

BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL BENCH, NEW

DELHI

Appeal No. 22/2015

Krishan Lal Gera .....Applicant

//Versus//

State of Haryana & Ors. ....Respondent(s)

BRIEF NOTE IN COMPLIANCE OF ORDER DATED 09.07.2024 AND 19.11.2024

1. That the Hon'ble National Green Tribunal vide its order dated 09.07.2024 and 19.11.2024 has passed an order wherein the Amicus Curiae has been directed to file a brief notes indicating the issue which the Hon'ble Tribunal has to examine after the order passed by the Hon'ble Supreme Court.
2. That it submitted that the Present appeal was filed by the Appellant in the year 2015 wherein the appellant has challenged the Environment Clearance and the minutes of the 77<sup>th</sup> meeting of SEIAA dated 14<sup>th</sup> November 2014. The appellant has challenged the Environment Clearance inter alia but primarily that the Super Speciality Hospital has been constructed prior to the said Environment Clearance. Moreso it has also been contended that though the

concerned authorities including SIEAA has on various occasion has observed that it is a clear cut violation of the Environment Laws granted the Environment Clearance is contrary to the laws in force.

3. That the Hon'ble Tribunal vide its judgement order dated 25.08.2015 set aside the Environment Clearance granted to the Respondent No. 9 and 10 for the construction of the Multi Super Speciality Hospital and the Harijan School on the Plot bearing No.1 Sector-16 Faridabad.
4. That being aggrieved by the order dated 25.08.2015 passed by this Hon'ble Tribunal, the Appellant filed an appeal bearing Civil Appeal No. 6896/2015 titled M/s Vivekanand Ashram Society vs. Krishan Lal Gera & Ors. The Hon'ble Supreme Court vide its order 01.05.2023 allowed the appeal filed by the M/s Vivekanand Ashram Society . The Hon'ble Supreme Court observed as under

“The report of the Committee constituted by order dated 01.02.2018 is available; it has been placed on record. Broadly it indicates the state of affairs which existed after the National Green Tribunal's order and various steps taken by the appellant institution to mitigate the concerns voiced in the impugned order. Having regard to these developments, the impugned order is set aside and the matter is remitted to the National Green Tribunal for 2 fresh consideration on the question as to whether the environmental clearance, initially granted, can now be used by the appellant having regard to the inspection report dated 01.02.2018. The National Green

Tribunal shall consider these aspects along with relevant material and pass an appropriate order as expeditiously as possible. The appeal is allowed in the above terms. All rights and contentions of the parties are kept open”.

5. That thus the Hon’ble Supreme Court has considered the only the state of affairs which existed after the National Green Tribunal’s order and various steps taken by the appellant institution to mitigate the concerns voiced in the order dated 25.08.2015 passed by this Hon’ble Tribunal. Moreso the Hon’ble Supreme Court while remitting the matter back to the Hon’ble Tribunal for fresh consideration has also observed that all the rights and contentions of the parties are kept open. It is a settled law that the cases which are remanded back by the superior court needs to be reconsidered in light of the order of Superior Court. The Hon’ble Supreme Court while setting aside the Final order/judgment passed by this Hon’ble Tribunal has in its final order has also observed that all the rights and contentions of the parties are kept open.
6. That thus considering the averments and contentions of the appellant in the present appeal and in view of the order passed by the Hon’ble Supreme Court this Hon’ble Tribunal would consider the following aspect with the relevant materials on record.
  - i) Whether the Environment Clearance granted on 26.11.2014 to the Project Proponent for the construction of the Multi

Speciality Hospital and Harijan School is as per the provisions of laws and the conditions imposed in the Environment Clearance are sufficient enough considering the magnitude of the hospital and the impact of such magnitude of hospital on the environment?

- ii) Whether the Environment Clearance dated 26.11.2014 granted to the Project proponent for the construction of the Multi Speciality Hospital and Harijan School is liable to be continued. Whether any additional conditions is necessary to be imposed on the project proponent to mitigate the adverse effect on the environment.
- iii) Whether the project proponent has in the present condition has complied with all the conditions imposed in the Environment Clearance in view of the report of the Committee constituted by the Hon'ble Supreme Court vide order dated 01.02.2018 and the a report submitted by SEIAA, Haryana vide letter dated 27.12.2023 before the Hon'ble Tribunal?
- iv) What directions, if any are required to be issued by the Tribunal in the facts and circumstances of the case for the protection of environment and ecology?
- v) Whether the Environment Clearance for the project would have adverse impacts on the environment and ecology of the area and how the same could be minimised?

It is stated here that admittedly the project proponent has almost completed the construction prior to the grant of the Environment Clearance. The project proponent has clearly violated the terms and conditions of Office Memorandum issued by the MoEF & EC in the year 2006, 12/12/2012 and 27.06.2013. Moreso the Authority granting the Environment Clearance have failed to take notice of the same facts and issued the Environment Clearance on 26<sup>th</sup> November 2014. It is also relevant to state here that the conditions imposed related to construction phase and operational phase are without application of mind as the entire order of environment Clearance has no substance for the protection of the environment and prevention and control of the pollution. It is also stated here that it is a legal obligation upon the project proponent to obtain all the requisite permissions including the environment clearance prior to the commencement of the construction or any project activity. It is a settled law that the compliance to the laws in force and it is the condition precedent for submission of application for grant of Environment Clearance should be complete in all respects with the necessary documents. In the present appeal the Hon'ble Tribunal may determine the aspects of directions in light of the provision of Section 20 of the Act of 2010. It is also stated here that the Hon'ble Tribunal may determine the amount of

the environment compensation in terms of Section 15 of the Act of 2010 for the violating the provisions of the notification of 2006. The Hon'ble may also impose the additional conditions keeping in mind the size and the nature of the project to protect the environment and ecology of the area. It is also stated here that report dated 27.12.2023 does not cover all conditions as laid down by the Environment Clearance dated 14.11.2014/26.11.2014 and such need to be reconsidered. Moreso as per the report dated 27.12.2023 some deficiency has been highlighted and as such it needs to be revisited in terms of the Environment Clearance dated 26.11.2014.

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