

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NOS.2160-2161/2020**

**GOVERNMENT OF NCT OF DELHI**

**APPELLANT(S)**

**VERSUS**

**MAHAVIR SINGH & ORS.**

**RESPONDENT(S)**

**O R D E R**

1. The present appeals arise out of the Orders dated 03.12.2018 and 01.05.2019 passed by the National Green Tribunal (for short, 'the Tribunal') in O.A.No.57 of 2013(THC) and Review Application No.28 of 2019 respectively.

2. The applicants-respondents herein had highlighted health and environmental concerns with respect to the disposal of plastic waste, especially those arising out of the method of disposal, leading to release of volatile organic compounds, semi-volatile organic compounds, and particulate matters being into and dispersed in the atmosphere.

3. The Tribunal had made various orders (as is evident in paragraph No. 5 of the impugned order). It also directed the Chief Secretary of Government of NCT of Delhi to ensure compliance with its directions.

4. The impugned order notes that in the Minutes of meeting held on 17.10.2018, the appellant (Government of

NCT of Delhi) had indicated the steps it had taken till then in compliance of the Tribunal's direction.

5. In the background of the circumstances and the previous orders, the Tribunal was of the opinion that the appropriate order was to *inter alia* direct the appellant-Government of NCT of Delhi to deposit Rs.25,00,00,000/- (Rupees twenty five crores) towards the cost of damage to the environment to be paid to the Central Pollution Control Board for restoration of the damage. The appellant also was directed to furnish a performance guarantee of the same amount i.e Rs.25,00,00,000/- (Rupees twenty five crores). In addition to these, the Tribunal issued the following directions :-

- “(iii) The Chief Secretary must directly or through his nominee prepare a clear action plan for compliance of Rules and restoration identifying the name of the persons responsible to execute and responsible officer to supervise and the consequences for failures.
- (iv) In the compliance affidavit, beyond making a vague averment that challans have been issued under Section 5/15 of the Environment (Protection) Act, 1986, no details of such challans have been furnished. Such particulars may now be furnished and action initiated under the law against those responsible, including the officers of the Delhi Government.
- (v) The Delhi Government is at liberty to recover the cost of damage to the environment from its officers as well as from the polluters acting in violation of law.

- (vi) We expect monitoring at the highest level at least once in a fortnight.
- (vii) We further direct that on failure to comply this order, the Delhi Government will be required to deposit further amount of Rs.10 crores per month till the order of this Tribunal is fully executed.
- (vii) Let an appropriate compliance affidavit be filed by the Chief Secretary, Delhi on or before 31.03.2019.
- (ix) We make it clear that any individual case of sealing/de-sealing may be dealt with by appropriate authorities in accordance with law consistent with the orders of this Tribunal."

6. It is argued by Mr. Sanjay Jain, learned Additional Solicitor General appearing for the appellant, that the observations of the Tribunal with respect to the "*Polluter Pays*" principle, forming part of the remit of the Tribunal- by Section 20 of its parent enactment (National Green Tribunal Act, 2010), could not have been invoked in the circumstances since the Government of NCT of Delhi is charged with ensuring compliance with the law and cannot be deemed a polluter.

7. It was submitted that the appellant-Government of NCT of Delhi has complied with the directions - not only by depositing the requisite amounts but also by taking active measures in ensuring compliance with the law and the relevant regulations.

8. Ms. Srishti Agnihotri, learned counsel appearing

for respondent No.1, on the other hand, submitted that the appellant was saddled with the liability, which the order has imposed upon it on account of its repeated failure on its part to put in place active measures to combat plastic waste pollution which is extremely hazardous.

9. It was further submitted that this Court should not make any observation with respect to the applicability or otherwise of the "*polluter pays*" principle having regard to the special responsibilities that governments have to shoulder in the discharge of their statutory duties.

10. Since the appellant has not only indicated its compliance with respect to the deposit of monetary sums directed by the Tribunal, but also that steps have been taken by it, pursuant to the impugned order, this Court is of the opinion that it would be appropriate that the Tribunal monitors this aspect, from time to time.

11. This Court is not in the circumstances of this case, inclined to make any observations on the submissions of the appellant with respect to the applicability of the "*polluter pays*" principle.

12. In view of the foregoing, the appellant is at liberty to move the Tribunal in the disposed of application (O.A. No.57 of 2013) and elaborate the steps it has taken to mitigate the damage caused to the environment on account of plastic waste disposal by an appropriate application.

13. Since, the appellant has also deposited a sum of Rs.25,00,00,000/- (Rupees twenty five crores), this Court does not propose to make any order as to that amount. However, with respect to the sum of Rs.10,00,00,000/- (Rupees ten crores) which was directed to be deposited every month, the Court is of the opinion that that direction need not be enforced and would be subject to such orders as the Tribunal may pass having regard to the compliance indicated, in its application and such other orders as it may pass on the merits of the case after hearing the parties.

14. The appeals and pending application(s) stand disposed of in the above terms.

....., J.  
(S. RAVINDRA BHAT)

....., J.  
(PAMIDIGHANTAM SRI NARASIMHA)

NEW DELHI;  
SEPTEMBER 09, 2022

ITEM NO.29

COURT NO.17  
S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

SECTION XVII

Civil Appeal No(s). 2160-2161/2020

GOVERNMENT OF NCT OF DELHI

Appellant(s)

VERSUS

MAHAVIR SINGH &amp; ORS.

Respondent(s)

IA No. 37945/2020 - STAY APPLICATION)

Date : 09-09-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAVINDRA BHAT  
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA

For Appellant(s)

Mr. Sanjay Jain, ASG  
Mr. Shubhranshu Padhi, AOR  
Mr. Vishal Banshal, Adv.  
Ms. Rajeshwari Shankar, Adv.  
Mr. Niroop Sukrithy, Adv.  
Mr. Ovais Mohd.

For Respondent(s)

Ms. Srishti Agnihotri, AOR  
Ms. Sanjana Grace Thomas, Adv.  
Ms. Mantika Vohra, Adv.  
  
Mr. Pradeep Misra, AOR  
Mr. Daleep Dhyani, Adv.  
Mr. Manoj Kumar Sharma, Adv.  
  
Mr. Praveen Swarup, AOR  
Ms. Payal Swarup, Adv.  
Mr. K.P. Singh, Adv.  
Mr. Hari Sahteshwar, Adv.  
Mr. Rahul Tomar, Adv.  
Mr. Chandra Pratap Singh, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

The appeals and pending application(s) stand  
disposed of in terms of the signed order.

(NEETU KHAJURIA)  
ASTT. REGISTRAR-cum-PS

(VIRENDER SINGH)  
COURT MASTER

(Signed order is placed on the file.)