

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 &amp; ORS.

Respondent(s)

(With appln(s) for modification of Court's Order and directions and  
permission to place addl. documents on record and intervention and  
impleadment 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)

Date:27/08/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE V. GOPALA GOWDA

For Petitioner(s)

Mr. Rakesh Khanna, ASG  
Mr. P.C. Agarwal, Sr. Adv.  
Ms. V. Mohana, Adv.  
Mr. Gaurav Sharma, Adv.  
Mr. Mohan Prasad Gupta, Adv.  
Ms. Seema Rao, Adv.

for NGT

Mr. Gopal Subramonium, Sr. Adv.  
Mr. Ashok Kr. Parija, Sr. Adv.  
Ms. Binu Tamta, Adv.

Mr. Paras Kuhad, ASG  
Mr. Abhinav Mukerji, Adv.  
Mr. Anupam Prasad, Adv.

Ms. Neelam Jain, Adv.

Mr.Sanjay Parikh, Adv.  
Ms. Busura Parveen, Adv.  
Ms.Anitha Shenoy, Adv.

Mr. S. Anand, Adv.  
Mr.R.Rakesh Sharma, Adv.

Mr. Vikas Upadhyay, Adv.

Mr. P.G. Godamgaonkar, Adv.  
Mr. Sanjay Kharde, Adv.

Mr. Manjit Singh, AAG  
Mr. Vinay Kuhar, Adv.

Mr. Dushyant Parashar, Adv.

Mr. Mohit Paul, Adv.

Mr. Irshad Ahmad, AAG  
Mr. Praveen Swarup, AOR

Mr. Mahesh Kasana, Adv.

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

During the pendency of the special leave petition filed against order dated 11.2.2009 passed by the Division Bench of the Delhi High Court in Writ Petition No.17682 of 2005, this Court passed as many as 18 orders to facilitate the establishment of the National Green Tribunal, Principal Bench at Delhi and its four Benches at Chennai, Bhopal, Kolkatta and Pune. These orders relate to appointment of Chairperson, Judicial and Expert Members, sanction of posts in different cadres, creation of infrastructure and deputation of officers from Higher Judicial Services of Delhi, Madhya Pradesh and Maharashtra to work as Registrars of the Principal Bench as well as Bhopal and Pune Benches.

The record of the case shows that at every stage the officers of the Ministry of Environment and Forests have created obstacle in the effective functioning of the Tribunal, Principal Bench at Delhi as well as its Benches at Bhopal and Pune and they had to be reminded time and again that it is the duty of the Central Government to provide infrastructure, manpower, etc. for effective functioning of the Tribunal.

On 12.5.2011, this Court had, after taking cognizance of the statement made by the learned Additional Solicitor General Ms. Indira Jaising, requested the Chief Justices of the High Courts of Delhi, Madhya Pradesh and Bombay to depute members of superior judicial services to function as Registrars of the Benches of the Tribunal at Delhi, Bhopal and Pune.

On 16.7.2013, the learned Additional Solicitor General gave out that infrastructure is ready for making Pune Bench of National Green Tribunal (NGT) operational. He submitted that residential accommodation for Judicial and Expert members of the Pune Bench has also been made available.

Shri Gopal Subramonium, learned senior counsel appearing for NGT brought to our notice communications sent by Deputy Secretary to Government of India, Ministry of Environment and Forests indicating that the Ministry is not responsible for providing the residential accommodation for Expert Members and NGT should sign the lease deed with the owner. The department has also indirectly questioned the wisdom of the National Green Tribunal to avail services of three Registrars, one each at Delhi, Bhopal and Pune, against the existing position of one only. Shri Subramonium also pointed out that salary was not paid to the Registrar of the Principal Bench for many months and the amount was provisionally released on the intervention of the Chairman, NGT.

These and other communications filed from time to time are clearly indicative of the attitude of total non-cooperation of the Department of Environment and Forests. It gives an impression that the department is making all out efforts to ensure that the NGT does not function effectively so that the Court may be compelled to pass an order for restoration of jurisdiction of the High Courts and other Courts in matters which are presently dealt with by NGT.

In view of the above, we feel that all the orders passed by this Court between 22.11.2010 to 16.07.2013 should be recalled and it should be left to the Central Government to take steps for functioning of the Benches of the Tribunal at Delhi, Chennai, Bhopal and Pune.

The learned Additional Solicitor General requests that the Court may postpone further consideration of the matter for 7 days.

We reluctantly accept the request of the learned  
Additional Solicitor General and direct that the case be listed on  
3.9.2013.

(Parveen Kr. Chawla)  
Court Master

(Phoolan Wati Arora)  
Court Master