

Item No. 04

Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Executive Application No. 55/2018
IN
Original Application No. 520/2016

Vikrant Tongad

Applicant(s)

Versus

Union of India

Respondent(s)

Date of hearing: 11.12.2018

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s): Mr. Rahul Choudhary, Advocate and Mr. Sany Antony,
Advocate

ORDER

1. Grievance in this application is that there is non-compliance of the judgment of this Tribunal dated 13.09.2018 in *Original Application No. 186/2016, Satendra Pandey Vs. Ministry of Environment, Forest & Climate Change & Anr.* The Hon'ble Supreme Court, vide judgment in *Deepak Kumar Vs. State of Haryana & Ors.: (2012) 4 SCC 629*, required proper Environmental Clearance before grant of lease of minor minerals, including sand mining. Vide Notification dated 15.01.2016 issued by MoEF&CC, environmental clearance was to be given by the District Environment Impact Assessment Authority (DEIAA) which defeat the direction of the Hon'ble Supreme Court.
2. This Tribunal noted that the Notification dated 15.01.2016 issued by the Ministry of Environment, Forest and Climate Change (MoEF&CC) was not consistent with the mandate in *Deepak Kumar (supra)*.
3. The District Expert Appraisal Committee (DEAC) comprised officers having no expertise or scientific knowledge to assess environment implications. Permitting DEAC to make assessment

was also not consistent with the Sustainable Sand Mining Management Guidelines, 2016. Accordingly, MoEF&CC was directed to take steps to revise the procedure laid down in the Notification dated 15.01.2016.

4. According to the applicant, the MoEF&CC failed to issue appropriate Notification. Moreover, the State of Uttar Pradesh vide the letter dated 25.10.2018 and State of Kerala vide the letter dated 29.10.2018 directed Environmental Clearance to be given in accordance with the Notification dated 15.01.2016 in violation of the judgment of this tribunal dated 13.09.2018 which in turn is to implement the direction of the Hon'ble Supreme Court in Deepak Kumar (*supra*).

5. Accordingly, we direct the MoEF&CC to comply with the order dated 13.09.2018 forthwith and furnish a report of compliance on or before 31.12.2018 failing which coercive measures may have to be taken. We also make it clear that till a fresh Notification is issued by the MoEF&CC, Notification dated 15.01.2016 will not be acted upon.

6. Since our attention has been drawn to letter dated 29.10.2018 issued by the State Environment Impact Assessment Authority, Kerala addressed to the District Environment Impact Assessment Authorities of various districts in Kerala that Notification dated 15.01.2016 having not being stayed, the same be followed. This interpretation is clearly contrary to the order of this Tribunal disapproving the Notification dated 15.01.2016 and requiring the same to be revised. The direction that 15.01.2016 should still be acted upon is clearly illegal and in violation of judgment of this Tribunal. **The same will stand suspended till a fresh Notification is issued by the MoEF&CC as directed hereinabove.**

7. This direction will apply to all the State Environment Impact Assessment Authorities/State Governments.

8. List for further consideration along with the report of the MoEF&CC on 14.01.2019.
9. Copy of this order be sent to the MoEF&CC by e-mail.
10. The report may also be furnished to this Tribunal by e-mail at ngt.filing@gmail.com.

Adarsh Kumar Goel, CP

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

December 11, 2018
Executive Application No. 55/2018
in Original Application No. 520/2016
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