

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

Dated this the 20th day of December, 2023.

(Through Video Conference)

Appeal No.38 of 2022 (SZ)
With
Appeal No.42 of 2022 (SZ) &
I.A. No.138 of 2022 (SZ)

IN THE MATTER OF

Appeal No.38 of 2022

1) Ganapathi Dixit

S/o Shivaram Dixit,
Aged about:68 years,
R/o. H.No.1-6-146/687,
Village: Hadnoor Adarsh Nagar Extension,
Zaheerabad Municipality,
Sangareddy Dist-502318.

2) Andela Ramulu (Ramana)

S/o. Narsappa,
aged about:58 years,
Village: Huselli, Mandal: Nalkal
R/o. H.No.1-39, Post: Mamidigi,
Sangareddy-502249.

3) Kuran Santhoshappa

S/o. Nagappa,
aged about:37 years,
R/o. H.No.1-17, Village & Post: Mamidigi,
(M) Nyalkal District-Sangareddy,
Telangana 502249.

4) BaroorRajasheker Reddy

S/o. Sangareddy,
aged about:36 years,
R/o. H.No.1-19, Village & Post: Mamidigi,
(M) Nyalkal , District Sangareddy,
Telangana-502249

5) P. Narayan Rao

S/o. Sangappa, aged about:67 years,
R/o. H.No.9-4-46, Gandhi Gunj Road,
Sai Colony, Bidar,
Karnataka-585401.

6) Chinna Rathod Jamini Bai

W/o. Chinna Rathod, aged about:55 years,
Village: Mungi Tanda, Mandal: Nyalkal,
Post: Hadnoor-Telangana.502251.

7) M. Shankar

S/o. Narsappa, aged about:51 years,

R/o. H.No.3-86, Village & Post: Yelgoi,
Mandal: Jarasangam, District: Sangareddy,
Telangana-502249.

8) Yesappa

S/o. Balappa,
aged about:60 years, Village & Post: Yelgoi,
Mandal: Jarasangam, Dist: Sangareddy,
Telangana-502249.

9) Sale Lakshmi

W/o. Srinivas,
aged about:45 years, Village: Mungi,
Mandal: Nyalkal, Post: Hadnoor, Dist: Sangareddy,
Telangana-502251.

10)Malipatil Vilas Reddy

S/o. Narayan Reddy, aged about:60 years,
R/o. H.No.1-58, Village & Post: Metalkunta,
Mandal: Nyalkal, Dist: Sangareddy.

..Appellants

VERSUS

1) Union of India

Rep. by its Secretary
Union Ministry of Environment, Forest & CC
Indira Paryavaran Bhavan
New Delhi-110003.

2) State of Telangana

Rep. by its Chief Secretary
Secretariat, Hyderabad-500022.

3) Zaheerabad National Investment and Manufacturing Zone Limited.

Rep. by its Managing Director/CEO
TSIIC, 6th Floor, 5-9-58/B,
Parishrama Bhavan, Fateh Maidan road,
Basheerbagh, Hyderabad Telangana-500004.

4) Telangana State Industrial Infrastructure Corporation (TSIIC)

Rep.by its Managing Director
TSIIC, 6th Floor, 5-9-58/B, Parishrama Bhavan,
Fateh Maidan road, Basheerbagh,
Hyderabad, Telangana-500004.

5) District Collector

Sangareddy District Collectorate
Sangareddy Town & District Telangana-502001.

....Respondents

WITH

Appeal No. 42 of 2022

1) MALI PATEL RAJU REDDY

S/o Ram Reddy,
R/o H. No. 34, Mamidi Village,
Nyalkal Mandal, Sangareddy District,
Telangana.

2) BAROOR SRINIVAS REDDY

S/o Baroor Penta Reddy,
R/o H. No. 1-55, Village and Post Mamidigi,

(M) Nyalkal District, Sangareddy,
Telangana-502249.

3) M. RAGHAVA REDDY

S/o M.Malla Reddy,
R/o H. No. 6-3-84/1,
Premnagar, Beside Saibaba Temple,
Khairatabad, Hyderabad Telangana-502249.

4) POTTUPALLI NARSIMHULU

S/o Chandragoud,
R/o H. No.2-66/2, Rejinthala Village,
(M) Nyalkal, District Sangareddy,
Telangana- 502249.

5) BHUTPALLY RAJANARSIMULU

S/o Galaiah, R/o H. No. 2-46,
Rejinthala Village, (M) Nyalkal,
District Sangareddy, Telangana.

6) KUNTALA VEERA REDDY

S/o Narsa Reddy,
R/o 2-15/1, Village Post Mamidigi,
(M) Nyalkal District Sangareddy,
Telangana-502249.

7) GUNJETTI VISHWANATHAM

S/o Eraiah,
R/o H. No. 2-85/1, Village and Post Mamidigi,
(M) Nyalkal District Sangareddy,
Telangana-502249.

8) SHIVAREDDIGARI SANJEEVA REDDY

S/o Bheemreddy,
R/o H.No.1-81, Village & Post Yelgoi,
Mandal Jarasangam, District Sangareddy,
Telangana-502249.

9) KODUR SRIPATHI

S/o Babu Gonda,
R/o H.No.1-69/2, Village Mungi,
Mandal Nyalkal, Post Hadnoor,
District Sangareddy, Telangana-502251.

10) KONDAL BICHI REDDY

S/o Sidha Reddy,
R/o H. No. 2-10, Village & Post Metalkunta,
Mandal Nyalkal, District Sangareddy,
Telangana.

... Appellants

VERSUS

1) UNION OF INDIA

Ministry of Environment, Forest & Climate Change
Secretary
Indira Paryavaran Bhavan
New Delhi-110003.

2) STATE OF TELANGANA

Secretary

Telangana Secretariat,
5th Floor, Burgula Rama Krishna Rao Bhavan,
NH-44, Hill Fort, Adarsh Nagar,
Hyderabad-500063.

3) TELANGANA STATE POLLUTION CONTROL BOARD

Through the Member Secretary,
A-3, Paryavaran Bhavan, Sanath Nagar,
Hyderabad, Telangana 500018.

**4) ZAHEERABAD NATIONAL INVESTMENT AND MANUFACTURING
ZONE LIMITED**

Managing Director/CEO
TSIIC, 6th Floor, 5-9-58/B,
Parishrama Bhavan,
Fateh Maidan road, Basheerbagh,
Hyderabad, Telangana-500004 .

...Respondents

Appeal No.38/2022:

For Appellant (s): Mr. Sravan Kumar.

For Respondent(s): Mr. S. Rajasekar for R1.
Mrs. H. Yasmeen Ali along with
Mrs. Renuka Devi for R2 & R5.
Mr. A. Sanjeev Kumar, Spl. G.P. for R3 & R4.

Appeal No.42/2022:

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

For Respondent(s): Mr. S. Rajasekar for R1.
Mrs. H. Yasmeen Ali along with
Mrs. Renuka Devi for R2.
Mr. T. Sai Krishnan along with
Ms. J. Dayana for R3.
Mr. A. Sanjeev Kumar, Spl. G.P. for R4.

Judgment Reserved on: 16th October, 2023.

CORAM:

HON'BLE SMT. JUSTICE PUSHPA SATHYANARAYANA, JUDICIAL MEMBER
HON'BLE DR. SATYAGOPAL KORLAPATI, EXPERT MEMBER

JUDGEMENT

1. The above appeals are directed against the Environmental Clearance dated 29.04.2022 granted in favour of Zaheerabad National Investment and Manufacturing Zone Limited(*hereinafter referred to as 'Project Proponent'*)/Respondent No.4 in Appeal No.38 of 2022

(SZ) and Respondent No.3 in Appeal No.42 of 2022 (SZ) by Respondent No.1/Ministry of Environment, Forests and Climate Change (*hereinafter referred to as 'MoEF&CC'*) for construction of investment and manufacturing zone in 12,635.14 Acres at Zaheerabad, Sangareddy District, State of Telangana.

2. The Project Proponent is planning to establish a highly polluting Red Orange category industry such as automobile, food and agro-processing, electrical equipment, metals, machinery, and non-metallic minerals in the investment and manufacturing zone.
3. The appellants have stated that the Project Proponent made an application to the MoEF&CC for granting Terms of Reference (ToR). The ToR for the project was issued on 01.03.2018. On 20.01.2021, the public hearing was conducted by the Telangana State Pollution Control Board. Though the matter was taken up by the Expert Appraisal Committee (EAC) for consideration, it was deferred for various reasons. Again, it was taken up in October 2021 and deferred further to March 2022. The EAC had recommended for grant of Environmental Clearance and the Environmental Clearance, which is now impugned, was issued on 29.04.2022.
4. The appellants are residents of the villages nearby who are directly affected by the proposed project. The apprehensions of the appellants in both the appeals are that they would be displaced by setting up of the project and being farmers by profession, their livelihood will be affected.
5. The appellants have raised common grounds in both the appeals challenging the Environmental Clearance dated 29.04.2022 issued in

favour of the Project Proponent. Therefore, the appeals are taken up for consideration together.

6. The grievance of the appellants in both the appeals are:

- i.** The project involves about 12,635 Acres spread over about 17 revenue villages in various Mandals in Sangareddy District.
- ii.** 83% of the proposed project is agricultural cropland.
- iii.** As per the appellants' own survey, the lands spread over 17 villages comprise of agricultural cropland of 10,374.17 Acres out of the total project area of 12,635 Acres.
- iv.** The appellants also contended that the lands are multi cropped and extremely fertile.
- v.** The appellants are the beneficiaries of "Rythu Bandhu" Scheme which was implemented from the year 2018-19 Kharif season onwards to take care of the initial investment needs of every farmer.
- vi.** The above referred scheme is proposed by the Government of Telangana for providing investment support to agriculture and horticulture by granting Rs.5,000 per acre per farmer each season for the purchase of seeds, fertilizers, pesticides, labour and other investments, etc.
- vii.** The EAC had not done a proper appraisal before recommending the project. The EAC had not examined the Greenery and Conservation Management Plan before granting the Environmental Clearance.
- viii.** The EAC failed to consider that the project would not be able to meet the requirement of the condition referred to in the ToR viz., Zero Liquid Discharge (ZLD).
- ix.** The estimated waste water generation will be 41 MLD of industrial water and 24 MLD of sewage and the EAC had not considered whether it is possible for the Project Proponent to maintain the ZLD given the extensive area and also the residential area of 312.01 Acres, particularly when the Specific Condition No.(xii) mandates the ZLD.
- x.** The air pollution data is not realistically modelled and it does

not give a correct picture of air pollution at the site. The air quality in the project does not comply with the National Ambient Air Quality Standards.

- xi.** The issues raised in the public hearing were not duly scrutinized by the EAC.
 - xii.** The EAC failed to consider that the Project Proponent itself had acknowledged that the Cumulative Impact Assessment Study needs to be conducted.
 - xiii.** The study period for the data collection is inadequate for assessing the biodiversity of the area. The flora and fauna particulars given are incorrect and the EIA Report fails to mention whether any areas were protected, important or sensitive species of flora and fauna are found.
 - xiv.** The land use change and the destruction of the vegetation are not considered, as the project is coming up in the catchment area of Narinja Reservoir.
 - xv.** The EAC has done a faulty appraisal of the project and failed to consider that the authenticity of the data used by the Project Proponent.
 - xvi.** As the project accommodates the Red Category industries which are highly polluting, the area would suffer an irreversible impact on the air and water system which is not taken into account.
- 7.** So, on the above grounds, the appellants have sought for setting aside the Environmental Clearance, as proceeding further with the project would be detrimental to the interest of the local residents as well as farmers of the Zaheerabad Mandal.
- 8. The 1st Respondent which is the MoEF&CC has filed its counter affidavit,** wherein it is stated that the proposal for setting up of National Investment and Manufacturing Zone(*hereinafter referred to as 'NIMZ'*) at Zaheerabad was received by them and the ToR was issued on 01.03.2018. The proposal for the project in question was placed before the EAC Meeting held in March 2021 and it was

deferred for want of requisite information viz., planning of industrial estate should be based on the criteria mentioned in the Ministry's Technical EIA Guidance Manual and as per the CPCB's Zoning Atlas Guidelines for positioning of industries. As the automobile industry will be engaging in painting activity which is a 'Red' category such industries have to be clearly demarcated. The issue of land acquisition was also taken up. A detailed report on the direct and indirect types of employment opportunities during the construction and operation phase was also considered. Besides the above, the Detailed Risk Assessment and Management report, the safety of the old and heritage native trees, development of the greenbelt, Conservation Management Plan, etc. were also sought for from the Project Proponent. Thereafter, the proposal was considered again on 18.03.2021 and once again, it was deferred by seeking further details. In the 293rd EAC Meeting held on 24th and 25th March 2022, the Project Proponent had given its response as required by the MoEF&CC. In the 293rd Meeting, it was noted that the acquisition of agricultural land and fertile land should be avoided. However, the said observation was made by the EAC during the deliberation in the meeting, but it was not made part of the recommendation of the committee. The recommendations of the committee were duly incorporated in the specific conditions by the MoEF&CC at the time of the grant of Environmental Clearance dated 29.04.2022.

9. Thus, the 1st respondent had contended that it had considered all the required criteria before issuing the Environmental Clearance viz., the land acquisition, fair and mandatory compensation to the affected persons, rehabilitation and resettlement of persons likely to be displaced, etc. The MoEF&CC also considered the infrastructure development of the surrounding area, employment generation and

opportunities for the local people, better education, medical facilities, technological development, improved socio-economic conditions in the locality, etc. The 1st Respondent, therefore, contended that the Environmental Clearance was granted for the development of NIMZ at Zaheerabad after thoroughly considering the actual environmental issues and objections raised. The allegations made by the appellants in both the appeals are devoid of merits and the appeals have to be dismissed.

10. The Project Proponent (Zaheerabad National Investment and Manufacturing Zone Limited) who is the 4th Respondent in Appeal No.42 of 2022 and 3rd Respondent in Appeal 38 of 2022 have filed their counter stating that the Telangana State Industrial Infrastructure Corporation (TSIIC) Limited is a company registered under the Companies Act and is an undertaking of the State of Telangana. The above project is taken up for setting up the NIMZ at Zaheerabad. The Project Proponent stoutly denied all the allegations made in the appeal grounds. The main allegation that the project consists of 75% of the fertile agricultural land where the farmers cultivate commercial crops like turmeric, ginger, sugarcane, cotton, millets, etc. is denied. The further statement that the diversion of fertile agricultural land would cause irreparable loss to food security and livelihood of more than 20,000 farmers and labourers is only based on surmises. The EAC had recommended that the acquisition of agricultural/fertile lands should be avoided, since agriculture ensures a critical number of ecosystem services and is vital for food security and supports sustainable development. However, the Environmental Clearance was granted, considering the fact that such a condition would cripple the entire project, as it is spread over 12,635 Acres of land which would certainly include a small portion of

the fertile agricultural land. Considering the fact that the industrial park would be of national importance, lands were acquired duly following the procedure of law. The land use / land cover map was prepared as per the National Remote Sensing Centre which found that around 44.6% area of the land is scrub land followed by agricultural cropland of 27.65%, agriculture plantation of 0.80% and agriculture fallow land of 26.21%. Even in the EAC meetings, proper reasons were submitted for choosing the proposed site out of the three alternate sites, as the proposed site is having 13 Reserve Forests around it. Considering the sufficient land availability, involvement of scrub land, barren/uncultivable/waste land, better connectivity and without environmentally sensitive areas, the land near Zaheerabad has been selected for the development of NIMZ. A thorough analysis was carried out before finalizing the proposed land for development. Though there are reserved forests observed in the study area, there is no flora and fauna of conservation significance observed. The site chosen for the project was assessed with regard to the connectivity, physical site features, impact on adjoining land use, etc. for suitable integration to form into a single NIMZ region. In order to assimilate the land parcels into a contiguous land parcel, intermittent areas were identified, thereby including only waste lands and Government owned lands. The selection of the site was approved by the high-level committee including the MoEF&CC. The existing land use at the site is primarily scrub land followed by single crop agricultural lands. The government land constitutes 31% and 69% of private land.

- 11.** It is further stated that during the public hearing, opportunities were given to each of the individuals present in the public hearing and accepted all their representations. One of the appellants herein was

also present in the public hearing and was permitted to voice his views. Regarding the environmental protection and application of the '*Precautionary Principle*' and '*Polluter Pays Principle*', the project is yet to take off and it is in the very initial stage. All the environmental precautionary measures will be taken up in the implementation stage as per the norms and follow the conditions laid down in the Environmental Clearance. 33% of the industrial area should be developed with native species and form a greenbelt. The project proponent has committed to develop the greenbelt. Accordingly, the industrial areas are directed to allocate the area to be developed as green cover to the respective industrial units so as to achieve the above mentioned coverage of 33%. Regarding the water bodies, it is stated that the Narinja Reservoir is 1.5 Kms away from the project. The existing streams and drains within the project site will be retained as per the ToR requirement from the MoEF&CC. It is already undertaken to take absolute care during construction to avoid any spillage of construction materials. The drainage system will be provided at the construction yard. Measures will be taken to prevent silting of natural drainage due to runoff from construction areas. Proper drainage by providing a surface drainage system from the development parcels and connecting to storm water network will be provided. The storm water drain is to be designed wherever the diversion of the drains is proposed.

- 12.** Thus, the Project Proponent has submitted that the project has taken care of all the apprehensions raised by the appellants. As the project is yet to start, utmost care would be taken at various levels following the precautionary measures. Therefore, the appeals are filed only on apprehensions and surmises which has to be rejected.

13. The Telangana State Pollution Control Board which is the 3rd

Respondent in Appeal No.42 of 2022 (SZ) who facilitated the conduct of the public hearing has filed its reply. It is stated that the public hearing was conducted on 20.01.2021 in Bardipur Village, Jharasangam Mandal, Sangareddy District. The executive summaries both in Telugu and English and the draft EIA/ EMP reports were displayed for access to the public at designated offices. The press notification regarding the public hearing was also issued in Telugu and English dailies, inviting suggestions / views/ comments and objections of the public in writing or through e-mail. Further, the villagers were also informed by beating the drums regarding the public hearing and requesting them to take part in the proceedings. The Telangana SPCB has only stated that the public hearing was conducted by following the due procedure.

14. On the above pleadings and facts, to be decided is,

**Whether the Environmental Clearance
granted has to be sustained or set aside?**

15. Heard the learned counsels Mr. Sravan Kumar and Mr. G. Stanly Hebzon Singh for the appellants, Mr. S. Rajasekar for the MoEF&CC, Mrs. H. Yasmeen Ali for the State of Telangana, Mr. T. Sai Krishnan for the Telangana SPCB and Mr. A. Sanjeev Kumar, Special Government Pleader for the Project Proponent.

Selection of site/land:

16. The present appeal is filed challenging the Environmental Clearance dated 29.04.2022 issued by the 1st Respondent/MoEF&CC for setting up of National Investment and Manufacturing Zone (NIMZ) at

Zaheerabad by the Telangana State Industrial Infrastructure Corporation (TSIIC) Limited in an extent of 12,635 Acres at Zaheerabad of Sangareddy District in the State of Telangana. The TSIIC had acquired the land for the development of an industrial park which is identified as a project of national importance and declared as a NIMZ duly following the orders issued by the Government from time to time. The lands were acquired as per the land acquisition policy of the State. The lands were also acquired after obtaining valid consent from the farmers. The proposed project area is 12,635 Acres in Bardipur, Chilepalle, Yelgoi Villages of Jharasangam Mandal, Sangareddy District and Rukmapur, Mungi, Malkanpahad, Hadnur, Namtabad, Husselli, Rejinthal, Ganjoti, Gangwar, Kalbemal, Ganeshpur, Mamidgi, Metalkunda and Basanthpur Villages of Nyalkal Mandal of Sangareddy District under Parcel – I and II. Out of the total proposed land for acquisition, 3862.10 Acres of government assigned land and 3,045 Acres of unassigned land and 8,773 Acres of patta land. For 3,356 Acres, compensation was paid to the land owners. Further compensation for the structures existing in the land, ex-gratia payment, etc. were all paid. The land use/ land cover map was prepared by the National Remote Sensing Centre and the Satellite Imagery found that around 44.6% of the land was scrub land followed by agricultural crop land of 27.65%, agricultural plantation of 0.8% and agriculture fallow land of 26.21%.

- 17.** It is further stated by the Project Proponent as well as the MoEF&CC that implementation of the NIMZ Project in the Sangareddy District will create a vast source of employment opportunities in the project implementing area as well as the surrounding region. The implementation of the project will also create employment opportunities directly and indirectly for approximately two lakh

people. The proposed site was selected by the Project Proponent out of the three alternate sites, considering the sufficient land availability, minimal resettlement and rehabilitation, involvement of scrub land, barren/uncultivable/waste land, better connectivity and without environmentally sensitive areas near Zaheerabad. A thorough analysis was carried out by the consultant and also TSIIC. There is no reserved forest land involved in the area proposed for NIMZ development. Though there are reserve forests in the study area, there is no flora and fauna of conservation significance in the said area.

18. The District Collector also has stated that the selected site was approved by the high-level committee including the MoEF&CC chaired by the Secretary to Government of India, Department of Industrial Policy and Promotion (DIPP) as per the NIMZ Scheme and final approval for the Zaheerabad NIMZ was accorded in January 2016. The existing land use is primarily scrub land followed by single crop agricultural lands. Therefore, mere receipt of Rs.5,000/- per acre twice a year from the Government of Telangana under the 'Rythu Bandhu' Scheme by the farmers alone cannot be the criteria to conclude that the lands acquired were fertile agricultural lands.

19. The learned counsel appearing for the appellant was harping on the fact that the EAC had recommended in its 293rd Meeting that

"Acquisition of agricultural / fertile land should be avoided, since agriculture ensures a critical number of ecosystem services and is vital for food security and supports the sustainable goal. Agricultural land is lifeline for those poor people / farmers whose livelihoods are completely dependent on their lands and crops they grow".

20. While admitting that such a recommendation was made by the EAC,

the MoEF&CC has stated in their reply that the said observation was not made part of the recommendations of the committee. The proceedings of the land acquisition included different types of land, including agricultural land. In order to provide fair and mandatory compensation to the affected persons, the land acquisition proceedings and resettlement and rehabilitation of such persons were done by the State Government in accordance with the provision of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. As the overall benefit of the project to the Nation, State and Region which includes infrastructural development of the surrounding area, employment generation, etc. outweighed the fact of acquisition of agricultural lands, the said condition was not incorporated in the Environmental Clearance.

21. The EAC having taken into account the need for balancing the interests of environment as well as the needs of development has imposed several conditions for protection and maintenance of the water bodies, channels etc and has also imposed conditions for rainwater harvesting and estimated the harvestable water to be 1930631.34 M3. The number of trees proposed to be planted in the entire park has been arrived to be about 887000 and it was stipulated that the survival rate shall not be less than 80%. In addition, all the other industrial units shall also develop green areas as per prevailing TSPCB provisions.

Possession of the lands and Public Hearing:

22. Regarding the public hearing, equal opportunity was given to all those who attended the public hearing which was given wide publicity. One

of the appellants herein was also a participant who was allowed to voice his views. The baseline studies were done duly following the Technical Environmental Impact Guidance Manual for Industrial Estates, MoEF&CC and the EIA studies were conducted during the non-monsoon season. The land owners whose lands were acquired were paid their compensation and possession also taken and handed over to the TSIIC as per law and the lands were also in the possession of TSIIC. So, having parted with the lands contending that the lands are still with the owners is incorrect.

- 23.** As stated by the Project Proponent in its counter, the project being in the initial stage, all the environmental precautionary measures will be taken up at the time of implementation as per the norms following the conditions and the guidelines laid down in the Environmental Clearance regarding the development of greenbelt, protection of water bodies, etc.
- 24.** The learned counsel for the appellant also relied on the following decisions to reiterate the point of legal requirement to take into consideration the views expressed by the public have been highlighted.

**(i) 2009 SCC Online Del 3836
(Utkarsh Mandal Vs. Union of India)**

"We, therefore, hold that in the context of the EIA Notification dated 14th September 2006 and the mandatory requirement of holding public hearings to invite objections, it is the duty of the EAC, to whom the task of evaluating has been delegated, to indicate in its decision the fact that such objections, and the response thereto of the project proponent were considered and the reasons why any or all of such objections were accepted or negatived. The failure to give such reasons would render the decision vulnerable to attack on the ground of being vitiated due to non-application of mind to relevant materials and therefore arbitrary."

(ii) 2019 SCC Online SC 500
(Hanuman Laxman Aroskar Vs. Union of India)

"Public consultation involves a process of confidence building by giving an important role to those who have a plausible stake. It also recognizes that apart from the knowledge which is provided by science and technology, local communities have an innate knowledge of the environment. The knowledge of local communities is transmitted by aural and visual traditions through generations. By recognizing that they are significant stakeholders, the consultation process seeks to preserve participation as an important facet of governance based on the rule of law. Participation protects the intrinsic value of inclusion."

- 25.** Regarding the possession of the lands that were acquired, the District Collector who is the 5th Respondent in Appeal No.38 of 2022 (SZ) has stated that the TSIIC has acquired land at Zaheerabad for the establishment of NIMZ as per the rules. After taking consent, compensation was paid to the assignees / pattadars as per G.O. Ms.123 Revenue (JA & LA) dated 30.07.2015. The possession of the land was handed over to the TSIIC under cover of proper Panchanama. From then onwards, the subject lands are in the possession of the TSIIC only. The said response from the District Collector was denied by the appellants by filing a rejoinder dated 31.01.2023.
- 26.** In the rejoinder also, the appellants have reiterated about the G.O. Ms.123 dated 30.07.2015. The above G.O. Ms.123 dated 30.07.2015 provides that in order to expeditiously procure land for public projects, Government deem it fit to come out with a framework that allows the landowners to participate in the development process by willingly sell their land and properties thereon, for a consideration on the basis of an agreement between the landowners and the user department/undertaking/ society/ authority (hereinafter called as 'Procuring Agency') as approved by the District Level Land

27. The above said Government Order was put to challenge in **W.P. No.15312 of 2016** before the Hon'ble High Court of Judicature at Hyderabad. The Learned Single Judge of the Hon'ble High Court had allowed the writ petition on 03.08.2016 and quashed the G.O. Ms.123 dated 30.07.2015. Aggrieved by the same, the State of Telangana had preferred a Writ Appeal in **W.A. No.677 of 2016** before the Division Bench, in which, the Division Bench of the Hon'ble High Court had passed an interim order which is as follows:-

"We see no reason however, as at present, to deny the State the right to purchase lands from those who are willing to part with their lands on their own volition provided the interests of the petitioners, and those similarly situated, are adequately safeguarded. When we expressed our view that, prima facie, the benefits, which the petitioners and other similarly situated were entitled to under the Second Schedule to the 2013 Act could not be denied to them even if the State were to voluntarily purchase land from the land owners, the learned Advocate General fairly stated that the State Government would issue an executive order, under Article 162 of the Constitution of India, extending all the benefits prescribed under the Second Schedule to the 2013 Act in so far as the affected families under the NIMZ project were concerned. He also undertook, on behalf of the State, not to dispossess the land owners from the subject land, and to permit them all to carry on agricultural operations till the conditions stipulated, in the Government Order proposed to be issued, were implemented in its entirety.

In view of the undertaking of the State Government, as conveyed to us by the learned Advocate General, we consider it appropriate, pending further orders in this appeal, to suspend the order of the Learned Single Judge. The State shall, however, not effect registration of the sale deeds, executed for the sale of lands to them by the land owners in relation to the NIMZ project, till a copy of the said G.O. is placed for our perusal and we are satisfied that the G.O. fulfils all the requirements of the Second Schedule to the 2013 Act. **We also make it clear that purchase of the lands by the State shall be subject to the result of this appeal and the State shall specify, in the sale deeds to be executed by the land owners in their favour, that the sale of lands by the owners, and purchase of lands by the State, shall be subject to the result of this writ appeal and neither the land owners nor the State shall claim equities when the appeal is finally heard."**

28. A reading of the above interim order passed by the Hon'ble High Court of Telangana, there seems to be no impediment for the State Government to purchase the lands which shall be subject to the result of the writ appeal. The only condition is that the State shall specify in the sale deeds to be executed by the land owners that the sale of the lands by the owners and purchase of the lands by the State shall be subject to the result of the writ appeal and neither the landowner nor the State shall claim equities when the appeal is finally heard.

29. So, in view of the above, the statement made by the District Collector that the possession of the lands was handed over to the TSIIC after obtaining consent and full compensation is paid to the landowners is accepted. As already the matter is subjudice before the Hon'ble High Court, the said aspect is not being discussed further.

Environment vs. Development and Food Security

30. The contention of the appellants that the acquisition of the agricultural lands will have an adverse bearing on food security for the current generation as well as future generations is a point which has to be considered in all its seriousness.

31. Among the many challenges facing humanity, food security and mitigation to climate change are critical as a result both these challenges occupy top of the international agenda. Agriculture, which is being impacted by climate change, plays a significant role in ensuring food availability a key component of food security. Only when sufficient quantities of food of appropriate quality are available the other aspects of food security viz. food access, utilisation and stability can be addressed. It is estimated that farmers will need to

feed a projected population of 9.1 billion in 2050. Therefore the need to preserve the existing agricultural lands besides augmenting the irrigated areas of agricultural crops becomes critical. However, the need for economic development of different regions is also vital. The economic model that is envisioned must ensure social and environmental sustainability. It is in this context a great responsibility is bestowed on government as well as players involved in the economic development through Industrial projects to ensure that measures should be undertaken for compensating the loss of agricultural production due to land acquisition. They should undertake measures to increase the agricultural production in such areas by augmenting the irrigation sources to ensure that the increased production due to irrigation compensates for the production lost in the acquired area. A case in support of the above approach being proposed is the requirement of growing Ten trees by the Project Proponent for every single tree that is to be cut for the project. Based on this principle laid in a number of cases by the Honourable Apex Court, Honourable High Courts and This Tribunal, projects are permitted even in Reserve Forest Areas. Such an approach addresses the Principles of Sustainable Development and Precautionary Principle besides ensuring that projects acquiring agricultural lands are made responsible for increasing agricultural production to make good the loss of agricultural production by acquisition of agricultural land for their projects.

- 32.** It is ironic that a project which intends to promote Food Processing is acquiring about 3415 acres of agricultural land and about 3285 acres of agricultural fallow lands. Food processing industries can thrive only when there is adequate area under agriculture. The issue involved was examined and several measures have been imposed by the EAC

to increase the green cover and conservation of water resources. However, taking into account the principles laid supra, we recommend imposition of the following additional conditions for incorporation in the Environmental Clearance granted by the MoEF&CC:

- (i) All the Industries should tap the roof top rainwater and store them in impermeable ground level storage structures with recharge shafts and the surplus from these storage structures should be harvested by recharge structures to improve the ground water aquifer. The capacity of the storage structure should be fixed with reference to the roof top area of each unit to be established in the Project Area.
- (ii) The Project Proponent and the Industries to be established should fund formation of Farm Ponds in the fields of farmers in the areas adjoining the Estate and the villages in the Mandals of Sangareddy District so that cultivation of irrigated crops increases. The EAC may fix an annual target of Farm Ponds to be created by the Project Proponent as well as by the Industries which will be established in the Project Area.
- (iii) The Project Proponent and the Industries should promote horticultural tree crops in an area equivalent to the no. of acres allotted to each Industry and the Project Proponent in an area equivalent to the total agricultural area of the project. The Project Proponent and the Industries may be granted a period of 5 years to achieve the target.
- (iv) The percentage of survival of trees proposed to be planted may be increased to 90% instead of 80% stipulated by EAC.
- (v) The downstream water bodies in the Mandals of Sangareddy District which are to receive the surplus water from the water bodies located in the project area may be desilted along with inlets and outlets by the Project Proponent and the Industries, with appropriate approvals, to enhance the storage capacity and increase horticultural crops. In case no water body in the Mandals

where the project is proposed receives surplus water from the project area, the Water Bodies, along with inlets and outlets, in Sangareddy District may be identified for desiltation. The EAC may fix the target for the Project Proponent as well as the Industries proposed to be established in the Project Area. A reasonable annual target may be fixed by the EAC.

33. In view of the above discussions, we find no merit in the contentions of the appellants for setting aside the Environmental Clearance dated 29.04.2022 granted in favour of the Project Proponent. **Hence, both the appeals [Appeal Nos.38 & 42 of 2022 (SZ)] are dismissed** with a direction to the EAC to incorporate the additional conditions as mentioned in Para 32 above.

34. No order as to costs.

35. Consequently in view of the dismissal of the Appeals, the interlocutory application [I.A. No.138 of 2022 (SZ) in Appeal No.42 of 2022 (SZ)] is also dismissed.

Smt. Justice Pushpa Sathyanarayana, JM

Dr.SatyagopalKorlapati, EM

Internet – Yes/No
All India NGT Reporter – Yes/No

Appeal No.38/2022 (SZ)
Appeal No.42/2022 (SZ)
I.A. No.138/2022 (SZ)
20th December, 2023. AM & MN.