

BEFORE THE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE, CHENNAI

Application No.266 of 2016 (SZ)

In the matter of

Wayanad Prakriti Samrakshana Samiti
Rep. by its President N. Badusha
Sulthan Bathery, Wayanad, Kerala

.. Applicant

Vs.

1. Union of India, Rep. by its Secretary,
Ministry of Environment, Forest & Climate
Change, New Delhi

2. State of Kerala, rep. by the Chief Secretary
to the Government, Secretariat
Thiruvananthapuram

3. Principal Secretary to the Government
Forest and Wildlife Department
Secretariat, Thiruvananthapuram

4. The Principal Chief Conservator of Forest
Forest Headquarters
Thiruvananthapuram

5. The Divisional Forest Officer
North Wayanad Division
Mananthavady, Wayanad, Kerala

.. Respondents

Counsel appearing for the applicant

M/s. M.R. Sivakumar, T. Moorthy

Counsel appearing for the respondents

For respondent Nos.1 .. Mr. G.M. Syed Nurullah Sheriff

For respondents 2 to 5 .. Mrs. A.S. Suvitha

O R D E R

Present

Hon'ble Shri Justice Dr. P. Jyothimani, Judicial Member

Hon'ble Shri P.S.Rao, Expert Member

4th July, 2017

Whether judgment is allowed to be published on the Internet .. Yes/No

Whether judgment is to be published in the All India NGT Reporter .. Yes/No

We have heard the learned counsel appearing for the applicant, State Government as well as MoEF & CC in detail.

The prayer in the application is to declare the eco-tourism activity carried on by the 5th respondent viz., the Divisional Forest Officer, North Wayanad Division, in Brahmagiri and Muneeshwaram Hills of North Wayanad Forest Division in Kerala as illegal and violative of Section 2 of the Forest (Conversion) Act, 1980.

2. The reply filed by the Principal Chief Conservator of Forests and Head of Forest Force, Kerala as adopted by the State Government, states that the eco-tourism projects were approved in the Working Plan by MoEF & CC in respect of North Wayanad Division for 2015-2025. It is further stated that trekking to Brahmagiri is managed by Papanasam Vana Samrakshana Samithy and has been in operation for the past many years. It was found that there is no violation of eco-tourism guidelines. Fencing was made for the permanent anti-poaching camp shed in 2013-2014 for protection activities which is not forming part of eco-tourism. The affidavit further states that the eco-tourism activities in Brahmagiri peak would mean additional pressure on the landscape and considering this the entire activities of eco-tourism have been completely stopped. It further states that for the purpose of stopping eco-tourism in the locality, permanent anti-poaching camp shed with concrete structure has been constructed which will also help in strengthening the forest protection.

3. The MoEF & CC in its detailed affidavit has stated that while referring to the Explanation to Section 2 of Forest (Conservation) Act, 1980 the non-forest purpose excludes the work relating or ancillary to conservation, development and management of forests and wildlife

namely, the establishment of check-posts, fire lines, wireless communications and construction of fencing, bridges and culverts, dams, waterholes, trench marks, boundary marks, pipelines or other like purposes. It is further stated in the affidavit that the establishment of anti-poaching camp will help in effective monitoring of the movement of wild animals like elephants and help in their protection and therefore it cannot be said that the anti-poaching camp will increase human-animal conflict. It is further stated by the MoEF & CC that the fire watchers are put up in the camps and watch tower was constructed to prevent forest fires. The solar fencing is erected in less than 1 ha of grassland to protect the forest staff from the attack of wild animals and this will not in any way affect the migratory movement of large animals like elephants, tigers etc. It is further stated that the Working Plan submitted by the Government of Kerala through its Forest Department for the North Wayanad Forest Division for the period from 2015-2016 to 2024-2025 under the Forest (Conversion) Act, 1980, has been approved by the MoEF & CC on 5.12.2016.

4. The approval granted by the MoEF & CC dated 5.12.2016 for the period 2015 – 2016 to 2024 – 2025 is subject to the following conditions:

“(1) While undertaking thinning, minimum basal area/number of trees required to be retained may be worked out before sanction of estimate for the same.

(2) Thinning/felling shall not be done in steep slopes and within 30M from Streams/River banks.

(3) Details regarding the location and extent of each of CA area as per approval and status of notification of non-forest CA land should also be included in the working plan in the FC Chapter, as per the enclosed format, in the final fair copy.

(4) No non-forestry activity shall be taken up in the forest area in violation of the provision of C(C) Act, 1980.

(5) It may be noted that the provision of F(C) Act 1980 and guidelines issued there-under are strictly adhered to while implementing the approved working plan.

(6) Final felling shall be taken up subject to matching budgetary provision for replanting of felled area. Without regenerating the clear felled area, no new felling shall be taken up in the succeeding year.

(7) No Eco-tourism activity involving permanent constructions shall be carried out without prior approval under F(C) Act, 1980.

(8) At the end of each financial year, copy of the control journal shall be submitted to this office on or before 30th of June.

(9) A detailed report indicating area harvested and the area regenerated in a year shall be sent to Regional Office, Bangalore by 31st of May every year. First such report shall reach this office on or before 31.5.2017. Failure to submit this report before the designated date, the approval given will stand revoked.”

Needless to state that the Kerala Forest Department has to necessarily follow all the conditions of the Working Plan scrupulously while implementing the scheme.

5. In view of the above statement, we are fully satisfied that sufficient safeguards have been made for the purpose of protecting the forest and environment and recording the said contents of the conditions and the affidavit, the application stands disposed of. We make it clear that as per the conditions stipulated, it is always open to the MoEF & CC to take appropriate action in case of violation of any of the conditions by the Forest Department.

Justice Dr.P.Jyothimani
Judicial Member

Shri P.S.Rao
Expert Member



Shri P.S.Rao
Expert Member

NGT