

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

Original Application No. 128 of 2014

Raghubir Singh Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON
HON'BLE MR. JUSTICE M.S. NAMBIAR, JUDICIAL MEMBER
HON'BLE MR. DR. D.K. AGRAWAL, EXPERT MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER
HON'BLE DR. R.C. TRIVEDI, EXPERT MEMBER

Present: **Applicant:** Mr. Giriraj Subramaniam, Mr. Rajkiran Vats and Ms. Sonam, Gupta, Advs.
Respondent No. 1: Ms. Vikas Malhotra and Mr. M.P. Sahay, Advs.
Respondent No. 2: Mr.B.V. Niren, CGSC
Respondent No. 3: Mr. Pradeep Misra and Mr. Daleep Kr. Dhyani, Advs.
Respondent Nos. 5&6: Mr. Pinaki Misra, Sr. Adv. and Mr. Ravindra Kumar, Adv.

Date and Remarks	Orders of the Tribunal
Item No. 9 August 11, 2014	<p style="text-align: center;"><u>Original Application No. 128 of 2014</u></p> <p>The Applicant who claims to be a public spirited person in the field of the environmental conservation has approached the Tribunal with the following prayers:-</p> <p style="text-align: center;"><i>“(a) Issue appropriate guidelines, to be uniformly applicable throughout the country, with regard to issues raised in the present Application as well as to the tender in question: and (b). Direct the Respondents No. 5 and 6 to take all relevant environmental clearances for the concerned Land/Plot from the concerned/concerned Authorities before awarding the tender in question to any Deloper/ Builder: and/or (c) Pass such further order(s) as this Hon’ble Tribunal may deem fit and proper.”</i></p> <p>The above prayers have been made by the Applicant on the premise that the Noida Industrial Development Authority has invited tenders for development of a world-class Sports City in Sector 150, NOIDA. The last date for tender submission was 26th</p>

June, 2014. Further, according to the Applicant, Ministry of Environment and Forests (for short "MoEF") is the nodal agency for administrative structure of the Centre Government for planning, promotion, coordination and overseeing the implementation of India's environmental and various policies. It is obligatory upon the said Ministry to ensure the compliance of the environmental laws. It is further the case of the Applicant that the rapid pace on which administrative activities are being undertaken by various Government Authorities concerned in the flood plains of river Yamuna and Hindon has resulted in permanent impairment of the ability of the river bed to recharge ground water causing irreversible damage to the flood plain besides various other serious impacts which have been observed with the passage of time and various matters in that regard have been filed in the Courts and even before the Tribunal.

"No development zone" at the river bank has to be maintained in the interest of environment and ecology. The sport city if be constructed and is proposed to be constructed in the river bed thus causing environmental damage particularly in relation to the flow of the river and depleting of the underground water. In these circumstances, the Learned counsel appearing for Applicant also submits that as per the Master Plan, 2013 development of further activities has not been proposed in more than 5000 hectares within the river flood of area because these basically flood the affected areas.

Thus, the Applicant prays Respondents be

restrained from awarding the tender and all concerned stake holders should be directed to take Environmental Clearance. In the light of the above pleadings, inter-alia but primarily the contentions of the Applicant are as follows:-

1. Environmental Clearance for the project has to be obtained and new public declaration in that regard needs to be made prior to awarding of tender:
2. No development zone should be maintained preferably more than 200 mtrs. from the river bank;
3. The construction of world sport city in Sector 150, NOIDA is environmentally not viable project and is bound to affect the environment and ecology of the area adversely.

Learned counsel appearing for Respondents though vehemently contested the claims raised by the Applicant fairly states that taking of Environmental Clearance in accordance with law for the project is mandatory and Respondents themselves in their respective bye-laws have duly accepted the said position of law and infact made it obligatory upon the Developers or the concerned stake holders to seek Environmental Clearance and make it public in that behalf. In this regard reference has been made to the relevant bye-laws framed by the Respondent –Authority.

“The Authority may approve the conditional building plan in case where height of building is more than 30 mtrs. (where No Objection Certificate from the Airport Authority is necessary) and where build-up area is more than 20000 sq. mtrs. (where obtaining

EIA is required), this provision will be permitted on the condition that the construction work will be started only after getting environmental No Objection Certificate. Any relevant act and the construction work beyond the height of 30 mtrs. shall be done after getting No Objection Certificate from the Airport Board Authority.”

“That the allottee shall not launch the project or create any third party right unless Environmental Clearance is sanction by the competent authority”

Learned counsel appearing for MoEF has stated that the project in question is a B-1 category project and it is obligatory upon the Project Proponent to take Environmental Clearance from the State Level Environment Impact Assessment Authority in accordance with the Notification of 2006.

Having heard the Learned counsel appearing for the parties at some length we are of the considered view that this Tribunal would hardly have any jurisdiction to go into the question of inviting and awarding tender for execution of work. The jurisdiction of the Tribunal is primarily concerned with the substantial question of environment and/or entertainment and decision of the Appeals which may fall within the ambit of Section 16 of the NGT Act, 2010.

The prayers made by the Applicant in relation thereto thus do not deserve to be considered by the Tribunal and if they are aggrieved on any of the terms and conditions of the tender, the Applicant has to take recourse to such legal remedy available to him in accordance with law. The second but most significant aspect of the case, it is commonly conceded position

before us, is that the Project Proponent to whom the tender is awarded before he commences any part of this project he has to obtain requisite permissions particularly the Environmental Clearance from the competent authority and makes it public in accordance with law. The bye-laws, which is in force, make it mandatory on the part of the Project Proponent to obtain Environmental Clearance before commencement of any work. However, we certainly make it clear that every Project Proponent is expected to make a public declaration in relation to obtaining of Environmental Clearance before any member of the public at large is called upon to invest and/or make any dealing with the Project Proponent in relation to the project in question. As far as the question of no development zone on the river bank is concerned it is not appropriate for this Tribunal to examine it. But it will be for the Appraisal Committee to consider all environmental aspects in terms of the Notification of 2006 before it grants and/or refuses Environmental Clearance to a Project Proponent. In terms of Notification 2006 it is needless to even notice that prior screening, scoping and appraisal are the different stages, which the Appraisal Committee is expected to follow including public hearing before granting and/or refusing the Environmental Clearance, as the case may be. We have no doubt that all the concerned Authorities and the stake holders including Project Proponent shall adhere to the laws, in furtherance to the awarding of allotment letter by the Respondents in relation to the construction and establishment of work sport city at Sector 150 of NOIDA.

In the light of the above, we dispose of this Application with the clear direction that the Respondents-Authorities shall in furtherance to the bye-laws and even otherwise stipulate in the allotment letter the terms that it will be the obligation of the Project Proponent to obtain Environmental Clearance in accordance with law before commencement of any work and make such declaration public at all appropriate stages. All other objections raised by the Applicant are specifically kept open and can be examined by the Authority dealing with the Application of Project Proponent for granting of consent in accordance with law.

It is obvious that if Environmental Clearance is not granted to the Project Proponent nothing shall follow.

Accordingly, Original Application No. 128 of 2014 stands disposed of leaving the parties to bear their own costs.

.....,CP
(Swatanter Kumar)

.....,JM
(M.S. Nambiar)

.....,EM
(Dr. D.K. Agrawal)

.....,EM
(Prof. A.R. Yousuf)

.....,EM
(Dr. R.C. Trivedi)