



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

Civil Appeal No.3042 of 2023

Indian Oil Corporation Ltd.

...Appellant

Versus

Deepak Sharma and Ors.

...Respondents

With

Civil Appeal Nos.4991-4992 of 2024

J U D G M E N T

K. VINOD CHANDRAN, J.

1. This is a classic case of how a busy body stalled the commencement of a petrol pump, thus frustrating the establishment of a commercial enterprise and the setting up of a public utility outlet for about six years. The 1st respondent filed an application before the National Green Tribunal (for short, the NGT), allegedly aggrieved with the illegal manner in which a petrol pump was being set up, adjacent to a gas agency and a play school. The specific allegation was that the proposed site offended

the guidelines issued by the Central Pollution Control Board (for short, the CPCB), brought out at the instance of the NGT.

2. The violation was claimed to be of the siting criteria for retail outlets specified in the guidelines dated 07.01.2020 issued by the CPCB for setting up new petrol pumps, in compliance with the order of the NGT in O.A. No.86 of 2019, Gyan Prakash @ Pappu Singh v. Government of India and Ors. The siting criteria provided that new retail outlets shall not be located within a radial distance of 50 meters from schools, hospitals (10 beds and above) and residential areas designated as per the local laws. Where it was impossible to comply with that distance, a relaxation was also provided permitting a lesser criterion of 30 meters, but with additional safety measures implemented as prescribed by the Petroleum and Explosives Safety Organization (PESO). It was also provided that no high-tension line shall pass over the retail outlet. The said allegation was also raised in the petition.

3. The NGT having heard the parties first by order dated 25.09.2020 called for a report from a Committee comprising the CPCB, the State Pollution Control Board and the State Environment Impact Assessment Authority (for short, the SEIAA), Uttarakhand, constituted in another similar case. The Committee made its report

Annexure-6 confirming that the petrol pump could be established since business activities were carried on, in and around the proposed site. Despite the said report the NGT found that though the Letter of Intent is prior to the guidelines that would not create any vested right when as per the guidelines the proposed site is objectionable. The NGT relying on the precautionary principle found that such units could cause environmental damage, especially from the fumes emitted while dispensing fuel, which required a safe and reasonable distance from any residence, hospital or school. The residence of the owner of the petrol pump itself was found within the prohibited distance. The NGT empowered the Committee constituted to take a final decision in the matter within one month. The CPCB was directed to be the Nodal Agency and till the decision of the Joint Committee, the No Objection Certificates (NOC) issued for the petrol pump were kept in abeyance. Representations were directed to be made before the Committee and the application was disposed of; clearly in abdication of the powers of the NGT, as has been noticed in a number of decisions placed before us.

4. Be that as it may, the Committee convened and made a further report, Annexure-7 and the appellants rely on a third report,

Annexure-10. The 1st respondent asserts Annexure-10 is not of the Committee constituted by the NGT since it is signed by only two Engineers.

5. Later, the 1st respondent again approached the NGT, with an Execution Petition under Section 25 of the National Green Tribunal Act, 2010. By an order dated 11.11.2022, on the date of admission, without notice to the respondents, the NGT relied on Annexure-7 report dated 08.03.2021 directed the District Magistrate, Haridwar to look into the matter and ensure compliance with the order of the NGT of 01.02.2021 read with the report of the Committee; again clearly in violation of the principles of natural justice, found to be the bedrock of the justice dispensation system, the reluctance of the NGT to subject itself to the said principles having been deprecated by this Court, as we will presently see.

6. We heard Mr. Neeraj Malhotra, learned Senior Counsel for the appellants who were granted the Letter of Intent and Mr. Raghavendra P. Shankar, learned ASG for the Indian Oil Corporation Ltd, the appellants in the two appeals and the learned Counsel for the respondents Sri. Siddhartha Iyer.

7. It was argued for the appellants that all statutory compliances have been made and the 1st respondent who did not have any

perceivable grievance by reason of residing in the vicinity or otherwise, had filed the petition with ulterior motives. It is pointed out that the report of the Committee clearly indicated the proposed site being in a commercial area. The play school said to have been functioning nearby was not operational and subsequently it has been closed down. The house existing within the vicinity is only that of the husbands of the appellants who have been granted the agency. There is no high-tension wire going above the proposed site and the later report was not brought to the notice of the NGT.

8. On the other hand, learned Counsel for the 1st respondent argued that the statutory authorities had acted in total violation of the guidelines and the appellants who were granted the agency had suppressed the order of the NGT before the statutory authorities. It is pointed out that the third report is not of the Committee appointed by the NGT. The appellants in flagrant violation of the guidelines was attempting to set up the petrol pump, throwing to winds the precautionary principle and the safety of the nearby residents.

9. On a specific query as to the *locus standi* of the 1st respondent to move the NGT, there was no positive answer from the learned Counsel, who points out that the *bona fides* were never in question.

However, the learned Counsel was not able to apprise us as to whether the 1st respondent had his residence in the vicinity of the proposed site.

10. Before we look into the reports, we have to notice the decisions placed before us by the appellants. ***Sanghar Zuber Ismail v. Union of India***¹ dealt with an appeal before the NGT from the grant of environmental clearance (EC) for expansion of a Refinery, alleged to be causing an adverse impact on the marine environment. Having noticed a study prepared by the CSIR-National Environmental Engineering Research Institute (NEERI) adverting to the submissions of the learned Senior Counsel appearing for the Refinery that all EC conditions will be duly complied with and due mitigation measures would be put in place to ensure the safety of mangroves and the marine environment, the NGT appointed a three member committee to monitor the same and disposed of the matter. This Court found that the specific ground urged before the NGT was the environmental depredation caused by the expansion which had to be addressed when it's appellate power was invoked, without brushing aside the

¹ (2021) 17 SCC 827

substantive grounds of challenge merely based on the project proponent's statement that there could be no continuing grievance for the reason of the environmental norms having been complied with. This Court categorically found that the constitution of an Expert Committee does not absolve the NGT of its duty to adjudicate and that such adjudicatory functions cannot be assigned to committees, even, Expert Committees when the final decision has to be of the NGT, the appellate authority which itself is constituted as an adjudicatory authority under an Act of the Parliament.

11. The said decision was followed by ***Kantha Vibhag Yuva Koli Samaj Parivartan Trust & Ors. v. State of Gujarat & Ors.***² Therein the issue before the NGT was the dumping of solid waste which was considered elaborately and various orders passed right from the year 2014 upto 2018. Despite the considerable amount of time spent on the issue, abruptly, the monitoring carried on by the Western Zone Bench was brought to an end by the Principal Bench of the NGT on 28.09.2018. The matter was disposed of finding Regional and State Level Committees having been constituted by

² (2023) 13 SCC 525

the NGT, in another application, to monitor the implementation of the Solid Waste Management Rules. The aggrieved parties were directed to approach the Committees to ventilate their grievances.

12. This Court drew a distinction between the expert committees constituted by the Courts/Tribunals and those set up by the Government in exercise of their statutory or executive powers. Those set up by the Government have technical experts, guided by a delineated procedure as per the statute or executive orders and were also subject to judicial review before Courts. Reference was also made to precedents which urged circumspection in rejecting the opinion of such committees, unless it was manifestly arbitrary or patently *mala fide*. The expert committees set up by the Courts, on the other hand, were in assistance of the Court itself when complex, technical, time consuming issues often necessitating field visits arise. Such committees are regulated by specific terms of reference and their reports are to be filed before Court which has to be adjudicated upon after giving an opportunity to all concerned. It was emphasized that the role of an expert committee appointed by an adjudicatory forum is only to assist and not to adjudicate. The adjudicatory functions conferred on the NGT as per Sections 14 and 15 of the NGT Act was emphasized. The

composition of NGT, it was found, is carefully moulded to bring in judicial expertise and domain knowledge in equal measure by having judicial members and expert members. The NGT in that case was held to have abdicated its jurisdiction and entrusted judicial functions to an administrative expert committee, which order was set aside, restoring the matter to the files of the NGT for proper adjudication.

13. *Singrauli Super Thermal Power Station v. Ashwani Kumar Dubey*³ is yet another case where similar allegations were raised of abdication of powers and also of violation of principles of natural justice. The NGT in the said case also constituted an expert committee, uploaded the report on its website and issued directions three days thereafter, without any reasonable time given to object to the report as such. This Court referred to the afore-cited decisions and again emphasized on the constitution of the NGT as a judicial body exercising adjudicatory functions, in an adversarial system, in accordance with law and also in compliance with the principles of natural justice, expressly envisaged and mandated in Section 19 (1) of the NGT Act.

³ (2023) 8 SCC 35

14. There can be no dispute as to the NGT being an adjudicatory authority and the procedure, regulated *inter-alia* by principles of natural justice. The first impugned order is gross, for the NGT abdicated its powers and entrusted a committee to look into the compliance of the guidelines and disposed of the matter. The second order is starker insofar as the principles of natural justice having been given a complete go by and the execution petition having been disposed of on the first date, directing compliance with the earlier order, which entered no finding and the later report, which was vague in so far as the siting criteria in the guidelines. The earlier order of the NGT, as we observed but for noticing the guidelines and referring to the precautionary principle did not go into the facts and merely directed the Committee to decide on the issue, when the Committee had by its report favored the establishment. We are also a little perturbed by the bland finding, without reference to any studies, of fumes emitted on fuel dispensation leading to environmental depredation, when definitely burning it would result in a more onerous consequence. The NGT disposed of the matter leaving the adjudicatory process to the Committee which has resulted in a stalemate, leaving the establishment of a public utility outlet in

limbo and the entrepreneurs without remedy, despite all statutory clearances having been obtained.

15. Specific reference was made to Annexure A4, the letter issued by the District Magistrate, Haridwar to the Regional Manager, Indian Oil Corporation, Dehradun. The communication lists out the investigation reports of the District Supply Officer, Haridwar, Uttarakhand Power Corporation, Haridwar, National Highways S & R (P&B) Section, Haridwar- Roorkee Development Authority and Senior Superintendent of Police, Haridwar who furnished their No Objections Certificates. The NOC at Annexure A4 was issued directing inspection of the Fire Fighting Officer for approval of the map and implementation of fire prevention measures, following the guidelines of the Petroleum Rules, 2002.

16. The 1st respondent approached the NGT subsequent to the NOCs first, and later, based on the report of the constituted committee, produced at Annexure A7 after the disposal of the petition by the NGT. Annexure A7 speaks of one residence in the vicinity which is of the appellants themselves, owned by their husbands and another residential colony without any details. There is said to be a gas agency and a play school, the latter of which is found to be not functional. The report clearly records that

commercial activities are observed in the southeast direction of the proposed site which lies on the National Highway. The high-tension line drawn is approximately 5 meters away from the proposed site. A residential colony was also situated approximately 30 meters from the proposed outlet in the north-east direction, the details of which as we noticed, are not specified. The Haridwar Development Authority's submission that the area in which the proposed site is situated, is a commercial area as revealed from the Haridwar Master Plan, 2025 was recorded and the inspection too revealed both residential and commercial activities. Based on the said facts recorded and the interactions said to have been conducted with the concerned individuals, it was concluded that the installation of a retail outlet under the site at reference cannot be allowed; on what grounds is beyond comprehension. The NGT failed to consider the report or its efficacy juxtaposed with the guidelines of the CPCB. The adjudicatory authority cannot blindly adopt the conclusion of a fact-finding committee constituted to aid in deciding the issues agitated before it in accordance with law; which decision has to be of the authority and not that of the committee.

17. A third report by the committee is seen at Annexure A10 which finds the guidelines to have been complied with. Annexure A10 was issued on the request made by the appellants at Annexure A9. The learned counsel for the 1st respondent has vehemently pointed out that there is a clear suppression of the NGT order before the statutory authority. We find that all of the NOCs referred to in the letter dated 19.07.2021 are prior to the order of the NGT itself on 01.02.2021, except that of the PESO dated 08.06.2021. Annexure A10, the report specifically refers to the order of the NGT and finds due compliance of the statutory requirements, specifically of the CPCB guidelines. The report also emanates from a joint action of the CPCB and Uttarakhand PCB as is evident from the caption, though not of the Committee constituted by the NGT, which as we noticed in any event has a very limited role. Sans the adjudication, the fact finding even by the Engineers of the two agencies can be equally relied on.

18. The CPCB guidelines speaks of 50 meter distance from schools, hospitals (10 bed and above) and a residential area designated as per the local laws. In the present case, there is nothing on record to show that that proposed site is within a designated residential area as per the local laws. We have also

seen from the report that a single residence and a residential colony is in the vicinity but at some distance which does not by itself violate the distance rule, since it is not in a designated area as per the local laws. We were shown the Master Plan of the State, produced as an additional document with I.A No. 54304 of 2026 which demarcates the area comprising the proposed site as commercial.

19. Before we leave the matter, we also have to notice that the second order was passed without notice to the parties and on the first date of consideration. The report was not considered and a direction was issued to follow the earlier order of the NGT, which is bereft of any adjudication. There was neither notice issued on the report nor were the contents of the report considered by the NGT. No objections were called for from the oil company or the grantee, in clear violation of the statutory prescription under Section 19 (1). We would normally have remanded the matter, but the reports are clear, which indicate no violation of the guidelines and the 2nd respondent has been unable to satisfy us on his *locus*. A remand would further delay the matter which would be prejudicial to the interest of the appellants and of the public.

20. We are unable to sustain both the orders and less said the better about the *bona fides* or the lack of it of the 1st respondent. The appeals stand allowed, setting aside the orders of the NGT passed on 01.02.2021 and 11.11.2022. The District Magistrate, Haridwar shall consider the issue afresh and if required obtain the statutory clearances as of now and the establishment of the petrol pump shall be permitted, if in compliance of the extant laws.

21. Pending applications, if any, shall also stand disposed of.

..... J.
(SANJAY KUMAR)

..... J.
(K. VINOD CHANDRAN)

NEW DELHI;
MARCH 23, 2026.