

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

Original Application No.147/2023(WZ)
(Earlier Diary No.2704105003662023)

Irfan Baloch & Ors.

.....Applicant(s)

Versus

MoEF&CC & Ors.

....Respondent(s)

Date of hearing: 10.10.2023

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Applicant-in-person along-with
Mr. Raghvendra Kulkarni, Advocate

Respondent(s) : Mr. Maulik Nanavati, Advocate for GPCB

ORDER

1. From the side of applicants, learned counsel Mr. Raghvendra Kulkarni holding brief of learned counsel Mr. Rahul Garg has appeared, who apprised us that he has been engaged in this matter today only and that he would be removing the defects, which are mentioned in the report of the Assistant Registrar dated 09.10.2023, within a period of three weeks. But we consider it to be a very long period to remove the objections and direct him to remove the same today itself with the help of our office. The main defects, which we have noted, are related to the contact details of the applicants and respondents to be filled up in preview form, which can be done very easily today only. The other defects is said to be the annexures not being attested, therefore, we direct the learned counsel for applicants to attest the same today only. With respect to annexures not properly scanned, in this regard, we have gone through the said documents, they appear to be legible, by and large, therefore, these defect does not appear to be serious of nature. As regards the

limitation clause, we consider it to be appropriate for us to take up this matter at the time of final argument. Therefore, we direct the Registry to register this case today itself.

2. Since the applicants have stated that they do not know English and have got the present Original Application drafted by some typist, therefore, we do not find it to be a coherent application nor does it state specifically, what issue is involved as illegal mining, cutting of trees illegally and setting up of the wind farms around the “Rampara VD Sanctuary” are said to be the issues, which are highlighted in this application.

3. Today, out of the five applicants, only from the side of applicant No.2, Mr. Lavji Lalji Ambaliya and applicant No.5, Mr. Katiya Haidarali Ahmadbhai has appeared before us. The other three applicants have signed Vakalatnama in favour of the counsel for the applicants, who are being represented through learned counsel Mr. Raghvendra Kulkarni holding brief of learned counsel Mr. Rahul Garg.

4. We have tried to understand the issues involved in the present application by these two applicants, who are present before us and it is apprised by them that the private respondents i.e. respondent Nos.9 to 12 have set up wind farm illegally around Rampara Vidi Sanctuary, in order to generate electricity within the radius of 0.50 mtrs. to 10.00 kms. of the outer limit of the said sanctuary, which is an eco-sensitive area. This sanctuary falls in the restricted zone and in this area, the industrial activity of any kind is not permissible without any prior approval. This activity is being done in collusion with the respondent Nos.1 to 8, who are Government Servants.

5. It is also alleged in this application that in the protected forest area, the electric lines are also set up with the help of electric poles

without any prior permission. As many as 30 Wind Farms are set up and day & night activities in these Farms are disturbing the wild animals and birds as their movement is adversely impacted.

6. In view of above allegations made by the applicant, we find *prima facie* case adversely impacting on environment is made out, therefore, we deem it appropriate to admit this application and accordingly admit the same.

7. Registry is directed to issue Notice to the respondents, returnable within 04(four) weeks.

8. Learned counsel Mr. Maulik Nanavati, who has appeared before us on his own, is likely to represent respondent No.2/Secretary, Forest and Environment Department, State of Gujarat and he assures us that he would seek instructions from the Government in that regard and put his appearance. In the meantime, we direct the Registry to provide a copy of the application to the learned counsel Mr. Maulik Nanavati through e-mail.

9. Applicants are directed to take necessary steps for service to the respondents by both ways (Dasti as well as by Registered Post) and also on available e-mail/WhatsApp and submit service affidavit within one week.

10. Applicants are also directed to provide copy of the application and relevant documents to the respondents within a week.

11. Respondents are directed to submit their reply affidavits within three weeks and also circulate the same to applicants as also other respondents by available e-mail.

12. Rejoinder, if any, is directed to be submitted within one week thereafter.

13. Learned counsel Mr. Maulik Nanavati has also provided us a copy of Guidelines for Declaration of Eco-Sensitive Zones around National Parks and Wildlife Sanctuaries, issued by the Government of India, Ministry of Environment and Forest on 09.02.2011 and he apprised us that the use of renewal energy resources is an activity, which is required to be actively promoted in eco-sensitive areas and that the Wind Farm would fall in the same category, hence this cannot be said that this activity is prohibited activity in the said area. Apart from that, we also find that in the Notification dated 28.12.2017, issued by the Ministry of Environment and Forest, in which it is mentioned that an area to the extent varying between 0.17 kms. and 4.25 kms. around the boundary of Rampara Wildlife Sanctuary in the State of Gujarat has been declared to be eco-sensitive zone and in this Notification, under the head prohibited, regulated and promoted activities, there is a table given at serial no.37 of which the activity “use of renewal energy sources’ shall be actively promoted, has been recorded.

14. We require an answer from the applicants as to how they are claiming that no Wind Farm can be set in the area in question, which is said to be an eco-sensitive zone, in view of the above Guidelines as well as Notification dated 28.12.2017.

15. We deem it just and proper to call for a report in the present application from a Joint Committee comprising one Member each of:

- (i) The Chief Conservator of Forest, State of Gujarat;
- (ii) The District Collector, Morbi, State of Gujarat; and
- (iii) The Secretary, Environment Department, Government of Gujarat.

16. The Committee is directed to visit the site and submit a factual and action taken report with regard to the truthfulness of the allegations

made in the present application and if any action taken thereon, within one month.

17. Besides this, we would also like from the Joint Committee to submit a report with respect to the birds getting killed by the blades of wind mills and solution to the same, if any.

18. The Chief Conservator of Forest, State of Gujarat shall be the nodal agency for coordination and logistic support.

19. The report in the matter be submitted by SPCB through e-filing by using portal of NGT in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

20. Applicants are directed to supply the required documents and copy of the application to the Members of the Committee within three days from today.

21. A copy of this order be communicated to the above-mentioned Committee forth-with for compliance.

Put up this matter for further consideration on 17.01.2024

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

October 10, 2023
Original Application No.147/2023(WZ)
(Earlier Diary No.2704105003662023)
P.Kr