

**BEFORE THE NATIONAL GREEN TRIBUNAL**

**SOUTHERN ZONE, CHENNAI**

**Appeal 106 to 112 of 2016 (SZ)**

**In the matter of**

1. Telangana State Pollution Control Board  
Paryavaran Bhavan, A-III,  
Industrial Estate, Sanath Nagar,  
Hyderabad rep. by its Member Secretary
2. The Joint Chief Environmental Engineer (CFO)  
Telangana State Pollution Control Board,  
Podupu Bhavan – IV Floor,  
Hyderabad Collectorate Complex,  
Hyderabad .... Appellants 1& 2 in all Appeals
3. Environmental Engineer,  
Telangana State Pollution Control Board,  
Regional Office – I, Ranga Reddy District,  
Office D.No.2-14-154/101, Flat No.101  
My Residency, Beerappagudda,  
Uppal, Hyderabad 500039 .. Appellant No.3 in  
Appeal Nos.106 to 108 of 2016

Vs.

M/s.Shivraj Reddy Constructions,  
Also known as M/s.SSR Constructions,  
Sy.No.105/P, Kotwalgudda (V)  
Shamshabad (M) Ranga Reddy District  
Rep. by its Managing Partner  
Sri S.Giri Prasad Reddy  
R/o Plot No.92, House No.3-6-69/B/13  
Avanthi Nagar, Baseerbagh, Hyderabad 500029 R1 in Appeal 106 of 2016

Md Shahbaz Ullah  
S/o Late Mohd.Rahmath Ullah Pasha  
Sy.No.19, Kotwalguda Shamshabad (M),  
Ranga Reddy District 501 218 R1 in Appeal 107 of 2016

M/s.VNR Projects,  
Rep. by its Managing Partner,  
R/o Sy.No.64, Kothawalguda (V)  
Shamshadbad (M) Ranga Reddy District 501218 R1 in Appeal 108 of 2016

M/s.Akash Steel Industries, SSI Unit,  
Rep. by its Proprietor Khem Chand Agarwal,  
O/o Plt No.7-68, Survey No.28, Jalpally (V)  
Saroor Nagar Mandal, Mamidipally (Post)  
Ranga Reddy District, Telangana 500055 R1 in Appeal 109 of 2016

M/s.Diamond Steel Re Rolling Mill, SSI Unit,  
Rep. by its Authorised Signatory M.A.Jabber,  
O/O Survey No.28, Jalpally (V)  
Saroor Nagar Mandal, Mamidipally (Post)  
Ranga Reddy District, Telangana 500055 R1 in Appeal 110 of 2016

M/s.Venkateshwara Steel Industries, SSI Unit,  
Rep. by its Proprietor Naveen Neemkar,  
O/o Survey No.28, Jalpally (V)  
Saroor Nagar Mandal, Mamidipally (Post)  
Ranga Reddy District, Telangana 500 055 R1 in Appeal 111 of 2016

M/s.Priyanka Steel Industry, SSI Unit,  
Rep. by its Proprietor Pushpa Agarwal,  
Plot No.7-68/1, Sy.No.28, Jalpally (V)  
Saroor Nagar Mandal, Ranga Reddy District  
Telangana 500055

R1 in Appeal 112 of 2016

The State Government of Telangana  
EFS& T Department Secretariat,  
Telangana State Secretariat, Hyderabad  
Rep. by its Secretary

.. Respondent No.2 in all Appeals

**Counsel appearing for the applicant:**

Mr.T.Sai Krishnan

**Counsel appearing for the respondents**

M/s.R.Saravana Kumar, R.Ramesh, }  
E.Veda Bagath Singh & J.Raja Rao for R1 }  
Mrs.H.Yasmeen Ali for R2 } In Appeal No.106 to 108 of 2016

M/s.S.Kamalesh Kannan }  
S.Sai Sathya Jith, A.Chandrasekar for R1 }  
Mrs.Yasmeen Ali for R2 } In Appeal No.109 to 112 of 2016

**ORDER**

Present

Hon'ble Shri Justice Dr.P.Jyothimani, Judicial Member

Hon'ble Shri P.S.Rao, Expert Member

25<sup>th</sup> January, 2017

All these appeals are taken up for hearing jointly and we have heard Mr.Sai Krishnan, learned counsel appearing for the appellants which is Telangana State Pollution Control Board (Board), and also learned counsel appearing for the 1<sup>st</sup> respondent project proponent in all these cases.

2. Out of these cases, Appeal Nos.106, 107 and 108 of 2016 relate to the industries situated in Kotwalguda Village, Shamshabad Mandal, Ranga Reddy District, while the industrial units in Appeal No.109, 110, 111, & 112 of 2016 are situated in Jalpally Village, Saroornagar Mandal, Ranga Reddy District. In respect of all these Units, the appellant herein has passed combined orders both under Water (Prevention and Control of Pollution) Act 1974 (Water Act) as well as Air (Prevention and Control of Pollution) Act, 1981 (Air Act) directing closure of the units of the 1<sup>st</sup> respondents. In the said orders, a reference has been made that all these units are situated within 10 km radius of Himayathsagar and Osmansagar lakes and that they are operating without "consent to operate" from the Board.

3. The learned counsel appearing for the 1<sup>st</sup> respondent in Appeal Nos.109 to 112 of 2016 which relate to Jalpally Village, would submit that as per G.O.Ms. No.111 M.A., dated 08.03.1996 which has Annexure I indicating Villages falling within 10 km catchment area of Himayathsagar and Osmansagar lakes, the said Village viz., Jalpally has not been included in the Annexure and in spite of the same a reference has been made as if the said units are situated within 10 km. All the orders passed by the Board directing closure of the units of the 1<sup>st</sup> respondents under Water and Air Act were challenged before the Learned Appellate Authority constituted under Water Act as well as Air Act, by the 1<sup>st</sup> respondent project proponents by filing appeals.

4. While hearing the appeals, the learned Appellate Authority has passed interim orders dated 25.02.2016 and 03.03.2016 which are challenged before this Tribunal in these appeals. In the interim order, the learned Appellate Authority having noted that the 1<sup>st</sup> respondent units have not obtained "consent to operate", however, has permitted the first respondents herein who are the appellants before the learned Appellate Authority, to run the industry and further directed the Board to monitor pollution level periodically. It is this portion of the interim order which is challenged by the Board before us in these Appeals.

5. Mr.Sai Krishnan, learned counsel appearing for the Board in these cases would submit that when once the learned Appellate Authority has apparently admitted that the appellants before the Appellate Authority have not obtained "consent" which is also an admitted fact, the learned Appellate Authority ought not to have permitted the Units to operate. According to him, such permission will amount to acting against the provisions of Water Act as well as Air Act.

6. The learned counsel appearing for the project proponents even though, are unable to state as to whether they have obtained "consent to operate", have admitted that their application for "consent to operate" has not been entertained by the Board on various grounds. Therefore, it is clear that the units of the 1<sup>st</sup> respondents have not obtained "consent to operate" as on date which is a condition prescribed under both Water and Air Act.

7. In such view of the matter, we are of the considered view that the Learned Appellate Authority ought not to have permitted the units to run the industry without "consent" as submitted by the learned counsel appearing for the appellant as this will run contrary to the provisions of the Water Act and Air Act. However, we are deciding only in respect of the said issue and we are not deciding anything about other issues raised regarding the applicability of G.O. No.111 dated 08.03.1996 and the same shall be open to the parties to argue before the Learned Appellate Authority.

8. In view of the same, we set aside the interim orders passed by the Learned Appellate Authority dated 25.02.2016 and 03.03.2016 respectively with a request to the Learned Appellate Authority to decide on the merit of the appeals pending before the Authority expeditiously. It is also stated by the learned counsel appearing for the 1<sup>st</sup> respondent in Appeal No.106, 107, & 108 of 2016 that as against the refusal of receiving “consent” application, the project proponents have also filed appeals before the Learned Appellate Authority which are pending. If that is so, we request the Learned Appellate Authority to take up those appeals also jointly and decide. In case where any of the project proponents are able to satisfy the State Pollution Control Board that their Units are not situated in the villages which are stated in the Annexure to G.O.M.S.No.111 dated 08.03.1996, it is always open to the Board to receive the application on merits and decide in accordance with law. त्यमेव जयते

With the above direction, the appeals stand allowed. There shall be no order as to cost.

Justice Dr.P.Jyothimani  
Judicial Member

Shri P.S.Rao  
Expert Member

NGT