

(NOT AN OFFICIAL COPY/TRANSLATION)

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI
M.A.No.33 of 2014 (SZ) in
Application No.06 of 2013 (SZ)

Applicant(s) Respondents(s)
Leo.F.Saldhana, Vajrahalli, Bangalore Vs. The Union of India and others
Party-in-person Legal Practitioners for Respondents
Smt.C.Sangamithirai, Advocate for R-1 and R-3
Shri V.C.Ramachandramurrthy, Advocate
Shri M.K.Subramanian, Abdul Saleem
And M.R.Gokul Krishnan, Advocates
Advocates for R-2, R-5, R-9 and R-12
Shri T.K.Bhaskar, Advocate for R-4
M/s S.Siva Sangarane and R.Kanchana
Advocates for R-14

M.A.No.32 of 2014 (SZ) and
M.A.Nos.40 and 41 of 2014 (SZ) in
Application No.12 of 2013 (SZ)

Applicant(s) Respondents(s)
Environment Support Group, Vs. The Union of India and others
Bangalore Legal Practitioners for Applicants(s) Legal Practitioners for Respondents M/s T. Mohan, S.
Devika and Smt.C.Sangamithirai, Advocate for R-1 and R-4 A. Yogeswaran
M/s M.K.Subramanian and
M.R.Gokul Krishnan, Advocates for
R-2, R-3, R-9 and R-10
Shri T.K.Bhaskar, Advocate for R-5
Shri.C.V.Ramachandra Murthy, Advocate
R-11 to R-14, led by
Sr.Advocate Vivek Holla
Shri Sivasangrane, Advocate for R-15
Shri S.N.Aswatha Narayan, Advocate for R-18

COMMON ORDER

Note of the Registry	Orders of the Tribunal
Order No.10	<p>Date:14th February 2014</p> <p>The counsels for the parties are present. The matters are posted for arguments this day. Two Miscellaneous Applications are filed in M.A.Nos.32 of 2013 (SZ) in Application No.12 of 2013 (SZ) and M.A.No.33 of 2013 (SZ) in Application No.06 of 2013 (SZ) seeking impleadment of the applicants as party respondents in the above main applications.</p> <p>After hearing the learned counsel of both sides the M.A Nos.32 and 33 of 2013 (SZ) are allowed and the applicants therein are made as party respondents as respondent Nos.17 to 25 in the Main Application No.6 of 2013 and respondent Nos. 19-27 in the Main Application No.12 of 2013 (SZ) respectively.</p> <p>The applicant in Application No.6 of 2013 (SZ) and the counsel for the</p>

applicant in Application No.12 of 2013 (SZ) would submit that the Defence Research and Development Organisation (DRDO) which is shown as respondent No.12 in Application No.6 of 2013 (SZ) and respondent No.13 in Application No.12 of 2013 (SZ) has been doing construction activities in the reserve forest "Amrit Mahal Kaval" which is the subject matter in pending applications and it must be stopped. The party-in-person in Application No.6 of 2013 (SZ) would further add that after knowing the same he tried to make an inspection, but was prevented which necessitated him to make a complaint before the police. Thereafter, he approached the Hon'ble Chief Minister's Cell, Karnataka Under the circumstances, the immediate intervention by the Tribunal is required.

In Answer to the above, it is submitted by the counsel for the DRDO that pursuant to the order of the Tribunal, the application for consent made by DRDO under the Water (prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 pending in the hands of the Karnataka State Pollution Control Board was considered and consent has been given and pursuant to the consent given by the Karnataka State Pollution Control Board, the DRDO proceeded with the construction activities. In view of the same, there is neither violation of law nor anything repugnant to the order of the Tribunal. Hence, the construction activities of DRDO have to be permitted.

The applicant in Application No.6 of 2013 (SZ) and the counsel for the Applicant in Application No.12 of 2013 (SZ) would submit that even in the consent granted to DRDO by the Karnataka State Pollution Control Board, it has been specifically stated by way of a condition that the construction activities by DRDO should not be done in the reserve forest.

After hearing the counsel on both sides, it is quite clear that though the consent was issued by the Karnataka State Pollution Control Board under the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 in favour of DRDO, a condition was imposed inter alia as follows and a perusal of the condition No.4 in the said consent order makes it evident:

"4. In case the area proposed for the purpose of the project is found to be forest area, necessary forest clearance shall have to be obtained".

The counsel for the DRDO on instructions from the official, who is present, would submit that the construction activities are continuing. It is pertinent to point out that whether the construction activities now being carried out by DRDO lies in the reserve forest or not is the subject matter to be decided by the Tribunal. In view of the factual position and circumstances, it would be fit and proper to issue a direction to DRDO to stop further construction until further orders of the Tribunal and accordingly a direction is issued to DRDO to stop construction activities in the subject matter land until further orders.

M.A.No.33 of 2013 (SZ) in Application No.6 of 2012 and M.A No.32 of 2013 (SZ) in Application No.12 of 2013 (SZ):

These Miscellaneous Applications have been filed seeking impleadment as parties respondent by relying an order dated 13.01.2014 of the Apex Court made in S.L.P (C). No.38163-38166/2013 from the Judgment and order dated 30.09.2013 in W.P Nos.26144-25146/2013 and W.P No.26147/2012 of the High Court of Karnataka Placing reliance of the order of the Apex Court, the learned counsel would submit that the applicants herein got themselves impleaded in the Writ Petitions before the Hon'ble High Court, Karnataka in W.P.Nos.26144-26146/2013 and W.P.No.26147/2012. On dismissal, the matter was taken before the Apex Court in S.L.P (C) No.s 38163-38166/2013. While disposing of the said Special Leave

Petitions, the Apex Court has given the liberty to the applicants to intervene in the proceedings pending before the National Green Tribunal. Under the circumstances, the present application for impleading them as party respondent is filed by the applicants. In reply, the learned counsel for the respondents would submit that they have no objection for impleading the applications only and in so far as all the averments and allegations in respect of the merits of the matter, they should be given an opportunity to file their additional reply after filing of the reply by the proposed respondents. The statement made by the counsel for the respondents is recorded. The application for impleadment is allowed making the applications as respondent Nos.17 to 25 in the Main Application No.6 of 2013 and respondent Nos.19-27 in the Main Application No.12 of 2013 (SZ) respectively.

M.A.Nos 40 and 41 of 2014 (SZ) in Application No.12 of 2013 (SZ):

The counsel for the applicants in Application No.12 of 2013 (SZ) files the M.A No.40 of 2014 (SZ) seeking permission to file additional ground and M.A No.41 of 2014 (SZ) for permission to file additional documents.

All these matters are posted to 20.02.2014

Prof.Dr.R. Nagendran Justice
(Expert Member)

M. Chockalingam
(Judicial Member)