

Adarsh Co-Op Housing Society Ltd

v.

Union of India and Others

(Supreme Court Of India)

HON'BLE MR. JUSTICE A.K. PATNAIK HON'BLE MR. JUSTICE
SURINDER SINGH NIJJAR HON'BLE MR. JUSTICE FAKKIR MOHAMED
IBRAHIM KALIFULLA

Special Leave to Appeal (Civil) No. 27327 Of 2013 With Slp(C) No. 28512-
28513 Of 2013 | 10-03-2014

1. In our considered opinion, the directions in paragraphs 40 and 41 of the judgment quoted hereunder and order dated 9th August, 2012 of Writ Petition No. 50 of 1998 titled as Bhopal Gas Peedith Mahila Udyog Sangathan v. Union of India & Ors., (2012) 8 SCC 326 that all matters instituted after coming into force of the National Green Tribunal Act, 2010 and which are covered under the said Act and/or under which the said Act shall stand transferred and can be instituted only before National Green Tribunal requires reconsideration by this Court. These directions are quoted herein below:

40. Keeping in view the provisions and scheme of the National Green Tribunal Act, 2010 (for short the `NGT Act') particularly Sections 14, 29, 30 and 38(5), it can safely be concluded that the environmental issues and matters covered under the NGT Act, Schedule 1 should be instituted and litigated before the National Green Tribunal (for short `NGT'). Such approach may be necessary to avoid likelihood of conflict of orders between the High Courts and the NGT. Thus, in unambiguous terms, we direct that all the matters instituted after coming into force of the NGT Act and which are covered under the provisions of the NGT Act and/or in Schedule I to the NGT Act shall stand transferred and can be instituted only before the NGT. This will help in rendering expeditious and specialized justice in the field of environment to all concerned.

41. We find it imperative to place on record a caution for consideration of the courts of competent jurisdiction that the cases filed and pending prior to coming into force of the NGT Act, involving questions of environmental laws and/or relating to any of the seven statutes specified in Schedule I of the NGT Act,

should also be dealt with by the specialized tribunal, that is the NGT, created under the provisions of the NGT Act. The Courts may be well advised to direct transfer of such cases to the NGT in its discretion, as it will be in the fitness of administration of justice.

2. Hence hearing on the question of reconsideration of the directions in paragraphs 40 and 41 of the aforesaid judgment and order will take place on 21st April, 2014.

3. Till we pass final orders on such reconsideration the direction for transferring the pending matters before the High Court to the Green Tribunal in paragraphs 40 and 41 will not be given effect to.

4. A copy of this order be circulated to all High Courts in the country.