

SUPREME COURT OF INDIA

Tata Power Delhi Distribution Ltd.

Vs.

Manoj Misra

C.A.No.9276-9290 of 2015

(L.Nageshwara Rao and Hemant Gupta,JJ.,)

24.10.2019

ORDER

1. Respondent No.1 filed Original Application No.6 of 2012 under Section 14 and 15 read with Section 18 (1) of the National Green Tribunal Act, 2010 before the National Green Tribunal, Principal Bench, New Delhi (hereinafter, 'the Tribunal'). The subject matter of the application was the encroachment and dumping of building debris in the river bed/flood plain and the natural water body of river Yamuna. O.A. No.300 of 2013 was also filed by Respondent No.1 complaining of ongoing encroachment and the conversion of Kushak drain into parking and road-cum-parking space, conversion of land use of the Shahdara Link Drain from 'utility' to 'commercial', and proposed construction of commercial undertaking in the form and nature of 'Delhi Haat', over and above the drain. The grievance of the Respondent No.1 was that the conversion of the drains has reduced the easy and efficient drainage and compromised the biodiversity present in and along the drains and their ability to recharge ground water. The Tribunal divided the issues involved in the O.As. into:

- a) Issues relating to the drains (natural or artificial), coverage thereof and the pollution resulting therefrom.
- b) Steps required to be taken for ensuring and rendering river Yamuna free from pollution.
- c) Restoration and beautification of the banks of river Yamuna.

2. Expert Committees were constituted by the Tribunal which submitted their reports on 19.04.2014 and 13.10.2014. After a careful scrutiny, the Tribunal accepted the reports of the Expert Committees.

3. The O.As. were disposed of by the Tribunal by its judgment dated 13.01.2015 in which several directions were issued. The Tribunal heard several Miscellaneous Applications that were filed in the O.As. and issued directions for the phased implementation of the

judgment dated 13.01.2015. In this appeal, we are concerned with directions 15, 16 and 17 which are as follows:

"15. The cost of the project is 3659 crores which includes establishing of new STP's as well as providing of interceptors and sewer line in relation to the first phase only.

16. Finances for the project shall be resourced inter alia but definitely from the Ministry of Water Resources under the National Mission for Clean Ganga. DDA has nearly 281 unauthorized colonies and 10.80 lakhs residential flats in various parts of Delhi, thus, heavily contributing to the generation of the sewage. We direct Ministry of Urban Development under Urban Development fund to require DDA to release funds. Delhi Jal Board and NCT, Delhi shall finance this project primarily.

AH these Ministries, Delhi Development

Authority, Delhi Jal Board and other authorities of NCT, Delhi would share the liability in the proportion that may be determined by the Principle Committee under this Judgment keeping in view the total cost of first phase of the project.

We direct NCT of Delhi, Delhi Jal Board and all Municipal Corporations, Cantonment Board, electricity companies like BSES and all other civic authorities to require payment of environmental compensation from every house hold which is generating sewage in the entire NCT of Delhi on the Polluters Pay Principle, it will be irrespective of whether a house hold is sewered or not. This would be equally applicable to the house hold located in the unauthorized colonies.

17. The monthly compensation payable by all the house hold in the NCT Delhi would be directly proportionate to the property tax or water bill whichever is higher, payable by such house hold. Where the house hold or person is not paying water bill, property tax and are located in un-authorized colonies, in that event, such house hold shall pay the sum of Rs.100 or Rs. 500 per month as the case may be. This amount would be determined by the concerned authority with reference to the construction existing on the plot. The payment of the 'environmental compensation' in terms of the above clauses shall be added to electricity bills, water bill and the property tax demand in order of preference by the respective departments which will transfer the money to NCT, Delhi."

4. The Appellant which is an electricity distribution licensee filed this appeal against the order dated 08.05.2015 questioning the directions issued by the Tribunal to the effect the environmental compensation has to be collected from every household by adding it to the electricity bill. By an order dated 13.10.2015, this Court stayed the operation of the judgment dated 13.01.2015 and the order dated 08.05.2015 which was modified on 18.01.2016 by restricting the interim relief only to the extent it related to the Appellant. The Tribunal was reviewing the progress in the execution of the directions issued by the Tribunal by its judgment dated 13.01.2015 periodically. In the said process the Tribunal

passed an order dated 11.09.2019 which dealt with levying of environmental compensation. The Chief Secretary, Government of NCT of Delhi, Delhi Jal Board and the Delhi Municipal Corporations were directed to introduce the regime of levy of sewerage charges within two months including in areas where network have been laid (whole of East Delhi).

5. The Delhi Electricity Regulatory Commission (DERC) filed its response to the appeal pursuant to the direction of this Court. According to the DERC, the revenue of distribution licensees from the sale of electricity cannot be used towards the collection of the environment compensation fees. It was further stated on behalf of the DERC that the costs incurred by the Appellant towards collection of the environment compensation fee cannot be passed on to the consumers in the form of a hike in tariff. The DERC asserted that the imposition of any additional tariff burden on the consumers resulting from costs incurred towards collection of environment compensation fee would be contrary to the object and purpose of the Delhi Electricity Reforms Act, 2000 and the Electricity Act, 2003.

6. We are informed that the directions issued by the Tribunal on 11.09.2019 could not be implemented due to the interim order passed by this Court in the above appeals.

7. The final judgment in O.A. No.6 of 2012 and O.A. No.300 of 2013 was passed on 13.01.2015. Later, the Tribunal issued direction relating to the imposition of environment fee on all the households by an order dated 08.05.2015. The latest order passed by the Tribunal is dated 11.09.2019. Without commenting upon the correctness or otherwise of the direction issued by the Tribunal on 08.05.2015, we are of the opinion that the direction issued by the Tribunal on 11.09.2019 shall be implemented and sewerage charges shall be introduced by the Government of NCT of Delhi as directed by the Tribunal.

8. In view of the direction issued by the Tribunal on 11. 09.2019 for the introduction of levy of sewerage charges, the direction issued by the Tribunal on 08.05.2015 stands modified and need not be implemented. The direction issued on 11.09.2019 shall be implemented within a period of two months from today.

9. The appeals are disposed of, accordingly.