

Item Nos.10 & 11:-

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

(Through Video Conference)

Miscellaneous Application No.04 of 2023 (SZ) in
Original Application No. 180 of 2021 (SZ)

WITH

Original Application No. 56 of 2023 (SZ) &
I.A. No.58 of 2023 (SZ)

IN THE MATTER OF:

Baddam Raji Reddy &Ors.

.... Applicant(s)

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

...Respondent(s)

Baddam Bhaskar Reddy,
Siddipet and ors.

...Applicant(s)

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

...Respondent(s)

Date of hearing: 04.07.2024.

CORAM:

HON'BLE Smt. JUSTICE PUSHPA SATHYANARAYANA, JUDICIAL MEMBER

HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER

M.A. No.04/2023:

For Applicant(s): Mr. C.H. Ravi Kumar.

For Respondent(s): Mr. Sai Srujan Tayi for R1.
Mr. S. Janarthanam for R2 & R5.
Mr. Rajinikanth Reddy, AAG a/w.
Mrs. H. Yasmeen Ali for R3, R6 to R8.

O.A. No.56/2023:

For Applicant(s): Mr. S. Sai Sathya Jith.

For Respondent(s): Mr. Sai Srujan Tayi for R1.
Mr. S. Janarthanam for R2 & R5.
Mr. Rajinikanth Reddy, AAG a/w.
Mrs. H. Yasmeen Ali for R3, R6 to R8.

ORDER

1. This Miscellaneous Application [**M.A. No.04 of 2023 (SZ)**] is filed alleging that the order passed in O.A. No.180 of 2021 (SZ) dated 10.02.2022 was violated by the contemnors/respondents herein, in utter disobedience and scant regard to the order.

2. The project relates to the expansion of the Gouravelli Reservoir. The primary allegation in the Original Application was that the same was constructed and continued without obtaining Environmental Clearance.

3. While disposing of the above-referred Original Application, this Tribunal held that any construction without Environmental Clearance is unlawful and restrained the State of Telangana from proceeding further with the project till the proceeding initiated by the MoEF&CC is completed. However, it

is alleged that the project was proceeded with by the Project Proponent and was almost completed without Environmental Clearance.

4. It is to be noted that the MoEF&CC created a window period for the post facto clearance for those projects that commenced without Environmental Clearance. The said Office Memorandum dated 07.07.2021 of the MoEF&CC was stayed by the Hon'ble Supreme Court of India and the matter is pending consideration. In view of that, the application filed by the Project Proponent is not processed by the MoEF&CC. Therefore, the Project Proponent should not have to proceed with the construction without the EIA Report and Environmental Clearance.

5. The Original Application [O.A. No.56 of 2023 (SZ)] is filed seeking a prayer to restrain the respondent authorities from constructing the Gouravelli Reservoir, without resettling the villagers in the affected villages and without obtaining the Environmental Clearance under the EIA Notification, 2006.

6. Since both matters relate to the same subject, they are taken together for consideration.

7. A common reply was filed by the MoEF&CC, in which, it is stated that the satellite images provided by NRSC reveal that the Project Proponent has made significant progress in the construction of Gouravelli Reservoir during the period between 04.03.2023 and 08.06.2023, which amounts to almost completion of the project. Further, it is found that the Project

Proponent continued to violate the EIA Notification, 2006, even after the restraint order passed by this Tribunal on 10.02.2022 in O.A. No.180 of 2021 (SZ).

8. Based on the above, the MoEF&CC, vide Letter dated 14.09.2023, requested the Telangana State Pollution Control Board to confirm if credible action is taken against the Project Proponent, as per the directions of the SIEAA – Telangana vide ToR Letter dated 15.02.2023. If the MoEF&CC had found that after the judgment passed, considerable progress was made by the Project Proponent to complete the project particularly during the specific period between 04.03.2023 and 08.06.2023, instead of delegating the Telangana State Pollution Control Board to take action against the Project Proponent, the MoEF&CC itself ought to have assessed the damages, advised the Project Proponent to stop the construction and take appropriate action.

9. Further, the Telangana State Pollution Control Board, on 05.07.2023, has directed the Environmental Engineer, Regional Office, Sangareddy - II to ensure immediate stoppage of construction work and take necessary action for the violation of the EIA Notification, 2006 against the Project Proponent. The Telangana State Pollution Control Board also had taken action by filing a case before the First Class Judicial Magistrate, which resulted in a fine of Rs.50,000/-, failing which, imprisonment for one week, vide order dated 02.02.2024 by the Judicial Magistrate of First Class at Husnabad, Siddipet District.

10. From the above, it is patently clear that the Project Proponent had violated the orders of this Tribunal. Moreover, this Tribunal had also made it clear that if the Project Proponent makes an application for including the change of scope and applied for Environmental Clearance, the same should not be granted by way of an amendment for the existing Environmental Clearance, but the entire process will have to be reassessed.

11. The Project Proponent has applied for expansion of Gouravelli Reservoir on 06.12.2022 by filing a fresh proposal titled '*Expansion of Gouravelli Reservoir from 1.410 TMC to 8.23 TMC*'. This Tribunal also directed the MoEF&CC to conduct a further enquiry regarding the nature of damage caused, the cost required for restoration of the damage caused to the environment and reassess the compensation.

12. The Standard Operating Procedure (SOP) for identification and handling of violation cases under the EIA Notification, 2006 vide O.M. dated 07.07.2021 is in place. The SOP for consideration of violation cases involves two components viz., (1) Ecological damage assessment and restoration: Assessment of environmental/ecological damage with respect to air, water, noise, soil/land, flora and fauna and occupation health and other environmental attributes and preparation of remediation plan and (2) Penalty on the basis of '*Polluter Pays*' principle.

13. The Hon'ble Supreme Court of India, vide Order dated 02.01.2024, has stayed the O.M. dated 07.07.2021, which pertains only to the grant of post facto clearance and that does not

preclude the MoEF&CC to proceed with assessing the damages caused by the Project Proponent. It is un-understandable as to why the said exercise of assessing the damage caused by the Project Proponent in violation of the order passed by this Tribunal is not done.

14. It is curious to note that the MoEF&CC has delegated the powers in this regard to the State Pollution Control Boards and also several other authorities to deal with the violators. However, in the instant case, the State of Telangana is the violator who has wilfully disobeyed the orders of this Tribunal and it would not be appropriate for the MoEF&CC to delegate the powers to any of the state officials to take action for violations and to identify the nature of damage and furnish the calculation of cost required for restoration of the damage caused to the environment and reassess the compensation covered under the ecological damage assessment.

15. The MoEF&CC should have taken up the task upon itself and proceeded to assess the damage, if not immediately, at least when the miscellaneous application was filed before this Tribunal. The pendency of the writ petition challenging the O.M. dated 07.07.2021 has nothing to do with the assessment of damages.

16. The GRMB which was also directed to visit and assess the damages caused, though found that the Project Proponent had disobeyed the orders of this Tribunal, had not

taken any action on its own or informed the MoEF&CC to take appropriate action.

17. The learned Additional Advocate General for the State of Telangana, who appears for the Project Proponent, also admitted that there was considerable progress in the project made after the restraint order was passed by this Tribunal in O.A. No.180 of 2021 (SZ).

18. The satellite images produced by the applicant as well as the MoEF&CC also reveal that there was considerable progress made after the restraint order was passed.

19. At this juncture, it would be appropriate to state that the MoEF&CC, which has filed its reply through the Director / Scientist 'F', should have realized that the delegation, as per their proceeding, is not possible when it involves the State Government itself as violator and ought to have taken up the responsibility on themselves.

20. It would not be out of place to mention that the officers in charge are dealing with the matters in a lackadaisical manner and handling them without seriousness. If the MoEF&CC had undertaken the task of assessing the damages and informed this Tribunal, the O.A. No.56 of 2023 (SZ) would not have been filed. If the State Pollution Control Board is delegated with the powers to assess the damages, it cannot act against its own Government. At least the Telangana State Pollution Control Board should have informed the MoEF&CC about their predicament.

21. This Tribunal will not hesitate to take appropriate action against the officers concerned of the State Government, at the relevant point of time, particularly the technical and administrative heads, who wilfully disobeyed the orders of this Tribunal.

22. In view of the above observations and discussions, we direct the Secretary - MoEF&CC to consider this case as a special case, as the contemnor/violator is the State of Telangana and the task of assessing the damages caused by them should not be entrusted to the State Government officials and take it up on themselves and do the same. Accordingly, we direct the MoEF&CC to inspect the project, assess the nature of damage, calculate the cost required for restoration of the damage (if any) and also reassess the compensation for the ecological damage within a period of 2 (Two) months from today.

23. Let the matter be listed on **09.09.2024**.

Sd/-

Smt. Justice Pushpa Sathyanarayana, JM

Sd/-

Dr. Satyagopal Korlapati, EM

M.A. No.04/2023 (SZ) in
O. A. No.180/2021 (SZ) &
O.A. No.56/2023 (SZ)
I.A. No.58/2023 (SZ)
04th July, 2024. Mn.