

BEFORE THE NATIONAL GREEN TRIBUNAL,

WESTERN ZONE BENCH AT PUNE

ORIGINAL APPLICATION NO.92 OF 2019

WITH

I.A. NO.152 OF 2019

In the matter between:

Dethadiya Rajendra Khodabhai .. Applicant

Versus

Union of India Etc. .. Respondents

WRITTEN SUBMISSIONS ON BEHALF OF RESPONDENT NO.1

**MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE
(MoEF)**

1. The present Application is filed by the Applicant alleging violation of specific conditions of the Environment Clearance dated 09.09.2016 granted to the Respondent No.8, namely M/S Usha Breco Limited for setting up rope way in the name of "Udankhatola" within Girnar Wildlife Sanctuary, Gujarat.
2. The Environment Clearance is granted by the Respondent No.1 (MoEF) (Page 68-75) Annexure A-6. (Page 70 A. Specific Conditions (i),(ii) are claimed to be violated.
3. The project was related to Aerial Ropeway located at an attitude above 1000m, listed at item 7(g) of the schedule of EIA Notification, 200 covered under category "A" and therefore appraised at Central level by MoEF.

4. It is submitted that all the procedure , conditions & stages specified in appraisal of activity specified in Category "A" were observed & complied before appraisal & grant of final Environment clearance by the Respondent No.1(MoEF)
5. The said Environment Clearance is not directly challenged by applicant in this Application as it was questioned before the High Court of Judicature, Gujarat At Ahmadabad in R/Writ Petition (PIL) No.258/2017 .The Respondent No.1 (MOEF) was also party Respondent in the said Petition. However Ground "A" in page No.13 indirectly challenges the measures in the environment clearance, which Applicant cannot now questioned in this Application.
6. The said Petition R/Writ Petition (PIL) No.258 of 2017 was dismissed on merits & elaborate discussion on appraisal & grant of EC was upheld by the Hon"ble High Court of Gujarat At Ahmadabad. The Respondent would rely upon the findings & observation of the Hon"ble High Court in the Judgment. The Copy is attached herewith.
7. It is submitted that the issue of appraisal , grant of EC by MoEF was finally upheld as such the Applicant cannot challenge the Conditions laid down in the d EC. It is indirectly challenging the EC which is barred in view of the Judgment of the Hon"ble High Court, Gujarat refer above.
8. The EC was granted after abundant precautions, site visits & relying upon visit report of experts as well as permission of National Board of Wild Life.

9. The Hon"ble Tribunal by its order dated 19/12/2019 also directed the State Pollution Control Board and the PCCF wildlife to inspect the area in question and verify on the factual aspects set out in the original application and to submit a report.

10. Accordingly report is submitted; the Respondent No.1 MoEF also accepts & relies upon the said Report. As there are compliance of condition (i) and (iii) of the environment clearance dated 09.09.2016, the prayer (a) of the applicant deserves to be rejected.

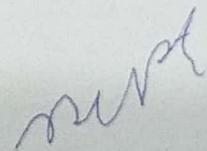
11. Similarly as there is nothing on record as to what environment damage, how & who has caused no question of payment of environment compensation arose, thereof prayer (b)(c) deserves to be rejected.

12. It is submitted that the Hon"ble High Court Gujarat considered all the possibilities and requirement, compliances done by the various authorities while granting said EC & also while dismissing said Writ Petition (PIL)258 of 2017 in par 10 had observed " The explanation and the steps which are initiated by the authority would suggest that the cause which has been tried to be generated and agitated, is already kept by the authority in mind satisfactory" The Applicant ought to have observed the said findings & observations in spite of said observation tried to reopen dispute without any reasonable cause

The present Application deserves to be dismissed with costs.

Pune

Date : 26/09/2020



Deepak M. Gupte

Advocate for the Respondent No.1

(MoEF)