

SUPREME COURT OF INDIA

Department of Mines & Geology

Vs.

State Level Environment Impact Assessment Authority

C.A.No.11497-11504 of 2018

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

18.11.2019

ORDER

1. The subject matter of these Appeals is the order passed by the National Green Tribunal, Principal Bench, New Delhi (hereinafter, 'the Tribunal') dismissing the Appeals filed by the Appellant challenging the order dated 09.04.2018 passed by the Respondent. The Review Application filed by the Appellant was also dismissed by the Tribunal. An application was preferred by the Appellant for obtaining environmental clearance under Environment Impact Assessment Notification dated 14.09.2006 (hereinafter, 'the EIA Notification') for mining minor minerals (sand) in an area of 12.96 hectares from the river bed of river Satluj in the revenue estate of village Heatewal, Tehsil Jagraon, District Ludhiana. The Appellant submitted the required documents including Form-I, pre-feasibility report, proof of ownership of land, approved mining plan, No Objection Certificate from the concerned District Forest Officer, final District Survey Report and environmental management plan.

2. The State Expert Appraisal Committee (SEAC) considered the application submitted by the Appellant and granted environmental clearance for carrying out mining of minor minerals in the 12.96 hectares. By an order dated 03.05.2017, the environmental clearance was granted under the provisions of EIA Notification, subject to certain conditions that were mentioned therein.

3. The Appellant issued notices dated 03.05.2017 and 13.06.2017 notifying its intention to put up 102 minor mineral mines for auction. On completion of the auction, the Appellant applied to the Respondent for transfer of the mining environmental clearances in favour of the successful bidders of the mining sites. The application filed for transfer of the environmental clearance was taken up by the Respondent in its 125th meeting held on 12.01.2018 in respect of village Heatewal. It was found by the Respondent that:

- i. Many of the Khasra numbers are located in stream, whereas at the time of filing application for environmental clearance, all the Khasra numbers were shown to be in the river bed of river Satluj and away from the active channel.

ii. Some of the Khasra numbers being located in the agricultural land prove that no replenishment may be available.

4. In view of the above, the Respondent issued a notice to the Appellant to show cause why the mining environmental clearance granted earlier should not be revoked. The Appellant submitted its explanation which was considered by the Respondent after which an order dated 09.04.2018 was passed, revoking the environmental clearance granted to the Appellant. Aggrieved thereby, the Appellant filed Appeals before the Tribunal which were dismissed. Review Applications filed by the Appellant were also dismissed by the Tribunal.

5. The Tribunal observed that the cancellation of the environmental clearance was preceded by spot inspection by the Committee constituted by the Sub-Divisional Magistrate, Jagraon on 12.12.2017. The Committee visited the area on 13.12.2017 to verify the facts. The joint demarcation report submitted by the said Committee showed that:

i. Most of the land is under flood protection 'Bundhs/Spurs'. Also, part of the land is adjoining the flood protection 'Bundh'.

ii. Part of the land being under private cultivation proves that replenishment may not be available.

6. As the revocation of the environmental clearance was on the basis of a joint demarcation report, the Tribunal declined to interfere.

7. The learned counsel for the Respondent took us through the basic information provided by the Appellant while making an application for environmental clearance in which it was stated that the proposed mining lease area is a part of the river bed of river Satluj and no agricultural land was involved. He also referred to the pre-feasibility report in which it was mentioned by the Appellant that the land was situated in the river bed of the river Satluj and the proposed activity was to take place in the dry part of the river bed and hence there would be no change in the land used. It was further mentioned in the said report that the excavated material will get replenished in every monsoon season.

8. The revocation of the environmental clearance and rejection of the application filed for transfer of the mining environmental clearance is on the following grounds that:

i. Many of the Khasra numbers are located in stream, whereas at the time of filing application for environmental clearance, all the Khasra numbers were shown to be in the river bed of river Satluj and away from the active channel. The General Manager-cum-Mining Officer, Ludhiana had clearly marked the mining site as 'Aks sajra' showing Khasra numbers away from the active channel and stated that no instream mining is to be involved.

ii. Some of the Khasra numbers being located in agricultural land proves that no replenishment may be available.

9. The Respondent came to the said conclusion relying on the joint inspection report submitted by the Revenue Department and Mining Department. The Respondent was of the opinion that the appraisal of the application for environmental clearance was on the basis of the information furnished by the Appellant which was contrary to the ground reality as found from the joint demarcation report.

10. After examining the material on record and the submissions made by the learned counsel appearing for the parties, there is no reason to interfere with the order passed by the Tribunal. The order of revocation of the environmental clearance is pursuant to the acceptance of the report submitted by the Expert Committee constituted by the Sub-Divisional Magistrate, Jagraon. The report shows that the ground reality is different from what was projected by the Appellant in its application for grant of the environmental clearance.

11. However, the dismissal of these Appeals shall not preclude the Appellant from filing an application for environmental clearance afresh which shall be considered by the Respondent on its own merits.

12. For the aforementioned reasons, the Appeals are dismissed.