

Item No.07:

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

Monday, the 30th Day of October, 2023

(Through Video Conference)

Execution Application No. 09 of 2023(SZ)

In

Appeal No. 15 of 2020 (SZ)

IN THE MATTER OF

M/s. Telangana State Power Development Corporation Limited
Vidyut Soudha, Khairatabad Road
Somajiguda, Hyderabad
Telangana – 500 004.

...Applicant/Respondent No.4

Versus

1) The Conservation of Action Trust

5, Sahakar Bhavan, 1st Floor, LBS Road,
Narayan Nagar, Ghatkoper (W),
Mumbai – 400 086
Rep. by its Executive Trustee
Mr. Debi Goenka.

2) Samata

Through its Executive Director
R. Ravi
Dabbanda Vill, Gandigundam PO,
Mamidilova Panchayat
Anandpuram Mandal
Visakhapatnam – 531 173
Andhra Pradesh.

...Respondent Nos.1 and 2/ Appellant(s)

3) The Union of India

Ministry of Environment, Forest & Climate Change
Through its Secretary
Paryavaran Bhawan,
CGO Complex, Lodhi Road,
New Delhi – 110 003.

4) State of Telangana

Department of Environment, Forests, Science & Technology
Through its Secretary
D Block, 2nd Floor, Secretariat Building
Hyderabad, Telangana – 500 022.

5) Telangana State Pollution Control Board

Represented by the Member Secretary
Vidyut Soudha, Khairatabad Road
Somajiguda, Hyderabad
Telangana – 500 004.

...Respondent Nos.3 to 5/Respondent Nos.1 to 3

For Applicant(s): Mr. J. Ramachandra Rao, AAG along with
Mr. Y. Rama Rao and Mr. B. Lakshmi Narasimhan.

For Respondent(s): Mr. Sai Srujan Tayi for R3.
Mr. T. Sai Krishnan for R5.

CORAM:

HON'BLE Smt. JUSTICE PUSHPA SATHYANARAYANA, JUDICIAL MEMBER

HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER

ORDER

1. This is an Execution Application filed by the Telangana State Power Development Corporation Limited to enforce the Judgment of this Tribunal dated 13.09.2022 in Appeal 15 of 2020 (SZ).
2. In the said appeal, it was specifically directed that the MoEF&CC to issue additional Terms of Reference (ToR) to the Project Proponent for the purpose of conducting further studies on the following aspects:-
 - a. They will have to specify the coal linkage for conducting the study on radio activity impact and they will have to conduct the study on those aspects as directed by this Tribunal in **Appeal No.46 of 2016 (SZ) (Uma Maheshwar Dahagama Vs. Union of India & Ors.)** by Judgment dated 27.05.2021 confirmed by the Hon'ble Apex Court in **Civil Appeal No. 1846 of 2021**.
 - b. If the project proponent intends to switch over to 100% indigenous coal, then they will have to conduct further study on this aspect and that can be done only by filing an application before the MoEF&CC for this purpose and if any further ToR is required that also must be issued by the MoEF&CC and the public hearing will have to be conducted and all other procedure to be followed as directed by the Hon'ble Apex Court in **Key Stone Realtors Private Limited Vs. Anil V Tharthare & Ors. (Civil Appeal No. 2435 of 2019)** as mere

amendment of the EC already granted will not be sufficient and this Tribunal also ignored the Office Memorandum issued by the MoEF&CC, Government of India in this regard while considering this issue in **Appeal No.46 of 2016 (SZ) (Uma Maheshwar Dahagama Vs. Union of India & Ors.)** by Judgment dated 27.05.2021 confirmed by the Hon'ble Apex Court in **Civil Appeal No. 1846 of 2021.** “

3. While considering the above aspects, the MoEF&CC was also directed to issue a direction to the project proponent to conduct additional studies, if any, to be conducted regarding the sufficiency of the ash pond, etc.
4. There were also other directions issued by this Tribunal while passing the order and directed the entire exercise to be completed by the Project Proponent, Expert Appraisal Committee (EAC) and the issuing authority viz., the MoEF&CC within a period of 9 (Nine) months.
5. The said time frame given by this Tribunal ended in June 2023. There was no progress subsequent to the order. Hence, the above Execution Application has been filed.
6. The directions given by this Tribunal can be enforced only after the ToR is issued by the MoEF&CC, as there is a delay notice was issued to the respondents.
7. The learned counsel appearing for the respondent filed their counter, in which, they have adverted to the Office Memorandum dated 11.11.2020 which is under challenge in O.A. No. 74 of 2021(SZ) filed by one Mr. K. Saravanan and the same is pending.
8. In the EAC report, there were deliberations regarding the said O.M. by the EAC. The respondent also has filed a report on the directions of this Tribunal in O.A. No. 74 of 2021(SZ), in which, they have indicated the applicability of the O.M. dated 11.11.2020.

9. It is stated that the change from 100% imported coal to 100% domestic coal, the O.M. is not applicable. Similarly, change from 100% domestic coal to 100% imported coal, the O.M. is not applicable. It also speaks about the applicability of the O.M. if (i) change from one domestic source to other domestic source, (ii) blending of imported coal in domestic coal based power projects up to a maximum of 30% and (iii) blending of domestic coal in imported coal based power projects up to a maximum of 10%. It is stated further that blending of domestic coal in imported coal based power projects beyond 10%, the O.M. is not applicable.
10. When the MoEF&CC has studied the applicability of the O.M., it need not have waited for the final orders in the O.A. No. 74 of 2021(SZ).
11. In the counter, the only reason given by the MoEF&CC for the delay is that the above referred O.A. No. 74 of 2021(SZ) is pending and that it may require another 6 (six) months time for granting additional ToR and submission of additional information by the project proponent. If the reason given by the MoEF&CC is correct, they should have sought for an extension of time by filing a separate application. Instead, when the Execution Application is filed by the project proponent, the pendency of the O.A. challenging the O.M. is shown as a reason for not issuing the ToR, based on which further studies have to be conducted by the project proponent. Even in the counter, they have sought for 6 (six) months time for the issuance of ToR.
12. The learned Additional Advocate General (AAG) appearing for the project proponent submitted that each day's delay is causing a huge financial loss for the State.
13. Even otherwise, when this Tribunal has specifically directed the MoEF&CC to issue the additional ToR, we find no reason for the delay. Despite a specific direction given in the final order with a

specific time frame, we are unhappy to state that the MoEF&CC has delayed the matter for no reason and given such baseless excuses.

14. We, therefore, direct the MoEF&CC to issue the additional ToR as per the Judgment dated 13.09.2022 within a period of **4 (Four) weeks from today**, failing which, appropriate action may be taken against the officer concerned.

15. With the above observations and directions, this Execution Application No. 09 of 2023(SZ) is disposed of accordingly.

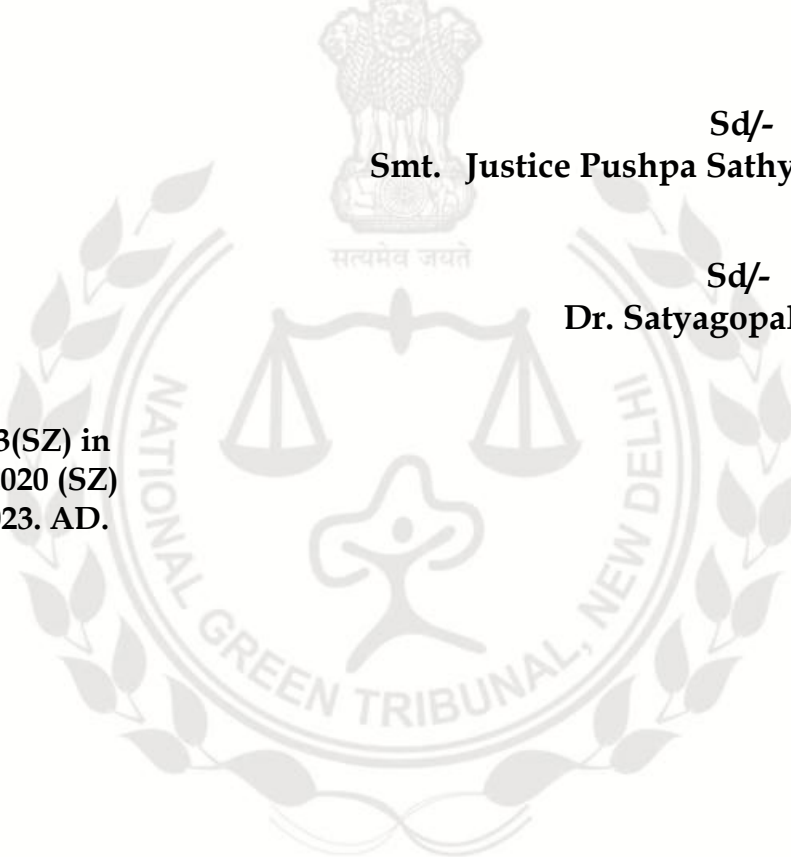
Sd/-

Smt. Justice Pushpa Sathyanarayana, JM

Sd/-

Dr. Satyagopal Korlapati, EM

E.A. No. 09/2023(SZ) in
Appeal No.15/2020 (SZ)
30th October, 2023. AD.



NGT