

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

WESTERN ZONAL BENCH AT PUNE

EXECUTION APPLICATION NO. 01 OF 2023

IN

ORIGINAL APPLICATION NO. 16 OF 2016

IN THE MATTER OF:

SALU D'SOUZA & ANR.

...APPLICANTS

VERSUS

GOA COASTAL ZONE MANAGEMENT AUTHORITY & ORS ...RESPONDENTS

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Through



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Place:- Pune/Delhi

Dated:- 07.09.2023

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

Civil Appeal No 1629 of 2022

Sushil Raghav

Appellant

Versus

Union of India and Others

Respondents

ORDER

- 1 The appellant instituted OA No 68 of 2021 before the National Green Tribunal¹ for the purpose of seeking remedial action to prevent untreated sewage and effluent being discharged in the storm water drains in Karkarmodel, situated in Municipal Corporation Ward No 43 at Sahibabad in Ghaziabad.
- 2 In its order dated 19 March 2021, the Tribunal noted that the issue had already been dealt with by it in an earlier order dated 27 January 2021 (***Manoj Mishra vs Union of India and Others*** - OA No 6/2012). OA No 6 of 2012 related to remedial action required to prevent pollution of the river Yamuna and the drains and tributaries connected in Delhi, Haryana and Uttar Pradesh. In its order dated 19 March 2021, the Tribunal adopted various

“NGT”

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directions which are extracted below:

- “1. Independent assessment of flow in all the drains reaching Yamuna be undertaken within next two months and thereafter submit action plan for setting up STPs to bridge the gap with definite and monitorable timelines.
2. Out of 427 MLD of treatment capacity in Sahibabad and Loni STPs with only 80 MLD capacity are compliant to standards. A direction to UP Jal Nigam, Ghaziabad MDA and Ghaziabad Municipal Corporations to upgrade/rehabilitate the STPs to meet revised environmental standards of TSS/BOD:10/10 mg/L within next two years and the authorities being directed to submit Action plan to achieve this within next three months.
3. Stoppage of all sewage from sewerred areas of Sahibabad Banthala and Indira Puri as per the Action Plan prepared by the State Government by December 20.
4. Implementation of Septage management by December 20 in all areas which are not sewerred.
5. UPSI IDC be directed to ensure setting up CETPs and ensure their proper functioning. UPPCB be directed to put in place policy for realizations in case the industries failed to pay. As requested by the UPPCB the arrears of unpaid EC be directed to be realized as arrears of land revenue.
6. The YMC is unable to comment on the omnibus compendium submitted for NMCG funding pertaining to Phyto and Bio remediation. However, when approved the drains which are polluting the Sahibabad and its tributary drains need to be taken up if feasible. The reply of UP on in-situ bio/phyto remediation is vague and does not inspire confidence about the seriousness of the intent.
7. A direction is required to be given to the UP Irrigation Engineer in Chief and the Principal Secretary Irrigation relating to the inordinate delay in paying DDA for undertaking the rejuvenation of the flood plains on the UP side as a deposit work which was promised on several occasions but has not made any headway in the last 7

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months when one months time had been sought."

- 3 The appellant moved an execution application, EA No 33 of 2021, seeking execution of the order dated 19 March 2021. By the impugned order, the Tribunal has observed that the request made in the application "goes beyond what has been said in the order of the Tribunal dated 19 March 2021" and even otherwise, if there was a breach of the order of the Tribunal, the appellant would have to seek the remedy under Section 26 of the National Green Tribunal Act 2010. The Tribunal did not find that there was any case for taking recourse to its power under Section 25 for executing the order.
- 4 The NGT has power under Section 25 to execute its orders as decrees of a civil court. Section 26 is comprised in Chapter IV which deals with the penalty for failure to comply with the orders of the Tribunal.
- 5 The grievance of the appellant is that the power to impose a penalty under Section 26 will not redress the substratum or the grievance which is the discharge of untreated sewage and effluent and the absence of a sewerage system.
- 6 We are of the considered view that the observation of the Tribunal that there was no case for executing the earlier order under Section 25 is

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misconceived. The Tribunal is entrusted with the wholesome power to ensure that its orders are complied with. The absence of sewerage facilities is an important aspect which would merit the exercise of powers by the Tribunal under Section 25. The invocation of the power to levy a penalty under Section 26 will not necessarily sub-serve the purpose.

- 7 Accordingly, we allow the appeal and set aside the impugned order of the Tribunal dated 1 November 2021. Execution Application No 33 of 2021 is restored to the file of the National Green Tribunal.
- 8 The Tribunal shall take up the application under Section 25 and consider what orders would be necessary to effectuate the original order dated 19 March 2021 of which execution was sought.
- 9 The appeal is accordingly disposed of.
- 10 Pending applications, if any, stand disposed of.

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.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Pamidighantam Sri Narasimha]

.....J.
[J B Pardiwala]

New Delhi;
February 20, 2023
CKB

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ITEM NO.31

COURT NO.1

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.1629/2022

SUSHIL RAGHAV

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With IA No.61790/2022 - APPLICATION FOR PERMISSION, IA No.28690/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.146203/2022 - EXEMPTION FROM FILING O.T.)

Date : 20-02-2023 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE J.B. PARDIWALA

For Appellant(s) Mr. Akash Vashishtha, Adv.
Ms. Neelam Singh, AOR

For Respondent(s) Ms. Aishwarya Bhati, ASG
Mr. Gurmeet Singh Makker, AOR
Ms. Ruchi Kohli, Adv.
Ms. Swarupma Chaturvedi, Adv.
Mr. Manvendra Singh Rathore, Adv.
Dr. Arun Kumar Yadav, Adv.

Mrs. Niranjana Singh, AOR

Mr. Avijit Roy, AOR

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Mr. Pradeep Misra, AOR
Mr. Daleep Dhyani, Adv.
Mr. Suraj Singh, Adv.

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

- 1 The appeal is disposed of in terms of the signed order.
- 2 Pending applications, if any, stand disposed of.

(CHETAN KUMAR)
A.R.-cum-P.S.

(Signed order is placed on the file)

(SAROJ KUMARI GAUR)
Assistant Registrar

STATE OF M.P. v. CENTRE FOR ENVIRONMENT
PROTECTION RESEARCH & DEVELOPMENT

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(2020) 9 Supreme Court Cases 781

2-Judge
Bench

a (BEFORE ARUN MISHRA AND INDIRA BANERJEE, JJ.)
STATE OF MADHYA PRADESH . . . Appellant;
Versus
CENTRE FOR ENVIRONMENT PROTECTION
RESEARCH AND DEVELOPMENT AND OTHERS . . . Respondents.
b Civil Appeals Nos. 8932 of 2015[†] and
8933 of 2015[‡], decided on August 28, 2020

2020
Aug. 28

c **A. Environment Law — National Green Tribunal Act, 2010 — Ss. 14, 2(c), 2(m), 19 and 26 — NGT, held, does not have the power to issue orders to State Government to direct and/or instruct and/or order dealers, outlets and petrol pumps not to supply fuel to vehicles which did not have a valid pollution under control (PUC) certificate — A vehicle not complying with the requirement of displaying a valid PUC certificate cannot be debarred from being supplied with fuel by any dealer or any outlet or petrol pump — Other measures as contemplated in the various Environmental Acts and Rules applicable can be imposed in accordance with law by NGT to ensure compliance with PUC certificate requirements, but not stoppage of supply of fuel**
d

e — Held, under purview of Ss. 3(1), 3(2)(i)(a) & (b), 3(2)(iii), (iv), 3(2)(x), 7, 10, 11 and 23 of the Environment (Protection) Act, S. 20 of the 1981 Act and S. 14 r/w Ss. 2(c) and 2(m) of the NGT Act and Rr. 115 and 116 of the 1989 Rules, NGT has the power, authority and/or jurisdiction to direct the State Government to strictly implement the requirement of vehicles to possess and/or display a valid PUC certificate, and also to direct the State Government and/or the other authorities concerned to take penal action in accordance with Rr. 115 and 116 of the 1989 Rules

f — However stoppage of supply of fuel to vehicles not complying with the requirement to have and/or display a valid PUC certificate is not contemplated either in the 1989 Rules or in the NGT Act — NGT had no power and/or authority and/or jurisdiction to pass orders directing the State Government to issue orders, instructions or directions on dealers, outlets and petrol pumps not to supply fuel to vehicles without PUC certificate — Hence motor vehicles not complying with the requirement of possessing and/or displaying a valid PUC certificate cannot be debarred from being supplied fuel — Environment
g (Protection) Act, 1986 — Ss. 3(1), 3(2)(i)(a) & (b), 3(2)(iii), (iv), 3(2)(x), 7, 10, 11 and 23 — Air (Prevention and Control of Pollution) Act, 1981 — S. 20 — Central Motor Vehicles Rules, 1989, Rr. 115 and 116

h † Arising from the Judgment and Order in *Centre for Environment Protection v. State of M.P.* (National Green Tribunal, OA No. 1 of 2013, dt. 21-4-2015)

‡ Arising from the Judgment and Order in *Centre for Environment Protection v. State of M.P.* (National Green Tribunal, OA No. 1 of 2013, dt. 3-8-2015)

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(2020) 9 SCC

dealers, outlets and petrol pumps not to supply fuel to vehicles without PUC certificate. The first two questions are answered accordingly.

59. The orders passed by the learned Tribunal are binding on and enforceable against the appellant State. As observed above, the learned Tribunal had the power, authority and jurisdiction to direct the appellant State to strictly implement compliance with Rules 115 and 116. An order of the Tribunal under the NGT Act is enforceable in the manner provided in Section 25 of the NGT Act.

60. There is no provision in the NGT Act for deposit of security to secure compliance of an order of the Tribunal. The penalty for failure to comply with an order of the Tribunal entails the penalty prescribed in Sections 26 and 28 of the NGT Act.

61. Section 39 of the 1981 Act and Section 15 of the Environment (Protection) Act pertain to penalty and/or punishment for contravention of the provisions of the 1981 Act, and/or the Environment (Protection) Act and the rules, orders and directions issued thereunder and Section 41 of the 1981 Act and Section 17 of the Environment (Protection) Act governs offences by government departments. None of the provisions provide for monetary deposit to secure compliance of an order.

62. The learned Tribunal had no power and/or authority and/or jurisdiction to direct the appellant State to deposit Rs 25 crores to secure compliance with its order. In any case such an order should not have been passed in review when the initial order did not contain any direction for security deposit. The third question is accordingly answered.

63. The appeals are thus allowed. The impugned judgments and orders^{1, 2} of the learned Tribunal are set aside to the extent that the learned Tribunal has directed the appellant State to make a deposit of Rs 25 crores by way of security and also to the extent that the learned Tribunal has directed the appellant State to issue orders and/or instructions and/or directions on all dealers and/or outlets and/or petrol pumps not to supply fuel to vehicles which do not comply with the requirement of producing and/or displaying valid PUC certificates.

64. The appellant State shall, however, strictly implement compliance of Rules 115 and 116 of the Rules and penalise all those who contravene the said Rules in accordance with the provisions of the 1989 Rules. The registration certificate of vehicles which do not possess a valid PUC certificate shall be forthwith suspended and/or cancelled, and penal measures initiated against the owner and/or the person(s) in possession and/or control of the offending vehicle, in accordance with law.

1 *Centre for Environment Protection v. State of M.P.*, OA No. 1 of 2013, order dated 21-4-2015 (NGT)

2 *Centre for Environment Protection v. State of M.P.*, OA No. 1 of 2013, order dated 3-8-2015 (NGT)