

THE HON'BLE THE CHIEF JUSTICE SATISH CHANDRA SHARMA
AND
THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.1856 OF 2021

ORDER: *(Per the Hon'ble the Chief Justice Satish Chandra Sharma)*

The petitioner before this Court has filed the present writ petition being aggrieved by the Order dated 05.01.2021 issued by the Telangana State Pollution Control Board directing payment of environmental compensation to the tune of Rs.18,25,000/- (Rupees eighteen lakh and twenty five thousand only). The petitioner is also aggrieved by the rejection of its representation preferred in the matter.

The petitioner as stated in the writ petition is a company registered under the Companies Act, 1956, is engaged in the business of manufacturing Active Pharmaceutical Ingredients (API) and is a global pharmaceutical company. The petitioner further stated that one K.Sravan Kumar has written a letter to the Principal Bench, National Green Tribunal (NGT), New Delhi alleging pollution by several pharma companies in the TSIC Special Economic Zone, Jadcherla of Mahboobnagar District and the letter of Sravan Kumar was treated as an Application by the National Green Tribunal. It was registered as O.A.No.189 of 2019. The

petitioner further stated that on account of Order dated 20.09.2019, the National Green Tribunal, Principal Bench, New Delhi has directed appointment of a Joint Inspection Committee comprising members of Central Pollution Control Board and State Pollution Control Board to inspect the Special Economic Zone and to submit a Report. The Committee has inspected the Industry on 12.12.2019 and thereafter, a Report was submitted to the National Green Tribunal on 20.01.2020. The National Green Tribunal, Principal Bench, New Delhi, on 24.01.2020, has passed the Order in O.A.No.189 of 2019 and has directed the Telangana State Pollution Control Board to take further action in terms of the recommendations of the Joint Inspection Committee in respect of those units which were violating the environmental laws. The petitioner further stated that the Telangana State Pollution Control Board has, thereafter, mechanically passed the impugned order, dated 05.01.2021 directing the petitioner to pay environmental compensation of Rs.18,25,000/- (Rupees eighteen lakh and twenty five thousand only) under the '*Polluter Pays*' principle.

The learned counsel for the petitioner has argued before this Court that the present writ petition is

maintainable before the High Court in the light of the Judgment delivered by the Hon'ble Supreme Court in the case of **Tamil Nadu Pollution Control Board v. Sterlite Industries (I) Limited**¹.

This Court has carefully gone through the aforesaid Judgment. However, the fact remains that the impugned order has been passed pursuant to the Order passed by the National Green Tribunal and the petitioner company is certainly free to approach the National Green Tribunal. This Court in W.P.No.6105 of 2021, in almost similar circumstances, has granted liberty to the petitioner therein to approach the National Green Tribunal. The Order, dated 12.11.2021 passed by this Court in the aforesaid writ petition, reads as under:-

“The petitioner before this court, a company registered under the Companies Act, 2013, has filed the present writ petition being aggrieved by the show cause notice dated 28.09.2020 as well as the order dated 01.02.2021 issued by the Telangana State Pollution Control Board.

The facts of the case reveal that the National Green Tribunal, Southern Zone Bench, Chennai, vide judgment dated 24.10.2017 in Application No.90 of 2013 and batch, issued directions for payment of corpus fund of 1% of the annual turnover for expansion of industries and 0.5% of the annual turnover by the industries for restoration of the entire affected area and creation of Corpus Fund in the name of “Patancheru

¹ 2019 SCC OnLine SC 221

and Bollaram Environment Relief Fund”. The petitioner-company was one of the respondents before the National Green Tribunal and after hearing the petitioner-company, the judgment was delivered by the Tribunal. In compliance of the judgment delivered by the National Green Tribunal, the petitioner-company made contributions in the year 2018-19 by paying a sum of Rs.4,22,00,000/-. The undisputed facts of the case also reveal that the petitioner-company is supplying drinking water to various villages keeping in view the various orders passed by this High Court from time to time.

Ms. Meenakshi Arora, learned Senior Advocate appearing for the petitioner-company, has vehemently argued before this court that the unit of the petitioner-company is not situated in Patancheru and Bollaram Industrial Areas and therefore, the judgment of the National Green Tribunal does not cover the unit of the petitioner-company.

A similar controversy arose in respect of M/s. Chromo Laboratories India Limited and M/s. Suven Pharmaceuticals Limited, having their units at Sangareddy District, Telangana. M/s. Chromo Laboratories India Limited and M/s. Suven Pharmaceuticals Limited were also issued show cause notices and orders were passed on 01.02.2021 directing them to contribute towards Corpus Fund and the companies, stating that they are having units in Sangareddy District and the judgment is not applicable to them, came up before this court by filing writ petitions i.e., W.P.Nos.4118 and 4143 of 2021. A Division Bench of this court has passed an order dated 26.03.2021 in W.P.Nos.4118 and 4143 of 2021, which is reproduced as under:-

“1. The present petitions have been filed by the petitioners praying inter alia for declaring the action of the respondent No.2/Telangana State Pollution Control

Board in demanding contribution to the corpus fund created by it, in terms of the orders dated 24.10.2017 passed by the National Green Tribunal, Southern Bench, Chennai in a batch of matters, as illegal and arbitrary.

2. At the outset, we have requested learned counsel for the petitioners to address this court on the maintainability of the present petitions when, even as per the impugned order dated 01.02.2021 passed by the respondent No.2/Telangana State Pollution Control Board, payment in the corpus fund is being called upon to be made by the concerned industries in terms of the order of the National Green Tribunal, Southern Bench, Chennai. In our opinion, if the petitioners are aggrieved by the aforesaid action of the respondent No.2/Telangana State Pollution Control Board, its remedy lies before the National Green Tribunal. Instead, the petitioners are calling upon this court to interpret the order of the National Green Tribunal one way or the other, which is not permissible.

3. We decline to entertain the present petitions. The same are accordingly closed along with the pending applications, if any. It is for the petitioners to approach the National Green Tribunal for clarification of its order dated 24.10.2017 and/or to seek appropriate orders to the effect that they are not under any obligation to contribute to the corpus fund as directed to be created by the National Green Tribunal in terms of the order dated 24.10.2017.”

In the considered opinion of this court, as the impugned orders have been passed by the Telangana State Pollution Control Board in respect of payment of Corpus Fund in terms of the order of the National Green Tribunal and in case the petitioners are aggrieved, the remedy lies before the National Green Tribunal and admission has been declined in identical case by this court.

We also decline to entertain the present petition. The same stands disposed of with liberty to the petitioner-company to approach the National Green Tribunal for clarification of the order dated 24.10.2017 and to seek appropriate orders to the effect that it is not under any obligation to contribute to the Corpus Fund,

as directed to be created by the National Green Tribunal in terms of the order dated 24.10.2017. The interim order dated 26.04.2021 stands vacated. Resultantly, I.A.No.2 of 2021 is allowed.

The miscellaneous applications pending in this writ petition, if any, shall stand closed.”

In the light of the aforesaid order passed by this Court, as the impugned order is arising out of the Order passed by the National Green Tribunal in O.A.No.189 of 2019, the petitioner does have a remedy to approach the National Green Tribunal. Therefore, admission is declined.

Resultantly, the writ petition is disposed of giving liberty to the petitioner company to approach the National Green Tribunal, Principal Bench, New Delhi.

Miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

SATISH CHANDRA SHARMA, CJ

A.RAJASHEKER REDDY, J

13.12.2021
Pln