

Item No.01

**BEFORE THE NATIONAL GREEN TRIBUNAL
CENTRAL ZONAL BENCH, BHOPAL**

(By Virtual Mode)

Original Application No.76/2023(CZ)
(I.A.No.69/2023)

Umesh Kumar Singh

Applicant(s)

Versus

State of Chhattisgarh & Ors.

Respondent(s)

Date of hearing: 17.08.2023

**CORAM: HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER**

For Applicant(s) : Dr. Rameshwar Saugandhi, Advocate

For Respondent(s): Mr. Rohit Sharma, Advocate for Respondent
No.1.

ORDER

1. Heard applicant in person.
2. This Original Application (hereinafter referred to as '**OA**') has been filed by Umesh Kumar Singh under Section 14, 15 and 18 of National Green Tribunal Act, 2010 (hereinafter referred to as '**NGT Act, 2010**') alleging that he is an expert in the field of "detection of control toxic pollutants" and as per his calculation respondent company i.e. Bharat Aluminum Company Ltd. in district Korba is producing 360 Kg of cyanide per month and in order to prove its allegation he wants to take sample from the company but company is not allowing him to take sample, therefore a direction be issued to company to allow applicant to collect sample of spent pont lining (hereinafter referred to as '**SPL**') which contains, according to the applicant, cyanide.

3. He has further claimed that he filed a Writ Petition in High Court of Chhattisgarh at Bilaspur being Writ Petition (PIL) no. 27/2021 which was disposed of by High Court vide order dated 19.03.2021 directing respondent 5 i.e. Collector, district Korba to decide applicant's representation after giving opportunity to all concerned parties but the said representation was not decided. Thereafter he also filed a contempt petition which has been dismissed by order dated 28.04.2023 observing that no contempt is made out.
4. Now he has come to this Tribunal complaining that High Court's order is not being complied with so this Tribunal should issue necessary directions for compliance of High Court order and permit applicant to collect fresh samples of SPL from the company i.e. Bharat Aluminum Company Ltd.
5. In the entirety of facts and circumstance, we find that it is not an application where any substantial question relating to environment has arisen out of implementation of enactment specified in Schedule 1 of NGT Act, 2010. Applicant has no legal or otherwise right to collect a sample from an industry and therefore a direction sought in this regard is thoroughly misconvinced.
6. Further, this Tribunal is not competent to act as an executing court for High Court's order in as much as under Section 25 it is order of Tribunal which is executable as a decree of Civil Court. There is no provision under NGT Act, 2010 authorizing Tribunal to execute High Court's order.
7. Even otherwise there is no such order of High Court which needs to be complied with particularly when contempt petition before High Court has also failed.

8. In any case, even this request is not within the domain of Section 14 and 15 of NGT Act, 2010. The prayer made in this application is beyond the jurisdiction of Tribunal and direction authorizing the applicant to collect sample from the company cannot be issued as applicant has no such legal right.
9. The OA is accordingly dismissed.
10. I.A. no. 69 of 2023 stands dismissed in view of the order of date passed in O.A. 76 of 2023(CZ).

Sudhir Agarwal, JM

Dr. Afroz Ahmad, EM

August 17, 2023
Original Application No.76/2023(CZ)
(I.A.No.69/2023)
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