

Item No.12

BEFORE THE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE, CHENNAI

Appeal No. 124 of 2016 (SZ)

(Through Video Conference)

IN THE MATTER OF:

Samata,  
Rep. by R. Ravi,  
14-37-9, Krishna Nagar,  
Maharanipeta,  
Vizakhapatnam.

... Appellant(s)

Vs

1. Union of India,

Through the Secretary, MoEF & CC,

New Delhi 110003.

2. Andhra Pradesh State Pollution Control Board,

Sanath Nagar, Hyderabad.

3. M/s. Alfa Infraprop Pvt. Ltd.,

136, Sector – 44, Gurgaon – 122002.

...Respondent(s)

Date of hearing: 29.9.2020.

CORAM:

HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER

HON'BLE MR. SAIBAL DASGUPTA, EXPERT MEMBER

For Appellant(s):

Mr. Ritwick Dutta

For Respondent(s):

Mrs. M. Sumathi for R1

Mrs. Madhuri Donti Reddy for R2

Mr. A. Ramesh Kumar for R3

## J U D G M E N T

The above appeal has been filed challenging the Environment Clearance granted to the third respondent unit by the first respondent for setting up of 4 x 660 MW super critical coal based thermal power plant at Komarada Village in Vizayanagaram District, Andhra Pradesh as per Annexure A-1 proceedings J-13012/13/2009-IA.II (T) dated 10.6.2015 for a period of five years and commissioning of the project will have to be done before that period as per the Environment Clearance.

2. When the matter came up for hearing on 2.7.2020, learned counsel for the appellant submitted that the validity of the Environment Clearance was only up to 14.3.2020 and if the project proponent has not started any work as a condition for commissioning of the project, then they cannot proceed with the project, without getting fresh Environment Clearance which will have to be ascertained from the project proponent. Accordingly, we have directed the projects proponent to submit their stand regarding the same. We have also directed the Regional Office of MoEF & CC, Chennai as well as Andhra Pradesh State Pollution Control Board to inspect the area in question and submit a status report regarding commissioning of the project and its present status.

3. When the matter came up for hearing today through Video Conference, Mr. Ritwick Dutta represented the appellant. Mrs. M. Sumathi represented the first respondent, Mrs. Madhuri Donti Reddy

represented the second respondent and Mr. Ramesh Kumar represented the third respondent.

4. The issue that arises in this appeal is whether the validity period of Environment Clearance which is under challenge has expired and anything survives in the matter or not. In order to ascertain the same, we have directed the Pollution Control Board as well as MoEF & CC to submit the report. Pursuant to the same, the Pollution Control Board has submitted the inspection report which reads as follows:

*“Inspection report on M/s. Alfa Infra Prop Pvt. Ltd, Komarada, Vizianagaram District.*

*It is to submit that M/s. Alfa Infra Prop Pvt. Ltd., (Coal based thermal power plant), Komarad, Vizianagaram District has obtained CFE vide order dt. 28.4.2012 for producing 4 x 660 MW for a period of 54 years.*

*It is to inform that the Hon’ble NGT(SZ) order dt. 6.2.2020 in Appeal No.124 of 2016 regarding the process of scrutiny and procedure followed by the EAC committee of MoEF & CC, New Delhi while reinstating and extending the validity of Environment Clearance to M/s. Alfa Infra Prop Pvt. Ltd, Komarada, Vizianagaram District.*

*The Board office, vide reference 2<sup>nd</sup> cited directed to furnish the latest status report. In this regard, this office contacted the local management over telephone for latest status and vide reference 3<sup>rd</sup> cited, requested to*

*submit the latest status, as to submit the information to Board Office in the above matter.*

*This office received a letter from the industry, vide reference 4<sup>th</sup> cited, requesting to send a copy of the Hon'ble NGT(SZ) order dt. 6.2.2020 in Appeal No.124 of 2016.*

*This office vide reference 5<sup>th</sup> cited furnished copy of the Hon'ble NGT(SZ) order requesting to submit the latest status on the project through their Head Office but no information received.*

*This office enquired over telephone on 1.7.2020 regarding the status of the project and the representative (Sri. Ramesh, Sr. Manager (Admn) 08963220089) of the project informed that the earlier correspondence was communicated to their Head office at New Delhi and the office of M/s. Alfa Infra Prop Pvt. Ltd., at New Delhi was closed due to Covid – 19 pandemic and hence could not submit the project status. He further stated that there is no progress in the proposed establishment till dated.*

*In this regard, vide reference 7<sup>th</sup> & 9<sup>th</sup> the project proponent was requested to submit the latest status on the project in writing at the earliest but no information received till date. The Board office vide reference 8<sup>th</sup> cited directed to furnish the latest status report.*

*It is to submit that the project area was inspected on 7.8.2020 and observed that the management has not started any works for proposed*

*project. The management constructed 6 nos. Of IRCC blocks in the site. The entire blocks were provided with wire mesh with gate. At present only security staff is staying in the premises During the inspection, the representative Sri Ramesh, Sr. Manager (Admn) has informed that the buildings were constructed for project employees and they have not started the works of the proposed establishment till date. Further stated that he is communicating all the correspondence made by APPCB to their Head Office, Mumbai time to time. He also stated that their head office staff has informed him that they were unable to send the status to APPCB, because of non functioning of their office due to Covid – 19 pandemic.”*

5. The learned counsel appearing for the Pollution Control Board also submitted that the ‘consent to establish’ granted to them was renewed only upto 27.4.2017 and thereafter there was no application for renewal of that ‘consent to establish as well. The Regional Office of MoEF & CC, Chennai has not submitted any report as directed by this Tribunal. Similarly, the project proponent has not submitted any present status report as directed.

6. So under these circumstances, we have no other option except to go by the inspection report submitted by the Pollution Control Board to the effect that no work in the project area has been commenced by the project proponent. So under these circumstances, since the validity of the Environment Clearance expired on 14.3.2020, without getting fresh

Environment Clearance, the project proponent cannot proceed with the work. So there is nothing survives in the matter, as there is no necessity to go into the validity of the Environment Clearance under challenge at present.

7. So the appeal can be disposed of with liberty for the appellant to challenge fresh Environment Clearance, if any, granted to the project proponent in future.

8. Parties are directed to bear their respective cost in the appeal.

9. With the above observations and directions, the appeal is disposed of.



.....J.M.  
(Justice K. Ramakrishnan)

.....E.M.  
(Sri. Saibal Dasgupta)

Appeal No.124/2016  
29.9. 2020  
Kkr