

Item No. 06

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

Appeal No.09/2023 (CZ)

Prasanjeet Singh Sankhla

Appellant (s)

Vs.

SEIAA, Rajasthan & Ors..

Respondent(s)

Date of Hearing: **05.09.2024**

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

For Appellant (s):

For Respondent(s):

Mr. Vaibhav Thakuria, Adv.
Ms. Vanshika Dubey, Adv.
Mr. Om Shankar Shrivastav, Adv.
Mr. Rishab Kumar, Adv. for
Mr. Shoeb Hasan Khan, Adv.

ORDER

1. Challenge to this appeal is order dated 20.10.2023 on the ground that the impugned order granting Environmental Clearance to the respondent no.4 is highly illegal, arbitrary and against the settled proposition of law and as such deserves to be quashed and set aside. Further ground of the appellant are that no opportunity of hearing was granted to the appellant and the none of the representation/objection submitted by the appellant was considered by the authorities concerned. Notices were issued to the respondents and reply by respondents has been filed.
2. We have heard the learned Counsel for the parties and perused the record. The contention of the respondent no. 4 are that an appeal may be filed by an aggrieved person. How an order restoring the grant of EC in favour of the answering respondent may affect the adjacent mine holder/complainant. Right of

appeal is an statutory remedy which can be availed by an aggrieved person only, present appellant is a mere complainant and impugned order passed in favour of the answering respondent restoring EC, can not be considered as affecting the rights of the present appellant , therefore, the present appeal is not maintainable.

3. Appeal filed by the present answering respondent, challenging the cancellation of the EC by SEIAA granted in his favour in Appeal no. 25/2022 (Hukam Singh Vs SEIAA) moved an application for impleading him as party respondent on the ground that any order passed in the appeal may adversely affect his right, title and interest. This Tribunal vide order dated 24.03.2023 was pleased to dispose of, the said application (I.A No. 08/2023) by holding as not maintainable on the ground that the said applicant (present Appellant) is neither necessary nor proper party. In fact this Tribunal had not granted any liberty to the present Appellant to be heard or even to submit his objections, inspite of this SEIAA called him but that do not create any right to be heard in his favour.

4. The brief facts are as follows

- i. Environment Clearance was granted vide letter dated 24.12.2020 by State Level Environment Impact Assessment Authority, Rajasthan, on the basis of the details submitted as per application dated 18.10.2019 filed by Late Shri Maan Singh.
- ii. Thereafter the Rajasthan State Pollution Control Board, Jodhpur vide letters dated 19.01.2021 granted consent to

establish and consent to operate to Late Shri Maan Singh for the said mining lease M.L. no. 58/2001.

iii. That the aforesaid mining lease was transferred in favour of the answering respondent Hukam Singh in pursuant to the application filed by the Late Shri Maan Singh. Superintending Mining Engineer, Jodhpur passed the order dated 15.02.2021 in respect of the said transfer of the mining lease M. L. no. 58/2001 and thereafter, the agreement of transfer was registered on 19.02.2021

iv. that Appellant Prasanjeet Singh Sankhla, who is the owner and holder of the adjacent mining lease M.L. no. 32/2000 near village Bujawad, Tehsil Luni, District- Jodhpur filed a false complaint dated 15.02.2021 before the Superintending Mining Engineer, Jodhpur to the effect that the Late Shri Maan Singh had obtained the Environmental Clearance on the basis of wrong information regarding co-ordinates for the mining lease M. L. no. 58/2001

vi. It seems that the said report of the Mining Engineer, Jodhpur was relied by the Director, Mines & Geology in his communication vide letter no. 330 dated 24.08.2021 addressed to the State Level Environment Impact Assessment Authority, Rajasthan who vide order dated 06/07.09.2021 had cancelled the Environmental Clearance of the Late Shri Maan Singh with immediate effect.

vii. Answering respondent challenged the said cancellation of EC before this Tribunal who vide order dated 07.07.2023 allowed the said Appeal and directed SEIAA to pass fresh order after giving due opportunity of hearing to the present answering respondent.

viii. In compliance of this Tribunal's order dated 07.07.2023, after hearing the present answering respondent and considering the entire material available on record SEIAA passed the order dated 20.10.2023 restoring the EC in favour of answering respondent.

ix. Mining Engineer, Jodhpur had issued the certificate regarding the Latitude and Longitude for M.L. no. 32/2000, mines of the Appellant which are exactly the same as given to Late Shri Maan Singh vide certificate dated 17.07.2019 (M.L no. 58/2001 mine of present answering respondent)

5. It is further argued that Appellant had intentionally submitted false declaration before this Tribunal that he had preferred the present appeal assailing the impugned action of the respondents wherein the proposal for environmental clearance has been rejected vide order dated 20.10.2023 on arbitrary and wrongful grounds whereas in the said order SEIAA had held that there is no reason to cancel the EC granted in favour of the answering respondent. For ready reference the operating last lines of the impugned order dated 20.10.2023 are reproduced herein under :

"In view of the above, and the explanation submitted by the project proponent, the Authority deems that there is no reason to cancel the earlier EC issued in this case."

6. Appellant is mere a complainant and impugned order passed in favour of answering respondent restoring EC, cannot be considered as affecting the rights of the present Appellant. He is neither necessary or proper party, as held by this Hon'ble Tribunal vide order dated 24.03.2023 passed in I.A no. 08/2023 in Appeal no. 25/2022 (Hukam Singh Vs SEIAA). It is relevant to mention here that the Appellant is stranger to the proceedings and he does not have any locus standi to challenge the impugned order passed in favour of the answering respondent, therefore the present Appeal is not maintainable and is liable to be dismissed on this count alone.

7. The submission and argument of the Learned Counsel for the respondent no. 1, 2 3 are that the SEAC considered the project for appraisal in its meeting 4.56th held on 27th, 28th and 29th, October 2020 after deliberation resolved to recommend to SEIAA for grant of Environment Clearance with conditions.

8. The Respondent No.1 considered the project after appraisal from SEAC. The Respondent No.1 i.e SEIAA Rajasthan, in accordance with the provision of EIA 2006, after detailed deliberations took a

final view in its 4.47th meeting held on 22.12.2020 and decided to grant EC to the project.

9. On the basis of the complaint filed by the adjacent mine holder dated 15.02.2021 before the Superintending Mining Engineer, Jodhpur to the effect that the Appellant had obtained EC on the basis of wrong information regarding co-ordinates for the mining lease M.L.no. 58/2001, SEIAA Rajasthan cancelled the EC vide order dated 06.09.2021.
10. Respondent No. 4 filed Appeal no.25/2022 titled Hukum Singh vs SEIAA, Rajasthan before this Hon'ble Tribunal challenging the cancellation order of EC by answering Respondent dated 06.09.2021.
11. Tribunal vide its order dated 07.07.2023 directed SEIAA, Rajasthan to pass fresh orders in accordance with law after giving due opportunity of hearing to the applicant. In compliance of NGT order dated 07.07.2023 the matter was examined in detail by SEIAA on 18,10.2023 and the Respondent No.4i.eSh. Hukum Singh and his consultant submitted a copy of the letters of the Mining Engineer (ME) Mr. Shri Krishna Sharma dated 15.6.21 and 10.8.21. As highlighted by the Respondent No.4, the following facts emerged after perusal of these letters which were not mentioned in the report of the DMG Udaipur received earlier and are detailed below :-
 - (i) A detailed joint site inquiry was done by field staff of the Mining Department and Patwari/Revenue official to verify the claims of the complainant as mentioned in letter of ME, Jodhpur dated 10.8.21 and 15.06.2021.

- (ii) As per the enquiry report submitted, the applicant had produced the previously recorded GPS co-ordinates of the pillars of the mining lease and other coordinates from the departmental website of the Mining Department DGOMS which are located far away from the originally sanctioned mining lease. And at present, according to the field report, coordinates have been taken using DGPS, because of which the difference has arisen in the coordinates, as stated in letter no. 1222 dated 10.8.2021 issued by M.E. Jodhpur.
- (iii) The Mining lease has been sanctioned based on the demarcation from the FRP (fixed reference point) of Shri Mata Ji ke rnandir/Gal which as per the joint field inspection report 31.3.2021 also falls in Gram Bujhawad, Khasra 34. The site verification report by the Patwari and others confirmed that the mine is operating at the same place where it was sanctioned by the Mining Department. The verification done from the coordinates taken DGPS also show that the location of the mining lease area is the same as its actual original demarcation.

12. The most relevant issue is that the mine is operating at the same location where it was originally approved as per the first Demarcation Survey Report. The site inquiry report of the Mining Department dated 15.6.21 and 10.8.21 is the most authenticated document to refer to for actual ground truthing of the lease location and coordinates mentioned are merely a means of indicating the lease area location on ground. On the basis of site enquiry report of Mining Department dated 15.06.21 and 10.08.2021 and explanation submitted by Respondent No.4, Answering Respondents found that there is no reason to cancel the earlier EC issued and authority vide its order dated 20.10.2023 grant the EC to the PP.

13. We have gone through the order impugned 20.10.2023 and found that Appellant was provided an opportunity of hearing and the Appellant participated in the proceeding and after providing an opportunity of hearing, the order was passed in accordance with law.

14. In view of the above contention, the ground that opportunity of hearing was not provided is baseless. On the grounds mentioned above the order passed by the State Level Environment Assessment Authority Rajasthan Vide order dated 20.10.2023 is in accordance with law and there is no irregularity and illegality in passing of the order. The appeal is devoid of any merits and deserves to be dismissed and accordingly **dismissed**.

Sheo Kumar Singh, JM

Dr. Afroz Ahmad, EM

5th September 2024
Appeal No. 09/2024(CZ)
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