

Item No. 08

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

Appeal No. 88/2019  
(I.A. No. 657/2019)

Dakshin Haryana Bijli Vitaran Nigam

Appellant(s)

Versus

Environment Pollution (Prevention &  
Control) Authority & Ors.

Respondent(s)

Date of hearing: 15.10.2019

**CORAM:** HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON  
HON'BLE MR. JUSTICE S.P WANGDI, JUDICIAL MEMBER  
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER  
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

For Appellant(s):

Mr. Raj Panjwani, Senior Advocate with Mr. Jog  
Singh, Ms. Kimali Batra, Ms. Nikita, Advocates

**ORDER**

1. This appeal has been preferred under Section 16(g) of the National Green Tribunal Act, 2010 against the order dated 09.10.2019 passed by the Environment Pollution (Prevention & Control) Authority (EPCA) *inter-alia* as follows:

*“EPCA has been advised by Task Force on Graded Response Action Plan, which is chaired by the member secretary of the Central Pollution Control Board that the coming period, beginning October 12, 2019 is projected to have adverse weather conditions, which will exacerbate the potential for pollution. The region is already in the ‘Moderate/poor’ category in terms of air quality and, therefore, all efforts have to be made to ensure that the levels do not rise further, even with adverse weather conditions.*

*Based on this forecast and prediction, EPCA has, in its meeting held on October 7, 2019 has decided that there is need to bring in additional following measures to combat pollution so as to ensure that levels of pollution can be contained.*

xxx

xxx

xxx

*2. Ban use of diesel generator sets (other than exclusion/emergency services) in Delhi and in vicinity towns- Ghaziabad, Noida and Greater Noida, Faridabad and Gurgaon, Sonipat, Panipat, Bahadurgarh. EPCA will send a list of the exclusion and emergency services that were permitted in NCR Delhi in the last winter for the use of all State governments.*

*3. This measure will require you to coordinate with the State Electricity Boards and ensure special efforts are made for 24x7 electricity in these towns to avoid requirement of operating DG sets and inconvenience to public. We hope that you will take these steps in the earliest so that the ban on diesel generator sets is effective and enforcement is stringent."*

2. Grievance of the appellant is that while it is under obligation to distribute electricity, there are limitations in distributing electricity in the entire area due to technical non-feasibility. This makes it a compulsion to use DG sets. The appellant made a representation placing this difficulty for consideration by the State Pollution Control Board (SPCB) and a copy of which has been marked to EPCA constituted under the provisions of the Environment (Protection) Act, 1986 but the same has not been considered.

3. In view of the fact that Graded Response Action Plan (GRAP) has been duly notified under the provisions of the Environment (Protection) Act, 1986 and is binding and that the impugned order is merely enforcing the GRAP, there is no illegality therein. Impugned action is an undoubted need for protection of environment and public health. If the appellant cannot supply electricity, it is for the appellant to find out ways and means within the purview of law. This cannot be ground to use DG sets in violation of air quality protection norms. Citizens are entitled to breathe in fresh air. Thus, no interference is called for.

The appeal is dismissed.

Adarsh Kumar Goel, CP

S.P Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

October 15, 2019  
Appeal No. 88/2019  
DV

