



REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No(s). 1865-1866/2022

VEENA GUPTA & ANR.

Appellant(s)

VERSUS

CENTRAL POLLUTION CONTROL BOARD & ORS.

Respondent(s)

J U D G M E N T

PAMIDIGHANTAM SRI NARASIMHA, J.

1. These appeals arise out of two orders passed by the National Green Tribunal ("Tribunal" for short). The main order arises out of an ex parte order in suo motu proceedings holding the appellants to be guilty and directing payment of compensation. The second order is the dismissal of the review petition filed by the appellant No.2 alleging that he had not been given an opportunity before an adverse order was passed against him. For the reasons to follow, we set aside the orders and remand the matter back to the Tribunal to issue notice to all the affected parties, hear them and pass

appropriate orders.

2. The relevant portion of the order impugned¹ is as under:

"7. Even though no notice was issued by the Tribunal to the PP in absence of particulars, the Joint Committee has visited the site. Notice has been issued to the PP under the Employees Compensation Act for death of a person. Remedial measures have been suggested for future. The PP has been found to be operating without statutory consents in non-conforming area without safety precautions, endangering life and health of others. In these circumstances, reserving liberty to the PP to move this Tribunal, we do not consider it necessary to defer the matter and to proceed by notice to the PP in view of established facts, duly verified by the statutory authorities who are themselves competent to take the recommended measures.

8. In view of the above, further action may be taken by the Statutory Authorities, following due process. The compensation assessed may be recovered and if not paid within one month, coercive measures be taken against the concerned persons as well as against the property involved. We request the Member Secretary, Delhi State Legal Services Authority to ensure legal aid to the heirs of the deceased to enable due compensation to be paid to them. If the owners/tenant or other persons against whom action is taken are aggrieved, they are at liberty to take their remedies, including moving this Tribunal. The Authorities may also maintain vigil and take measures to prevent such incidents in future. We have noted the constitution of zone wise STF to check the illegal industrial activities and godowns in residential/non-conforming areas and are of the view that the same should be manned by officers of higher rank than the constitution now proposed. The Chief Secretary, Delhi may review the constitution accordingly."

3. It is evident from the above that the Tribunal itself has noted that notices were not issued to the Project Proponents. The Tribunal, in fact, considers it unnecessary to hear the Project Proponent to verify the facts in issue. The Tribunal thought it appropriate to adopt this method in view of a Joint Inspection Report that had been submitted. The persons who were prejudiced by the order of the Tribunal naturally filed Review Petitions before the Tribunal. Appellant No. 2 is one amongst them. The Review Petition was taken up and dismissed by the Tribunal on 26.11.2021.

4. The National Green Tribunal's recurrent engagement in unilateral decision making, provisioning ex post facto review hearing and routinely dismissing it has regrettably become a prevailing norm. In its zealous quest for justice, the Tribunal must tread carefully to avoid the oversight of propriety. The practice of ex parte orders and the imposition of damages amounting to crores of rupees, have proven to be a counterproductive force in the broader mission of environmental safeguarding.

5. Significantly, these orders have consistently faced stays from this Court, resulting in the unraveling of the commendable efforts put forth by the learned Members, lawyers,

and other stakeholders². It is imperative for the Tribunal to infuse a renewed sense of procedural integrity, ensuring that its actions resonate with a harmonious balance between justice and due process. Only then can it reclaim its standing as a beacon of environmental protection, where well-intentioned endeavors are not simply washed away.

6. It appears that the appellants did not have a full opportunity to contest the matter and place all their defenses before the Tribunal. They filed this appeal and by order dated 04.03.2022, this Court stayed the judgment and order passed by the Tribunal. This was inevitable. Two years have passed by and the stay is still operating. We have no other alternative except to set aside the orders dated 31.08.2021 and 26.11.2021 and remand the matter back to the Tribunal. The Tribunal issue notices to all the necessary parties, hear them in detail, and pass appropriate orders. Needless to say that the Tribunal shall hear the case, uninfluenced by the observations and conclusions drawn in the orders dated 31.08.2021 and 26.11.2021.

² *Singrauli Super Thermal Power Station v. Ashwani Kumar Dubey & Ors.*, (2023)8 SCC 35. This Court has already noticed the practice of the Tribunal in not providing an opportunity of hearing to the affected party and consequently set aside its orders and remanded the matter to the Tribunal for reconsideration after following principles of natural justice.

7. We make it clear that this order does not deal with the merits of the matter and the actions of those guilty of statutory and environmental violation will have to be subject to strict scrutiny and legal consequences.

8. The Civil Appeals are allowed with these directions.

9. Pending applications, if any, shall stand disposed of.

.J.
[PAMIDIGHANTAM SRI NARASIMHA]

.J.
[ARAVIND KUMAR]

New Delhi
January 30, 2024.