

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).12065/2009

(From the judgement and order dated 11/02/2009 in CM No.15895/2005, WP No.17682/2005 of The HIGH COURT OF DELHI AT N. DELHI)

UNION OF INDIA

Petitioner(s)

VERSUS

VIMAL BHAI & ORS.

Respondent(s)

(With appln(s) for modification of Court's Order and directions and intervention and impleadment and directions and deletion of the name of respondent and office report)

WITH

T.C.(C) NO. 132 of 2011

T.C.(C) NO. 133 of 2011

SLP(C) NO. 36343 of 2011

(With prayer for interim relief and office report)

T.C.(C) NO. 35 of 2012

(With appln.(s) for permission to file addl. documents)

WP(C)No.120/2012

(With appln.(s) for directions)

Date: 29/11/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE C.NAGAPPAN

For Petitioner(s) Mr.Rakesh Kumar Khanna, ASG
Mr.P.C.Agarwalla, Sr.Adv.
Mr.Surya Kant, Adv.
Ms.V.Mohana, Adv.
Mr.Pranav Vyas, Adv.
Ms.Seema Rao, Adv.
Mr.Harsh Prabhakar, Adv.
Ms.Purnima Jauhari, Adv.
Mr.B.K.Jauhari, Adv.

Mr.M.P.Gupta, Adv.
Mr.Gaurav Sharma, Adv.
Mr.Alok P., Adv.
Mr.S.N.Terdal, Adv.

Mr. Annam D.N. Rao, Adv.

Mr.Gautam Narayan, Adv.

Mr.B.Krishna Prasad, Adv.

Mr.Vikas Mehta, Adv.

For Respondent(s) Mr.Paras Kuhad, ASG
Mr.Rohit Sharma, Adv.
Mr.Abhinav Mukherjee, Adv.
Mr.M.Sahu, Adv.

Mr.Gopal Subramaniam, Sr.Adv.
Ms.Binu Tamta, Adv.

Mr.S.K.Dubey, Sr.Adv.
Mr.Mishra Saurabh, Adv.

For State of W.B. Mr.Anip Sachthey, Adv.
Ms.Shagun Matta, Adv.

Mr.Shankar Chillarge, Adv.
Ms.Asha G.Nair, Adv.

Maj.Genl.S.S.Dahiya, Adv.

Mr.P.Aanand Naidu, Adv.
Mr.Robin Majumdar, Adv.

For State of T.N. Mr.B.Balaji, Adv.
Mr.R.Rakesh Sharma, Adv.

Mr.Sanjay Parikh, Adv.

UPON hearing counsel the Court made the following
O R D E R

SLP(C)No.12065 of 2009

During the pendency of this petition filed by the Union of India against order dated 11.02.2009 passed by the Division Bench of the Delhi High Court, this Court had, after taking cognizance of the fact that Parliament has enacted National Green Tribunal Act, 2010, passed more than one and a half dozen orders to facilitate establishment of the Principal Bench of the Tribunal at Delhi and other Benches at Chennai, Bhopal, Pune and Kolkata and issued several directions for appointment of the Chairperson, Judicial and Expert Members and for effective functioning of the Tribunal and its Benches.

On 12.9.2013, the Court passed the following order:

"At the outset, learned Solicitor General made a statement that the government does not subscribe to the contents of the affidavit of Dr. R.K. Agrawal, Deputy Secretary, Ministry of Environment and Forests. He also assured that a proper affidavit will be filed by the Secretary to the Government, Ministry of Environment and Forests within two weeks.

In view of the statement made by the learned Solicitor General, we do not consider it proper to pass order in the light of what we had observed on 27.8.2013.

List the case on 4.10.2013.

We hope and trust that in future all the problems faced by the National Green Tribunal, Principal Bench as well as the Benches at Bhopal, Cehnnai, Pune and Kolkata will be addressed by the Secretary to the Government, Ministry of Environment and Forests and if there is any difficulty the same will be sorted out in consultation with the Chairman of the Tribunal.

Shri Kalyan Kr. Bandopadhyay, learned senior counsel representing the State of West Bengal gave out that Kolkata Bench of the National Green Tribunal will become functional by the end of September, 2013.

In view of the statement made by the learned senior counsel, we request the Hon'ble Chief Justice of the Calcutta High Court to spare the services of a member of the Superior Judicial Service to work as Registrar of the Kolkata Bench of the National Green Tribunal."

In furtherance of the last mentioned order, the Government of West Bengal has made available premises for functioning of Calcutta Bench of the Tribunal and also provided residential accommodation for two Members - one Judicial and one Expert.

Ms. Binu Tamta, learned counsel representing the National Green Tribunal has filed latest Status Report in which a prayer has been made for issue of direction to the Ministry of Environment and Forest to take steps in furtherance of letter 31.10.2013 received from the Government of West Bengal and hand over the official as well as residential premises to the National Green Tribunal for operationalising the Eastern Zonal Bench at Calcutta. Two other prayers made by the National Green Tribunal relate to nomination of an officer of the Higher Judicial Service to serve as Registrar of Southern Zonal Bench at Chennai and issue of a direction that the Registrar presently working in the Principal and Regional Benches should be allowed to continue on their respective posts till the regular recruitment is made.

Shri Rakesh Kumar Khanna, learned Additional Solicitor General has handed over xerox copy of letter dated 25.11.2013 sent by the Government of India, Ministry of Environment and Forests, Policy and Law Division to the Registrar, National Green Tribunal, New Delhi stating therein that the National Green Tribunal can take possession of the premises offered by the Government of West Bengal. It has also been stated in the letter that the Government has already provided a budget of Rs.1.15 crores towards rent, rates and taxes payable in lieu of the accommodation made available by the Government of West Bengal at Calcutta for National Green Tribunal and in case of any shortfall, the same will be provided by the Government of India.

In view of the letter sent by the Government of India, we direct the National Green Tribunal to take possession of the premises offered by the Government of West Bengal by executing the necessary documents and make Kolkata Bench operational latest by 01.01.2014. We also reiterate our request to Hon'ble the Chief Justice and the administration of the Calcutta High Court to spare the services of a member of the Superior/Higher Judicial Service to act as a Registrar of the Kolkata Bench of the Tribunal.

The Chief Justice and the administration of the Madras High Court are also requested to spare the services of a member of the Superior/Higher Judicial Service to act as a Registrar of the Chennai Bench of the Tribunal.

We also direct that the Registrars of the Principal and various Benches of the Tribunal who are presently working or who may be deputed hereinafter shall be allowed to continue on their respective posts till the regular recruitment is made by the competent authority and they shall be paid salary in the pay scale of the post held by them in their parent cadre. They shall also be entitled to allowances payable to a deputationist.

In view of the orders passed earlier and the one passed today, the proceedings of this petition and all the pending applications are closed and the matter is finally disposed of.

If the administration of the National Green Tribunal faces any difficulty in the effective functioning of the Principal Bench and other Benches thereof, then it shall be free to file application for further directions.

While disposing of the special leave petition in the manner indicated above, we consider it proper to recall order dated 16.7.2013 insofar as it relates to the action initiated by the Court in the light of the judgment in S.D. Bandi v. Divisional Traffic Officer, KSRTC and others 2013 (8) SCALE 88. However, this will not have the effect of nullifying the action taken in furtherance of that order.

If any person feels aggrieved by the action taken in furtherance of order dated 16.7.2013, then he shall be free to avail appropriate legal remedy.

T.C.(C) NO. 132 of 2011, T.C.(C) NO. 133 of 2011, SLP(C) NO. 36343 of 2011, T.C.(C) NO. 35 of 2012 and WP(C)No.120 of 2012

List these cases on 09.12.2013.

Copies of this order be sent to the Registrar Generals of the

Calcutta High Court and the Madras High Court by Fax.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master