

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

[Through Physical Hearing (with Hybrid Option)]

**EXECUTION APPLICATION NO.16 OF 2023 (WZ)
(Earlier E.A. No.21 of 2023)**

IN

**ORIGINAL APPLICATION NO.119 OF 2023 (WZ)
(Earlier Original Application No.363 of 2015)**

Dr. Sarvabhoun Bagali

.... Applicant

Versus

State of Karnataka & Ors.

.... Respondents

Date of hearing : 15.09.2023

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

Applicant : Mr. Aagney Sail, Advocate

ORDER

1. This Execution Application has been filed by the applicant with the prayers that the State of Maharashtra through Collector, Solapur – respondent No.3 be directed to deposit the remaining compensation amount of Rs.45 lakhs with interest at the rate of 10% per annum with the District Legal Services Authority (DLSA), Vijapura for payment to the families of three deceased girls, in compliance with the directions issued by this Tribunal vide order dated 25.09.2018 in Original Application No.363/2015; it is also prayed that respondent No. 5/Project Proponent – M/s K.J. Infrastructure Projects India Pvt. Ltd be penalized for non-compliance of the above directions of this Tribunal and the cost may also be directed to be paid.

2. The learned counsel for the applicant has drawn our attention to the order dated 25.09.2018 passed by this Tribunal in Original

Application No.363/2015, wherein, in paragraph No.22, following was held and directed:

“Applying a thumb rule, the amount of compensation is held to be Rs.25 lakhs for each of the three girls. The loss is assessed to be Rs. One lakh per year. Applying multiplier of 18 and taking into account the interest of conventional heads and penal factor which is attracted in such cases, the entirety of compensation is determined to be Rs.25 lakhs in respect of each of the teenaged girls who died in the process. The total amount of Rs.75 Lakhs may be paid on or before 31.10.2018 by M/s K.J. Infrastructure Pvt. Ltd., Pune. If the amount is not paid, as above, interest at the rate of 10% p.a. will be payable. We further direct that if the amount is not paid by M/s K.J. Infrastructure Project India Private Ltd. within three months, the State of Maharashtra will pay the amount to the victims and recover the same from M/s K.J. Infrastructure Project India Private Ltd. with accrued interest. The amount may be deposited with the District Legal Services Authority, Vijapura for being paid to the victims, on proper identification”.

3. Against the said Judgment and Order, the Hon’ble Apex Court was approached by respondent No.5 by filing Civil Appeal No.11492 of 2018, which was dismissed vide order dated 15.11.2022 and following observations/directions were made/issued therein :

“But in the instant case, there are admitted facts on record and an in-house inquiry was conducted by the SDM and thereafter, finding was returned by the Tribunal under the order impugned. That apart, we have granted opportunity of hearing to the appellant at length and after taking into consideration the submissions made, we are of the view that the finding which has been returned by the Tribunal does not call for any interference.

The interim compensation of Rs.30 Lakhs deposited by the appellant in the Registry, pursuant to the order of this Court dated 02.05.2022, shall be transferred to the Registry of National Green Tribunal and the balance amount of compensation of Rs.45 Lakhs be deposited with the Registry of the Tribunal within three months from today, as prayed for. The balance compensation to be deposited shall carry

interest, if the appellant fails to deposit the same within three months.

The amount so deposited be disbursed to the families of the victims forthwith thereafter.

The appeal is dismissed with the aforesaid observation.”

4. In compliance with the above directions, a representation was made by the applicant before the DLSA, Vijapura for compliance of the order of the Hon’ble Apex Court mentioned above, pursuant to which, our attention is drawn to page No.39 of the paper-book, which is a letter dated 23.03.2023 written by the Member Secretary, DLSA, Vijapura to the Registrar General of National Green Tribunal, Principal Bench, New Delhi, wherein it is recorded that the office of the DLSA, Vijapura had received DD No.186612 of Rs.30,14,959/- which was deposited in their VCS account and the said amount was divided equally and disbursed to the families of three victims after verification and proper identification.

5. Now only balance amount of Rs.45 lakhs with interest at the rate of 10% per annum remains to be deposited by respondent No.5 – Project Proponent, which has not been done and as per direction of this Tribunal, it has been upheld by the Hon’ble Apex Court that if the said payment is not made by respondent No.5, then the same has to be made by the State of Maharashtra and the amount so paid would be realized from respondent No.5 – Project Proponent. But we find that the State of Maharashtra has not been impleaded in the Execution Application by the Execution Applicant through Chief Secretary. Therefore, we direct the applicant to implead the State of Maharashtra through its Chief Secretary as respondent No.7 today only and file the amended memo of Execution Application on record.

6. Considering the above facts and submissions made on behalf of the applicant, stated above, we deem it appropriate to admit this Execution

Application and direct the Registry to issue notice to the respondents including newly impleaded respondent No.7 – State of Maharashtra, returnable within four weeks.

7. The applicant is directed to provide copies of the Execution Application and annexures thereto to the respondents, within a week.

8. The applicant is also directed to take necessary steps for service upon the respondents by both ways and also through available e-mail.

9. Put up this matter for further consideration on 01.12.2023.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

September 15, 2023
E.A. No.16/2023(WZ)
npj