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

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

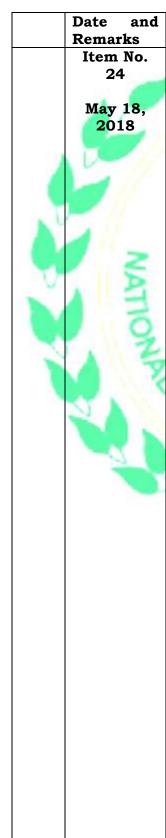
## Delhi Bird Foundation Vs. Union of India & Ors.

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

Present: Applicant / Appellant For Respondent Mr. Ritwick Dutta, and Mr. Utkarsh Jain, Advs.
Ms. Sakshi Popli, Adv. and Mr. Upendra Yogesh, Advs. for MoEF
Mr. Anil Grover, AAG with Mr. Mishal Vij and Mr. Rahul Khurana, Advs.
Mr. Piyush Joshi and Mr. Kaustav Som, Advs.

Respondent No. 5

Respondent No. 2 to 4



<u>M.A. No. 787 of 2017</u>

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.

**Orders of the Tribunal** 

In this Original Application, initially an injunction was granted on 22<sup>nd</sup> July, 2017. Thereafter, on hearing the parties, the Tribunal had passed the following order on 10<sup>th</sup> January, 2018:

"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."

Further, a Misc. Application No. 58 of 2018 was filed by the Applicant for clarification of the order dated 10<sup>th</sup> January, 2018. On the said Application, following order was passed on 24<sup>th</sup> January, 2018:

"<u>M.A. No. 58 of 2018</u>

Item No. 24 May 18,

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 22<sup>nd</sup> 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 10<sup>th</sup> 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

