

**BEFORE THE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

**Original Application No. 418/2017
(M. A. No. 787/2017)**

Delhi Bird Foundation Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER

Present: Applicant / Appellant : Mr. Ritwick Dutta, and Mr. Utkarsh Jain, Advs.
For Respondent : Ms. Sakshi Popli, Adv. and Mr. Upendra
Yogesh, Advs. for MoEF
Respondent No. 2 to 4 : Mr. Anil Grover, AAG with Mr. Mishal Vij and
Mr. Rahul Khurana, Advs.
Respondent No. 5 : Mr. Piyush Joshi and Mr. Kaustav Som, Advs.

	Date and Remarks	Orders of the Tribunal
	Item No. 24 May 18, 2018	<p style="text-align: center;"><u>M.A. No. 787 of 2017</u></p> <p>This Application has been filed by the Applicant with a prayer for staying the on-going construction of the C&D Plant and dumping of recyclable waste at Basai Wetland.</p> <p>In this Original Application, initially an injunction was granted on 22nd July, 2017. Thereafter, on hearing the parties, the Tribunal had passed the following order on 10th January, 2018:</p> <p style="text-align: center;"><i>“Learned Counsel appearing on behalf of the Project Proponent undertakes not to carry out construction of the C& D waste processing facilities on the said land without consent to establish granted by the Haryana State Pollution Control Board and not to set up any machinery, equipments and operate the same therein for running the facilities of C& D waste processing without obtaining authorization from HSPCB under rule 7 (3) of the Construction and Demolition Waste Management Rules, 2016 at the site in question. Undertaking is accepted.”</i></p> <p>Further, a Misc. Application No. 58 of 2018 was filed by the Applicant for clarification of the order dated 10th January, 2018. On the said Application, following order was passed on 24th January, 2018:</p> <p style="text-align: center;"><u>“M.A. No. 58 of 2018</u></p>

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2018**

The applicant is seeking clarification of the order dated 10-01-2018 to the extent that the Project Proponent cannot undertake any activity related to "Setting up" of the waste processing plant until authorization from the Haryana Pollution Control Board under Rule 7(3) is obtained.

Learned Counsel appearing further submits that before any construction is taken up the authorization for setting up of C& D waste processing unit is necessary particularly in view of the site selection criteria mentioned in Rule 7 Sub-Rule 1 of the Construction and Demolition Waste Management Rules, 2016.

We have specifically warned the concerned person to keep their hands off from setting up of such plant without obtaining authorization from HSPCB under Rule 7 of the Construction and Demolition Waste Management Rules, 2016.

We further clarify in view of the clear provision of Rule 7 that authority granting authorization shall be mindful of the provision of Sub-Rule 1 of Rule 7 of the Construction and Demolition Waste Management Rules, 2016 while considering the application for grant of authorization to the C&D waste processing unit in question. No equity shall be claimed by any of the party."

In view of the earlier proceedings, namely, vacation of the initial injunction order dated 22nd July, 2017 and the fact that an Application for clarification of the said order had also been considered by the Tribunal, consisting of the same Bench on 10th January, 2018, whereby injunction was vacated, we are of the considered opinion that no further order for purposes of clarification or for any other purpose is required. As it is submitted by the Learned Counsel for the Applicant that in case the matter is prolonged, then difficulty will be created in respect of the main issue raised in this Original Application.

In such circumstances, we deem it proper to order

	<p>Item No. 24</p> <p>May 18, 2018</p>	<p>that this matter be heard on priority and listed on 30th May, 2018.</p> <p>Accordingly, M.A. No. 787 of 2017 stands disposed of, without any order as to cost.</p> <p>List this matter on 30th May, 2018.</p> <p>.....,JM (Raghuvendra S. Rathore)</p> <p>.....,EM (Dr. Satyawan Singh Garbyal) (18.05.2018)</p>
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