BEFORE THE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI

M.A. No. 27 of 2014

In

Original Application No. 89 of 2012

Sarbeswar Mishra & Anr. Vs. Union of India &Ors.

CORAM: HON'BLE MR. JUSTICE SWATANTER KUMAR, CHAIRPERSON

HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER

HON'BLE DR. D.K. AGRAWAL, EXPERT MEMBER HON'BLE MR. B.S. SAJWAN, EXPERT MEMBER HON'BLE DR. R.C. TRIVEDI, EXPERT MEMBER

Present: Applicant: Mr. Raj Punjwani, Sr. Advocate, along with Mr.

Bhibhu Tripathi, Mr. Sanjay Upadhyay and Ms.

Manisha Badoni, Advocates

Respondent No. 1: Mr. Vikas Malhotra and Mr. M.P. Sahay,

Advocates

Respondent No. 2: Mr. Áshok Panigrah and Mr. Santosh Kumar,

Advs.

Respondent No.3: Mr. S. Panda, Advocate and Mr. Paikaray,

Advocates

Respondent No.5: Mr. Pinaki Mishra, Sr. Advocate along with Mr.

Umang Gupta, Advocate

Orders of the Tribunal

Date and
Remarks
Item No. 6
January 16,
2014

M.A. No. 27 of 2014

This Application has been filed today by the Applicant praying that Order dated 19th December, 2012 be modified.

It is admitted before that no forest clearance would be required to be taken for any project which is not located or is not covering any forest area wholly and even partly. If project is located on non-forest area the Forest Clearance is not needed.

Vide our Order dated 19th December, 2012, we had directed that Respondent No. 5 shall not go ahead with the construction of the Project without obtaining the Forest Clearance. The contention is that if the part of the project is located on the non-forest area and for which no forest clearance would be necessary, there should be no restraint on the construction of such part of the project.

Having heard Learned counsel appearing for the parties. We find justification for the modification as prayed, we, therefore, direct that Our Order dated 19th December, 2012 shall read as follows:

"The water from the river Baiterani shall not be used contrary to the agreement for the purpose for

which clearance has been granted. Respondent No. 5 shall not go ahead with the construction of the Project in forest area without obtaining forest clearance".

Accordingly, M.A. No. 27 of 2014 is allowed and stands disposed of.

We make it clear that this Order has been passed in view of the peculiar facts and circumstances of the present case.

Original Application No. 89 of 2012

List this Application for arguments on 19th February, 2014.

(Swatanter Kumar)	
,JM (U.D. Salvi)	
,EM (Dr. D.K. Agrawal)	
,EM (B. S. Sajwan)	
,EM	