
(2013) 02 DEL CK 0061
In the Delhi High Court
Case No : W.P. (C) No. 7302/2009

Mahavir Singh

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 06-02-2013

Acts Referred:

Citation : (2013) 02 DEL CK 0061

Hon'ble Judges : D. Murugesan, C.J.;Rajiv Sahai Endlaw, J

Bench : Division Bench

Judgement

Rajiv Sahai Endlaw, J.—This petition was filed in public interest seeking a direction to the Union of India, Government of NCT of Delhi, Delhi Pollution Control Committee, Municipal Corporation of Delhi, State of Haryana, Haryana State Pollution Control Board, Delhi Jal Board, Delhi Police and BSES to immediately stop the illegal industrial activities going on in villages of Nangloi, Ghewara, Neelwal, Mundka, Kamruddin Nagar, Tikri Kalan, Ranhaula etc. on the Delhi - Haryana Border and which industrial activities are causing pollution of water and air. The petition was entertained and inspection of the villages in question to report about the illegal and polluting industries was ordered. Thereafter from time to time, further directions were issued for closure of the illegal and polluting industrial units functioning in the said villages and for compliance of the orders of the Supreme Court in M.C. Mehta Vs. Union of India (UOI) and Others, and this Court has been monitoring the compliance of the said directions and the counsel who had filed another W.P.(C) No. 3013/2010 to stop the burning of rubber in the said villages and which petition was not entertained for the reason of the same issue pending in this writ petition was appointed as the Amicus Curiae in this petition and has been rendering assistance to this Court.

2. CM No. 481/2013 has been filed for impleadment by persons who claim to be affected by the orders/directions passed in this petition.

3. The Supreme Court in Bhopal Gas Peedith Mahila Udyog Sangathan and Others Vs. Union of India (UOI) and Others, has directed all matters instituted

after coming into force on 18.10.2010 of the National Green Tribunal Act, 2010 (NGT Act) and covered under the provisions of the said Act to be transferred to the National Green Tribunal (NGT) constituted under the said Act. Of course this petition was instituted prior to the coming into force of the said Act. However the Supreme Court has further directed that even cases filed and pending prior to coming into force of the said Act but involving questions of environment laws and/or relating to any of the seven statutes specified in Schedule I of the said Act should also be dealt with by the specialized Tribunal constituted under the said Act and has advised all Courts before which such matters are pending to direct transfer of such cases to the NGT if found to be in the fitness of administration of justice.

4. We have as such enquired from the appearing counsels whether the present petition is also required to be so transferred.

5. Mr. Waziri, Counsel for GNCTD has contended that all polluting industries have been closed and this petition has already achieved its purpose. The Amicus Curiae however controverts. Both however state that as per the directions aforesaid of the Supreme Court, the matter has to be transferred to the NGT. The senior counsel for the applicant seeking impleadment however opposes.

6. Section 14 of the NGT Act prescribes the jurisdiction of the NGT over all civil cases where a substantial question relating to environment including enforcement of any legal right relating to environment is involved and such question arises out of the implementation of enactments specified in Schedule I of the Act. The legislations specified in Schedule I of the Act are the Pollution/Environment Acts, the Public Liability Insurance Act, 1991 and the Biological Diversity Act, 2002.

7. The Amicus Curiae has rightly stated that the W.P.(C) No. 3013/2010 which was not entertained for the reason of this petition, concerned pollution owing to burning of rubber and this petition as well as W.P.(C) No. 3013/2010 thus not only involve substantial question relating to environment but also enforcement of rights relating to environment.

8. We are therefore of the opinion that the matter in controversy in this petition does fall within the jurisdiction of the NGT, objection of the applicant seeking impleadment notwithstanding. We are further of the opinion that the remaining monitoring for compliance of the directions already issued from time to time in this petition and the need for any further directions to be issued are best left to the NGT, a specialized body constituted and better equipped than this Court to deal with such questions.

9. We therefore direct transfer of this petition as well as disposed of W.P.(C) No. 3013/2010 to the NGT.

10. Since the counsel for the applicant seeking impleadment expresses urgency, we direct the Registry to ensure that the files of this petition as well as W.P.(C)

No. 3013/2010 are delivered to the NGT at the earliest so as to enable the applicant seeking impleadment to approach the said Tribunal for the reliefs sought by it. As for as this Court is concerned, the petition is disposed of.