

Rakesh Shrivastava vs Bihar Foundry And Casting Limited on 28 April, 2023

Item No.01

Court No.1

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)

Original Application No.44/2023/EZ

Rakesh Shrivastava

Applicant(s)

Versus

Bihar Foundry and Casting Limited &Ors.

Respondent(s)

Date of hearing: 28.04.2023

CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER

For Applicant(s) : Mr. Nilanjan Pal, Advocate (in Virtual Mode)

ORDER

1. In pursuance of our previous order dated 27.04.2023, Mr. Nilanjan Pal, learned Counsel, on instructions received from the Applicant, states that the Applicant has not filed any Original Application before the National Green Tribunal, Principal Bench and, in fact, only a letter dated 03.11.2022, copy of which has been filed as Annexure-P/12 to the Original Application, was sent by him to the Principal Bench.

2. We find that the National Green Tribunal, Principal Bench took cognizance of that letter and registered an Original Application as Original Application No. 172/2023 (Rakesh Shrivastava Vs. State of Jharkhand) and has also constituted a Joint Committee comprising of; State PCB, CPCB, Regional Officer, MoEF&CC, Ranchi and District Magistrate, Hazaribagh, with a direction to the said Committee to visit the site, collect relevant information and submit its factual report as also action taken, if any, within two months.

3. We also find that the Principal Bench has not issued any notices to the Respondents.

4. Mr. Nilanjan Pal, learned Counsel then states that he has no notice of such Original Application, since the Original Application No. 172/2023 was never filed by the Applicant.

5. We specifically asked the learned Counsel for the Applicant as to whether he wants to prosecute the Original Application No.172/2023 pending before the National Green Tribunal, Principal Bench, or he wants to prosecute the present Original Application No. 44/2023/EZ in the National Green

Tribunal, Eastern Zone Bench. Learned Counsel states that since the matter falls within the jurisdiction of the National Green Tribunal, Eastern Zone Bench, he would like to prosecute the Original Application No. 44/2023/EZ.

6. We have heard Mr. Nilanjan Pal, learned Counsel appearing (in Virtual Mode) for the Applicant.

7. The allegation of the Applicant in this Original Application is that the Respondent No.1, Bihar Foundry and Casting Limited, is a registered company engaged in the business of ferrous products, ferro alloys, ferro silico-manganese etc. and it was granted Environmental Clearance on 28.01.2010 by the Ministry of Environment, Forests and Climate Change, (Respondent No.3 herein), for expansion of its Steel Plant situated at Plot No. 1364, Ramgarh Industrial Area, Marar, Hazari Park, Jharkhand.

8. It is stated that on 31.10.2021, a further Environmental Clearance was issued to the Respondent No.1 by the Ministry of Environment, Forests and Climate Change, for expansion of its Ferro Alloy Plant by installing S.E.A.F. for manufacturing of ferro-silicone/ferro- manganese at Plot No. 1405, Ramgarh Industrial Area, Marar, Hazari Park, Jharkhand.

9. It is alleged that that the Respondent No.1 company obtained clearances in its own name but thereafter used these clearances to obtain permission for Consent to Operate in favour of M/s Gautam Ferro Alloys, (Respondent No.2 herein), which is a proprietorship firm and the Consent to Operate was granted in favour of M/s Gautam Ferro Alloys on 10.11.2020.

10. It is also stated in para 8 of the Original Application that the Respondent No.1 company has described the Respondent No.2 as 'its own Unit', although the Respondent No.2, M/s Gautam Ferro Alloys, in an affidavit filed before the High Court of Jharkhand, has claimed itself to be a 'Proprietorship Firm'.

11. It is further alleged that the Respondent No.2 filed an application for purposes of 'Online Continuous Emission Monitoring System' maintained by the Jharkhand State Pollution Control Board, describing itself as a 'Company'.

12. Further allegation of the Applicant is that the Respondent No.1 Company is engaged in illegal expansion of its Ferro Alloy Unit on 08.01.2010 for 'Sponge Iron Plant' located at Plot No. 1364, measuring 14 acres and obtained Environmental Clearance for Ferro Alloys Plant located at Plot No. 1405, measuring 14 acres on 31.10.2010. Thus, the Respondent No.1 has total 28 acres of area for its two Plants of Ferro Alloys and Sponge Iron each measuring 14 acres, though the Consent to Operate is in favour of Respondent No.2 firm which is situated on Plot No.1405, measuring area 7.26 acres whereas the area of Sponge Iron Plant in Consent to Operate dated 28.11.2019 shows its area as 19 hectares/47.5 acres.

13. There are other allegations that the Respondent No.1 has not fulfilled 33% of land as 'green belt' as required under the Environmental Clearance. It is also stated that the said Plant of the Respondent Nos. 1 & 2 falls within the area notified as 'Severely Polluted Area' with clusters of

'Comprehensive Environmental Pollution Index (CEPI) ranging from 60-70.'

14. Further allegation of the Applicant is that the Respondent No.2 Plant is having production capacity of 34,000 tonnes, requiring at least 68 Kilo Litres (KL) of water for industrial use excluding domestic and office consumption of Plant but it has taken permission for drawl of only 33 KL water which is insufficient for production of 34,000 tonnes of ferro alloys.

15. Certain other breaches of stipulated conditions have been alleged in para 26 of the Original Application which are extracted herein below:-

"Environment Air	Stipulation of conditions such as:	Status
	i. Stack emission levels should be stringent than the existing standards in terms of the identified critical pollutants.	Not followed by the industry.
	ii. CAAQMS may be installed in all large/medium red category industries (air polluting).	Not followed by the industry.
	iii. Effective fugitive emission control measures should be imposed in the	Not followed by the industry.

process, transportation, packing etc. iv. Transportation of materials by Not followed by rail/conveyor belt wherever the industry.

feasible.

v. Encourage use of cleaner fuels (pet Not followed by coke/furnace Oil/LSHS may be the industry.

avoided).

vi. Best Available Technology may be No Dust used for dust collection. collection System.

vii.	Increase of green belt cover by 40% of the total land area beyond the permissible requirement of 33%, wherever feasible.	Nov even 20% of the total land is covered with greenbelt.
viii.	Stipulation of greenbelt outside the project premises such as avenue plantation, plantation in vacant areas, social forestry, etc.	No outside plantation carried out by the industry.
ix	Assessment of carrying capacity of transportation load on roads inside the industrial premises If the roads required to be widened, shall be prescribed as a condition.	Carrying capacity of the roads has not been assessed by the company.

		Roads are not maintained properly.
Water	Stipulation of conditions such as:	
	i. Reuse/recycle of treated wastewater, wherever feasible.	ZLD is not maintained in the plant so no scope of recycling and reuse.
	ii. Continuous monitoring of effluent quality/quantity in large and medium Red Category Industries (water polluting).	No STP & ETP installed by the industry therefore monitoring cannot be carried out.
	iii. A detailed water harvesting plan may be submitted by the project proponent.	Not submitted by the industry.
	iv. Zero liquid discharge wherever techno-economically feasible.	Industry doesn't maintain Zero Liquid Discharge.
	v. In case, domestic waste water generation is more than 10 KLD, the industry may install STP.	STP is not installed.
Land	Stipulation of conditions such as:	
	i. Increase of greenbelt cover by 40% of the total land area beyond the permissible requirement of 33%, wherever, feasible for new projects.	Not even 20% of the total land is covered with greenbelt.
	ii. Stipulation of greenbelt outside the project premises such as avenue plantation, plantation in vacant areas, social forestry, etc.	No outside plantation carried out by the industry.
	iii. Dumping of waste (fly ash, slag, red mud, etc.) may be permitted only at designated locations approved by SPCBs/PCCs.	No such approval from Jharkhand pollution control board.
	iv. More stringent norms for management of hazardous waste. The waste generated should be preferably utilized in co-processing.	No such authorization taken for Gautam ferro alloy.
Other conditions (Additional)		
	i. Monitoring of compliance of EC Conditions may be submitted with	It is observed that all the EC

third party audit every year.

Conditions submitted are false and fabricated and EC Compliance is not complied by Regional director of MoEF&CC.

ii. Corporate social responsibility.

No work under Corporate social responsibility.

iii. The % of the CER may be at least 1.5 times the slabs given in the OM dated 01.05.2018 for SPA and 2 times for CPA in case of Environment Clearance.

Industry never provides funds for CER activity.

16. It is further alleged that the Respondent No.1 Plant has set-up 1*75 MVA Unit which is being run since 2009 without Environmental Clearance.

17. In our opinion, matter requires consideration.

18. Issue notice to the Respondents, returnable within four weeks.

19. Mr. Sandip Agarwal, Mr. Tanay Agarwal, Mr. Shivam Bhimsaria and Ms. Nayantara Bhattacharya, learned Counsel file Vakalatnama on behalf of the Respondent No.1, Bihar Foundry and Casting Limited; the same is taken on record.

20. Ms. Anamika Pandey, learned Counsel appearing (in Virtual Mode), accepts notice on behalf of the Respondent No.3, Ministry of Environment, Forests and Climate Change.

21. Mr. Surendra Kumar, learned Counsel appearing (in Virtual Mode), accepts notice on behalf of the Respondent No.4, Jharkhand State Pollution Control Board.

22. Mr. Ashok Prasad, learned Counsel who is present in Court, accepts notice on behalf of the Respondent No.5, Central Pollution Control Board.

23. Issue notice to the Respondent No.2, Goutam Ferro Alloys, returnable within four weeks.

24. All the Respondents shall file their counter-affidavits within four weeks.

25. Considering the allegations made, we deem it appropriate to constitute a Committee comprising of the following Members:-

i) Senior Scientist/Environmental Engineer, Jharkhand State Pollution Control Board;

ii) Senior Scientist/Environmental Engineer, Integrated Regional Office, Ranchi, Ministry of Environment, Forests and Climate Change; and

iii) Senior Scientist/Environmental Engineer, Central Pollution Control Board;

26. The Committee shall visit the site in question and submit its report on affidavit with regard to the allegations made in the Original Application within four weeks.

27. The Jharkhand State Pollution Control Board, Respondent No.4, shall be the Nodal Body for all logistic purposes and for filing the affidavit bringing on record the Inspection Report of the Committee.

28. List on 29.05.2023.

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B. Amit Sthalekar, JM

Dr.Afroz Ahmad, EM April 28, 2023, Original Application No.44/2023/EZ AK