

**BEFORE THE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE) BENCH, PUNE**

APPEAL No.02/2016(WZ)

CORAM:

**Hon'ble Dr. Justice Jawad Rahim
(Judicial Member)**

**Hon'ble Dr. Ajay A. Deshpande
(Expert Member)**

In the matter of:

**Village Panchayat of Assolda,
Through its Sarpanch,
Mr. Dayanand K. Naik,
Assolda, Xelvona, Xic-Xelvona &
Hodar,
Chandor, Assolda – Goa 403 714.**

.....Appellant

Versus

- 1. Goa State Environment Impact
Assessment Authority,
Through its Member Secretary,
EIA – Goa State Secretariat,
3rd Floor, Dempo Towers, Patto,
Panaji – Goa.**
- 2. M/s. Sociedade De Fomento
Industrial Pvt. Ltd.,
Village Flores de Silva,
Erasmoo Carvalho Street,
Margao, Goa 403 601.**
- 3. The State of Goa,
Through its Chief Secretary,
Secretariate, Porvorim,
Bardez – Goa 403521.**

4. The Goa State Pollution Control Board,
Dempo Towers, Patto
Panaji – Goa.

**5. Ministry of Environment & Forest,
Government of India,**
Indira Paryavaran Bhavan,
V, 259, 2nd Floor, Vayyu Wing,
Ali Ganj, Jog Bagh, Jor Bagh
Road, New Delhi – 110 001.

6. Principal Conservator of Forest,
Government of Goa,
Panaji – Goa 403 001.

.....Respondents

Counsel for Applicant:

Mr. Anthnain Naik, Advocate.

Counsel for Respondents:

Ms. Fawia M. Mesquita, Advocate for Respondent No.1.

Mr. Gautam D. Karnik, Advocate a/w Ms. Rupali Awati,
Advocate for Respondent No.2

Date: August 3rd , 2016

ORAL JUDGMENT

1. This Appeal has gained access to this Court under the provisions of Section 16 of the National Green Tribunal Act, 2010 whereby the Appellant namely Village Panchayat of Assolda has questioned the grant of Environmental Clearance to the Respondent No.2 for construction and laying of Rail Freight Terminal dated

16th December, 2015 and subsequent amended Environmental Clearance dated 23rd December, 2015.

2. Upon admission we had caused Notice to all the Respondents.

3. The Notice has been responded by the Respondents. The Project Proponent entered contest individually while learned Advocate General appeared on behalf of Respondent Nos.1, 3, 4 and 6. He made a categorical submission on 28th March, 2016 to the effect that Respondent No.1 State Environment Impact Assessment Authority (SEIAA) considered the complaint submitted by the Appellant on 4th January, 2016. In pursuance to the complaint the SEIAA has issued Show Cause Notice to the Project Proponent who is Respondent No.2 directing it to submit reply and answer the allegations made in the complaint and also to show cause as to why the EC granted should not be cancelled, recalled or annulled.

4. Learned Advocate General submitted that the fact that SEIAA has taken cognizance of the complaint submitted by the Appellant and has initiated action by issuing Show Cause Notice to the Project Proponent, the SEIAA may be given liberty to hear the Appellant and the Project Proponent on the complaint alleged by Appellant and take a decision. He submitted SEIAA would not

hesitate in cancelling the EC granted if it is found that grant of EC was not justified for the project which the Project Proponent wants to implement.

5. Having recorded that submission, we had listed it giving an opportunity to the Project Proponent who submitted that Project Proponent is still in the process of acquiring land and therefore, the Appeal action is premature. We had also recorded his submission that they are not proceeding with the project at all as it is not feasible.

6. Thereafter, this Appeal has been adjourned awaiting the decision of the SEIAA as the Project Proponent appears to have sought time to submit certain documents.

7. Today on behalf of SEIAA learned Counsel submits that they had called upon the Project Proponent to submit the Project Report with regard to second stage of the project but Project Proponent has not done this. She submits that this direction was issued during course of hearing in pursuance to the Show Cause Notice issued to the Project Proponent as submitted by the Advocate General.

8. We have taken into consideration all attending circumstances and we feel that this Appeal need not be

kept pending requiring any decision by Tribunal for the reason the complaint submitted by the Appellant has been taken cognizance of by the SEIAA who have, in exercise of its statutory powers, issued Show Cause Notice to the Project Proponent and have initiated a inquiry for this purpose.

9. It is also noticed that during inquiry both parties have been directed to produce certain documents in support of their contentions and undoubtedly on submission of such statement SEIAA would consider it on merit and pass appropriate order. When SEIAA is the authority which could pass an Order and there is a statement at Bar on behalf of SEIAA and other Respondents that if the Project Proponent's explanation is not found acceptable, they may cancel or recall the EC granted, we are satisfied that the Appellant grievance will be fully addressed by the order of SEIAA itself.

10. In the circumstances, we are disposing of this Appeal being of the opinion that independent decision by this Tribunal is not necessary when the SEIAA is examining all factual aspects keeping in mind the statement in the complaint filed by the Appellant. Hence it will suffice if we direct SEIAA to give opportunity to both sides of hearing and after conducting joint inspection, if necessary, pass appropriate order.

11. We reserve the liberty to the Appellant to question the order of SEIAA if it results in adverse order to it. In the circumstances, Appeal No.02/2016 is disposed of with no order as to costs.

12. We appreciate and place on record positive role played by the learned Advocate General and Ms. Fawia M. Mesquita, learned Counsel for SEIAA for assuring the Tribunal and ensuring performing of statutory duty by SEIAA, in the right earnest.

Appeal No.02/2016 stands disposed of with no order as to costs.

....., JM
(Dr. Justice Jawad Rahim)

....., EM
(Dr. Ajay.A. Deshpande)

Date : 3rd August, 2016.

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