

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Appeal No.08/2023/EZ

Eastern Coalfield Limited & Anr.

Appellant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 20.01.2023

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

For Appellant(s) : Mr. Saunak Sengupta, Adv. & Mr. Pradip Basu, Adv.

For Respondent(s) : Mr. Ashok Prasad, Advocate for R-1 to 3,

ORDER

1. Heard Mr. Saunak Sengupta, learned Counsel and Mr. Pradip Basu, learned Counsel appearing for the Appellants.
2. The Appellants in this Appeal are seeking quashing of the order dated 28.11.2022 whereby an amount of Rs. 1,75,16,415/- (Rupees One Crore Seventy Five Lakhs Sixteen Thousand Four Hundred Fifteen only) has been imposed towards Environmental Compensation and Penalty.
3. The contention of the Appellants is that the Appellant No.1, Eastern Coalfield Limited, is a Government of India undertaking and they had applied for water dewatering @ 1890 m³/day (ground water extraction) vide their application dated 28.06.2018 (page no. 64 of the paper book) in which the mining seepage column was left blank. The No Objection Certificate ('NOC' for short) was granted by the Central Ground Water Authority valid from 23.03.2021 upto 22.03.2023 (Annexure-R, page no. 108 of the paper book).

4. It is stated that in between there was e-mail correspondence between the Central Ground Water Authority and the Eastern Coalfield Limited, Appellant herein, copy of which has been filed at page no.92 of the paper book dated 14.03.2021, wherein certain documents were required by the Central Ground Water Authority from the Appellant which was provided by the Appellant vide their e-mail dated 14.03.2021 including the desired seepage estimation details of their 13 mines. By an e-mail dated 15.03.2021 (Annexure-P, page no. 104 of the paper book), it was decided to process the application as their gross difference in the ground water dewatering quantum and the mine seepage submitted by the Project Proponent (ECL).
5. As noted above, the NOC was granted for water dewatering (ground water extraction) for 1.53 m³/day vide letter Annexure-R, page no. 108 of the paper book. Thereafter, a show cause notice was issued by the Central Ground Water Authority to the Colliery in question on 13.10.2021 (Annexure-T, page 112 of the paper book), mentioning dewatering volume as 1890 m³/day as per NOC application, dewatering volume as 1.53 m³/day as per NOC obtained and estimated dewatering volume (pre-monsoon/post-monsoon) was shown as 1641.6 m³/day. The impugned order though mentions that the water discharge (water extraction) to the Kumardhubi Colliery was given as 1890 m³/day but on the request of the Colliery to charge them on the basis of the peak seepage capacity, the charge has been levied for the difference.
6. Mr. Ashok Prasad, learned Counsel appearing for the Respondents has drawn our attention to the letter of the Appellant dated 15.03.2021 (Annexure-O, page no. 103 of the paper book), and

submits that the Appellant had himself requested that the NOCAP fee be charged on the basis of the maximum seepage the mine has ever reached highlighted in the table mentioned in the letter and, therefore, the impugned order has been passed accordingly. Learned Counsel, however, submits that the impugned order has been passed on the basis of own letter of the Appellant dated 15.03.2021.

7. Mr. Saunak Sengupta, learned Counsel appearing for the Appellant, on the other hand, submits that the charges for ground water extraction given in Table 5.4.A for Mining Projects, requires the Government to charge @ Rs. 2 for quantum of water extraction between 200 m³/day to less than 1,000 m³/day as per the said table given in the Notification of the Ministry of Jal Shakti, Department of Water Resources, River Development and Ganga Rejuvenation, Central Ground Water Authority, dated 24.09.2020 (Annexure-A, page no. 34,(at page no.43) of the paper book), and in any case the Respondents could not have charged the Appellants for water extracted at any other rate the letter of the Appellants dated 15.03.2021 notwithstanding.
8. In our opinion, matter requires consideration.
9. Issue notice to the Respondents.
10. Mr. Ashok Prasad, learned Counsel who is present in Court accepts notice on behalf of the Respondent Nos. 1 to 3, Ministry of Jal Shakti, Department of Water Resources, Central Ground Water Authority, and Central Ground Water Board, Regional Office, Patna.
11. The learned Counsel prays for six weeks time for filing counter-affidavit. Time as prayed is granted.

12. **List on 02.03.2023.**

13. Till the next date of listing, the recovery of Rs.1,75,16,415/- (Rupees One Crore Seventy Five Lakhs Sixteen Thousand Four Hundred Fifteen only) in pursuance to the impugned order dated 28.11.2022 shall remain stayed.

14. We also make it clear that this order or pendency of the present Appeal shall not preclude the Appellant from applying for a fresh NOC from the Central Ground Water Authority.

15. Mr. Pradip Basu, learned Counsel for the Appellants shall serve e-copy/soft copy of the Memo of Appeal along with all its annexures upon Mr. Ashok Prasad, learned Counsel for the Respondents, within 24 hours.

.....
B. Amit Sthalekar, JM

.....
Prof. A. Senthil Vel, EM

January 20, 2023,
Appeal No.08/2023/EZ
AK