

**THE HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY**

WRIT PETITION No.4188 of 2019

ORDER: *(per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)*

We have heard Sri Y. Srinivasa Murthy, learned counsel for the petitioner, and Smt. Padmaja R.N, learned Standing Counsel for the Telangana State Pollution Control Board.

2. What has transpired until the last date of hearing was minuted by us on 14.03.2019. It is extracted hereunder:

“This writ petition is filed challenging certain proceedings before the National Green Tribunal (NGT), New Delhi.

2. The National Green Tribunal Act, 2010 (for short, ‘the Act’) has provisions for appeal. Therefore, while considering the matter at the stage of admission, we thought it fit not to issue any order, which would impair the proceedings before the NGT or actions to be taken by other statutory bodies in accordance with the NGT’s directions. Therefore, this Court minuted the following order on 28.02.2019:

“We have perused paragraph Nos.4 to 6 of the impugned order of the National Green Tribunal, New Delhi, issued on 14.12.2018 in O.A. No.688 of 2018. It is that part of that order, which applies to the establishment of the writ petitioner.

The learned standing counsel for Pollution Control Board will obtain instructions as to whether the writ petitioner’s establishment has been closed down and the Pollution Control Board (for short ‘PCB’) has ensured that all outlets from that unit have been appropriately closed and sealed.

Let the PCB officials concerned place a report on record by 05.03.2019.
Post on 05.03.2019.”

3. Learned counsel for the petitioner states that the action taken by the NGT through the impugned decisions and orders is violative of the procedure under Section 19 of the Act and it is being proceeded with without compliance of the requirement for pre-decision notice and hearing in terms of the provisions of the National Green Tribunal (Practice and Procedure) Rules, 2011.

4. Today, the learned Standing Counsel for the Pollution Control Board has submitted in furtherance of the aforesaid order that the matter is listed before the NGT tomorrow and certain reports are also placed by the Pollution Control Board before the NGT and that the Pollution Control Board has also issued certain directions for compliance.

5. We record the submission.

6. It is clarified that the pendency of this writ petition in no way impairs any action being taken in furtherance of the directions of the NGT.

7. The learned Standing Counsel for the Pollution Control Board is directed to place a copy of this order before the NGT tomorrow when the matter is taken up.

Post on 19.03.2019.”

3. After the aforesaid order was issued, the proceedings before the National Green Tribunal (NGT), New Delhi, came up on 15.03.2019. An order was then issued by the NGT on that day including on the issue as to whether the establishment is to be heard by the NGT before any action is proposed by the Pollution Control Board (PCB). The NGT has stated that the question of hearing would arise if the establishment challenges any decision of PCB in statutory appeals. The requirement to comply with the principles of natural justice and rule of fair hearing was thus answered.

4. Whatever issues the petitioner seeks to raise in this writ petition are in relation to proceedings, which are pending before the NGT. The further order on those proceedings is, as noted by us hereinabove, issued on 15.03.2019.

5. It is pointed out on behalf of the petitioner establishment that the directions issued by the NGT to the

PCB carry dice loaded against the petitioner. We mention it here, not for the purpose of adjudication, but to alert ourselves that the jurisdiction of the NGT and the requirement of PCB to effectuate, among other things, the principles relating to management of environment spread out in a large spectrum. The 'precautionary principle' and 'polluter pays principle' are of such nature that in all such instances, one cannot be treated to exclude other.

6. In the light of the order issued by the NGT on 15.03.2019 in Original Application No.688 of 2018, we do not see that any further order needs to be issued in this writ petition.

7. Hence, recording the aforesaid facts and also noticing the order dated 15.03.2019 issued by the NGT in the Original Application, the writ petition is closed without prejudice to the proceedings before the PCB as well as the NGT, if the petitioner chooses to move it for appropriate relief in due course, in accordance with law.

Pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

A.RAJASHEKER REDDY, J

Date: 19.03.2019
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