

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 25081 of 2016 (O&M)

Date of decision: 24.01.2017.

NRSS XXXI (B) Transmission Ltd.

..... Petitioner.

Versus

Dr. Amandeep Aggarwal and others

..... Respondents.

**CORAM: HON'BLE MR. JUSTICE S.S. SARON
HON'BLE MR. JUSTICE DARSHAN SINGH**

Present: Mr. Chetan Mittal, Senior Advocate/
Additional Solicitor General of India, with
Mr. Anil Shukla, Advocate, for the petitioner.

Mr. Tribhuvan Singla, Advocate, for respondent No. 1.

Mr. Jasbir Singh, Advocate, for respondent No. 2.

Mr. P.P.S. Thethi, Additional Advocate Genera, Punjab,
for respondents No. 3 and 5 to 9.

None for respondent No. 4.

S.S. SARON, J.

The petitioner NRSS XXXI (B) Transmission Limited by way of the present petition under Article 226 /227 of the Constitution of India seeks quashing of the order dated 19.05.2016 (Annexure P-11) passed by the National Green Tribunal (respondent No.4) whereby a blanket order has been passed restraining the entire State of Punjab from felling and cutting any trees.

It is submitted that the said order has been passed without taking into account the projects which have been officially cleared and have been granted requisite sanction as in the present case.

The petitioner it is submitted has been granted approval under Section 68 of the Electricity Act, 2003 for “Transmission System for Northern Region System Strengthening Scheme NRSS-XXXI (Part B)” by the Ministry of Power vide letter dated 16.09.2013 (Annexure P-1). The petitioner has approval for laying overhead transmission line in favour of SPV “NRSS-XXXI (B) Transmission Ltd.” of REC TPCL for the following scope of works under transmission system for Northern Regions System Strengthening Scheme NRSS-XXXI (Part B) which was approved in the 31st Standing Committee Meeting on Power System Planning of Northern Region held on 02.01.2013 :

- i) Kurukshetra – Malerkotla 400 kV D/c line.
- ii) Malerkotla – Amritsar 400 kV D/c line.

This was followed by transmission licence by the Central Electricity Regulatory Commission, New Delhi vide its letter dated 26.09.2013 (Annexure P2). Necessary transmission agreement dated 02.01.2014 (Annexure P3) has been entered into between the petitioners and various other electricity and power corporations.

In short, the stand of the petitioner is that it has the necessary permission for laying overhead transmission lines and it has deposited the necessary fee for cutting and felling trees. However, the work cannot be carried out due to the impugned blanket order dated 19.05.2016 (Annexure P-11) passed by the National Green Tribunal (respondent No.4) and in view of the said order, the State of Punjab is not issuing permission to cut the trees in terms of its letter dated 20.5.2016 (Annexure P-12). Therefore, the present petition has been filed in which notice of motion was issued on 06.12.2016.

We have given our thoughtful consideration to the matter.

It is to be noticed that the State of Punjab had filed Civil Appeal D No.33942 of 2016, titled 'State of Punjab and others v. Amandeep Aggarwal and others' against the aforesaid order dated 19.05.2016 (Annexure P-11) of the learned National Green Tribunal (respondent No.4), in the Supreme Court. It was submitted on behalf of the State that the order passed by the learned National Green Tribunal (respondent No.4) was wholly unjustified having regard to the fact that the State of Punjab had obtained all permissions required from the competent authority for felling of trees in connection with various ongoing projects and that without taking note of such permissions, the learned National Green Tribunal (respondent No.4) was not liable to have issued a blanket ban on cutting of forest trees. This, according to the State, would seriously hamper the ongoing developmental projects in connection with widening of the highways and in particular the construction of National Highway No. 71 in the State of Punjab. It was submitted that while the State of Punjab was ready and willing to furnish whatever information that was required by the learned National Green Tribunal (respondent No.4); however, the projects of national importance like widening of the highways mentioned in the said case ought not to be hampered by reason of the said order dated 19.05.2016 (Annexure P-11). It was submitted that Hon'ble the Supreme Court while permitting the petitioner State in the said case to approach the learned National Green Tribunal (respondent No.4) for vacation of the stay part of the said order qua National Highway No. 71 so that the ongoing project would not be adversely affected.

Hon'ble the Supreme Court, on the basis of the aforesaid submissions, passed the following order on 28.10.2016:-

“There is in our opinion considerable merit in the submission made by Mr. Rohatgi. It is true that the State has been directed to secure certain information including the trees removed and those planted as also the scheme under which such plantation has been undertaken yet the the blanket ban on felling of trees placed by the Tribunal cannot be allowed to adversely affect the ongoing works on the highway mentioned earlier. In the circumstances therefore we deem it proper to suspend the impugned order for a period of four months from today to enable the State Government to not only execute the ongoing project mentioned above but also the other projects which are likely to be affected by the impugned order. We make it clear that the Tribunal shall be at liberty to pass any fresh order qua the projects that are already approved upon consideration of the materials that the State of Punjab may place on record. We are conscious of the fact that we are not issuing any notice to the respondent while we are suspending a part of the impugned order concerning NH-71. We are doing so only to avoid any delay in service of notice upon the respondent and the final order that may be passed. We however leave it open to the respondent, petitioner before the Tribunal to raise all such contentions

as may be open to him in law after the requisite information is received by the Tribunal.

With the aforesaid observation, this appeal is disposed off.”

In terms of the aforesaid order dated 28.10.2016 passed by Hon'ble the Supreme Court, the present petition is disposed of with the direction that the operation of the impugned order dated 19.05.2016 (Annexure P-11) passed by the learned Tribunal shall remain suspended for a period of four months from the date of receipt of certified copy of the order to enable the petitioner NRSS XXXI (B) Transmission Limited to execute the ongoing project in the present case and leaving the learned Tribunal with liberty to pass any fresh order for the project in question upon consideration of the facts which are furnished by the parties. The parties would be at liberty to approach the learned National Green Tribunal (respondent No.4) to raise all such contentions as may be open to them in law.

The writ petition is accordingly disposed of in the aforesaid terms.

(S.S. SARON)
JUDGE

(DARSHAN SINGH)
JUDGE

24.01.2017
Ramesh

Note:

1.	Whether reasoned/speaking	:	Yes
2.	Whether reportable	:	No