

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 3657-3658 OF 2023

PRAFULLA SAMANTARA & ORS.

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

O R D E R

By the impugned order, the validity of the Environmental Clearances dated 11.04.2022 and 12.04.2022 in two interconnected projects - integrated steel plant (with cement and power plants) and a jetty project near Paradeep Port in Orissa was the subject matter of the impugned order passed by the National Green Tribunal (hereinafter referred to as 'NGT' for brevity) in three appeals out of which two appeals were filed by the appellants before us, viz., Appeal No. 21/2022 and Appeal No. 22/2022. By the impugned order, the NGT has allowed the appeals filed by the appellants. It was *inter alia* found as follows:

"35. On due consideration, we are of the opinion that recommendation of the EAC without express consideration of following issues are vitiated

A) Cumulative EIA saw the light of the day for the first time after the public hearing

B) Permissibility of sourcing water from Mahanadi when drinking water is scarce has not been duly evaluated. The observation with regard to scarcity of water can be seen in the minutes of the meeting dated 18.05.2021. The recommendation accepting the contra stand of the PP is not based on independent evaluation.

C) Jetty is located within 500 meters of the

Paradeep Port which is unnecessary as opined in the report submitted by Ms. Meena Gupta earlier.

D) Paradeep is polluted industrial area.

E) The SIA has been conducted later and was not part of public hearing.

F) The project by Posco was abandoned and was adversely commented upon by this Tribunal vide order dated 30.03.2012 in Appeal No. 8/2011 which aspect has not been examined.

G) Conditions stipulated in the EC granted to POSCO will have to be considered, in case ECs are to be granted.

36. We are conscious that the project involves huge investment. At the same time, principle of sustainable development cannot be ignored. Apart from significant issue of public hearing, important issue of location of the project close to polluted area, jetty being unnecessarily close to an established port, huge water being taken from the river which may affect drinking water needs and flow of the river are important issues which need express consideration.

37. Matter will need fresh appraisal by the EAC by reasoned consideration and fresh decision by MoEF&CC.

38. Accordingly, we allow these appeals and remit the matter to the MoEF&CC for fresh appraisal and decision by MoEF&CC in the light of above observations which may take place within three months. Till such decision, ECs will remain suspended.

All pending IAs will also stand disposed of.

A copy of this order be forwarded to MoEF&CC by e-mail for compliance."

We have heard Mr. Dhruv Mehta, learned senior counsel appearing for respondent No. 2 (Project Proponent).

Mr. Sanjay Parikh, learned senior counsel for the appellants, would point out that the appellants are aggrieved by the fact that the appellants would stand denied the benefit of a public hearing. The concerns of the

appellants may go unaddressed by following the directions issued by the NGT.

Mr. Dhruv Mehta, learned senior counsel appearing on behalf of the second respondent(Project Proponent), would point out that the appellants will be free to represent before the EAC which has been directed to pass an order giving reasons by the NGT.

We think there is merit in the said stand and the modification of the impugned order on the said lines should redress the grievance of the appellants as well. Accordingly, the appeals are disposed of as follows:

We direct that after the appellants ventilate their grievances by raising complaints in the representation before the EAC within a period of three weeks from today, the EAC, when it passes an order which is a reasoned order as directed by the NGT, the same will be taken into consideration.

The appeals are disposed of on the said terms.

....., J.
[K.M. JOSEPH]

....., J.
[B.V. NAGARATHNA]

New Delhi;
May 15, 2023.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal Nos. 3657-3658/2023

PRAFULLA SAMANTARA & ORS.

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IA No.101191/2023-GRANT OF INTERIM RELIEF and IA No.101192/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 15-05-2023 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.M. JOSEPH
HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Appellant(s)

Mr. Sanjay Parikh, Sr. Adv.
Mr. Abhimanue Shrestha, AOR

For Respondent(s)

Mr. Dhruv Mehta, Sr. Adv.
Mr. Ninad Laud, Adv.
Mr. P. S. Sudheer, Adv.

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

The appeals are disposed of in terms of the signed
order.

Pending applications stand disposed of.

(NIDHI AHUJA)
AR-cum-PS

(RENU KAPOOR)
ASSISTANT REGISTRAR

[Signed order is placed on the file.]