

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

ORIGINAL APPPLICATION NO. 170/2013

Nicholas H. Almeida V/s Lenzing Modi Fibres India Pvt. Ltd.& Ors.

**CORAM: HON'BLE SHRI JUSTICE V.R. KINGAONKAR, JUDICIAL MEMBER
HON'BLE DR. AJAY A. DESHPANDE, EXPERT MEMBER**

Applicant / Appellant : Shyam Moorjani, Adv.

Respondent No 5 : Shyamli Gadre, hottle and Co.

Date and Remarks	Orders of the Tribunal
Item No.1 September 13, 2013 Order No.6	<p>We have heard Learned Counsel.</p> <p>By consent of Learned Counsel for the Applicant, Paragraph 4(A) of the application stands deleted in as much as such pleadings are unnecessary.</p> <p>The Respondent No 1 has sought clarification regarding the order of the 'Status Quo'. It is argued by the Learned Counsel for the Respondent No 1 that the expression "Status Quo" may not be erroneously interpreted by the concerned authorities to cause impeadment for the process of deciding the applications pending before them. The Counsel for the Applicant has no objection to do so in case the representation of the Applicant is permissible and hearing is given to the Applicant by the concerned authorities.</p> <p>The "Status Quo" is granted in respect of Project Proponent activity and the concerned authorities including NBWL may consider the representation of the applicant and of the Respondent No 1(Project Proponent) subject to condition that the Applicant may be allowed to make representation, if he so desires, and he be heard in person or through Counsel, as he would so desire, by the competent authority, prior to giving of the decision on application of the Project Proponent. Representation shall be made by the Applicant, if he so desires to the concerned authorities within a period of 2 weeks hereafter. The authority concerned may consider the representation and hear the Applicant thereafter within a period of 2 weeks further and shall decide the application, as far as possible, within a period of 2 weeks thereafter. The time frame shall be followed without asking for any adjournment or seeking any time by any</p>

party though the authority may do so if there is some technical difficulty in deciding the application.

We deem it proper to appoint a Committee for the purpose of spot inspection to give report on following aspects:

1. The distance between outer limit of Karnala Birds Sanctuary and the site of the Project.
2. The outer limit and the length of Karnala Birds Sanctuary on Lonawala side from its commencement from Raigad side.
3. Committee may also examine the issue about the present position of the land site where the proposed project is to be made functional. It may also consider the previous maps or may consider the google maps in existence, prior to the alleged site clearance work done by the Project Proponent, and the present google map as well as the factual situation about the topography of the site in question.
4. Committee shall also record the distance between the Patalganga River and the proposed Project.
5. The Committee should give prior notice of such inspection to the parties. The Applicant as well as authorised representative of the Project Proponent may also assist the Committee in conducting the survey and the work of site inspection.

We deem it proper to appoint the Committee of the following 3 persons:

- i. Collector, Raigad or his nominee of rank not below the Addl. Collector/Dy. Collector.
- ii. Chief Conservator of Forest or his nominee of rank not below that of D.F.O.
- iii. Head of Department of the Civil Engineering IIT or his nominee having due experience and knowledge about the development issues, the project activities and construction activities.

The transportation and incidental expenses required for conducting the work of inspection, by engaging such expert of the IIT Pawai / Mumbai though is required to be born jointly by the Applicant and the Respondent No 1, yet for the present such cost may be incurred only by the Respondent No 1 presently and that the part of the cost which is to be recovered from the Applicant will be the subject matter of further directions.

The Committee may call for the authenticated map of the District Land Surveyor or any other Govt agency as may be deemed proper.

The Committee shall conduct the work of inspection within a period of 4 weeks and shall give Report to the Tribunal without any delay. At the most within 2 weeks thereafter. The Applicant is at liberty to submit copy of this order to the above nominated Members of the Committee and so also, the Project Proponent is at liberty to do so. The Respondent No's 2 and 4 is represented by Counsel who seeks time for filing the affidavit. Three (3) weeks' time is granted to file the reply. So also, we direct the Respondent No's 2, 4 and 6 to give proper intimation to the Members of the Committee to conduct the work of inspection in terms of the above directions.

We further direct that no construction or any type of activity shall be undertaken by the Project Proponent without obtaining prior approval of this Tribunal in as much as the status quo is to maintain the same position of the site in question.

Reply of the Respondent No's 2 and 4, shall be submitted on 7-10-2013 on which date the Counsel for the other parties may not appear and the reply shall be served to them by the Counsel for the Respondent Nos. 2 and 4 through courier. The matter will come thereafter on 24th of October, 2013.

Stand over to 7th October, 2013.

....., **JM**
(V. R. Kingaonkar)

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