

AIR LAW & POLICY

Reporter

Judgment Alert !

January 30, 2017

Vardhaman Kaushik Vs. Union of India & Ors. O.A. No. 21/2014

The National Green Tribunal had in its order dated 10th November 2016, stated that the Tribunal shall issue notice for payment of compensation to all offenders and defaulters of the directions issued by the Tribunal regarding prevention of air pollution.

On 21st December 2016, the National Green Tribunal had heard the application with respect to the defaulters of the said Tribunal order. It was brought to the Tribunal's notice that nearly 336 persons who were found to be violating the order of the Tribunal regarding banning burning of waste in open had failed to pay the environmental compensation and nearly 1082 persons had violated the order of the Tribunal requiring precautions to be taken during construction and had failed to pay environmental compensation despite having been called upon by notice and challans.

The Tribunal had thereby directed that:

- Notice be served by Corporation on the respective defaulters to show-cause why environmental compensation should not be imposed and bring them before the Tribunal on the next date of hearing.
- Notice shall also issue to the Dy. Commissioner/SDM of the concerned districts to show-cause why they have not implemented the order of the Tribunal and why environmental compensation be not recovered from them in accordance with law.
- With respect to the huge waste burning going on in open in Noida, Greater Noida and Ghaziabad, issue notice to the Noida Development Authority. Dy. Commissioner and SP Noida to show cause why an appropriate action be not taken against them and they be directed to pay environmental compensation from their respective salary.

The application in this respect was heard by the Tribunal again today (i.e. 30th January 2017). The Tribunal was dismayed to find that recovery of compensation from the defaulters have

not been done completely and upon questioning the failure to do so, the Dy. Commissioner/SDM of the concerned districts stated that while some defaulters pay the compensation, others refuse to do the same. Ensuring recovery of compensation is difficult when it comes to defaulters who refuse to pay.

The Tribunal, having had considered this issue stated that out of 1418 defaulters very few defaulters have appeared and paid environmental compensation and so far a total amount of Sixty-three Lakh and Fifteen Thousand rupees have been collected. On this account, the Tribunal directed that the remaining defaulters should be issued fresh notices and they should appear before the Tribunal on 9th March 2017. The defaulters are granted two weeks to pay compensation to the Corporation and if they fail to do so, the same will be recovered under the Civil Procedure Code and enforced by the concerned SDM.

Further, the Tribunal also directed the DPCC and the CPCB to place before it the complete air quality report of the last month.

In a different miscellaneous application under the same case, the Tribunal on 27th January 2017 allowed the 21 Gun Salute International Vintage Car Rally to be held on 17th to 19th February, 2017, but made it clear that it should be ensured that

these vehicles do not ply on the roads except for the purpose of event.

Rajiv Dutta, Senior Adv. Vs. Union of India & Ors. O.A. No. 216/2016

The Tribunal also heard an application on the issue of Forest Fires in the States of Uttarakhand and Himachal Pradesh on 27th January 2017.

Pursuant to the Tribunal's previous order, Ministry of Environment, Forest and Climate Change submitted a chart showing the status of the Crisis Management Plan (CMP) submitted by different State Governments. Out of these, the CMPs of only 4 States have been approved and the balance is pending. The Tribunal was of the view that this showed the "*pathetic state of affairs*" and that the Ministry needs to act with some expeditiousness and ensure protection of forests from fires occurring time and again.

The Deputy Inspector General of Forest, Mr. A.K. Mohanty, assured the Tribunal that he would ensure to take immediate steps to consider, deal with and dispose off all the CMP of the States which are pending. He further assured that with reference to the National Guidelines issued by the Ministry of Environment, Forest and Climate Change for protection of forest from forest fires, he would prepare the directions under Environment (Protection) Act, 1986 that

need to be issued to the respective States, Pollution Control Boards and particularly the Forest Departments of the respective States. The Tribunal then passed the following directions:

1. "The Deputy Inspector General of Forest shall ensure that mails are sent to all the State Governments through their Chief Secretaries and the Secretary concerned and the Department concerned of the State Government pointing out the pendency of their CMPs and the deficiencies thereof by 30th January, 2017.
2. In the mail sent to them, the date on which the concerned Officers, who are to be the Senior Officers of their Department, would be called for meeting along with the time. Time for meeting shall be provided with effect from 6th February, 2017 every day and on day-to-day basis.
3. Immediately, thereafter, upon furnishing of all the requisite information it should be ensured by all concerned without delay and default that final orders of approval or rejection of the CMP should be passed by the Ministry of Environment, Forest and Climate Change.
4. With reference to the National Guidelines for protecting forest fires, directions shall be prepared by Ministry of Environment, Forest and Climate Change and placed before the Tribunal which Ministry may propose

to exercise in terms of the power vested in it in terms of Section 3 and 5 of the Air (Prevention and Control of Pollution) Act, 1981 read with Environmental (Protection) Act, 1986 and Forest (Conservation) Act, 1980. Let the compliance be carried out by the Ministry now without any delay and default and the matter be listed before the Tribunal on 20th March, 2017."

