

# M/S Young Builders Private Ltd vs University Of Delhi on 28 January, 2020

**Bench: R. Banumathi, A.S. Bopanna**

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 341 OF 2020

M/s Young Builders Private Ltd. ....Appellant(s)

Versus

University of Delhi & Ors. .... Respondent(s)

## ORDER

1. The appellant who is Respondent No.4 in the proceedings before the National Green Tribunal, Principal Bench, New Delhi in Appeal No.112/2018 is before this Court in this appeal assailing the order dated 08.01.2020 passed on I.A. No.488/2019 and I.A. No.628/2019 in Appeal No.112/2018. Through the said order the NGT has apart from requiring an evaluation by the Joint Committee comprising representatives of CPCB, MOEF & CC and IIT Delhi further directed that the appellant herein shall not carry on further construction and status quo be maintained. The appellant, therefore, is aggrieved by the said order.

2. Since the appellant is before this Court with a limited grievance regarding an interim order and the main appeal through which the parties are litigating is still pending before the NGT we do not propose to advert all the contentions urged on merits but would limit ourselves to refer to the consideration relating to the nature of the interim directions issued by the NGT. In that regard, we have heard Shri Shyam Divan, learned senior counsel for the appellant, Shri R. Venkataramani, learned senior counsel for the respondent No.1 and Shri A.N.S. Nandkarni, learned Additional Solicitor General for Respondent No.2. The remaining respondents being proforma respondents were not notified in the instant proceedings as the rival contentions are essentially the matter between the appellant and the Respondent No.1, while Respondent No.2 is relevant as the issue pertains to environment clearance.

3. The Respondent No.1 has filed the Appeal bearing No.112/2018 before the NGT assailing the order dated 23.03.2018 passed by the State Environment Impact Assessment Authority ('SEIAA' for

short), Delhi granting the Environmental Clearance for Group Housing Complex located at 1 and 3 Cavalry Lane and 4 Chhatra Marg at Civil Lines Delhi. The said project relating to the Housing Complex is undertaken by the appellant herein. The Respondent No.1 herein has assailed the said Environmental Clearance on various grounds. The appellant herein as Respondent No.4 before the NGT has filed a detailed counter affidavit relying upon the averments contained therein and the documents in support thereof to contend that the SEIAA had taken note of the material available on record and after a threadbare assessment of the same in the meeting held on 22.03.2018 through Agenda No.4 has granted the clearance. As already indicated the rival contentions on merits is yet to be decided by the NGT. The grievance raised by the learned senior counsel for the appellant herein is that despite such counter affidavit and material available on record the NGT has on merely referring to the contentions put forth by the Respondent No.1 herein, namely, the appellant before the NGT and without reference to the contentions of the appellant herein has not only sought for the evaluation by the Joint Committee but has granted the order of status quo. The learned senior counsel has referred to the manner in which the proceedings had progressed before the NGT and would contend that the NGT did not deem it appropriate to grant any interim orders on the previous hearings held on 21 occasions but has abruptly proceeded to pass the order of status quo without referring to the counter statement which was filed on 10.08.2018 and was on record and being unmindful of the aspects relating to balance of convenience.

4. The learned senior counsel for the Respondent No.1 would however seek to sustain the order passed by the NGT. It is contended that the NGT having taken into consideration the manner in which the environmental clearance had been granted and also applying the precautionary principle has sought to secure a report from the Joint Committee. It is contended that the NGT has also indicated the preferable time limit within which the report would be secured and, therefore, the order of status quo was also justified. It is further contended that an interim order of the present nature does not call for interference.

5. The learned Additional Solicitor General appearing on behalf of the Ministry of Environment, which is one of the bodies from which the NGT has sought participation as a Member of the Joint Committee for submitting the report has contended that the available material on record, based on which the contentions were put forth in the counter affidavit was to be noticed by the NGT before an order of the present nature is passed and, therefore, appropriate orders in that regard be made.

6. In the light of the above, we take note that the NGT on referring to the aspect that the SEIAA had declared the earlier environmental clearance granted in 2012 to be null and void and treated the application for amendment as a fresh application without ensuring that the data taken into account was the relevant data as on the date of the application and not the old database has issued the present direction. However, the learned senior counsel for the appellant has at the outset referred to the environmental clearance order dated 23.03.2018 which is impugned before the NGT and has referred to the specific consideration and would indicate that the SEIAA in its meeting held on 22.03.2018 has considered all aspects of the matter including the approval granted by the Delhi Jal Board dated 07.10.2015 and in that light has pointed out that the SEIAA took into account the discussions and environmental conditions imposed during the consideration of the project in the SEAC meetings held on 24.02.2018 and 13.03.2018. Further the SEIAA has also made it conditional

to follow the Office Memorandum dated 09.06.2015 of the MOEF as also the notification dated 22.12.2014 under the EIA Notification, 2006. In that view, it is contended that after a detailed assessment the conclusion was reached.

7. In the background of the contention it would indicate that an elaborate consideration is made in the 57th Meeting of SEIAA dated 22.03.2018 and the details and the conditions are also contemplated in the environmental clearance dated 23.03.2018. Though it is premature for this Court to advert to the correctness or otherwise of the same, while considering the correctness of the environmental clearance dated 23.03.2018 the material relied upon will have to be taken note at the outset by the NGT even before requiring any other report but there is no reference to all these aspects in the order. Further when the counter affidavit along with the documents were available on record a detailed consideration was necessary and only thereafter if any further report was required by constituting a committee the same would have arisen. However, in the order impugned such consideration is not indicated before requiring the constitution of a Joint Committee for evaluation. The consequential interim order passed would also, therefore, not be sustainable. In that view, the appropriate course would be for the NGT to take note of the contentions put forth by the appellant herein through their counter affidavit and the environmental clearance dated 23.03.2018 and take a decision in the matter. On referring to the contention and materials, the reason for the same not being sufficient or reliable would be an aspect to be recorded and take such further action. To enable such exercise the order impugned dated 08.01.2020 is liable to be set aside, which we accordingly hereby do.

8. In the result the appeal is allowed, the order dated 08.01.2020 is set aside. The NGT shall take note of the counter affidavit and the documents of the appellant and consider the matter on its merits and pass orders in accordance with law. The same shall be done in an expeditious manner. All contentions of the parties are left open.

.....J. (R. BANUMATHI) .....J. (A.S. BOPANNA) New Delhi, January 28, 2020 ITEM NO.22 COURT NO.5 SECTION XVII S U P R E M E C O U R T O F I N D I A RECORD OF PROCEEDINGS Civil Appeal No(s). 341/2020 M/S YOUNG BUILDERS PRIVATE LTD Appellant(s) VERSUS UNIVERSITY OF DELHI & ORS. Respondent(s) (IA No.9449/2020-EXEMP.FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No.9450/2020-EX-PARTE STAY and IA No.9447/2020-PERM.TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES) [TO BE LISTED ON 28.1.2020 FOR ORDERS] Date : 28-01-2020 This appeal was called on for pronouncement of Order today.

CORAM :

HON'BLE MRS. JUSTICE R. BANUMATHI HON'BLE MR. JUSTICE A.S. BOPANNA  
For Appellant(s) Mr. Shyam Divan,Sr.Adv.

Mr. Mahesh Agarwal,Adv.

Mr. Rishi Agrawala,Adv.

Mr. Ankur Saigal,Adv.

Mr. Rohan Talwar,Adv.

Mr. Anirudh Bhatia,Adv.

Mr. E. C. Agrawala, AOR For Respondent(s) Mr. R. Venkatramani,Sr.Adv.

Mr. M. Sanjay Upadhyay,Adv.

Mr. Mohinder Jit Singh, AOR/Ms. Sibani Ghosh,Adv. Mr. Anurag Ojha,Adv./ Mr. Rohan Chawla,Adv. Mr. Kawsik Ghosh,Adv./Mr. Salik S.,Adv. Ms. Sumitra Jaishree,Adv./Mr. Tarun Johari,Adv. Mr. Ankur Gupta,Adv.

(UOI)	Mr. A.N.S. Nadkarni,ASG
	Mr. D.L. Chidananda,Adv.
	Mr. Salvador Santosh Rebello,Adv.
	Mr. G.S. Makker,AOR

UPON hearing the counsel the Court made the following O R D E R In terms of the signed Order, the appeal is allowed. Pending applications, if any, shall also stand disposed of.

(MAHABIR SINGH)  
COURT MASTER

(BEENA JOLLY)  
BRANCH OFFICER

(Signed order is placed on the file)