

environment. The NGT, therefore, on different counts imposed penalty of Rs.75,00,000/- each.

2. We have heard Shri Neeraj Kishan Kaul, learned senior counsel for the appellant and Shri Raghav Sharma, learned counsel appearing for Respondent No.1/State of Madhya Pradesh through Madhya Pradesh Pollution Control Board and Shri Rahul Pratap, learned counsel appearing for Respondent No.2.

3. Though, Shri Neeraj Kishan Kaul, learned Senior Counsel, submits that there is no violation as found by the learned NGT, we find that the present appeals deserve to be allowed on the following short ground.

4. After the NGT entertained the O.A. on the basis of the letter addressed by Respondent No.1, it initially directed the plant of the appellant to be examined by the State Pollution Control Board. After the receipt of the report of the State Pollution Control Board, the Court appointed a Joint Committee to give its report. The said Joint Committee made certain recommendations and the NGT passed the impugned order on the basis of the said recommendations.

5. The material placed on record would also reveal that the

appellant herein was not made a party to the proceedings before the learned NGT or before the Joint Committee. Though an application for impleadment was filed by the appellant, the same was rejected by the learned NGT.

6. It further appears that even the Joint Committee appointed by the NGT neither gave any notice to the appellant nor an opportunity was given of being heard. Though, this objection was specifically taken by the appellant, the NGT observed “We asked the learned Counsel whether the stand of the unit is that the violations found never existed or whether they existed but have been remedied. His answer is later. It is patent that there were violations”.

7. It is thus clear that the procedure followed by the learned NGT was totally unknown to the settled principles of natural justice.

8. Neither was any notice given by the Joint Committee before giving an adverse report against the appellant nor the NGT permitted impleadment of the appellant as a party respondent. As a matter of fact, the NGT could not have proceeded further with the matter even at the initial stage

without impleading the appellant herein as a party respondent. The approach adopted by the NGT clearly smacks of condemning a person unheard. A reliance in this respect should be placed on the judgment of this Court in the case of ***Municipal Corporation of Greater Mumbai v. Ankita Sinha and Others***¹.

9. Another glaring error that has been committed by the NGT is that it has based its decision only on the basis of the report of the Joint Committee. The NGT is a tribunal constituted under the National Green Tribunal Act of 2010. A tribunal is required to arrive at its decision by fully considering the facts and circumstances of the case before it. It cannot outsource an opinion and base its decision on such an opinion. A reliance in this respect should be placed on the judgment of this Court in ***Kantha Vibhag Yuva Koli Samaj Parivartan Trust and Others v. State of Gujarat and Others***².

10. In that view of the matter, the impugned orders are not sustainable, the same are quashed and set aside and the matters are remitted back to the learned NGT for considering

¹ (2022) 13 SCC 401 : 2021 INSC 624

² 2022 SCC OnLine SC 120 : 2022 INSC 79

the matters afresh.

11. Needless to state that if the NGT decides to proceed further on the basis of the complaint of Respondent No.1, it shall not do so unless the appellant herein is impleaded as a party respondent.

12. With these observations and directions, the appeals are allowed.

13. Pending application(s), if any, shall stand disposed of.

CIVIL APPEAL NO. 5158 OF 2021

1. The facts in the present case are almost similar or rather more glaring than the facts in Civil Appeal Nos. 1711-1712 of 2021. In the present appeals the complainant (Respondent No.2 herein) had not even mentioned the name of the present appellant. However, the learned National Green Tribunal (NGT) on the basis of the Report of the Joint Committee imposed penalty of Rs.82.2 Lacs and Rs.75.6 Lacs for violation of environment laws on two counts.

2. In the appeal arising out of the same common order we have found that the approach of the NGT in deciding the matter without impleading an affected party and passing its

decision on an outsourced opinion of the experts is not permissible on the ground of violation of principle of natural justice.

3. In that view of the matter, we are inclined to allow this appeal.

4. The impugned order is quashed and set aside and the matter is remitted back to the learned NGT for considering the matter afresh.

5. The appeal is accordingly allowed.

6. Pending application(s), if any, shall stand disposed of.

.....**J.**
(B.R. GAVAI)

.....**J.**
(K.V. VISWANATHAN)

NEW DELHI;
NOVEMBER 27, 2024.