order in respect of distance of the brick kiln from the school and in this regard he has placed reliance upon a letter of the Principal of the school filed for the first time along with the additional document in review application.

3. Having heard the Learned Counsel for the review applicant and on perusal of the record, it is noticed that the Tribunal while passing the order under review had taken note of the facts which were found by the joint committee in its report. There was no cogent material filed by the review applicant at that stage contradicting the finding. That apart at the time of reconsideration by the competent authority, applicant will have the opportunity to produce all the materials because Tribunal has directed to reconsider the application after duly considering the siting criteria prescribed in the notification.

4. There is no error apparent on the face of record in the order under review. Law in regard to the scope of review is well settled. Re-argument of matter or raising new contentions is not permissible at the stage of review. In the matter of *Parsion Devi and Ors. v. Sumitri Devi and Ors.* reported in (1997) 8 SCC 715, it has been held that the error should be

self evident and not requiring process of reasoning. In the matter of *Meera Bhanja v Nirmla Kumari Choudhary*, AIR 1995 SC 455 : (1995) 1 SCC 170, it has been expressed that re-appreciation of the entire matter is not permissible in the garb of review.

5. The present case does not satisfy any of the parameter permitting review.

6. Since, there is no error apparent on the face of record, therefore, no case for review is made out.

7. The review application and I.A. No. 805/2023 to I.A. No. 807/2023 are accordingly dismissed.

Prakash Shrivastava, CP

Sudhir Agarwal, JM

Dr. A. Senthil Vel, EM

Dr. Afroz Ahmad, EM

December 05, 20223
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JG