

BEFORE THE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE, CHENNAI

Appeal No.6 of 2015 (SZ)

In the matter of

G.Sundarrajan
106/2, First Floor, Kanaga Durga Complex
Gangai Amman Koil Street,
Vadapalani, Chennai 600026

..... Appellant

Vs.

1. Union of India,
Rep. by the Secretary,
Ministry of Environment, Forest and Climate Change,
Paryavaran Bhawan, CGO Complex,
Lodhi Road, New Delhi 110003
2. State of Tamil Nadu
Rep. by the Secretary to Government,
Department of Environment and Forests,
Secretariat, Chennai 600009
3. The Member Secretary,
Tamil Nadu Pollution Control Board,
76, Anna Salai, Guindy,
Chennai 600032
4. The Member Secretary,
State Level Environment Impact
Assessment Authority,
3rd Floor, Panagal Maaligai,
No.1, Jeenis Road, Saidapet,
Chennai 600015
5. The Institute of Mathematical Science
Rep. by the Chairman,
Governing Board (IMS)
C.I.T. Campus, Taramani,
Chennai 600113

Counsel appearing for the applicants

M/s.M.Radhakrishnan, P.Sundararajan
And M.Vetri Selvan

Counsel appearing for the respondents

Mr.M.R.Gokul Krishnan for R1 & R4
Mr.M.K.Subramanian, E.Manoharan
And P.Velmani for R2
Mrs.H.Yasmeen Ali for R3
Mr.G.R.Swaminathan for R5

ORDER

Present

Hon'ble Shri Justice Dr.P.Jyothimani, Judicial Member

Hon'ble Shri P.S.Rao, Expert Member

20th March, 2017

The appeal is directed against the Environmental Clearance (EC) granted to the 5th respondent – project proponent by MoEF & CC dated 1.6.2011 for the construction of India-based Neutrino Observatory Project at Bodi West Hills, Pottipuram Village, Theni District.

Eventhough various grounds are raised for the purpose of challenging the impugned EC, during the course of arguments Mr. M. Radhakrishnan, learned counsel appearing for the appellant has brought to the notice of this Tribunal that Mathikettan Shola National Park in Idukki District, Kerala is situated within 4.9 Km from the site for which EC was granted. As per the General Conditions attached to EIA Notification, 2006 in cases where the project is located in whole or in part within 10 Km from the boundary of (i) Protected Areas notified under the Wild Life (Protection) Act, 1972 (ii) Critically Polluted Areas, as identified by the Central Pollution Control Board from time to time (iii) Eco Sensitive Areas as notified under Sub Section (2) of Section 3 of the Environment (Protection) Act, 1986 and (iv) Inter-State boundaries and International boundaries even if the project or activity is covered under Category – B, such project or activity is directed to be treated as Category – A. The 10 Km limit has been subsequently reduced to 5 Km by an amendment dated 25th June, 2014 carried out to the EIA Notification, 2006. The document produced before this Tribunal by Mr.Radhakrishnan also shows that the distance is 4.9 Km and in such view of the matter, not only the project in question should be treated as Category –A project but also clearance under the Wild Life (Protection) Act, 1972 is to be obtained from the National Board for Wild Life. Admittedly, such permission has not been obtained on the facts of this case.

In view of the same, we are of the considered view that without going into any other aspect which are raised in this appeal, the matter must be resolved so as to enable the project proponent to make a fresh proposal in appropriate form under EIA Notification, 2006 to enable the statutory authorities to consider such proposal in

accordance with law. This is with the consent of both the counsel appearing for the appellant as well as the respondent – Mr. G..R. Swaminathan, Assistant Solicitor General appearing for the project proponent.

Accordingly, the impugned EC is kept in abeyance so as to enable the 5th respondent project proponent or any other legal person to make proper application in Form – I or in any other manner known to law. If such application is made, it is for the Regulatory Authority to consider the same on merits and in accordance with law as expeditiously as possible. While keeping the impugned EC in abeyance, we make it clear that the transfer of land already made in the name of the project proponent should not be affected and the same will be subject to the final outcome or any order which may be passed by the Regulatory Authority in the manner known to law. However, the status quo which is in existence as on today, shall be maintained till final orders are passed by the Regulatory Authority and the other issues raised in the appeal are left open.

With the above direction, the appeal stands disposed of. There shall be no order as to cost.

Justice Dr.P.Jyothimani
Judicial Member

Shri P.S.Rao
Expert Member

NGT