

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (CIVIL) NO. 761 OF 2020**

RSPL Limited, through Mr. Jaswinder Singh, S/o Mr. Babu Singh, Plant Manager, having its Unit at PH No. 100/28, Khasra No. PH 31,33, 34 & 37, Village Achholi, District Raipur (CG), having its registered Office at 199-121 (Part) Block P&T, Fazal Ganj, Kalpi Road, Kanpur – 208012 (UP)

... Petitioner**versus**

C.G. Environment Conservation Board, through its Regional Officer, Commercial Complex, C.G. Housing Board Colony, Kabir Nagar, Raipur (CG)

... Respondent

For Petitioner	:	Mr. Daleep Dhyani, Advocate, along with Mr. Vikas Shrivastava, Advocate.
For Respondent	:	Mr. Animesh Tiwari, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****27/02/2020**

1. Challenge in the present Writ Petition is to the Annexure P-1, dated 6.2.2020, passed by Respondent - Chhattisgarh Environment Conservation Board assessing the liability upon the Petitioner for payment of Rs. 1.14 Crores towards environmental compensation.

2. It is relevant here to take note of a petition, i.e., **WPC No. 4677/2019 (M/s. Suryoday Wires v. State of Chhattisgarh & Others)**, which stood decided by this Court vide its order dated 17.12.2019. While deciding the said Writ Petition, this Court had taken into consideration the observations made by the Hon'ble Supreme Court in the case of **Bhopal Gas Peedith Udyog Sangathan & Others Vs. Union of India & Others [2012 (8) SCC 326]** wherein the Hon'ble Supreme Court in paragraphs 40 and 41 has held as under:-

“40. Keeping in view the provisions and scheme of the National Green Tribunal Act, 2010 (for short the 'NGT Act') particularly Sections 14, 29, 30 and 38(5), it can safely be concluded that the environmental issues and matters covered under the NGT Act, Schedule 1 should be instituted and litigated before the National Green Tribunal (for short 'NGT'). Such approach may be necessary to avoid likelihood of conflict of orders between the High Courts and the NGT. Thus, in unambiguous terms, we direct that all the matters instituted after coming into force of the NGT Act and which are covered under the provisions of the NGT Act and/or in Schedule I to the NGT Act shall stand transferred and can be instituted only before the NGT. This will help in rendering expeditious and specialized justice in the field of environment to all concerned.

41. We find it imperative to place on record a caution for consideration of the courts of competent jurisdiction that the cases filed and pending prior to coming into force of the NGT Act, involving questions of environmental laws and/or relating to any of the seven statutes specified in Schedule I of the NGT Act, should also be dealt with by the specialized tribunal, that is the NGT, created under the provisions of the NGT Act. The Courts may be well advised to direct transfer of such cases to the NGT in its discretion, as it will be in the fitness of administration of justice.”

3. Taking into consideration the aforesaid decision of the Hon'ble Supreme Court and the amendment that has been brought in the Air (Prevention & Control of Pollution) Act, 1981 by way of insertion of Section 31B and also the provisions of the Water (Prevention and Control of Pollution) Act, 1974 wherein an amendment had been brought by insertion of Section 33B, both of which providing an appeal directly to the National Green Tribunal, and also given the fact that this Court in the case of “***M/s. Suryoday Wires***” (supra) has already taken a stand that the matter arising from the orders passed by the Chhattisgarh Environment Conservation Board would be appealable to the National Green Tribunal, the present Writ Petition also therefore would not be sustainable at this juncture.

4. Accordingly, reserving the right of the Petitioner to approach the National Green Tribunal assailing the impugned order, the present Writ Petition is disposed of.

Sd/-
(P. Sam Koshy)
JUDGE

/sharad/