

Item No. 2

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONE BENCH, BHOPAL
(Through Video Conferencing)**

Original Application No. 151/2023(CZ)

Rajendra Tiwari

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of Hearing: **13.02.2024**

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

For Applicant(s):	Mr. Vaibhav Pancholay, Adv. with (Mr. Rajendra Tiwari, Applicant in Person)
For Respondent(s):	Mr. Om Shankar Shrivastava, Adv. Mr. Dharamvir Sharma, Adv. Mr. Sagar Jindal, Adv. Mr. Vaibhav Thakuria, Adv. Mr. Shoeb Hasan Khan, Adv. Mr. Lokendra Singh Kachhawa, Adv. Mr. Shivanshu Soni, Adv.

ORDER

1. Respondent nos. 2, 4, 5, 6, 7, 8 and 10 have filed the reply today.
2. Learned counsel for the respondent nos. 13 and 14 Mr. Om Shankar Shrivastava has submitted that the preliminary objection with regard to the maintainability of the original application should be entertained first. On the basis of the pleadings following issues are framed :-
 - i. Whether the application is maintainable in accordance with the National Green Tribunal Act, 2010.
 - ii. Whether the area comes within the Eco-Sensitive Zone and violating of the provisions contained in the Eco-Sensitive Zone.
 - iii. Whether the construction/commercial use is without any authority from the National Wildlife Board as required.

- iv. Whether the activities are commercial activities in the Eco-Sensitive Zone and comes within the category of prohibited categories and in violation of the Eco-Sensitive Zone.
 - v. Whether the activities are in violation of notification dated 08.03.2019 issued from the MoEF&CC.
 - vi. As to whether the construction/unit is in violation of EIA notification dated 14.09.2006 for want/requisite environmental clearance from the competent authority.
 - vii. As to whether the construction/use of the premises are in violation of the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981 and the Noise Pollution (Regulation and Control) Rules, 2000.
 - viii. Whether the lease was operated w.e.f. November, 2020 after the issuance of the notification of Nahargarh Wildlife Sanctuary and hit and controlled by the provisions contained in notification dated 08.03.2019.
 - ix. Whether the requisite consent to establish or other statutory requirement and permission has been obtained from the competent authority/ State Pollution Control Board.
3. Since, the issues are inter-related and mixed question of law and fact – it is necessary to hear on all the points and to proceed in accordance with the records on the merit. Though, the PCB and the MoEF&CC have been arrayed as a party but the specific reply has not been submitted by these two authorities. Accordingly, MoEF&CC and State PCB are directed to specifically mention with regard to the violations of above provisions.
4. Jaipur Development Authority (JDA) has not been arrayed as a party but during the course of hearing the matter and orders of JDA has been discussed. Thus, the reply by the JDA is also proper and necessary and the

applicant is directed to implead and issue notice to the JDA, who may file the reply within three weeks.

List it on **03rd April, 2024 for hearing.**

Sheo Kumar Singh, JM

Dr. Afroz Ahmad, EM

13th February, 2024
O.A. No. 151/2023 (CZ)
PN