

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

2025:PHHC:071108-DB



Civil Writ Petition No. 15090 of 2025 (O&M)

Reserved on : 23.05.2025

Pronounced on : 26.05.2025

National Media Centre Cooperative House Building Society Ltd.

.....Petitioner

versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SUMEET GOEL, JUDGE**

Present : Mr. Gurminder Singh, Senior Advocate with
Mr. Sangram Singh Saron, Advocate,
Mr. Karman Singh, Advocate,
Ms. Anisha Batra, Advocate for the petitioner.

Mr. Ankur Mittal, Addl. Advocate General, Haryana with
Mr. Pradeep S.Chauhan, Sr. Deputy Advocate General, Haryana,
Mr. Karan Jindal, Assistant Advocate General, Haryana,
Ms. Kushaldeep Kaur, Advocate,
Ms. Ashna Singh, Advocate, for respondents No.1 to 6.

Mr. Randeep S.Rai, Senior Advocate and
Mr. Chetan Mittal, Senior Advocate with
Mr. Udit Garg, Advocate,
Ms. Radhika Mehta, Advocate,
Mr. Farhad Kohli, Advocate,
Ms. Shejali, Advocate, for respondent No.7.

SHEEL NAGU, CHIEF JUSTICE

The instant petition invoking writ as well as supervisory jurisdiction of this Court under Article 226 read with Article 227 of the Constitution of India seeks quashment of Annexure P-10, which is environmental clearance granted in favour of respondent No.7 by the State Environment Impact Assessment Authority-respondent No.2, for the purpose of

expansion of Shopping/Commercial Building on 32.36 acres of land situated in DLF City Phase-III, Sector 25-A, Block V, (DLF Downtown formally known as Mall of India) Gurugram, Haryana.

Further prayer has also been made for relocation of 24-Diesel Generator Sets of 67,500 KVA to a different location to prevent causing severe health problems and hazards due to pollution caused by operation of Diesel Sets.

2. We have heard Shri Gurminder Singh, learned senior counsel for the petitioner; Mr. Ankur Mittal, Additional Advocate General, Haryana and Mr. Randeep S.Rai and Mr. Chetan Mittal, Senior Advocates, on behalf of respondent No.7 on advance notice.

3. Since the issue raised herein essentially pertains to the field of environment, this Court raised a query as to why remedy under the National Green Tribunal Act, 2010 (for short 'NGT Act') is not being invoked by the petitioner.

3.1 In response to the query raised by this Court, learned senior counsel for the petitioner has essentially contended that the issue raised herein does not squarely fall within the jurisdiction of the National Green Tribunal or any other authority under the Air (Prevention and Control of Pollution) Act, 1981 (for short 'the Act of 1981'). For this purpose, learned senior counsel for the petitioner has relied upon a three Judges Bench decision rendered in ***Rajeev Suri vs. Delhi Development Authority and others (2022) 11 Supreme Court Cases 1***, and relied upon paras No. 514, 515 and 516 of this judgment, which for ready reference and convenience are reproduced hereinbelow: -

“514. Before we delve into the analysis further, we would address the call for a merits review in this challenge to EC. The expression “merits review” needs to be put into its

correct perspective. For that we must immediately advert to Section 16 of the National Green Tribunal Act, 2010 (for short “the 2010 Act”). It provides for the appellate jurisdiction of NGT thus:

“16. Tribunal to have appellate jurisdiction.—

Any person aggrieved by—

** * **

(h) an order made, on or after the commencement of the National Green Tribunal Act, 2010, granting environmental clearance in the area in which any industries, operations or processes or class of industries, operations and processes shall not be carried out or shall be carried out subject to certain safeguards under the Environment (Protection) Act, 1986 (29 of 1986);

** * **

may, within a period of thirty days from the date on which the order or decision or direction or determination is communicated to him, prefer an appeal to the Tribunal.”

The provision empowers “any aggrieved person” to file an appeal against the grant of EC for the scrutiny of NGT. The scheme of the 2010 Act, as found in Sections 17-19, provides for a host of remedies to the aggrieved persons, including compensation and other reliefs depending on the injury. Section 20 lays down the basic principle on which the Tribunal is expected to exercise its jurisdiction. It states thus:

“20. Tribunal to apply certain principles.—*The Tribunal shall, while passing any order or decision or award, apply the principles of sustainable development, the precautionary principle and the polluter pays principle.”*

515. *The expression “merits review” signifies that the Tribunal must scrutinise the merits of the decision and*

*must not restrict itself to a cursory examination of the process of decision-making. Section 20 makes it amply clear that the principles of sustainable development, precautionary principle and polluter pays principle must inform its examination. The requirement of merits review is to be understood in the light of the statutory jurisdiction of NGT under the 2010 Act and not beyond it. Statutorily, NGT is vested with a limited mandate to hear an appeal before it in light of the aforesaid principles and grant limited reliefs as provided in the 2010 Act. Section 16 specifies that the jurisdiction of NGT may be invoked when any person either feels that the project should not be carried forward or should be subjected to certain safeguards under the Environment (Protection) Act, 1986. The NGT, therefore, is a body meant for the assessment of a limited facet of the project i.e. environmental facet and is not meant to be a panacea for all ills. The requirement of merits review, as expounded in *Hanuman Laxman Aroskar* [*Hanuman Laxman Aroskar v. Union of India*, (2019) 15 SCC 401], is to be understood as a review within the statutory jurisdiction of NGT.*

516. *NGT is not a plenary body with inherent powers to address concerns of a residuary character. It is a statutory body with limited mandate over environmental matters as and when they arise for its consideration. In a cause before it, NGT cannot directly go on to adjudicate on concerns of violation of fundamental rights and once the contours of a subject-matter traverse the scope of appeal from a grant of EC, the merits review by the Tribunal cannot traverse beyond the scope of jurisdiction vested in it by the statute.....(emphasis supplied)*”

3.2 By relying upon the aforesaid paragraphs of the said judgment in *Rajeev Suri's case* (supra), it is contended by learned senior counsel for the petitioner that Section 20 of the NGT Act, limits the jurisdiction of the Tribunal to three aspects- sustainable development, precautionary principle and the polluter pays principle.

3.3 By relying upon Section 20 of the NGT Act, it is urged that the National Green Tribunal (for short 'the Tribunal') is prohibited from exercising any power or jurisdiction beyond the pale of the aforesaid three principles and since the issue of location of Diesel Sets does not fall within any of the said three aspects, the Tribunal would not be an efficacious alternative forum available to the petitioner. It is further contended that fundamental right of the petitioner is being violated due to wrong location of Diesel Sets which aspect cannot be looked into by the Tribunal.

4. Learned senior counsel appearing for respondent No.7 has relied upon various decisions rendered by Apex Court as well as other High Courts to emphasize alternative statutory remedy of approaching the National Green Tribunal available to the petitioner but yet not availed, which are to the following effect:-

- i) *Municipal Corporation of Greater Mumbai vs. Ankita Sinha and others*, (2022) 13, SCC 401;
- ii) *R.Venkateshwar Rao vs. State of A.P.* Division Bench of Andhra Pradesh High Court, Law Finder Doc ID# 1965273;
- iii) *Durga Paswan vs. State of Bihar and others*, Division Bench of Patna High Court, Law Finder Doc ID # 1112562;
- iv) *Medical Pollution Control Committee vs. State of Uttaranchal and others*, Division Bench of High Court of Uttaranchal, 2023, SCC Online Utt 134;
- v) *M/s Skanda Rocks vs. The State of Karnataka and others*, Division Bench of Karnataka High Court, W.P. No. 1363/2022 (GM0MM-S), DOD-04.07.2022;
- vi) *Maninder Singh Garcha vs. Union of India and another*, High Court of Chhattisgarh at Bilaspur (Single Bench), Writ Petition (C) No. 1388 of 2020, DOD: 30.06.2020;
- vii) *Forum for Sustainable Development Hyderabad and another vs. Union of India*, Division Bench of Andhra Pradesh High Court, 2010(36) RCR (Civil) 642;

5. After having heard learned counsel for the rival parties on the question of admissibility of this petition, this Court is of the considered view that the petitioner has efficacious statutory remedy of approaching the Tribunal against an environmental clearance granted to any industry/operation/process (as granted to respondent No.7 vide Annexure P-10) for the reasons infra:-

5.1 Section 16 of the NGT Act affords statutory remedy to any person aggrieved by an order of grant of environmental clearance to any industry/operation/process to approach the Tribunal in an appeal filed within thirty days which period is extendable not beyond 60 days.

5.2 However, the period of limitation prescribed in Section 16 of the NGT Act and its proviso is to be counted from the date the aggrieved person is communicated or gains knowledge of the order of environmental clearance (against which the appellant is aggrieved) granted in favour of some other person.

6. In the present case, the order of environmental clearance granted in favour of respondent No.7 (Annexure P-10) was passed on 09.04.2023 but the petitioner may very well explain the delay while preferring an appeal before the National Green Tribunal that the order of environmental clearance which has given a cause of action to prefer an appeal was communicated late to the petitioner.

7. The submission of learned senior counsel for the petitioner that the violation alleged in the petition is of fundamental right of the petitioner and therefore, remedy of appeal before the Tribunal is not efficacious is heard to be rejected at the very outset. Reason being that the Tribunal while hearing appeals under Section 16 of the NGT Act or exercising original jurisdiction under Sections 14 and 15 of the NGT Act can very well adjudicate upon the

question of violation of fundamental rights relating to the issues connected with environmental pollution.

8. In view of the above, this Court finding the issue involving herein being exclusively relating to environment and the cause of action arising from breach of various provisions under the Air (Prevention and Control of Pollution) Act, 1981, deems it appropriate not to entertain this dispute and relegate the petitioner to avail the statutory alternative remedy available under the National Green Tribunal Act, 2010 in accordance with law.

9. Nothing said hereinabove be construed as an expression of opinion on the merits of the lis in hand.

10. With these observations and liberty, the petition stands disposed of.

(SHEEL NAGU)
CHIEF JUSTICE

(SUMEET GOEL)
JUDGE

26.05.2025

ravinder

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No