

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

**Appeal No. 97/2015
(M.A. No. 805 of 2015)
And
Original Application No. 04/2015**

**Society for protection of Culture, Heritage, Environment, traditions and
promotion of National Awareness**

**Vs.
Union of India & Ors.**

**CORAM: HON'BLE MR. JUSTICE U.D. SALVI, JUDICIAL MEMBER
HON'BLE MR. RANJAN CHATTERJEE, EXPERT MEMBER**

Appeal No. 97/2015:

Present:	Applicant /Appellant	:Ms. Leeza Grover, dv.
	Respondent No. 1	:Mr. Vikas Malhotra, M.P. Sahay, Advs.
	Respondent No. 3to5	:Mr. A. Kumar Prasad, Mr. Jigdal. Priyanka, Advs.
	DPCC	:Mr. Narender Pal Singh, Adv. with Mr. Dinesh Jindal, Law Officer
	DDA	:Mr. Dhruv Tamta, Rajiv Bansal, Siddhant Advs.
	Respondent No. 8	:Mr. Manoj K. Das, Adv.

Original Application No. 04/2015:

Present:	Applicant /Appellant	:
	Respondent No. 1	: Mr. Maheen Pradhan, adv.
	Respondent No. 8	: Mr. Narender Pal Singh, Mr. Dinesh Jindal Adv.
	Respondent No. 5	:Mr. Manoj K. Das, Adv.
	Respondent No. 6&7	:Mr. A. Kumar Prasad, Mr. Jigdal. G. Chankara, priyanka Advs.
	Respondent No. 4	:Mr. Sanjay Dewan, Adv.
	DDA	:Mr. Dhruv Tamta, Rajiv Bansal, Siddhant, Advs.

Date and Remarks	Orders of the Tribunal
Item No. 13 & 14 October 28 , 2015	<p style="text-align: center;"><u>M. A. No. 805 of 2015:</u></p> <p>The Appellant, who avails the environment clearances granted to the Respondent Nos. 3, 4 & 5 for construction of their Campuses, has moved this Application for staying the construction activity.</p> <p>The Learned Counsel appearing on behalf of the Appellant submits that the construction in question needs to be stayed for following reasons:</p> <ol style="list-style-type: none">1.) The construction was commenced without obtaining the EC.2.) The construction is being carried out on the forest

land.

3.) There was no public hearing while granting the EC's in question.

4.) There is no assured water supply to the construction.

On the other hand, Learned Counsels appearing on behalf of the Respondent No. 3, 4, 5 & 8 submit that the stay granted to the constructions referred to in O. A. No. 04 of 2015 vide order dated 26.03.2015 on the premise that the constructions had commenced without obtaining EC was vacated by this Tribunal upon obtaining the requisite EC's vide order dated 03.07.2015. In view of this, the first ground for granting stay i.e. lack of EC is, therefore, not available to the Appellant now.

As regards the constructions on the alleged forest area, our attention is drawn to the letter dated 05.02.2015 of the Conservator of Forest, which categorically reveals that the land in question except Khasra No. 1007/1/2 (Village Mahipalpur) does not fall in Reserved Forest area. The Respondent No. 8 - the Project Proponent makes a statement that no construction of any kind whatsoever will be carried out during the pendency of the present Appeal on Khasra No. 1007/1/2, Village Mahipalpur described as Morphological Ridge area. The Learned Counsel appearing on behalf of the Appellant however disputes the worth of letter dated 05.02.2015.

The Learned Counsel appearing on behalf of the Respondent No. 3, 4, 5 & 8 submit that the project in

question is a project governed by Entry at serial no. 8(a) of Schedule 1 to the Environment Clearance & Regulations, 2006 and is categorized as category 'B' Project which does not require any public consultation as per para 7(III) of EC Regulations 2006. The Learned Counsel appearing on behalf of the Respondent No. 8 - Project Proponent on instructions makes a statement that there is no ground water extraction within the entire land in question and the construction is being carried out by fetching water from outside by tankers. It is further revealed before us that the 75% construction of the project is over.

For grant of stay, we have to consider what is prima facie disclosed before us. We cannot ignore the fact that 75% of the construction work in question is over and EC's for such constructions have been granted with a rider that EC's shall be subject to the outcome of the final judgment in the proceedings pending before us. Letter dated 05.02.2015 issued by Conservator of Forest at annexure R-3/5 page No. 84 to the reply in Appeal No. 97 of 2015 reveals that the statement as regards the identity of the land in question was made with reference to the map prepared by GSDL indicating notification of Reserved Forest, Morphological Ridge and boundary of Southern Ridge. It further reveals that the land in question as indicated on the map, does not fall in 1994 and 1996 notification of Reserved Forest but some part of Khasra No. 1007/1/2 (Village Mahipalpur) is falling under Morphological Ridge which may be measured physically or through GSDL. It further

reveals that the matter of Morphological Ridge will be dealt in Ridge Management Board meeting under the chairmanship of Chief Secretary in which the proposal is submitted by the Project Proponent and approved by the Ridge Management Board for any non forestry activity. Prima facie, therefore, the land in question except little portion of it that is Khasra No. 1007/1/2 referred to hereinabove is not a forest land. It is undisputed that Building and Construction project of stipulated dimensions is governed by Entry at Serial No. 8(a) of EC (Clearance and Regulations) 2006. It is obviously B Category project, particularly when the project is not located within 10 kms of any eco-sensitive area vide EC dated 19.06.2015. Para 7(III) of the EC (Clearance & regulation) 2006 carves out an exception granting exemption from public consultation as regards Building and Construction project. The project proponents have made a solemn statement that they will not carry out any construction of any kind whatsoever in Khasra No. 1007/1/2 Village Mahipalpur- Morphological Ridge area and they are fetching water by tankers. We, therefore, see no reason for granting stay to the project.

Thus, M. A. No. 805 of 2015 stands rejected accordingly.

Original Application No. 04 of 2015:

Except MoEF, all other Respondents have filed the replies. Rejoinders to these replies have been filed by the Applicant. We believe that the MoEF is not interested in filing the reply and controverting the

factual content of the Application. However, at this stage, the Learned Counsel appearing on behalf of the MoEF submits that reply would be filed within a week we have no reason to disbelieve him but at the same time we must remind the MoEF of our stand that the factual content would go uncontroverted in absence of reply and the same would continue if the reply is not filed as undertaken. Copies of the reply shall be furnished well in advance to the Learned Counsel appearing on behalf of the Applicant who may file rejoinder thereto, if any, within a week thereafter.

List this case on 23rd November, 2015.

Appeal No. 97 of 2015:

Except Respondent No. 1 - MoEF and Respondent No. 2 - DPCC and Respondent No. 7 - DDA, all other Respondents have filed their replies. No rejoinder has been filed yet to these replies. The Learned Counsel appearing on behalf of the Respondent No. 2-DDA submits that its reply filed in Original Application No. 04 of 2015 shall be treated as reply in the present Appeal No. 97 of 2015.

Learned Counsels appearing on behalf of the Respondent No. 1 and 2 seek time to file replies. Two weeks time is granted to file replies. Advance copy of the reply may be furnished to the Learned Counsel appearing on behalf of the Applicant who may file rejoinder thereto, if any, within a week thereafter.

List this matter on 23rd November, 2015.

.....,JM
(U.D. Salvi)

	,EM (Ranjan Chatterjee)
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