



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-25118-2023 (O&M)

Reserved on : 18.02.2025

Date of Pronouncement : 30.06.2025

Sunil

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE H.S. GREWAL

Present: Mr. Jitender Dhanda, Advocate, and
Ms. Suman Sagar, Advocate,
for the petitioner.

Mr. Deepak Balyan, Addl. Advocate General, Haryana.

SHEEL NAGU, CHIEF JUSTICE (Oral)

1. The jurisdiction of this Court under Article 226 of the Constitution of India is invoked to essentially seek quashment of notifications dated 20.11.2019 (Annexures P-4 and P-5) amending the Haryana (Prevention and Control of Water Pollution) Rules, 1978 ('Water Act', for brevity) and the Haryana Air (Prevention and Control of Pollution) Rules, 1983 ('Air Act', for brevity), providing a single member Appellate Authority, which, according to learned counsel for the petitioner, is in direct conflict with law laid down by Apex Court in its judgment dated 27.01.1999 (Annexure P-1) rendered in Civil



Appeal Nos. 368-371 of 1999 [Arising out of SLP (C) Nos. 10317-10320 of 1998), titled "**A.P. Pollution Control Board Versus Prof. M.V. Nayudu (Retd.)**".

2. Challenge to aforesaid notifications dated 20.11.2019 is on the plea that by providing a single member Appellate Authority, the State has given a go-bye to law laid down by Apex Court in **A.P. Pollution Control Board's case** (supra) to the extent the Apex Court lays down that composition of Appellate Authorities in matters relating to environmental laws ought to be manned by technical personnel in addition to judicial members, thus assuming duplicity in the composition of Appellate Authority.

3. The State of Haryana has filed its written statement defending the said notifications dated 20.11.2019 (Annexures P-4 and P-5) primarily on the ground that the need emphasized by Apex Court in **A.P. Pollution Control Board's case** (supra) of having a technical member with expertise in the field of environment as an essential part of Appellate Authority, is obviated by constitution of National Green Tribunal ('Tribunal', for brevity) under the National Green Tribunal Act, 2010 ('NGT Act', for brevity) brought into force with effect from 18.10.2010, where composition of Tribunal is provided thus :-

Section 4 (1)

- (a) a full-time Chairperson, who is or has been a Judge of the Supreme Court of India or Chief Justice of a High Court;*
- (b) not less than ten but maximum of twenty full-time Judicial Members, who is or has been a Judge of the Supreme Court of India or Chief Justice of a High Court;*



(c) *minimum ten and maximum of twenty full-time Expert Members, having the following qualifications :*

(a) *has a degree in Master of Science (in physical sciences or life sciences) with a Doctorate degree or Master of Engineering or Master of Technology and has an experience of fifteen years in the relevant field including five years practical experience in the field of environment and forests (including pollution control, hazardous substance management, environment impact assessment, climate change management; biological diversity management and forest conservation) in a reputed national level institution or*

(b) *has administrative experience of fifteen years including experience of five years in dealing with environmental matters in the Central or a State Government or in a reputed National or State level institution.*

3.1 The State has further pointed out various amendments caused in the Air Act, especially Section 31B, where the remedy of appeal is provided before the Tribunal to a person aggrieved by an order or decision of the Appellate Authority under Section 31.

3.2 Similar amendments carried out in the Water Act have also been pointed out by the State, especially Section 33B, which extends a person aggrieved against an order or decision of the Appellate Authority under Section 28, or against an order passed by the State Government under Section 29, to approach the Tribunal.

3.3 The aforesaid amendments in the Air Act and Water Act were carried out on 18.10.2010.



3.4 Thus, by placing reliance on the specially promulgated NGT Act and amendments made in Air Act and Water Act, the State urges that the Tribunal has a team of ten to twenty technical members, who can very well cover up the lacuna, if any, in the composition of Appellate Authority. The State has also pointed out that as on 20.11.2023, the number of pending appeals before the Appellate Authority under Air Act and Water Act was three (03). It is in this background, the State contends that to avoid excessive financial burden on the State exchequer, no useful purpose shall be served, after constitution of Tribunal, to have a three member Appellate Authority under Air Act and Water Act, instead of only a Single member Appellate Authority.

3.5. Respondent No.3 – Haryana State Pollution Control Board has adopted the reply filed by the State.

3.6. Pertinently, the petitioner has not filed any rejoinder/replication to the reply filed on behalf of the State.

4. From a bare perusal of decision in **A.P. Pollution Control Board's case** (supra), it is obvious that the law that was laid down by Apex Court mandating Appellate Authority to be a multi member body, including a technical expert as a member was laid down in the era when NGT Act had not been promulgated.

4.1 NGT Act not only bestows the Tribunal with original jurisdiction under Sections 14 and 15, but also appellate jurisdiction under Section 16. This Court is in conferment with view of the State that once a statutory Tribunal, namely National Green Tribunal, has been constituted and has started functioning, which *inter alia* comprises of experts in the field of



environment as Expert Members, the pressing need for the Appellate Authority under Air Act and Water Act to be comprised *inter alia* of a member in the field of environment gets obviated. Thus, the absence of an Expert Member as part of Appellate Authority does not occasion any disadvantage to the person aggrieved approaching the Appellate Authority.

4.2 A close scrutiny of Section 14 of NGT Act reveals that Tribunal is vested with power to entertain all civil disputes involving a substantial question relating to environment and such question arising out of implementation of the enactments specified in Schedule I, which is enumerated below :

SCHEDULE I

[See sections 14(1), 15(1), 17(1)(a), 17(2), 19(4)(j) and 34(1)]

1. *The Water (Prevention and Control of Pollution) Act, 1974;*
2. *The Water (Prevention and Control of Pollution) Cess Act, 1977;*
3. *The Forest (Conservation) Act, 1980;*
4. *The Air (Prevention and Control of Pollution) Act, 1981;*
5. *The Environment (Protection) Act, 1986;*
6. *The Public Liability Insurance Act, 1991;*
7. *The Biological Diversity Act, 2002.*

The aforesaid original jurisdiction in the Tribunal empowers it to entertain disputes relating to environmental issues as well, without approaching the Appellate Authority. The Tribunal may relegate the person approaching it directly to approach the Appellate Authority, but there is no bar under the NGT Act for the Tribunal to entertain a dispute relating to environment, especially arising out of Air Act and Water Act, directly without first insisting the aggrieved person to approach the Appellate Authority.



5. This is in contradiction to the provisions of the Administrative Tribunals Act, 1985, which under Section 20 prohibits admission of applications unless the remedies available are exhausted by the aggrieved person.

6. There is no such bar in the NGT Act and, therefore, the Tribunal can very well entertain and adjudicate disputes relating to environmental issues, especially arising out of implementation of enactments of, *inter alia*, Air Act and Water Act.

7. More so, the impugned notifications (Annexures P-4 and P-5) ensure that in case of Single Member Appellate Authority the sole member has enough experience/expertise in the field of environment to obviate the apprehensions expressed by the Apex Court in **A.P. Pollution Control Board (supra)**.

8. In view of above discussion, this Court has no manner of doubt that providing for a single member Appellate Authority under Air Act and Water Act, vide notifications dated 20.11.2019 (Annexures P-4 and P-5), does not violate the law laid down by Apex Court in **A.P. Pollution Control Board's case** (supra), especially when viewed from the context of existing laws relating to environment prevailing at the time when Apex Court pronounced decision in **A.P. Pollution Control Board's case** (supra).

9. Pertinently, impugned notifications dated 20.11.2019 (Annexures P-4 and P-5) cannot be termed as dehors the provisions of Air Act and Water Act. The Appellate Authority provided for in Section 31 (2) of Air Act and Section 28 (2) of Water Act clearly provide thus :-

Section 31 (2) of Air Act :



The Appellate Authority shall consist of a single person or three persons as the State Government may think fit to be appointed by the State Government.

Section 28 (2) of Water Act :

An appellate authority shall consist of a single person or three persons as the State Government may think fit, to be appointed by that Government.

A bare perusal of aforesaid provisions clearly reveals that the enactment of Air Act and Water Act empower the State to have a single or three member body as the Appellate Authority. Thus, if the State vide notifications dated 20.11.2019 (Annexures P-4 and P-5) has provided for a single member Appellate Authority under Air Act and Water Act, then the power exercised by the State is within the four corners of the said enactments.

10. In view of above discussion, this Court deems it appropriate not to interfere in the present petition and dismisses the petition without costs.

(SHEEL NAGU)
CHIEF JUSTICE

June 30, 2025
narotam

(H.S. GREWAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No