

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.6437-6438 OF 2021

M/S DSP ASSOCIATES

...Appellant(s)

Vs.

UNION OF INDIA & ORS.

...Respondent(s)

O R D E R

1. The appeals are taken up for hearing.
2. We have heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondents.
3. The main grounds on which order dated 14th July, 2021 passed by the National Green Tribunal is impugned are that the appellant was not supplied a copy of the report which is relied upon in the impugned order and on the day on which the application was heard (14th July, 2021), due to technical glitch in video conferencing, the advocate who appeared for the appellant could not address the Tribunal.

4. Our attention is invited to the affidavit of Shri Amit Kumar, advocate filed in the review petition before the Tribunal. In paragraph 4 of the affidavit, he has stated on oath that firstly a copy of the report relied upon in the impugned order was not supplied to the appellant and secondly, due to technical difficulty in connecting through video conferencing, he could not address the Tribunal. In paragraph 6 of the impugned order, the Tribunal has recorded that though an advocate was representing the appellant, he has not raised any objection to the report.

5. We may note here that notice was specifically issued by this Court on 8th November, 2021 on the ground that the advocate for the appellant could not appear before the Tribunal due to the technical glitch in virtual hearing. Respondent No.4 who was the applicant before the Tribunal has been duly served but he is unrepresented.

6. We may also note here that the learned counsel appearing for the State Government has pointed out that the lease granted to the appellant has been subsequently terminated which fact is not disputed by the learned counsel appearing for the appellant.

7. However, considering the directions issued in paragraph 13 of the impugned judgment, the issue regarding compensation will very much survive, though the lease has been terminated.

8. We see no reason to dispute the correctness of the statements made on oath in the affidavit filed by advocate representing the appellant before the Tribunal. Only on the ground that proper opportunity of being heard was not made available to the appellant, we are setting aside the impugned order as stated hereinafter.

9. We, however, clarify that we are interfering only with the direction incorporated in clause (ii) of paragraph 13 of the impugned judgment on the ground that the appellant was not heard and a copy of the report relied upon was not made available to the appellant. Rest of the directions are not interfered with.

10. Accordingly, the appeals are partly allowed on above terms.

11. We request the Tribunal to ensure that a copy of the report referred in paragraph Nos. 5 and 6 of the impugned judgment is made available to the appellant or to the appellant's counsel. It will be open for the appellant to file objections in writing to the report. The Tribunal will reconsider the issue after hearing the parties.

12. We also clarify that if the order of black-listing is already passed against the appellant, it will open to the appellant to challenge it in accordance with law. Such a challenge, if any, shall be decided on its own merits.

.....J.
(ABHAY S.OKA)

.....J.
(RAJESH BINDAL)

NEW DELHI;
February 20, 2023.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 6437-6438/2021

M/S DSP ASSOCIATES

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(IA No. 137716/2021 - EX-PARTE STAY
IA No. 137715/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT
IA No. 168985/2021 - EXEMPTION FROM FILING O.T.
IA No. 168984/2021 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES
IA No. 163151/2021 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES
IA No. 149988/2021 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES
IA No. 137714/2021 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

Date : 20-02-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE RAJESH BINDAL

For Appellant(s)

Mr. Varun Singh, Adv.
Ms. Kajal Gupta, Adv.
Mr. Ytharth Kumar, Adv.
Ms. Alankriti Dwivedi, Adv.
Mr. Mohammad Atif Ahmad, Adv.
Mr. Himanshu Yadav, Adv.
Ms. Smriti Wadhwa, Adv.
Mr. Nitin Saluja, AOR

For Respondent(s)

Dr. Arun Kumar Yadav, Adv.
Mr. Gurmeet Singh Makker, AOR
Ms. Ruchi Kohli, Adv.
Ms. Swarupama Chaturvedi, Adv.
Ms. Rajat Nair, Adv.

Mr. Alok Sangwan, Sr. A.A.G.
Mr. Samar Vijay Singh, AOR
Mr. Sumit Kumar Sharma, Adv.
Mr. Rajat Sangwan, Adv.
Mr. Rahul Khurana, Adv.
Mr. Arvind Kumar Tomar, Adv.
Ms. Moni Tomar, Adv.
Ms. Amrita Verma, Adv.
Ms. Sabarni Som, Adv.
Mr. Keshav Mittal, Adv.

Mr. Avneesh Arputham, AOR
Ms. Anuradha Arputham, Adv.
Mr. Ankit Sharma, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeals are partly allowed in terms of the
signed order.

Pending applications also stand disposed of.

(ANITA MALHOTRA)
AR-CUM-PS

(POONAM VAID)
COURT MASTER

(Signed order is placed on the file.)