

Item No.7:-

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**

(Through Video Conference)

Appeal No.29 of 2020 (SZ)

IN THE MATTER OF

S.K. Vijaykumar

...Appellant(s)

Versus

Karnataka State Level Environment
Impact Assessment Authority
Bangalore and Ors.

...Respondent(s)

Date of hearing: 01.02.2023.

CORAM:

HON'BLE Smt. JUSTICE PUSHPA SATHYANARAYANA, JUDICIAL MEMBER

HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER

For Appellant (s): Mr. Ritwick Dutta along with
Mr. G. Stanly Hebzon Singh.

For Respondent(s): Mr. Vasanth H.K. for R1.
Mr. K.M. Vijayan, Sr. Adv. for R2.
Mr. Nishanth represented
Mr. M.R. Gokul Krishnan for R3.
Mr. Rajat Jonathan Shaw represented
Mr. Darpan K.M. for R4 & R6.
Mr. Mohammed Umar represented
Mr. B. Dhanraj for R5.
Mr. S. Rajasekar for R7.

ORDER

1. The case of the appellant is that the project proponent viz., the 2nd respondent is operating the bulk drug manufacturing unit for a long time without Environmental Clearance (EC) till such time they obtained the Environmental Clearance (EC) on 24.08.2020 under the violation category. If it is under the violation category, unless the compensation for the earlier violations is assessed and paid, the Environmental Clearance (EC) ought not to have been granted.
2. In this regard, it was also pointed out that the SEIAA - Karnataka had followed the Kyoto Protocol in assessing the damage caused to the environment. There is no reason why the guidelines of the Central Pollution Control Board (CPCB) or the State Pollution Control Board have not been followed in this case and they adopted the Kyoto Protocol as per the wish of the project proponent.
3. In this regard, S.O. 804 (E) dated 14.03.2017 which was published for finalizing the process for appraisal of projects for grant of Terms of Reference and Environmental Clearance (EC) which have started the work on site expanded their production beyond the limit of the Environmental Clearance (EC) or change the product mix without obtaining prior Environmental Clearance (EC) under the EIA Notification, 2006.
4. The said notification specifically provides that the Expert Appraisal Committee (EAC) shall stipulate the implementation of an Environmental Management Plan, comprising a remediation plan and natural and community resource augmentation plan

corresponding to the ecological damage assessed and economic benefit derived due to violation as a condition of Environmental Clearance.

5. While so, adopting the Kyoto Protocol, the SEIAA - Karnataka has not considered the economic benefit derived due to the violation while assessing the ecological damage. So, in this regard, we are prima facie not accepting the Kyoto Protocol method for assessing the damage. Therefore, we direct the Karnataka State Pollution Control Board to assess the environmental damage caused by adopting the guidelines of the CPCB or SPCB, adverting to the economic benefit derived due to the violation as a condition of the Environmental Clearance (EC). The Karnataka State Pollution Control Board is also directed to give a comparative statement of computation as per the Kyoto Protocol as well as the CPCB Guidelines.
6. It appears that the SEIAA - Karnataka has deliberately followed the Kyoto Protocol as requested by the project proponent which does not include the component of economic benefit due to the violations. So, the SEIAA - Karnataka is directed to file a detailed report in this regard as to why the Central Pollution Control Board Guidelines were silent and why the Kyoto Protocol was adopted in this case.
7. Let these reports be filed in advance and share it with the counsels for the appellant and also the project proponent before the date of next hearing to enable them to file their response if any.

8. Post the matter on 20.02.2023.

Sd/-
Smt. Justice Pushpa Sathyanarayana, JM

Sd/-
Dr. Satyagopal Korlapati, EM

Appeal No.29/2020 (SZ)
01st February, 2023. Mn.

