

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.76/2023/EZ

Wildlife Society of Odisha

Applicant(s)

Versus

State of Odisha & Ors.

Respondent(s)

Date of hearing: 01.05.2025

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : Mr. Sankar Prasad Pani, Advocate a/w
Mr. Ashutosh Padhy, Advocate (in Virtual Mode)

For Respondent(s) : Mr. Saroj Kumar Jee, AGA for R-1 to 5 (in Virtual Mode),
Mr. Sakti Prasad Panda, AGA for R-6 (in Virtual Mode),
Mr. Apurba Ghosh, Advocate for R-7 & 8 (in Virtual Mode)

ORDER

1. Mr. Sankar Prasad Pani, learned Counsel assisted by Mr. Ashutosh Padhy, learned Counsel is present (in Virtual Mode) for the Applicant. Learned Counsel has drawn the attention of the Court to the affidavit of the Divisional Forest Officer (DFO), Koraput Forest Division dated 30.11.2024 and submits that the affidavit was notarized on 30.11.2024 by the Notary, Prasant Kumar Patro whereas the signature on the affidavit of the Additional Government Advocate, Mr. Saroj Kumar Jee in the verification at page no.489 is dated 02.12.2024.
2. We are of the view that the affidavit has been notarized on 30.11.2024 which would not invalidate the affidavit itself merely for the grievous fault of the Additional Government Advocate, Mr. Saroj Kumar Jee.
(Final order of the said case will be uploaded in NGT website by separate sheets of paper).

.....
B. Amit Sthalekar, JM

.....
Dr. Arun Kumar Verma, EM

May 01, 2025,
Original Application No.76/2023/EZ
OM

**BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA
(THROUGH PHYSICAL HEARING WITH HYBRID MODE)**

Original Application No.76/2023/EZ

IN THE MATTER OF

Wildlife Society of Orissa,
Represented by its Secretary,
Shaktikunj, Link Road, Cuttack,
Dist- Cuttack, Odisha - 753012

.... Applicant(s)

Versus

- 1. State of Odisha,**
Through Chief Secretary of Odisha,
Lok Seva Bhawan,
Bhubaneswar - 751001
- 2. Additional Chief Secretary,
Forest and Environment Department,**
Kharbela Bhawan, Bhubaneswar,
Government of Odisha,
Pin- 751001
- 3. District Collector, Koraput**
P.O./Dist- Koraput,
Odisha - 752001
- 4. Divisional Forest Officer, Koraput**
P.O./P.S.- Rourkela, Koraput
- 5. Forest Range Officer,**
Semiliguda Forest Range,
P.O./P.S.- Semiliguda,
Dist- Koraput,
Pin - 764036
- 6. Chairman, Odisha Biodiversity Board,**
Regional Plant Resource Centre,
Ekamrakanan, Nayapalli,
Bhubaneswar - 751015
- 7. Union of India,**
Through the Secretary,
Ministry of Environment, Forests and Climate Change,
Indira Paryavaran Bhawan, Jorbagh,
New Delhi - 110003
- 8. Deputy Director General of Forests (C),**
Ministry of Environment, Forest and Climate Change,
Integrated Regional Office, A/3, Chandersekharpur,

Date of hearing: 01.05.2025

**CORAM: HON'BLE MR. JUSTICE B. AMIT STHALEKAR, JUDICIAL MEMBER
HON'BLE DR. ARUN KUMAR VERMA, EXPERT MEMBER**

For Applicant(s) : Mr. Sankar Prasad Pani, Advocate a/w
Mr. Ashutosh Padhy, Advocate (in Virtual Mode)

For Respondent(s): Mr. Saroj Kumar Jee, AGA for R-1 to 5 (in Virtual Mode),
Mr. Sakti Prasad Panda, AGA for R-6 (in Virtual Mode),
Mr. Apurba Ghosh, Advocate for R-7 & 8 (in Virtual Mode)

ORDER

1. We have heard learned Counsel for the parties and perused the documents on record.
2. The allegation in the present Original Application is that in Koraput District, there is a peak called Deomali which is known for endemic species of flora and fauna and the same is also Forest Land known as Deomali Reserve Forest. It is alleged that the Forest Department is constructing cottages in Deomali Hilltop under Pottangi Block with all-weather cement fiber boards. It is also alleged that ten (10) cottages for night stay of tourists have been constructed with provisions of a dining hall and two dormitories. It is further alleged that the Department has also planted about 1,000 tropical pine saplings brought from Assam for beautification of the landscape of the spot. It is also alleged that due to bauxite deposits on the hilltop, the soil dug up by machines were used to make pits for planting of saplings and other soil was also used to ensure growth of the plants.
3. It is further alleged that the Deomali Project is included under the Centre's Swadesh Darshan Scheme for development of infrastructure to boost inflow of tourists. The Project is in addition to Rs.16 crores sanctioned by the Tourism Department for integrated development of the hill.

4. It is also alleged that similarly Semiliguda Forest Range has prepared a proposal for Development of Eco-Tourism Complex, at an estimated cost about Rs.4.5 Crores and the same is being executed by the Semiliguda Forest Range Office, Koraput District. The nature of the ongoing construction and what has been proposed at Deomali Hilltop are outlined as follows: -

“Parking area Development, Pathway with nature trail leading to Deomali Peak Grand entrance gate with security cabin and ticket counter

- *Open dining with kitchen, store and pantry*
- *Driver’s and staff Dormitory*
- *Laundry and wash, 10 Nos. model Eco-cottages,*
- *Reception, office with lounge and toilet,*
- *Construction of viewpoints-02 Nos.*
- *Construction of common toilet-02 Units.*
- *Police sentry post with Barrack*
- *Water intake and water supply with construction of overhead tank, Electrification throughout project area with DG Generator Set installation with transformer,*
- *Installation of solar system, an alternative to Electric power,*
- *Landscaping and Park development around cottage area,*
- *Fencing around cottage area and Signage”*

5. It is stated that the Divisional Forest Officer (D.F.O.), Koraput Wildlife Division, has issued tender notice for Rs.3.95 Crores for Civil Works at Deomali, the last date of the bid being 15.12.2022.

6. The Semiliguda Forest Range Project is stated to be spread over 10.4 hectares or 26 acres of Forest land and requires prior approval under the Forest (Conservation) Act, 1980. It is alleged that in the present proposal for Eco-tourism there has been no involvement of the local community or indigenous knowledge of constructing house and household articles which is in violation of MoEF&CC letter dated 19.09.2018 stating the policy for Eco-tourism in Forest

and Wildlife area. The principles and objectives of Eco-tourism as per the MoEF&CC Policy letter dated 19.09.2018 has been filed as Annexure-5 to the Original Application which reads as under: -

“Date: 19.09.2018

**1. The Pr. Chief Conservator of Forests & HoFF
All States/UT Governments**

**2. The Chief Wildlife Warden
All States/Governments**

Sub: Policy for Eco-tourism in Forest and Wildlife Areas-

Reg.

Sir,

Forests and wildlife are inseparable elements of environmental integrity and therefore, a participatory approach towards building the intricate interface between humans and forests is imperative.

2. With a view to practice eco-tourism in a ecofriendly manner, a policy has been prepared by this Ministry. The Eco-Tourism Policy is primarily prepared for wildlife, forest and areas having significant aesthetic appeal for nature. A copy of the document is enclosed.

3. The State/UT Governments may take further necessary action, in this regard.”

7. Reference has also been made to the judgment of the Hon'ble Supreme Court in *W.P. (C) No.202 of 1995, T.N. Godavarman Thirumulpad vs. Union of India & Ors.*, and order dated 12.12.1996
8. In support of the allegations made in the Original Application, the Applicant has filed as annexure 'PROPOSAL FOR ECO-TOURISM DEVELOPMENT AT DEOMALI HILLS, Semiliguda Forest Range, Koraput Forest Division" (hereinafter referred to as 'proposal') with photographs. This Proposal mentions that in view of the tourism potential outlined therein, the Forest Department has taken a start up programme for development of Deomali Eco Tourism site.
9. The Divisional Forest Officer (D.F.O.), Koraput Forest Division has filed affidavit dated 21.08.2023 and it is stated that the Deomali

peak is completely devoid of any arboreal growth ; the table land of Deomali Hill Top is devoid of any tree growth ; the entire Table Land is having bauxite and lime stone deposits due to which no growth of any tree species takes place there except few stunted phoenix and grass. It is stated that Deomali Hill Top is a vast area and only a small patch of land measuring 5.93 hectare has been identified for Eco Tourism Complex site and is restricted to a small hillock on one hill side of the table land so that the actual hill top is not affected or disturbed. It is stated that no mega animals or mammals are found on the hill top area and the said area is also not included within any Elephant Corridor or any wildlife protected area.

10. The establishment of the Ecotourism Nature Camp is sought to be justified on the ground that it is not expected to cause any negative impact on the existing bio diversity of the hill.
11. It is specifically stated that the development of the Nature Camp by the Forest Department is being done with the intention that the presence of Government staff there would regulate random tourist flow ; providing care of the denuded land along with tree cover efforts by the Forest Department as a step towards ultimate improvement of the ecology of the Hill Top area of Deomali.
12. Reference has been made to the Forest (Conservation) Amendment Act 2023 published in the Gazette of India whereby, Section 2 of the Act has been renumbered as sub-Section (1) and in the 'Explanation', after clause (b) the following has been substituted. Section 5 of the Forest (Conservation) Amendment Act 2023 reads as under :-

“5. In the principal Act, section 2 shall be renumbered as sub-section (1) thereof and—

(a) in sub-section (1) as so renumbered,—

(I) in clause (iii), for the words "not owned, managed or controlled by Government", the words ", subject to such terms and conditions, as the Central Government may, by order, specify" shall be substituted;

(II) in the Explanation, for the long line occurring after clause (b), the following shall be substituted, namely:—

"but does not include any work relating to or ancillary to conservation, development and management of forests and wildlife, such as—

- (i) silvicultural operations including regeneration operations;*
- (ii) establishment of check-posts and infrastructure for the front line forest staff;*
- (iii) establishment and maintenance of fire lines;*
- (iv) wireless communications;*
- (v) construction of fencing, boundary marks or pillars, bridges and culverts, check dams, waterholes, trenches and pipelines;*
- (vi) establishment of zoo and safaris referred to in the Wild Life (Protection) Act, 1972, owned by the Government or any authority, in forest areas other than protected areas;*
- (vii) eco-tourism facilities included in the Forest Working Plan or Wildlife Management Plan or Tiger Conservation Plan or Working Scheme of that area; and*
- (viii) any other like purposes, which the Central Government may, by order, specify."*

13. It is stated that since the project is reflected in the Eco-Tourism Project chapter of current Working Plan of Koraput Forest Division, the recent amendment in the Forest (Conservation) Act also supports the present eco-tourism activities going on, on the hillock of Deomali Hill Top table land. It is also stated that this small patch

of land measuring over 5.93 hectares identified for eco-tourism project and restricted to a small hillock adjoining the main table land of Deomali is not within the forest area known as Deomali Reserve Forest as per the approved Working Plan of Koraput Forest Division.

14. We have perused the revised Working Plan of the Forest Department, Government of Odisha for Reserved Forests (RF), Proposed Reserved Forests (PRF), Demarcated Protected Forests (DPF), Reserved Lands (RL), Protected Lands (PL) and Compensatory Afforestation Areas (CA) of Koraput Forest Division for the period 2006-07 to 2015-16 copy of which has been filed at page 163 to page 171 (Colly) of the paper book where there is a clear mention that Semiliguda is the Range and Deomali is the Forest Block as per Appendix No.VII under the heading “FORSEST BLOCK WISE NOTIFIED AREA/TOPO AREA/WORKING PLAN AREA”.
15. In the circumstances, we find that the stand of the Divisional Forest Officer in his affidavit dated 21.08.2023 to the effect that the small hillock identified for Ecotourism Project adjoining the main table land at Deomali is not within the forest area known as Deomali Reserved Forest, stands belied. It may further be noted that, the Working Plan nowhere states that Deomali Forest Block does not fall within the Semiliguda Range and that it is not a Reserved Forest (RF) or a Proposed Reserved Forest (PRF) / Demarcated Protected Forest (DPF) / Reserved Land (RL) / Protected Land (PL) / Compensatory Land (CA). In fact, the Appendix No. VII under the heading “Abstract”, only mentions the number of Reserved Forests, Proposed Reserved Forests, Demarcated Protected Forests, Reserved land, Protected Land,

Compensatory Land and the number of Forest Blocks falling therein with Notified Area, Topo Area and Area for Working Plan.

16. Page 164 of the paper book showing the various headings and the page 171 of the paper book mentioning Semiliguda Deomali as Proposed Reserved Forest are extracted hereinbelow :- ??

APPENDIX NO:VII
FOREST BLOCK WISE NOTIFIED AREA/TOPO AREA/WORKING PLAN AREA

| RANGE | Forest Block Details | | Notified Area/TOPO AREA/WORKING PLAN AREA | | | | Remarks |
|---------|----------------------|-----|---|-------------|----------------|--------------------|---------|
| | Name And Status | | In Acres | In hectares | Topo Area(Hac) | for WP In hectares | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| Balda | Bhimdole | RF | 1529.00 | 618.7863 | 620.00 | 618.7863 | * |
| Balda | Bhimdole Ext.*** | PRF | 402.30 | 162.8108 | 356.40 | 162.8108 | *** |
| Balda | Chatwa | RF | 1639.64 | 663.5624 | 664.40 | 663.5624 | * |
| Balda | Chompaput | PRF | 80.40 | 32.5379 | 34.00 | 32.5379 | * |
| Balda | Dhondadongor | PRF | 44.73 | 18.1022 | 18.00 | 18.1022 | * |
| Balda | Girabari | RF | 118.00 | 47.7546 | 47.20 | 47.7546 | * |
| Balda | Hathibari Ext | PRF | 182.90 | 74.0197 | 73.60 | 74.0197 | * |
| Balda | Hattubari | RF | 2090.00 | 845.8230 | 846.40 | 845.8230 | * |
| Balda | Laluburi | PRF | 188.80 | 76.4074 | 76.40 | 76.4074 | * |
| Balda | Nagasari- I | RF | 2918.67 | 1181.1852 | 1180.40 | 1181.1852 | * |
| Balda | Padwa | RF | 2436.00 | 985.8492 | 986.80 | 985.8492 | * |
| Balda | Pawlpur | RF | 607.89 | 246.0130 | 245.20 | 246.0130 | * |
| Balda | Suriput | PRF | 767.40 | 310.5668 | 309.20 | 310.5668 | * |
| Balda | Undergedda | RF | 5600.00 | 2266.3200 | 2267.20 | 2266.3200 | * |
| Balda | Vamagaray | PRF | 276.00 | 111.6972 | 110.00 | 111.6972 | * |
| Gudari | Andharalima | PRF | 12523.00 | 5068.0581 | 5069.20 | 5068.0581 | * |
| Gudari | Bamunidangar | PRF | 6370.00 | 2577.9390 | 2578.00 | 2577.9390 | * |
| Gudari | Becchadi | RF | 2128.00 | 861.2016 | 862.00 | 861.2016 | * |
| Gudari | Bichudi Ext** | DPF | 384.00 | 155.4048 | 107.60 | 107.6000 | ** |
| Gudari | Chakunda | PRF | 158.00 | 63.9426 | 63.60 | 27.5326 | * |
| Gudari | Deula Ext. | RF | 290.00 | 117.3630 | 116.40 | 117.3630 | * |
| Gudari | Dhonduguda | PRF | 510.00 | 206.3970 | 207.20 | 206.3970 | * |
| Gudari | Durgadi | DPF | 405.00 | 163.9035 | 165.20 | 163.9035 | * |
| Gudari | Jayapanga | PRF | 393.66 | 159.3142 | 160.80 | 159.3142 | * |
| Gudari | Jolanidhi | PRF | 2210.00 | 894.3870 | 897.20 | 894.3870 | * |
| Gudari | Kharikuri | DPF | 385.00 | 155.8090 | 156.40 | 155.8090 | * |
| Gudari | Khimajhola | PRF | 520.00 | 210.4440 | 212.00 | 210.4440 | * |
| Gudari | Kutradhore | PRF | 1540.00 | 623.2380 | 623.20 | 623.2380 | * |
| Gudari | Lakshimpur | DPF | 7168.00 | 2900.8896 | 2902.40 | 2900.8896 | * |
| Gudari | Merunda | PRF | 263.00 | 106.4361 | 107.20 | 106.4361 | * |
| Gudari | Nairi | RF | 930.00 | 376.3710 | 374.80 | 376.3710 | * |
| Gudari | Nungudi | DPF | 5520.00 | 2233.9440 | 2230.40 | 2233.9440 | * |
| Gudari | Patoguda | PRF | 910.00 | 368.2770 | 367.60 | 368.2770 | * |
| Gudari | Pendli | PRF | 6930.00 | 2813.9710 | 2818.00 | 2813.9710 | * |
| Gudari | Perupanga | DPF | 100.00 | 40.4700 | 41.60 | 40.4700 | * |
| Gudari | Pitthamal | RF | 1920.00 | 777.0240 | 776.80 | 777.0240 | * |
| Gudari | Ponkal | DPF | 3765.00 | 1523.6955 | 1525.60 | 1523.6955 | * |
| Gudari | Sardapur | RF | 4873.00 | 1972.1031 | 1972.00 | 1952.8231 | * |
| Gudari | Siriguda | RF | 2959.00 | 1197.5073 | 1198.00 | 1197.5073 | * |
| Gudari | Sorgiguda | PRF | 316.50 | 128.0876 | 128.00 | 128.0876 | * |
| Gudari | Thahuni | RF | 5483.00 | 2218.9701 | 2217.20 | 2218.9701 | * |
| Gudari | Thorlandi | RF | 4640.00 | 1877.8080 | 1876.40 | 1827.2180 | * |
| Gudari | Ulapadar | PRF | 760.00 | 307.5720 | 368.93 | 307.5720 | * |
| Gunupur | Ambabadi | CA | 2080.00 | 841.7760 | 842.80 | 841.7760 | * |
| Gunupur | Anjali | PRF | 5688.00 | 2301.9336 | 2302.80 | 2301.9336 | * |
| Gunupur | Badamsing | CA | 260.0000 | 260.0000 | 260.00 | 260.0000 | * |
| Gunupur | Badamundi | PRF | 1982.50 | 802.3582 | 803.60 | 802.3582 | * |
| Gunupur | Bagudi | RF | 703.00 | 284.5041 | 283.20 | 284.5041 | * |
| Gunupur | Bangi | RF | 330.00 | 133.5510 | 132.00 | 133.5510 | * |
| Gunupur | Baridi | PRF | 51.00 | 20.6397 | 20.40 | 20.6397 | * |
| Gunupur | Bhagudi S.W | RF | 3116.00 | 1261.0450 | 1260.00 | 1261.0450 | * |
| Gunupur | Bhimpur | PRF | 6553.40 | 2694.6540 | 2251.20 | 2251.2000 | * |
| Gunupur | Bhimpur Ext ** | PRF | 615.00 | 248.8905 | 249.60 | 248.8905 | * |
| Gunupur | Boobing | RF | 758.00 | 306.7626 | 305.20 | 306.7626 | * |
| Gunupur | Buddhimat | PRF | 6787.60 | 2746.9417 | 2745.60 | 2746.9417 | * |
| Gunupur | Devala | CA | 11.1100 | 11.1100 | 11.11 | 11.1100 | * |
| Gunupur | Dhargkhundi | PRF | 1035.00 | 439.0995 | 440.80 | 439.0995 | * |
| Gunupur | Duburi | | | | | | |

* Copy in the next page

- 48 -

| Rayagada | Talagumna*** | | 196 2795 | 537 60 | 124 2795 | *** |
|------------|--------------------|-----|----------|-----------------------------------|----------|-----------|
| Rayagada | Therubali | DPF | 405.00 | (Less 72.0 Ha with Research Plot) | | |
| Rayagada | Tikarpadu | PRF | 111.00 | 44 9217 | 44 80 | 44 9217 |
| Semiliguda | Visirikapadu | PRF | 1085.00 | 439 0995 | 438 40 | 439 0995 |
| Semiliguda | Aligaon | PRF | 203.00 | 82 1541 | 82 40 | 82 1541 |
| Semiliguda | Amalaghata | CA | | 140 0000 | 140 00 | 140 0000 |
| Semiliguda | Ampabali ✓ | RF | 245.00 | 99 1515 | 98 00 | 99 1515 |
| Semiliguda | Bangariendi P.V. ✓ | RF | 2250.00 | 910 5750 | 911 60 | 910 5750 |
| Semiliguda | Bangarienda ✓ | DPF | 1017.50 | 411 7823 | 410 80 | 411 7823 |
| Semiliguda | Bhoiraguda | PRF | 1045.60 | 423 1543 | 421 60 | 423 1543 |
| Semiliguda | Chitalput | PRF | 644.00 | 260 9505 | 261 20 | 260 9505 |
| Semiliguda | Chitalpu S.W. | PRF | 70.63 | 28 5840 | 29 60 | 28 5840 |
| Semiliguda | Deogandhana | PRF | 58.83 | 23 8085 | 23 20 | 23 8085 |
| Semiliguda | Deomali ✓ | RF | 50.00 | 20 2350 | 19 60 | 20 2350 |
| Semiliguda | Gadiahola | PRF | 4609.10 | 1865 3027 | 1867 60 | 1865 3027 |
| Semiliguda | Galgabada ✓ | PRF | 62.76 | 25 3990 | 25 20 | 25 3990 |
| Semiliguda | Gangarajpur | PRF | 3778.00 | 1528 9566 | 1528 40 | 1528 9566 |
| Semiliguda | Geruput | PRF | 2272.00 | 919 4784 | 920 00 | 919 4784 |
| Semiliguda | Goutamput | RF | 190.00 | 76 8930 | 76 40 | 76 8930 |
| Semiliguda | I.B.Pabli S.W | PRF | 17.23 | 6.9730 | 7 20 | 6.9730 |
| Semiliguda | Jodimadili ✓ | RF | 43.20 | 17.4830 | 17.60 | 17.4830 |
| Semiliguda | Jogidongor | RF | 212.00 | 85.7964 | 85.60 | 84 5594 |
| Semiliguda | Jubrajguda | PRF | 915.62 | 370.5514 | 371.20 | 370.5514 |
| Semiliguda | Kakadamba | PRF | 542.86 | 219 6954 | 220 00 | 219 6954 |
| Semiliguda | Kalladi | CA | | 110.0000 | 110.00 | 110 0000 |
| Semiliguda | Kavidimali | PRF | 1815.00 | 734 5305 | 735.20 | 734 5305 |
| Semiliguda | Kholab | RF | 275.00 | 111.2925 | 110.80 | 111.2925 |
| Semiliguda | Kosendi | PRF | 531.40 | 215 0575 | 216 80 | 215 0575 |
| Semiliguda | Kotakaru | PRF | 983.50 | 398.0225 | 397 60 | 398 0225 |
| Semiliguda | Kotampadu ✓ | PRF | 50.00 | 20.2350 | 19.60 | 20.2350 |
| Semiliguda | Kudi | DPF | 1140.50 | 461.5604 | 462.40 | 461.5604 |
| Semiliguda | Kuduli | CA | | 48 0000 | 48.00 | 48.0000 |
| Semiliguda | Kunduli** | CA | | 60.0000 | 60 00 | 60.0000 |
| Semiliguda | Kutugaon | PRF | 1410.00 | 570.6270 | 394.40 | 394.4000 |
| Semiliguda | Lamada | CA | | 80.0000 | 80.00 | 80.0000 |
| Semiliguda | Laudi | PRF | 1212.50 | 490 6988 | 490.00 | 490 6988 |
| Semiliguda | Lohba | CA | | 1.2400 | 1 24 | 1.2400 |
| Semiliguda | Maniguda | PRF | 214.00 | 86.6058 | 86.80 | 86 6058 |
| Semiliguda | Muralpadu | DPF | 415.14 | 168 0072 | 167.60 | 168.0072 |
| Semiliguda | Nandapur ✓ | PRF | 924.60 | 374.1856 | 373.60 | 374.1856 |
| Semiliguda | Pettavapabli | PRF | 1410.00 | 570.6270 | 572 00 | 570.6270 |
| Semiliguda | Pithaguda | RF | 88.00 | 35 6136 | 35 60 | 35 6136 |
| Semiliguda | Pottangi | PRF | 217.00 | 87 8199 | 88.80 | 87 8199 |
| Semiliguda | Pujhariput | PRF | 6426.00 | 2600.6022 | 2604.80 | 2600.6022 |
| Semiliguda | Rabalpadu | PRF | 162.70 | 65.8771 | 64 40 | 65.8771 |
| Semiliguda | Rajasonoro | DPF | 382.50 | 154.7978 | 154 00 | 154.7978 |
| Semiliguda | Rellegdda ✓ | PRF | 306.00 | 123.8382 | 124 40 | 123.8382 |
| Semiliguda | Sambai | PRF | 1356.39 | 548 9310 | 550 80 | 548 9310 |
| Semiliguda | Sambai | PRF | 72.00 | 29.1384 | 29 20 | 29.1384 |
| Semiliguda | Sorispadar | CA | | 120.0000 | 120 00 | 120.0000 |
| Semiliguda | Subai A | CA | | 192 0000 | 192.00 | 192.0000 |
| Semiliguda | Subai B | PRF | 273.20 | 110.5640 | 111.20 | 110.5640 |
| Semiliguda | Suhai B | PRF | 272.10 | 110.1188 | 109.60 | 110 1188 |
| Semiliguda | Sunki** ✓ | PRF | 917.30 | 371.2313 | 274.00 | 274.0000 |
| Semiliguda | Sunku | PRF | 1556.00 | 629.7132 | 627.20 | 629 7132 |
| Semiliguda | Tangini - A ✓ | DPF | 850.62 | 344 2459 | 343.60 | 344 2459 |
| Semiliguda | Tangini B ✓ | PRF | 800.00 | 323 8860 | 321 20 | 323 8860 |
| Semiliguda | Thuba | RF | 850.00 | 343.9950 | 343 60 | 343.9950 |
| Tikri | B.Maribhata | CA | | 50 0000 | 50 00 | 50 0000 |
| Tikri | Baliakhada | RF | 940.00 | 380 4180 | 381.20 | 380 4180 |
| Tikri | Dadarjhola | PRF | 62.00 | 25.0914 | 26.00 | 25.0914 |
| Tikri | Dangasil | PRF | 84.00 | 33.9940 | 33 60 | 33 9940 |
| Tikri | Kampar | CA | | 75.0000 | 75.00 | 75.0000 |
| Tikri | Kendripadar | RF | 587.85 | 237.9069 | 238.00 | 237.9069 |
| Tikri | Kharaka | PRF | 158.00 | 63.9426 | 64 80 | 63.9426 |
| Tikri | Kodinesa | PRF | 1030.40 | 417 0000 | 417 60 | 417.0000 |

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17. So far as the constructions in question are concerned, it is stated that the stand of the Forest Department is that the Koraput Forest Division is constructing cottages on the Deomali Hill Top under Pottangi Block with all weather cement fiber board and the project is being constructed using Green Building Material such as :-

- (i) "Instead of concrete/brick mortar walls, using of fibre cement heavy duty boards,

- (ii) *Instead of RCC/Brick framed structures, using of M.S. framed structures,*
- (iii) *Instead of plastered outer finish of cement mortar, using of fibre cement planks,*
- (iv) *Instead of RCC roof, using of fibre cement heavy duty boards,*
- (v) *Using of PVC for windows considering the strength, alternate material to wood / timber / bamboo, as the said materials addresses environmental issues to reduce pollution, erosion, wastage and energy consumption and to conserve water.”*

18. It is stated that pre moulding cement fiber board for different purpose i.e. cement wood plank, designer boards, heavy duty boards from Everest company are being used as Green Building Ecofriendly Materials.

19. It is further stated that 10 cottages for night stay of tourists are being constructed with provisions of a dining hall and 2 dormitories also comprising administrative building, kitchen-cum-restaurant, drivers’ accommodation and dormitories, parking area, view point, entrance gate, drinking water facility and power supply with an estimated cost of Rs.5,84,13,014 (Rupees five crore eighty four lakh thirteen thousand fourteen only) as stated in para 6 of the affidavit.

Paragraph 6 of the affidavit reads as under :-

“6. it is humbly submitted that it is not a fact that Semiliguda Forest Range has prepared the proposal at an estimated cost of Rs.4.5 crore with 11 Nos. of components. It is to mention that the proposal was developed by an selected Architectural group, Nature Camp Developer named NESTER Peoples Group with the following components :

- 1. *Eco friendly Model Eco cottage - 10 Nos.*
- 2. *Open Dining with kitchen - 1 No.*
- 3. *Driver/Staff Dormitory - 2 Nos.*
- To be executed by Forest Deptt.*
- 4. *Administrative building - 1 No.*

5. *Installation of solar system - 1 No.*
6. *Water intake & water supply to cottage area-
To be executed by RWSS Department, Koraput.*
7. *Electrification to project area – To be executed by
TPSODL/OSIC*

The specification of green building materials used for construction of cottages and other components were designed as per the decision taken in the state level meeting i.e. Eco friendly green building materials as specified below.

Pre moulded cement fibre board for different purpose i.e. cement wood plank, designer boards, heavy duty boards from Everest company are used as Green building eco friendly materials. The green building materials certification by CII Green product & Service Council & Confederation of Indian Industry and Everest Green building materials (Green solution).”

20. It is stated that 1000 tropical pine plants have been planted at the Deomali Hill Top Table Land and among different plant species, it has been found that pine has gained momentum in the hill regions of Koraput with an objective of reforesting denuded hill slopes. It is stated that plantation of pine species on the Deomali Hill Top is based on the outcome of Forest Researches published in the “Indian Foresters”.
21. It is stated that due to bauxite deposits on the hill top, the rocky top layer was replaced with good fertile soil to ensure the growth of the plants and it is stated that pine plants attained luxurious growth within one year.
22. It is again reiterated that the location where construction has been or is being made does not fall under any notified Forest Block or any kind of Forest Status Land. However, we find that this stand of the Forest Department is completely belied by their own Working Plan since the Deomali Forest Block in the Semiliguda Range has been shown as Proposed Reserved Forest.

23. The stand of the Forest Department and as also submitted by the learned Additional Government Advocate Mr. Saroj Kumar Jee is that the local community has been involved in the management and maintenance of Deomali Hill Top Table Land and regular meetings are conducted and Resolutions are passed and recorded in the concerned Vana Surakhya Samiti (VSS) Registers. It is stated that the Vana Surakhya Samiti (VSS) members of surrounding four villages of scheduled areas are involved in the process and Eco Tourism Group (ETG) comprising of 23 tribal women members of Scheduled Tribe (ST), Scheduled Caste (SC) and other categories from different Self Help Groups (SHG) have also been selected and Proposal moved by the Forest Department to facilitate them to get them well trained.
24. The learned Additional Government Advocate has placed before us the various Vana Surakhya Samiti (VSS) Resolutions of the Village Level Meeting and Vana Surakhya Samiti formation and Resolution No.1 of the paper book shows that the meeting was held on 01.10.2022 for formation of new Vana Surakhya Samiti (VSS) for maintenance of Deomali Eco Tourism. The Resolution in vernacular Oriya language and its English translation have been filed with the affidavit of the Divisional Forest Officer at page 214 to 276 (Colly) of the paper book.
25. The learned Additional Government Advocate referring to the various Resolutions of the Van Surakhgya Samitis (VSS) sought to submit that the Eco Tourism Development Project has the sanction and approval of the Forest Dwellers and therefore, the Provisions of the Forest Rights Act 2006 (hereinafter referred to as the 'Forest Rights Act 2006') have been duly complied with.

26. The learned Additional Government Advocate submitted that in view of the Provisions of sub-Section (2) of Section 3 of the Forest Rights Act 2006, the said Act has overriding effect over the Forest (Conservation) Act 1980 now known as Van (Sanrakshan Evam Samvardhan) Adhiniyam 1980 and the Central Government is competent to divert Forest Land for projects managed by the Government subject to the conditions mentioned in Sub-Section 2 of Section 3 of the Act 2006.
27. The Divisional Forest Officer has filed another affidavit dated 28.06.2024 wherein it is stated that the site where Eco Tourism Project is going on, does not fall within any Notified Forest Block or recorded Forest Land as per Government records nor is it identified as "Deemed Forest" as per DLC Report filed before the Hon'ble Supreme Court during the year 1998 in Writ Petition (C) No.202/1995 *T.N. Godavarman Thirumulpad Versus Union of India and Others*. It is therefore submitted that the Provisions of the Forest (Conservation) Act 1980 has no application to the land in question.
28. It is also stated that the Decision Support System (DSS) of the Forest Survey of India for Canopy Density shows this particular patch as non-forest except the peripheral area of about 0.10 hectare as Open Forest. It is stated that the peripheral area over 0.10 hectare of Open Forest is left as such without putting it to any use. It is stated that the Decision Support System provides information regarding Canopy Density only and the same cannot be treated as a legal definition of Forest Kisam of land.
29. Another affidavit dated 30.11.2024 has been filed by the Divisional Forest Officer and it is stated that the word 'Jungle Block' is mentioned in the Village Sheet but there is no corroborative

document or evidence in the Forest Records or Revenue Records to that effect, nor is there any boundary delineation with regard to the extent of area to be treated as 'Jungle Block' out of the entire un-surveyed land ; it is stated that the starting points and ending points of 'Jungle Block' area is not clear in the Village Sheet and therefore, the land in question measuring 5.9 hectare *allotted to the Forest Department*, as averred in paragraph 6 of the affidavit filed by the District Administration for Eco Tourism purpose, may not be treated as Jungle Block or any kind of Forest Land.

30. It is stated that this piece of un-surveyed land is without any land status and devoid of vegetation and efforts have been made by the Forest Department to create greenery over the area of 1.5 hectare to 2.00 hectare in order to arrest soil erosion in the area. However, it is also stated that as per the decision of the District Level Forest Right Committee Meeting under the Chairmanship of District Magistrate and Collector, Koraput for Implementation of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Right) Act 2006, the eligible forest dwellers/poor tribal people have been identified by the constituted Committees, verification of claims by the concerned authorities are going on and their claims have been admitted as per extant Rules by the Sub Divisional Level Committee (SDLC) and District Level Committee (DLC) in Koraput district.
31. The Orissa Bio Diversity Board has filed affidavits dated 01.10.2023 and 24.06.2024 and it is stated that the Board is adopting the counter affidavit filed by the Divisional Forest Officer, Koraput Forest Division. Further, in the said affidavit dated 24.06.2024, it is stated that the Final Technical Report of Central University of Odisha, Koraput which has been referred to in the Original

Application by the Applicant is a preliminary Report and does not spell out the detailed survey and inventory having been conducted over stratified sampling plots randomly spread over the entire terrain of Deomali Hill. It is stated that the data is incomplete and currently there is no proposal under consideration for declaring the Deomali Hill as a Biodiversity Heritage Site.

32. The Ministry of Environment, Forests and Climate Change (MoEF&CC) in its affidavit dated 09.12.2023 has reiterated the stand of the State Government and stated that the project area which spreads over 5.93 hectares is not within the Deomali Reserved Forest or any Notified Forest Blocks of Koraput Division ; it is an un-surveyed tract devoid of any tree growth and as informed by the Tahasildar, Pottangi, the land in question and the identified area of the Nature Camp at Deomali is un-surveyed land for which detailed land schedule is not available. It is stated that the land also does not find mentioned in the DLC Report of the Koraput district. It is further stated that there are no indications of the area under consideration being located in a Wildlife Sanctuary, National Park, Tiger Reserve or Tiger Corridor or an Eco Sensitive Zone (ESZ). It is stated that only those activities which are proposed to be carried out within Wildlife Sanctuary, National Park, Tiger Reserve or Tiger Corridor and those activities which require Environmental Clearance and falling within Finally Notified Eco Sensitive Zone or within 10 kms from the boundary of National park or Sanctuary when Eco Sensitive Zone has not been finally notified, require consideration by the National Board for Wild Life (NBWL)/Standing Committee of the National Board for Wild Life.
33. Mr. Sankar Prasad Pani, learned Counsel for the Applicant submitted that the entire Semiliguda Forest Range Project is spread

over 10.4 hectares or 26 acres of Forest Land and therefore any non-forest activity in the area requires prior approval under the Forest (Conservation) Act 1980.

34. Learned Counsel referring to the Tender Notice for Civil Works in Deomali (page 46 of the paper book) submitted that the Tender Notice has been issued by the Divisional Forest Officer, Koraput Wildlife Division, Koraput the Divisional Forest Officer. The submission of the learned Counsel is that if the land is not a Notified Forest and is devoid of trees and vegetations as is the stand taken by the Divisional Forest Officer for Koraput Wildlife Division, Koraput would have no role to issue Tender Notice for Civil Works and in such a case, if Civil Works are to be carried out, the Tender Notice for the same would have been issued by the State Government through the office of the District Magistrate without involving the office of the Divisional Forest Officer, Koraput Wildlife Division though the argument does not hold good as the construction work is done through Forest Department.
35. We have already examined the Revised Working Plan of the Forest Department, Government of Odisha, Koraput Wildlife Division and we have also noted that Deomali Forest Block falls within the Semiliguda Range and in Appendix No.(VII) of the Forest Blockwise Notified Area/Topo Area/Working Plan area, the Deomali Forest Block in the Semiliguda Range has been demarcated as “Proposed Reserved Forest (PRF)”.
36. We may also note that if the stand of the State Respondents is to be accepted that the area in question i.e. Deomali Hill Top Land is not Forest Land the admitted fact is that it is referred to as ‘Jungle Block’ in the Village Sheet. The submission of the State Respondents is that there are no records with respect to the land in

question to show its character as a 'Jungle' and there are no trees or vegetation standing on the said plot.

37. If this stand of the State Respondent is to be accepted, question would arise as to why was the Village Level Meeting Resolutions held for formation of Van Surakhya Samiti (VSS) ? If the land in question was Revenue Land, the procedure as prescribed under the Forest Rights Act 2006 would have had no application or necessity.
38. Reference may be made to the Preamble to the Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 which reads as under :-

“An Act to recognize and vest the forest rights and occupation in forest land in forest dwelling Schedulex Tribes and other traditional forest dwellers who have been residing in such forests for generations but whose rights could not be recorded ; to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of forest land.”

39. the Preamble clearly discloses that the intent and purpose of the Forest Rights Act 2006 is to recognize and vest forest rights and occupation in *Forest Land* in Forest Dwelling and Other Traditional Forest Dwellers who have been residing in such forest for generations but whose rights could not be recorded ; to provide for a framework for recording the forest rights so vested and the nature of evidence required for such recognition and vesting in respect of Forest Land.
40. Section 2 Clause (c) of the Act defines “Forest Dwelling Schedule Tribes” to mean *members or community of Schedule Tribes who primarily reside in and who depend on the forests or forest lands for*

bona fide livelihood needs and includes the Schedule Tribe pastoralist communities.

41. Section 2(d) defines “Forest Land” to mean *land of any description falling within any forest area and includes unclassified forests, undemarcated forests, existing or deemed forests, Protected Forests, Reserved Forests, Sanctuaries and National Parks.* Section 2(d) reads as under :-

“2(d) : *“forest land” means land of any description falling within any forest area and includes unclassified forests, undemarcated forests, existing or deemed forests, protected forests, reserved forests, sanctuaries and National Parks.:*

42. Thus, we find that even un-demarcated and un-classified forests are covered under the definition of Forest Land if falling under the forest area within the meaning of Section 2 clause (d) of the Act 2006 and therefore, the stand of the State Respondents that the land in question has neither any beginning nor end nor has it been classified as a Forest or otherwise and is un-surveyed land, is wholly without any force or foundation in the facts and circumstances of the case.
43. There is another aspect of the matter. The claim of the Respondents is that as per the Joint Identification Report of the land by the concerned Revenue Inspector and Gram Sabha Resolution, the application of the User Agency has been accepted under sub-Section (2) of Section 3 of the Schedule Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 and as per the decision of the District Level Forest Rights Committee Meeting under the Chairmanship of the District Magistrate and Collector, Koraput for implementation of Schedule Tribes and other

Traditional Forest Dwellers (Recognition and Forest Rights) Act 2006, the eligible forest dwellers/poor tribal people have been identified by the Constituted Committee, verification of claims by the concerned authorities are going on and their *claim have been admitted* as per extant Rules by the SDLC and DLC in Koraput district.

44. The stand of the State Respondents also is that Van Surakhya Samiti (VSS) members of surrounding four villages of the Scheduled areas have been involved in the process of Eco Tourism Development at Deomali and Eco Tourism Group (ETG) comprising of 23 tribal women members of Schedule Caste, Schedule Tribe and other categories from different community have also been selected and proposal moved by the Forest Department to facilitate them to get training.
45. Reference may be made to the provisions of Sub-Section 2 of Section 3 of the Forest Rights Act 2006 which reads as under :-

“3(2) Notwithstanding anything contained in the Forest (Conservation) Act, 1980 (69 of 1980), the Central Government shall provide for diversion of forest land for the following facilities managed by the Government which involve felling of trees not exceeding seventy five trees per hectare, namely:-

- (a) Schools;*
- (b) Dispensary or hospital;*
- (c) Anganwadis;*
- (d) Fair price shops;*
- (e) Electric and telecommunication lines;*
- (f) Tanks and other minor water bodies;*
- (g) Drinking water supply and water pipelines;*
- (h) Water or rain water harvesting structures;*
- (i) Minor irrigation canals;*
- (j) Non-conventional source of energy;*

(k) Skill upgradation or vocational training centres;

(l) Roads; and

(m) Community centres:

Provided that such diversion of forest land shall be allowed only if, -

(i) the forest land to be diverted for the purposes mentioned in this sub-section is less than one hectare in each case; and

(ii) the clearance of such development projects shall be subject to the condition that the same is recommended by the Gram Sabha.”

46. A perusal of the activities which are permitted under sub-section 2 for purposes of diversion of Forest Land does not include Eco Tourism.

47. The proviso to sub-section 2 also states that diversion of Forest Land for the above purposes may be allowed only if the Forest Land to be diverted for the purposes mentioned in the sub-Section is less than one hectare in each case and the Clearance of such developmental projects shall be subject to the conditions that the same is recommended by the Gram Sabha.

48. In the present case, we may note that the admitted facts of the case is that the area demarcated for Eco Tourism Development project is 5.93 hectare and even though there may be various resolutions of the Gram Sabha as already noted hereinabove, construction for purposes of Eco Tourism is not an activity mentioned under the sub-Section 2 of the Forest Rights Act 2006.

49. The submission of the learned Additional Government Advocate on behalf of the State Respondents is that amendments have been made in sub-section 2 of the Forest (Conservation) Act 1980 by the

Forest (Conservation) Amendment Act 2023 and sub-clause (b) has been amended and sub-clause (vii) which has been added to the “Explanation” includes Eco Tourism facilities and therefore the present Eco Tourism Development Project in the Koraput Division on the Deomali Hill Top would not require any prior approval of the Central Government under Section 2 of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980.

50. In our opinion, the submission of the learned Additional Government Advocate is wholly misconceived in as much as even if Eco Tourism Facilities included in Forest Working Plan are kept outside the purview of Section 2 of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980, the amendment of 2023 has been kept in abeyance vide orders of Supreme Court passed in Writ Petition(s) (Civil) Nos.1164/2023 *Ashok Kumar Sharma, Indian Forest Service (Retd) & Ors. Versus Union of India & Anr.*
51. The learned Additional Government Advocate further submitted that the construction in question was being made of Green Building Material and Eco Friendly Materials and instead of concrete/brick mortar walls and RCC, fiber cement heavy boards, MS frame structures, fiber cement planks and PVC for windows was being used.
52. The photographs which have been filed with the Original Application (from page 47 to page 51) however tell a different story. Here we find that the structures which have been made are solid cement or concrete structures at least at pages 49, 50 and 51 and do not show the same to have been constructed using Green Building Material.
53. Mr. Sankar Prasad Pani, learned Counsel for the Applicant has also placed before us the judgment of the Hon'ble Supreme Court

passed in Special Leave to Appeal (C) Nos.12199-12200/2025 Kaniz Ahmed Versus Sabuddin & Ors. wherein the Hon'ble Supreme Court while dismissing the SLPs, has observed as under :-

“xxxxxxxxxxxxxxxxxxxxxxxxxxxx

6. *The learned Counsel appearing for the petitioner would submit that her client be given one chance to pray for regularization of the unauthorized construction. We do not find any merit in such submission. A person who has no regards for the law cannot be permitted to pray for regularization after putting up unauthorized construction of two floors. This has something to do with the rule of law. Unauthorised construction has to be demolished. There is no way out. Judicial discretion would be guided by expediency. Courts are not free from statutory fetters. Justice is to be rendered in accordance with law. We are at pains to observe that the aforesaid aspect has not been kept in mind by many State Governments while enacting Regularisation of Unauthorized Development Act based on payment of impact fees.*

7. *Thus, the Courts must adopt a strict approach while dealing with cases of illegal construction and should not readily engage themselves in judicial regularization of buildings erected without requisite permissions of the competent authority. The need for maintaining such a firm stance emanates not only from inviolable duty cast upon the Courts to uphold the rule of law, rather such judicial restraint gains more force in order to facilitate the well-being of all concerned. The law ought not to come to rescue of those who flout its rigours as allowing the same might result in flourishing the culture of impunity. Put otherwise, if the law were to protect the ones who endeavour to disregard it, the same would lead to undermine the deterrent effect of laws, which is the cornerstone of a just and orderly society. [See: Ashok Malhotra v. Municipal Corporation of Delhi, W.P. (C) No.10233 of 2024 (Delhi High Court)].*

8. *The Special Leave Petitions stand dismissed.*

9. *Pending applications, if any, shall also stand disposed of.”*

54. Therefore, on a conspectus of facts of the present case and the law laid down by the Hon'ble Supreme Court in *Kaniz Ahmed Versus Sabuddin & Ors.* (Supra), we dispose of this Original Application

with a direction to the State Respondents to either seek approval of the Government of India under Forest (Conservation Act) within three months or else remove the entire structures and constructions made on the Deomali Hill Top Table Land under the garb of Eco Tourism Development Project and restore the land to its original form.

55. We further direct that if the State Respondents have undertaken pine plantation over an area of 1.5 hectares to 2.00 hectares, the same shall continue to be maintained and the State Respondents shall make effort to widen this area over the entire 5.93 hectares of the land in question and in any case, no diversion of the land in question shall be made for non-forestry purposes and the Respondents shall ensure strict compliance of the Van (Sanrakshan Evam Samvardhan) Adhiniyam 1980 read with the Forest Rights Act 2006.
56. I.As., if any, stand disposed of accordingly.
57. There shall be no order as to costs.

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B. Amit Sthalekar, JM

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Dr. Arun Kumar Verma, EM

May 01, 2025,
Original Application No.76/2023/EZ
SKB