

Item No.4:-

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

(Through Video Conference)

Appeal No.33 of 2022 (SZ)

IN THE MATTER OF

Meenava Thanthai K.R. Selvaraj Kumar
Meenavar Nala Sangam, Royapuram,
Chennai.

...Appellant(s)

Versus

Union of India,
Represented by its Secretary,
MoEF&CC, New Delhi and Ors.

...Respondent(s)

Date of hearing: 10.04.2023.

CORAM:

HON'BLE Smt. JUSTICE PUSHPA SATHYANARAYANA, JUDICIAL MEMBER

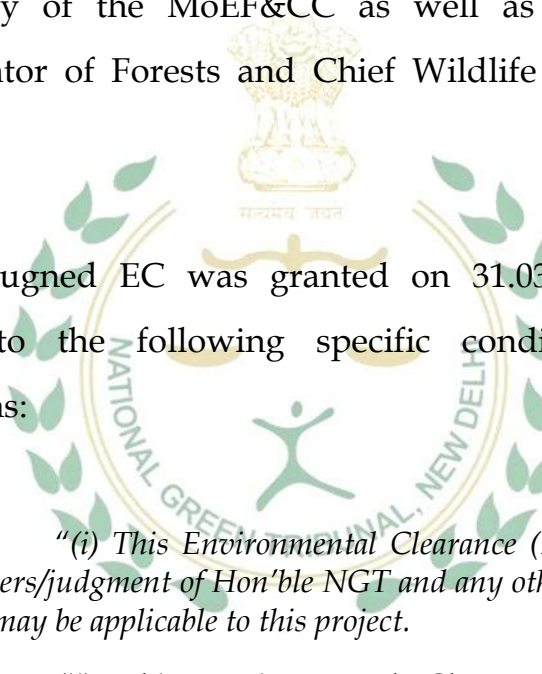
HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER

For Appellant (s): Mr. G. Stanly Hebzon Singh.

For Respondent(s): Mr. Meyappan represented
Mrs. Me. Sarashwathy for R1.
Dr. D. Shanmuganathan for R2 & R4.
Mr. S. Sai Sathya Jith for R3.
Mr. A. Ramesh Kumar & A.S. Balaji for R5.

ORDER

1. This is an appeal challenging the Environmental Clearance (EC) granted on 31.03.2022 for the expansion of active pharmaceutical ingredients manufacturing unit with production capacity from 25.5 TPM to 134.082 TPM with the existing plant in Sathammai Village, Madurantakam Taluk, Chengalpattu District by the Project Proponent – M/s. Sun Pharmaceutical Industries Limited.
2. The reply of the MoEF&CC as well as the Principal Chief Conservator of Forests and Chief Wildlife Warden are already filed.
3. The impugned EC was granted on 31.03.2022 for expansion subject to the following specific conditions among other conditions:



"(i) This Environmental Clearance (EC) is subject to orders/judgment of Hon'ble NGT and any other Court of Law, as may be applicable to this project.

(ii) This Environmental Clearance is subject to obtaining the NBWL clearance from the Standing Committee on Wildlife as the unit is located at 3.72 Km (West) from the Vedanthangal Bird Sanctuary."
4. In this regard, it is to be noted that the **Original Application No.88 of 2020 (SZ) [Meenava Thanthai K.R. Selvaraj Kumar, Meenavar Nala Sangam Vs. Union of India and Ors.]** was filed before this Tribunal alleging that the very same project proponent did not have valid EC and also causing heavy pollution, besides

that factory running under the 'Red' Category situated within the core zone of the Vedanthangal Bird Sanctuary. The said application was disposed of on 29.09.2022 and this Tribunal directed the project proponent therein to pay an interim compensation of Rupees Ten Crores for violation of operating the unit without EC from the date on which the pollution load exceeds the permitted load.

5. When the impugned EC is issued before the verdict of this Tribunal in an earlier application, after the case was disposed of, the project proponent should have produced a copy of the order before the MoEF&CC. The MoEF&CC also has the duty to follow up with the project proponents whether they have complied with all the specific conditions and general conditions mentioned in the EC. If the EC is issued subject to the outcome of the cases pending before any Court of Law or this Tribunal, it is the duty of the MoEF&CC to restrict the validity of the EC for a short period of 3 or 6 months, follow it up and recall/cancel the EC, if they are found to be violators. The violating project proponent should have applied for EC for the existing unit and only thereafter, they could have applied for the 'expansion' category.
6. It is also to be noted that the EC is granted subject to obtaining the NBWL Clearance from the Standing Committee on Wildlife, as the project proponent claimed that the unit is located 3.72 Km (West) from the Vedanthangal Bird Sanctuary. However, in the status report filed by the Respondent No.4/Principal Chief Conservator of Forests and Chief Wildlife Warden dated 15.02.2023, it is stated that the proposed project site falls within

the Vedanthangal Bird Sanctuary and the said location is 2.30 Km away from the Karikili Birds Sanctuary and falls within the default Eco Sensitive Zone of Karikili Birds Sanctuary.

7. In Colum No.7 of the Form - 1 application submitted by the project proponent, it is stated that this particular project would come under 'B2 - Category' and the Vedanthangal Bird Sanctuary boundary is approximately 3.72 Kms (West) from the site. The EC has been granted based on the statement made by the project proponent that the unit is located at 3.72 Km from the Vedanthangal Bird Sanctuary, whereas the PCCF's report states that it is within the Vedanthangal Bird Sanctuary.
8. Even without waiting for the clearance from the NBWL, the impugned EC is granted subject to getting clearance. As the PCCF has stated in its report that the project site is within the bird sanctuary, whether the EC granted now is sustainable in view of the false information furnished.
9. When the order of this Tribunal was passed on 29.09.2022, it was made clear and evident that the project proponent is a polluting industry and also violating the provisions of the EIA Notification, 2006.
10. The report of the PCCF filed on 15.02.2023 also states that the unit is located within the Vedanthangal Bird Sanctuary. So, the first two specific conditions imposed in the impugned EC are violated by the project proponent. In this regard, it appears that no action has been taken by the MoEF&CC either by recalling or cancelling

the EC granted for non-compliance with the above referred conditions.

11. So, this Tribunal wants to know when the Environmental Clearances are granted subject to several conditions, whether there is a follow up action by the MoEF&CC in the event of non-compliance with conditions, as in the instant case.
12. The instant case is a classic example where the EC is granted subject to several conditions which are not complied with by the project proponent, but the validity of the EC is sustained despite the same.
13. In this regard, let the MoEF&CC file a detailed response as to how the project proponents will be dealt with in the event of any of the conditions in the EC are not complied with and within what time such action is being taken. Let the MoEF&CC also state whether they have taken any such action by recalling or cancelling the EC granted earlier, atleast in a few of the cases and furnish the particulars.
14. Post the matter on 10.05.2023 for a final hearing.

Sd/-

Smt. Justice Pushpa Sathyanarayana, JM

Sd/-

Dr. Satyagopal Korlapati, EM

Appeal No.33/2022 (SZ)
10th April, 2023. Mn.