

THE HON'BLE SRI JUSTICE A.V. SESA SAI
&
THE HON'BLE SRI JUSTICE T. MALLIKARJUNA RAO

WRIT PETITION Nos.2708, 387, 388, 1239, 1243,
2597, 2709 & 3532 of 2023

COMMON ORDER: *(per A.V. Sesa Sai, J)*

Heard Sri Sricharan Telaprolu, learned counsel for the petitioner in W.P.Nos.2708 and 2709 of 2023, and Sri N.Vijay, learned Counsel for the Petitioners in W.P.Nos.387, 388, 1239, 1243 and 3532 of 2023 and Sri V.Surendra Reddy, learned Standing Counsel for Andhra Pradesh Pollution Control Board, apart from perusing the material available on record.

2. Since the issues and the contentions raised in all these Writ Petitions are the same, this Court deems it appropriate to dispose of these Writ Petitions, by way of this Common Order.

3. The cause of action in all these Writ Petitions arises under the National Green Tribunal Act, 2010 (for short 'the Act'). The jurisdiction of the National Green Tribunal, Principal Bench at New Delhi, in passing the orders impugned in these Writ Petitions, is under challenge.

4. According to the learned counsel for the Writ Petitioners, the National Green Tribunal, Principal Bench at New Delhi has no jurisdiction to pass the orders impugned in these Writ Petitions, in view of the provisions of the Act, and the notification, dated 17.08.2011, issued by the Ministry of Environment and Forests (Government of India). In this context, reference to certain provisions of the legislation is essential and necessary. The Parliament with an intention and object to provide for the establishment of a National Green Tribunal for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment, and giving relief and compensation for damages to persons and property and for matters connected therewith, or incidental thereto, enacted the National Green Tribunal Act, 2010 and the said legislation came into force with effect from 18.10.2010.

5. Section 3 of the Act deals with the establishment of the Tribunal, and Section 4 of the Act deals with the composition of the Tribunal. The said provisions of law read as follows:-

3.Establishment of Tribunal:- The Central Government shall, by notification, establish, with effect from such date as may be specified therein, a Tribunal to be known as the National Green Tribunal to exercise the jurisdiction, powers and authority conferred on such Tribunal by or under this Act..

4. Composition of Tribunal:- (1) The Tribunal shall consist of:-

- (a) a full time Chairperson;
 - (b) not less than ten but subject to maximum of twenty full time Judicial Members as the Central Government may, from time to time, notify;
 - (c) not less than ten but subject to maximum of twenty full time Expert Members, as the Central Government may, from time to time, notify.
- (2) The Chairperson of the Tribunal may, if considered necessary, invite any one or more person having specialised knowledge and experience in a particular case before the Tribunal to assist the Tribunal in that case.
- (3) The Central Government may, by notification, specify the ordinary place or places of sitting of the Tribunal, and the territorial jurisdiction falling under each such place of sitting.
- (4) The Central Government may, in consultation with the Chairperson of the Tribunal, make rules regulating generally the practices and procedure of the Tribunal including--
- (a) the rules as to the persons who shall be entitled to appear before the Tribunal;
 - (b) the rules as to the procedure for hearing applications and appeals and other matters

including the circuit procedure for hearing at a place other than the ordinary place of its sitting falling within the jurisdiction referred to in sub-section (3)], pertaining to the applications and appeals;

(c) the minimum number of Members who shall hear the applications and appeals in respect of any class or classes of applications and appeals:

Provided that the number of Expert Members shall, in hearing an application or appeal, be equal to the number of Judicial Members hearing such application or appeal;

(d) rules relating to transfer of cases by the Chairperson from one place of sitting (including the ordinary place of sitting) to other place of sitting.

6. A reading of sub-Section (3) of Section 4 of the Act shows that the said provision enables the Central Government to issue notifications, specifying the ordinary place or places of sitting of the Tribunal, and the territorial jurisdiction falling under each such place of sitting.

7. The learned Advocates appearing for the petitioners have brought to the notice of this Court, a notification issued by the Ministry of Environment and Forests (Government of India), vide Notification No.S.O.1908(E), dated 17.08.2011, in exercise of the powers conferred under sub-Section (3) of Section 4 of the Act.

The said notification reads as under:-

S.O.1908(E):- *In exercise of powers conferred by sub-section (3) of Section 4 of the National Green Tribunal Act, 2010(19th of 2010), the Central Government hereby specifies the following ordinary places of sitting of the National Green Tribunal which shall exercise jurisdiction in the area indicated against each:-*

S.No.	Zone	Place of sitting	Territorial Jurisdiction
1	Northern	Delhi(Principal place)	Uttar Pradesh, Uttarkhand, Punjab, Haryana, Himachal Pradesh, Jammu and Kashmir, National Capital Territory of Delhi and Union Territory of Chandigarh.
2.	Western	Pune	Maharashtra, Gujarat, Goa with Union Territories of Daman and Diu and Dadra and Nagar Haveli.
3.	Central	Bhopal	Madhya Pradesh, Rajasthan and Chattisgarh.
4.	Southern	Chennai	Kerala, Tamilnadu, Andhra Pradesh, Karnataka, Union Territories of Pondicherry and Lakshadweep
5.	Eastern	Kolkatta	West Bengal, Orissa, Bihar, Jharkhand, seven

			<i>sister States of North-Eastern region, Sikkim, Andaman and Nicobar Islands.</i>
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Provided that till the Benches of the National Green Tribunal become functional at Bhopal, Pune, Kolkatta and Chennai, the aggrieved persons may filed petitions before the National Green Tribunal at Delhi and till such time the notification No.S.O.1003(E), dated the 5th May, 2011 in the Ministry of Environment and Forests, shall continue to be operative.

8. It is absolutely not in controversy and not even disputed by the learned counsel for the respondents that the cause of action for entertaining the dispute by the National Green Tribunal, Principal Bench, at New Delhi arose within the jurisdiction of the State of Andhra Pradesh. For the States of Kerala, Tamilnadu, Andhra Pradesh, Karnataka, Union Territories of Pondicherry and Lakshadweep, the Tribunal constituted at Chennai, which is called 'Southern Bench' alone has jurisdiction to entertain the disputes. On the above said solitary ground, it is to be necessarily held that the orders passed by the National Green Tribunal, Principal Bench, at New Delhi, which are impugned in these batch of Writ Petitions, suffer from inherent lack of jurisdiction.

9. For the aforesaid reasons, these Writ Petitions are allowed, setting aside the orders impugned in these Writ Petitions and all other consequential proceedings, if any. However, the issues involved in these cases shall stand transferred to National Green Tribunal, Southern Bench at Chennai. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this case, shall stand closed.

A.V. SESA SAI, J

T. MALLIKARJUNA RAO, J

Date: 22.09.2023
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W.P. Nos.2708, 387, 388, 1239, 1243, 2597, 2709
AND 3532 of 2023

(per A.V. Sesa Sai, J)

Date:22.09.2023

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