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SC stays NGT order of Rs 100 cr penalty on AP

NEW DELHI

The Supreme Court has stayed an order of the National Green Tribunal (NGT) imposing a penalty of Rs 100 crore on Andhra Pradesh for obtaining environmental clearance for the Avulapalli reservoir project in violation of environmental norms. A Bench of Justices Sanjiv Khanna and MM Sundresh said this would be subject to a deposit of Rs 25 crore by the State government with the authorities within a period of eight weeks.

“Issue notice, returnable in the month of October 2023. In the meanwhile, there will be a stay of the direction given in the impugned judgment with regard to penalty/compensation, subject to the appellants depositing an amount of Rs 25 crore with the authorities within a period of eight weeks,” the Bench said. The deposit will be subject to the outcome of the present appeal. The top court was hearing a plea filed by the AP government challenging an order of the NGT which set aside environmental clearance granted to the Avulapalli reservoir in the State. The NGT had on May 11 set aside the EC given by the state-level Environment Impact Assessment Authority (SEIAA) for construction of reservoir.

The green panel had passed the order on a plea filed by farmers challenging the environmental clearance granted by SEIAA. The NGT had also imposed a penalty of Rs 100 crore on AP payable to the Krishna River Management Board within three months. “It is extremely disturbing to note that a Government Department, in gross violation of environmental laws, can go to this extent to implement an Irrigation Project by resorting to falsehood, misrepresentation, and cheating the SEIAA,” the NGT had said in its order. PTI

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Delhi plea in SC against NGT decision to appoint LG as Yamuna panel head

STAFF REPORTER ■ NEW DELHI

The Delhi Government has filed a petition in the Supreme Court challenging the National Green Tribunal's decision to appoint the Lieutenant Governor (LG) as the Chairman of the High-Level Committee on Yamuna. The Delhi Government has urged the top court that the NGT order violates the Constitutional scheme of governance in Delhi as well as the 2018 and 2023 orders of the Constitution Bench of the Supreme Court.

Through its order dated 9.01.2023, the NGT had established this committee, comprising various authorities in Delhi, to address the issue of Yamuna River pollution, with the LG, a mere figurehead of the state, as its Chairman.

"In its petition, the Delhi Government has recognised the need for interdepartmental coordination to address Yamuna's pollution and implement remedial measures, but it has strongly objected to the executive powers granted to the LG through the NGT's order. These powers encroach upon areas exclusively under the competence of the elected government of Delhi," the AAP government said in a statement.

In its appeal, the Delhi Government contended that according to the administrative structure in Delhi and the provisions of Article 239AA of the Constitution, the LG serves as a nominal figurehead, except in matters pertaining to land, public order, and police, where the LG exercises powers delegated by the Constitution. The Delhi government acknowledged the



importance of a coordinated approach, but it asserted that the language used in the NGT order sidelines the elected government. The plea explains that granting executive powers to an authority that lacks the constitutional mandate to possess them undermines the elected government's rightful jurisdiction.

"The Delhi Government further contended that the NGT's proposed remedial measures, such as utilising treated water for agriculture, horticulture, or industrial purposes, preventing waste discharge and dumping, protecting floodplain zones, maintaining dredging flow, implementing plantations, and desilting drains, require budgetary allocations that are approved by the legislative assembly," it said.

Consequently, the role of the elected government becomes crucial in overseeing these measures. The appeal points out that the elected government is committed to addressing the issue of making Yamuna

a clean river free from pollutants and allocating the necessary funds. However, the current scheme outlined in the NGT order establishes a committee led by an unelected figurehead, sidelining the elected and accountable government of NCTD. While an inter-agency committee is desirable for coordination purposes, it should be overseen by the elected head of government, the Chief Minister in this case, the plea says.

The committee includes the Chief Secretary of Delhi, Secretaries of the Irrigation, Forest and Environment, Agriculture, and Finance Departments of the Delhi Government, the Chief Executive Officer of Delhi Jal Board, the Vice Chairman of the Delhi Development Authority, a representative from the Ministry of Agriculture, Government of India, the Director-General of Forests or his nominee from the Ministry of Environment, Forest and Climate Change (MoEF & CC), a representative from the Ministry of Jal Shakti (MoJS) or MoEF & CC, the Director-General of the National Mission for Clean Ganga (NMCG), and the Chairman of the Central Pollution Control Board (CPCB).

The Delhi Government also highlighted that a Constitution Bench of the Supreme Court, in its judgement in the case of *State (NCT of Delhi) v. Union of India* (2018) 8 SCC 501, established that the elected government of NCT of Delhi possesses exclusive executive powers over all subjects in the State and Concurrent List, with the exception of "public order," "police," and "land."