

**Factual and Action Taken Report in Compliance of Order Dated 09.05.2019 Passed by Hon'ble National Green Tribunal, Principal Bench, New Delhi in Original Application No. 410/2019 Sajal Agarwal versus Union of India & Others**

1. That the aforesaid O. A. has been filed by the applicant Sri Sajal Agarwal seeking following reliefs from Hon'ble National Green Tribunal, Principal Bench, New Delhi (here-in-after referred to as '**NGT**' for the sake of brevity):-

- (i) Pass appropriate order quashing/setting aside the No Objection Certificate dated 14.03.2014 issued by the District Magistrate, Chitrakoot, Uttar Pradesh granted to the Respondent No. 9 (Annexure A-3).
- (ii) Pass appropriate order quashing/setting aside orders dated 18.09.2014 (in Appeal No. 440/2013-14), 20.11.2018 (in appeal No. 110/2015) & 12.03.2019 (in Appeal No. 183/2019) passed by the Divisional Commissioner, Chitrakoot Dham, Banda, Uttar Pradesh [Annexure A-11 (Colly.)].
- (iii) Pass appropriate directions removing the petrol pump being operated by Respondent No. 9 situated between KM Stones No. 87 to 89 on NH-35 (on the Left Track of Chainage 88.036), *Khasra* No. 703, Village Akbarpur, Karwi-Banda Road, *Tehsil* Karwi, District Chitrakoot, Uttar Pradesh (admeasuring 0.067760 hectares).
- (iv) Direct the Respondent Authorities to take appropriate legal action against all such petrol pumps operating in the areas notified as protected forests, being operated without seeking prior clearance of the Forest Department or the Central Government in violation of the Forest Conservation Act, 1980 and other laws for protection of forests, and report the same to this Hon'ble Tribunal.



(v) Direct the Respondent Authorities to formulate and place on record strategy/scheme to prevent operation of petrol pump outlets operating without seeking prior clearance of the Forest Department and the Central Government in violation of the Forest Conservation Act, 1980 and other laws for protection of forests, and report the same to this Hon'ble Tribunal.

(vi) Direct the Respondent Authorities to prohibit the running of such petrol pumps operating without seeking prior clearance of the Forest Department and the Central Government in violation of the Forest Conservation Act, 1980 and other laws for protection of forests, and report the same to this Hon'ble Tribunal.

(vii) Pass any such other or further order as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

2. That Hon'ble NGT *vide* its order dated 09.05.2019 has constituted a Committee comprising of Chief Conservator of Forests, U.P. (in all probability, meaning thereby Principal Chief Conservator of Forests and Head of Forest Force, U.P.) and Commissioner, Chitrakoot Dham, Banda to look into the matter and furnish a factual and action taken report.

3. That in compliance of the directions for the applicant as contained in Hon'ble NGT's order dated 09.05.2019, the applicant furnished a set of papers to Principal Chief Conservator of Forests and Head of Forest Force, U.P. *vide* his letter dated 13.05.2019.

4. That copies of the set of papers received in the office of Principal Chief Conservator of Forests and Head of Forest Force, U.P. were sent to Chief Conservator of Forests, Bundelkhand Zone, U.P., Jhansi alongwith a letter dated 24.05.2019 (**Translated Copy-Annexure No. 1**) (**Pg. No. 15 to 124**) seeking thereby report of action taken (based upon the facts) so that the report, so received, after its examination and amendment, as necessary, may be sent to the Commissioner, Chitrakoot Dham, Banda (other member of the Committee) for his views/comments.

5. That Chief Conservator of Forests, Bundelkhand Zone, U.P., Jhansi *vide* his office letter dated 21.06.2019 (**Translated Copy-Annexure No. 2, Pg. No. 125 to 185**) sent his detailed report to the office of Principal Chief Conservator of Forests and Head of Forest Force, U.P. which alongwith all annexures, was sent to the Commissioner, Chitrakoot Dham, Banda *vide* letter dated 16.07.2019. It was desired from the Commissioner, Chitrakoot Dham, Banda to peruse this report and send his comments/report thereupon.
6. Commissioner, Chitrakoot Dham, Banda sent his report *vide* his office letter dated 24.07.2019 (**Translated Copy-Annexure No. 3, Pg. No. 186 to 199**), copy of which was sent to Chief Conservator of Forests, Bundelkhand Zone, U.P., Jhansi by Principal Chief Conservator of Forests and Head of Forest Force, U.P. *vide* his office letter dated 14.08.2019 (**Translated Copy-Annexure No. 4**) (**Pg. No. 200 to 202**). Certain queries were also made in this letter from Chief Conservator of Forests, Bundelkhand Zone, U.P., Jhansi.
7. Chief Conservator of Forests, Bundelkhand Zone, U.P., Jhansi sent his response *vide* his office letter dated 30.08.2019 (**Translated Copy-Annexure No. 5**) (**Pg. No. 203 to 213**) enclosing therewith a copy of letter dated 29.08.2019 of office of Divisional Forest Officer, Chitrakoot Forest Division, Chitrakoot.
8. Chief Conservator of Forests, Bundelkhand Zone, U.P., Jhansi sent a subsequent communication *vide* his office letter dated 09.09.2019 (**Translated Copy-Annexure No. 6**) (**Pg. No. 214 to 219**) detailing therein about the No Objection Certificate issued under Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.
9. The facts of the case, as submitted by the Divisional Forest Officer, Chitrakoot Forest Division, Chitrakoot *vide* his office letter dated 21.06.2019 (Annexure No. 2) are as under-

(a) Indian Oil Corporation Limited wrote a letter dated 26.09.2013 (**Annexure No. 2 (Pg. No. 142)**) to the letter dated 21.06.2019 of Chief Conservator of Forests, Bundelkhand Zone, U.P., Jhansi

which is annexed as Annexure No. 2) to the District Magistrate, Chitrakoot, Uttar Pradesh to grant his "No Objection Certificate" for the proposed MS & HSD Filling Station (Retail Outlet) at Akbarpur (B), on Bada-Karwi Road, NH-35 (Old NH No. 76) between Km. Stone No. 88 to 89, District Chitrakoot.

- (b) District Magistrate, Chitrakoot, Uttar Pradesh sought no objection report alongwith verification of the map from seven officers concerned including Divisional Forest Officer, Chitrakoot Forest Division, Chitrakoot *vide* his office letter dated 28.09.2013 (Annexure No. 3 (Pg. No. 143)) to the letter dated 21.06.2019 of Chief Conservator of Forests, Bundelkhand Zone, U.P., Jhansi which is annexed as Annexure No. 2).
- (c) District Magistrate, Chitrakoot, Uttar Pradesh wrote letter dated 08.11.2013 (Annexure No. 4 (Pg. No. 144)) to the letter dated 21.06.2019 of Chief Conservator of Forests, Bundelkhand Zone, U.P., Jhansi which is annexed as Annexure No. 2) to the Divisional Forest Officer, Chitrakoot Forest Division, Chitrakoot for countersigning the certificate (enclosed with the letter) as required under FRA (Forest Right Act) 2006 related with the land involved for the proposed Retail Outlet of Indian Oil Corporation Limited.
- (d) District Level Forest Rights Committee, Chitrakoot issued the certificate as required under Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 bearing signatures of District Social Welfare Officer/ Secretary dated 11.02.14, of Divisional Forest Officer, Chitrakoot Forest Division, Chitrakoot/Member dated 12.02.14 and of District Magistrate, Chitrakoot/Chairman, District Level Forest Rights Committee, Chitrakoot dated 03.03.14 (Annexure No. 5 (Pg. No. 145)) to the letter dated 21.06.2019 of Chief Conservator of Forests, Bundelkhand Zone, U.P., Jhansi which is annexed as Annexure No. 2).



- (e) District Magistrate, Chitrakoot issued certificate dated 08.03.14 for the said land for Retail Outlet under Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Annexure No. 6 **(Pg. No. 146)**) to the letter dated 21.06.2019 of Chief Conservator of Forests, Bundelkhand Zone, U.P., Jhansi which is annexed as Annexure No. 2).
- (f) District Magistrate, Chitrakoot issued "No Objection Certificate" dated 14.03.2014 (Annexure No. 7 **(Pg. No. 147)**) to the letter dated 21.06.2019 of Chief Conservator of Forests, Bundelkhand Zone, U.P., Jhansi which is annexed as Annexure No. 2) for setting up of the Retail Outlet of the Indian Oil Corporation Limited.
- (g) Divisional Forest Officer, Chitrakoot Forest Division, Chitrakoot wrote letter dated 06.07.2014 (Annexure No. 8 **(Pg. No. 148 to 149)**) to the letter dated 21.06.2019 of Chief Conservator of Forests, Bundelkhand Zone, U.P., Jhansi which is annexed as Annexure No. 2) to District Magistrate, Chitrakoot (endorsed to departmental officers concerned) with reference to "No Objection Certificate" dated 14.03.2014 issued by him. Divisional Forest Officer, Chitrakoot Forest Division, Chitrakoot has mentioned in this letter that for 0.06776 hectare of protected forest land of Banda-Karwi National Highway No. 35 (left strip of chainage 88.036 of old National Highway-76) required for ingress and egress of the Retail Outlet, prior permission of Government of India is required under section-2 of the Forest (Conservation) Act, 1980. Divisional Forest Officer, Chitrakoot Forest Division, Chitrakoot also informed through this letter that proposal for such permission was submitted by the Indian Oil Corporation Limited in which certain discrepancies/shortcomings were found and Indian Oil Corporation Limited was asked to remove the same. It was also clarified by the Divisional Forest Officer, Chitrakoot Forest Division, Chitrakoot that his report as mentioned in the "No Objection Certificate" issued by the District Magistrate, Chitrakoot is not the Report/No Objection Certificate under the provisions of

Forest (Conservation) Act, 1980. This was also informed through this letter the said Retail Outlet has been established and the protected forest land is being used in the garb of "No Objection Certificate" which is contravention of provisions as contained in sections-29 & 33 of the Indian Forest Act, 1927 and order dated 12.12.1996 passed by Hon'ble Supreme Court in Writ Petition (Civil) No. 202/1995 T. N. Godavarman Thirumulkpad vs. Union of India and others as well. The Divisional Forest Officer, Chitrakoot Forest Division, Chitrakoot requested the District Magistrate, Chitrakoot to cancel the "No Objection Certificate" dated 14.03.2014 and getting the operation of the petrol pump stopped so that contravention of provisions as contained in sections-29 & 33 of the Indian Forest Act, 1927 and order dated 12.12.1996 passed by Hon'ble Supreme Court in Writ Petition (Civil) No. 202/1995 T. N. Godavarman Thirumulkpad vs. Union of others may be checked.

- (h) District Magistrate, Chitrakoot issued order dated 10.07.2014 (Annexure No. 9 (Pg. No. 150)) to the letter dated 21.06.2019 of Chief Conservator of Forests, Bundelkhand Zone, U.P., Jhansi which is annexed as Annexure No. 2) staying the "No Objection Certificate" dated 14.03.2014 till the permission of Government of India is not obtained in accordance with Law.
- (i) Proprietor of the said Retail Outlet (Jai Kamta Nath Filling Station, Bharatkoop), preferred an Appeal No. C 2014070000440 under rule-154(2) Petroleum Rules, 2002, in the Court of Commissioner, Chitrakoot Dham Mandal, Banda against the order dated 10.07.2014 passed by District Magistrate, Chitrakoot. The Appellate Authority, i.e., the Commissioner, Chitrakoot Dham Mandal, Banda passed order dated 18.09.2014 (Annexure No. 10 (Pg. No. 151 to 155)) to the letter dated 21.06.2019 of Chief Conservator of Forests, Bundelkhand Zone, U.P., Jhansi which is annexed as Annexure No. 2) thereby quashing the stay order dated 10.07.2014 passed by District Magistrate, Chitrakoot. The Appeal was allowed *vide* the aforesaid order dated 18.09.2014

under certain restrictions and conditions laid down therein, keeping in view the delay in no objection from Government of India. One such restriction/condition being that whatsoever orders/conditions/restrictions shall be passed by Government of India or Uttar Pradesh Shasan relating to land of protected forest area or proposed new Outlet, shall be binding for the appellant and compliance of the same shall be mandatory for him. The said order further states that if the appellant contravenes any of the condition specified therein, the District Magistrate, Chitrakoot shall be free to take action against him in accordance with Law. The order further states since the new Outlet is operated at present, therefore, no obstruction shall be created in its operation.

- (j) The District Magistrate, Chitrakoot *vide* order dated 05.12.2014 (Annexure No. 11 (Pg. No. 156)) to the letter dated 21.06.2019 of Chief Conservator of Forests, Bundelkhand Zone, U.P., Jhansi which is annexed as Annexure No. 2), in light of the condition at serial no. 4 contained in the conditional order dated 18.09.2014 passed by Commissioner, Chitrakoot Dham Mandal, Banda and been satisfied with the legal opinion obtained from the District Government Counsel in the matter, directed the proprietor of the said Retail Outlet to obtain No Objection Certificate from Government of India for the protected forest land and submit it to the District Supply Officer, Chitrakoot for issuance of Diesel Sale Licence from the Retail Outlet so that his application may be disposed of.
- (k) Aggrieved by the aforesaid order dated 05.12.2014 passed by the District Magistrate, Chitrakoot, the proprietor of the Retail Outlet preferred an appeal no. 2014070000978 before the Commissioner, Chitrakoot Dham Mandal, Banda. This appeal was allowed by the Commissioner, Chitrakoot Dham Mandal, Banda *vide* his order dated 20.11.2018 (Annexure No. 12 (Pg. No. 157-158)) to the letter dated 21.06.2019 of Chief Conservator of Forests, Bundelkhand Zone, U.P., Jhansi which is annexed as

Annexure No. 2). In this order, emphasis has been laid on "No Objection Certificate" for setting up of the petrol pump issued by the District Magistrate, Chitrakoot on the basis of report of the Divisional Forest Officer, Chitrakoot Forest Division, Chitrakoot. It has been further held that after setting up of the petrol pump, there remains no justification of No Objection Certificate nor is there any need of No Objection Certificate for diesel licence.

(l) Thereafter, the District Magistrate, Chitrakoot disposed of the applications dated 05.05.2014, 05.12.2018 & 05.02.2019 of the proprietor of the said Retail Outlet for issuance of diesel sale licence by rejecting the applications *vide* his order dated 28.02.2019 (Annexure No. 13 (Pg. No. 159 to 163)) to the letter dated 21.06.2019 of Chief Conservator of Forests, Bundelkhand Zone, U.P., Jhansi which is annexed as Annexure No. 2). The District Magistrate, Chitrakoot after discussing/mentioning the entire legal scenario relating to the said Retail Outlet in his order dated 28.02.2019 concluded that the applicant, i.e., the proprietor of Retail Outlet is to produce No Objection from Government of India for using the protected forest land for further action regarding diesel sale licence.

(m) Aggrieved by the aforesaid order dated 28.02.2019 passed by the District Magistrate, Chitrakoot, the proprietor of the Retail Outlet approached the Commissioner, Chitrakoot Dham Mandal, Banda with an appeal which was allowed by the Commissioner, Chitrakoot Dham Mandal, Banda *vide* his order dated 12.03.2019 (Annexure No. 14 (Pg. No. 164 to 167)) to the letter dated 21.06.2019 of Chief Conservator of Forests, Bundelkhand Zone, U.P., Jhansi which is annexed as Annexure No. 2). The Commissioner, Chitrakoot Dham Mandal, Banda quashed the order dated 28.02.2019 passed by the District Magistrate, Chitrakoot and directed him to issue licence for sale of the diesel the appellant within two weeks. In the process of passing the above order, the Commissioner, Chitrakoot Dham Mandal, Banda has referred to a Government Order dated 06.01.1997 issued by

2

Principal Secretary, Industrial Development Department, U.P. and, in terms of this order, has held that setting up of petrol pump is not a non-forestry work.

(n) The Divisional Forest Officer, Chitrakoot Forest Division, Chitrakoot has reported *inter alia* to the Conservator of Forests, Chitrakoot Dham Circle, Banda *vide* his office letter dated 22.06.2019 (Annexure No. 15 (Pg. No. 168 to 171)) to the letter dated 21.06.2019 of Chief Conservator of Forests, Bundelkhand Zone, U.P., Jhansi which is annexed as Annexure No. 2) *that operation of the said petrol pump/Retail Outlet is totally closed since long period.*

10. The Commissioner, Chitrakoot Dham Mandal, Banda, in his letter dated 24.07.2019 (Annexure No. 3), has mainly stated that-

(a) Indian Oil Corporation Limited requested the District Magistrate, Chitrakoot for providing No Objection for setting up of new Retail Outlet on NH-35 Km. 89 of old NH No. 76 (on the left side, chainage 88.036) *Khasra* No. 703, Village Akbarpur (ba), Karwi-Banda Road.

(b) As mentioned in order dated 18.09.2014 of Sri Murli Dhar Dube, the then Commissioner, the then District Magistrate obtained reports from Superintendent of Police, District Fire Officer, Sub Divisional Magistrate, Karwi, Executive Engineer, Electricity, Divisional Forest Officer, Chitrakoot Forest Division, Chitrakoot; Executive Engineer, National Highway Division, P.W.D., Banda, Regional Officer from U.P. Pollution Control Board, Banda.

(c) As per the report of Sub Divisional Magistrate, Karwi, name of Sri Laxman Singh Sankramaniya Bhumidhar is entered as Khatedar of 0.500 hectare area of *Khasra* No. 703 in Khatauni Khata no. 193 of Village-Akbarpur (ba).

(d) The above filling station/petrol pump was inaugurated on 23.06.2014.

- (e) The Divisional Forest Officer, Chitrakoot Forest Division, Chitrakoot sent letter to the then District Magistrate referring therein notification no. 1115/14-331-50 dated 10.02.1960 related with declaration of Banda-Karwi National Highway No. 35 (old National Highway no. 76) and informing thereby that non-forestry works of any kind cannot be done without prior permission of Government of India. Through this letter, this was also objected that the Divisional Forest Officer, Chitrakoot Forest Division, Chitrakoot had not submitted any report to the District Magistrate for setting up of the Retail Outlet.
- (f) The then Commissioner, Chitrakoot Dham Mandal, Banda has mentioned in his order dated 18.09.2014 that Divisional Forest Officer, Chitrakoot Forest Division, Chitrakoot, as member of District Level Forest Rights Committee, Chitrakoot, has signed the certificate on 12.02.2014 on which the District Magistrate/Chairman, District Level Forest Rights Committee, Chitrakoot has signed on 03.03.2014. From this, it is clear that the Committee had no objection in according permission for non-forestry use of 0.06776 hectare of protected forest land without felling of trees for construction of the Retail Outlet; and the Village Level Forest Rights Committee, Akbarpur (ba) has given the No Objection Certificate in favor of the appellant by passing the resolution unanimously.
- (g) The then Commissioner, Chitrakoot Dham Mandal, Banda has also mentioned in his judgment dated 18.09.2014 that there is no harm to the Gram Sabha and Nazool Property from setting up of the Retail Outlet. The Divisional Forest Officer, Chitrakoot Forest Division, Chitrakoot has signed over the "No Objection Certificate" issued by the District Level Committee, Chitrakoot on 12.02.2014 as member of the Committee.
- (h) There is no dense forest area in the vicinity of the Retail Outlet in question. This Filling Station is situated in Bharatkoop Bazar at Km. 89 (chainage 88.036 left side) National Highway 35 (old



National Highway No. 76) near the way leading to Bharatkoop Railway Station and religious heritage Bharatkoop Temple from setting up of which supply of petroleum products to the general public will be available besides development of the area.

- (i) This is mentioned in the judgment dated 18.09.2014 by the then Commissioner, Chitrakoot Dham Mandal, Banda that the trees situated over the protected forest land shall not be cut by the appellant, rather their conservation will be done by him with his own cost. Minimum protected forest land shall be used for the proposed new Outlet and ingress & egress; and afforestation shall be done for forest enrichment/conservation with his own cost on the land of the way on both sides. Any type of temporary or permanent construction work shall not be carried out by the appellant on the land of protected forest; and no hoarding shall be erected over the land of the protected forest.
- (j) The Commissioner, Chitrakoot Dham Mandal, Banda has further stated that he has passed orders dt. 20.11.2018 & 12.03.2019 in Appeal nos. C 2015070000110 & C 201907000000183 Jai Kamta Nath Filling Station vs. State under his judicial responsibilities.
- (k) Clear report has not been submitted in the report made available by Chief Conservator of Forests, Bundelkhand Zone, U.P., Jhansi in respect of the aforesaid facts.

11. The Chief Conservator of Forests, Bundelkhand Zone, U.P., Jhansi *vide* his communication dated 09.09.2019 (Annexure No. 6) has mainly stated that-

- (a) The matter in which certificate was given for the approach road of the proposed Retail Outlet of Indian Oil Corporation Limited does not relate with any person belonging to Scheduled Tribe or Traditional Forest Dweller dwelling in the forest. The fundamental objective of The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is to extend benefit to the Scheduled Tribes and Other Traditional Forest Dwellers dwelling in the forest

whereas the applicant of the Retail Outlet or the user agency (Indian Oil Corporation Limited) does not fall in the category of Scheduled Tribes and Other Traditional Forest Dweller. Hence, the benefits under The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 are not admissible to the applicant or the user agency.

(b) Relaxation in the provisions of Forest (Conservation) Act, 1980 has been done in sub section-2 of section-3 of The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 for 13 facilities managed by the Government mentioned therein, petrol/ diesel Outlet is not included in the category of 13 said facilities managed by the Government. Therefore, the relaxation in the provisions of Forest (Conservation) Act, 1980 is not applicable for the Retail Outlet in question.

(c) The user agency, i.e., Indian Oil Corporation Limited was required to apply on the official website [www.forestclearance.nic.in](http://www.forestclearance.nic.in) of Ministry of Environment, Forest and Climate Change, Government of India, New Delhi for non-forestry use of 0.67760 hectare protected forest land for setting up of the said petrol pump Retail Outlet/construction of approach road under the provisions of Forest (Conservation) Act, 1980. With such application, certain documents are required to be annexed which include the certificate of the District Magistrate under The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. The certificate under The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 has been signed by Social Welfare Officer, Divisional Forest Officer and the District Magistrate was to be annexed with the proposal under Forest (Conservation) Act, 1980. Retail Outlet could have been established after sanction of the proposal by the Government of India under the Forest Conservation Act, 1980.

(d) The Commissioner, Chitrakoot Dham Mandal, Banda has sent his report dated 24.07.2019 treating "No Objection Certificate" issued under The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 as the no objection for setting up of the Retail Outlet.

12. From the situation, as above, it was felt that the Officers of the U.P. Forest Department and the Commissioner, Chitrakoot Dham Mandal, Banda have diverse views as far as the interpretation of "No Objection Certificate" issued under The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 by the District Level Forest Rights Committee, Chitrakoot is concerned. As per the legal provisions concerned and Guidelines of Government of India, there is no confusion that the "No Objection Certificate" issued under The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 by the District Level Forest Rights Committee is not the ultimate permission for setting up of the said Retail Outlet. It is just a document required to be annexed with the proposal for permission of Government of India under Forest (Conservation) Act, 1980. It is also pertinent to mention that the term '*non-forest purpose*' has been explained in the Explanation appended with section-2 of Forest (Conservation) Act, 1980 as under-

*"Explanation- For the purpose of this section 'non-forest purpose' means the breaking up or clearing of any forest land or portion thereof for:*

*(a) the cultivation of tea, coffee, species, rubber, palms, oil-bearing plants, horticultural crops or medicinal plants;*

*(b) any purpose other than re-afforestation."*

From the above, it is undisputed that using protected forest land for ingress and egress of the said Retail Outlet is '*non-forest purpose*' under Forest (Conservation) Act, 1980 and the prior permission of the Central Government is necessary for such use of protected forest land and the said "No Objection Certificate" issued

under The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 by the District Level Forest Rights Committee, Chitrakoot cannot be taken as the ultimate permission for using protected forest land. It is just a document to be annexed with the proposal to be sent by a user agency to the Central Government under Forest (Conservation) Act, 1980.

Regarding "Diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980-Procedure for utilizing the land for approach/exit road to petrol pumps" Government of India, Ministry of Environment & Forests (FC Division) has issued guidelines through letter no. F.No. 11-29/2004-FC dated 15.07.2004, F.No. 11-29/2004-FC dated 08.12.2004 and F.No. 5-3/2007-FC(Pt-I) dated 18.03.2010 (collectively annexed as **Annexure No. 7) (Pg. No. 220 to 227)**). All these guidelines were applicable when the issue related with the said petrol pump was under consideration before the authorities concerned. From these guidelines, it is clear that permission of Government of India was very much required in the instant matter.

However, there is a dissent in views of Commissioner, Chitrakoot Dham Mandal, Banda and the undersigned on the issue. The undersigned is of the view that Forest (Conservation) Act, 1980 cannot be violated in any issue including the instant one.

Regarding, the present operational status of the said Retail Outlet, it is worth reiterating (already stated in paragraph no. 9(n) above) that the same is closed since long period as per the report of Divisional Forest Officer, Chitrakoot Forest Division, Chitrakoot.

I have annexed the report of the Commissioner, Chitrakoot Dham Mandal, Banda as Annexure No.3 herewith and submitting my report as above.

  
(Pawan Kumar)

Principal Chief Conservator of Forests  
and Head of Forest Force, U.P.

**OFFICE OF CHIEF CONSERVATOR OF FOREST AND HEAD  
OF DEPARTMENT, U.P., LUCKNOW**

Letter No. Ko.Ke.2041/6E-2S.C. (N.GT.), dated May 24, 2018,

To,

Chief Conservator of Forests,  
Bundelkhand Zone, U.P.,  
Lucknow.

Subject: Directions passed by the Hon'ble National Green Tribunal (Principal Bench at New Delhi) by means of order dated 09.05.2019 passed in Original Application No. 410/2019 (Sajal Agrawal v. Union of India & Ors.).

Ref: Letter of Shri Sajal Agrawal dated 13.05.2019

Sir,

The following order has been passed by the Hon'ble National Green Tribunal, New Delhi, in the subjected matter vide its order dated 09.05.2016:

1. Grievance in this application is that a petrol pump is being illegally operated by M/s Jai Kamta Nath Filing Station in Chitrakoot District, Uttar Pradesh, in the forest area, NOC was given without approval of the Forest Department. The Forest Department registered a criminal case. NOC was stayed by the District Magistrate but order of the District Magistrate was set aside by the Divisional Commissioner.
2. It is submitted by learned counsel for the applicant that though NOC was illegally given and there is acknowledged violation of the provisions of Forest (Conservation) Act, 1980, the petrol pump is still operating.
3. In view of the above, let a joint committee comprising Chief Conservator of Forest, Uttar Pradesh and Commissioner Chitrakoot Dham look into the matter and furnish a factual and action taken report within one

month by email at ngt.filing@gmail.com. The Nodal Agency will be Chief Conservator of Forest, UP.

- 4. The applicant may furnish a set of papers each to the Chief Conservator of Forest, Uttar Pradesh and the Commissioner Chitrakoot Dham within one week and file and affidavit of service.

List for further consideration on 02.08.2019.

In pursuance of the abovementioned order, a letter dated 13.05.2019 of the applicant in the subjected matter Shri Sajal Agrawal, alongwith the order dated 09.05.2019 passed by the Hon'ble National Green Tribunal and the copy of the Original Application, has been received in this office, the copy of which alongwith the annexures (through email) is being sent with the expectation that the report on the subject matter shall be provided to this office after taking action on all the facts of the case as soon as possible, so that the same may be checked and discussed with the Commissioner, Chitrakoot Dham, Banda and the same may be sent to the provided email of the Hon'ble Tribunal as per its abovementioned order.

The above subject shall be given priority.

Annexure- As mentioned

Sincerely,  
Sd/-

(Pawan Kumar)

Chief Conservator of Forest and  
Head of Department, UP, Lucknow

**Letter No. / (1) Dated as above.**

Copy forwarded to the following officers for information sending copies of annexures through e-mail for necessary action on top priority as above-

- 1. Conservator of Forests, Chitrakootdham Circle, Banda.
- 2. Divisional Forest Officer, Chitrakoot Forest Division, Chitrakoot.

Sd/-

(Pawan Kumar)

Chief Conservator of Forest and  
Head of Department, UP, Lucknow

आचार्य नारायण प्रसाद

सं. ६६, लखनऊ

679  
17-5-19

To,  
The Principal Chief Conservator of Forests (PCCF),  
17, Rana Pratap Marg,  
Lucknow, (U.P.), 226001

Sir

Subject: Directions passed by the Hon'ble National Green Tribunal (Principal Bench at New Delhi) by means of order dated 09.05.2019 passed in Original Application No. 410/2019 (Sajal Agarwal v. Union of India & Ors.)

ecp (c.c.)  
16/5  
16/5/19

1. The undersigned is the applicant in Original Application No. 410/2019 (Sajal Agarwal v. Union of India & Ors.) pending consideration before the Hon'ble National Green Tribunal (Principal Bench at New Delhi).
2. The aforesaid matter came up for hearing on 09.05.2019 wherein the Hon'ble Tribunal was pleased to pass the following directions:

D.F.O (CC)  
K.C.F (CC)  
17/5/19  
C-2 (S.C/A.57)  
17-5-19  
D.F.O (CC)

1/23  
C.C (SC)  
"3. In view of the above, let a joint Committee comprising Chief/Conservator of Forest, Uttar Pradesh and Commissioner Chitrakoot Dham look into the matter and furnish a factual and action taken report within one month by e-mail at ngt.filing@gmail.com. The nodal agency will be Chief Conservator of Forest, UP."

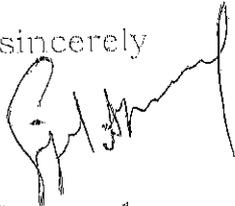
17-05-19

4. The applicant may furnish a set of papers each to the Chief Conservator of Forest, Uttar Pradesh and the Commissioner Chitrakoot Dham within one week and file an affidavit of service"

3. In pursuance of the said directions passed by the Hon'ble Tribunal, the undersigned is providing you the relevant documents for necessary compliance of the said order dated 09.05.2019.

This is for your consideration and necessary action.

Yours sincerely



**Sajal Agarwal**

**Encl:**

1. Copy of the order dated 09.05.2019 passed by the Hon'ble NGT (Principal Bench) in O.A. No. 410/2019.
2. Copy of O.A. No. 410/2019 filed in the Hon'ble NGT (Principal Bench) (Page-104)

**CC:** Divisional Commissioner, Chitrakoot Dham

**Date-** 13-05-2019

Item No. 07

Court No. 1

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

Original Application No. 410/2019

Sajal Agarwal

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 09.05.2019

**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 Applicant(s): Mr. Rishi Kapoor, Advocate

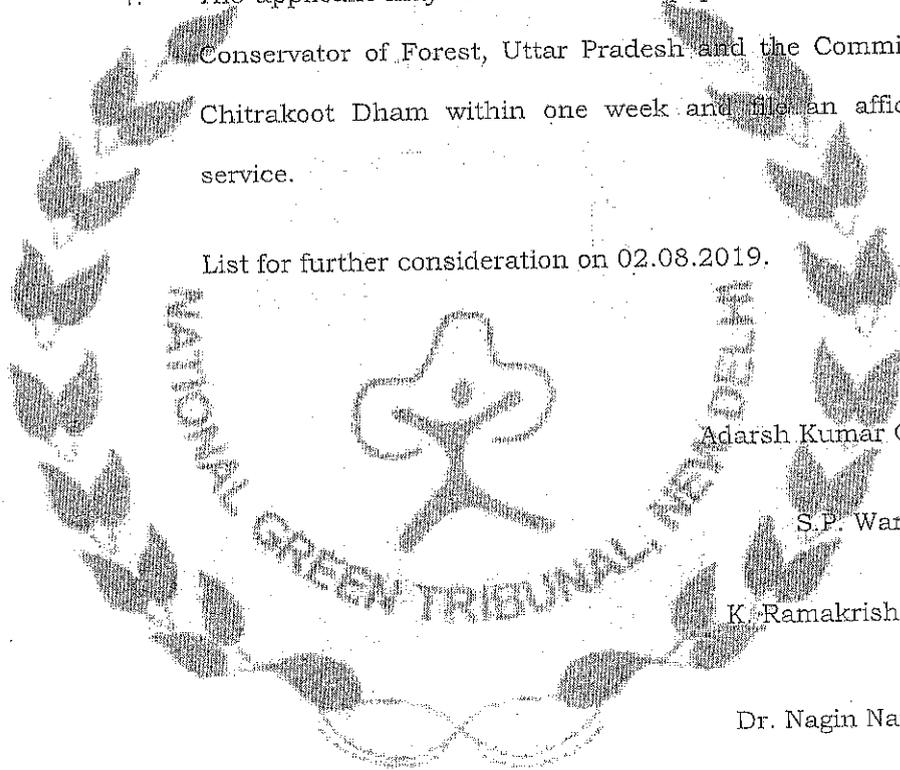
**ORDER**

- Grievance in this application is that a petrol pump is being illegally operated by M/s Jai Kanta Nath Filling Station in Chitrakoot District, Uttar Pradesh, in the forest area. NOC was given without approval of the Forest Department. The Forest Department registered a criminal case. NOC was stayed by the District Magistrate but order of the District Magistrate was set aside by the Divisional Commissioner.
- It is submitted by learned counsel for the applicant that though NOC was illegally given and there is acknowledged violation of the provisions of Forest (Conservation) Act, 1980, the petrol pump is still operating.

3. In view of the above, let a joint Committee comprising Chief Conservator of Forest, Uttar Pradesh and Commissioner Chitrakoot Dham look into the matter and furnish a factual and action taken report within one month by e-mail at [ngt.filing@gmail.com](mailto:ngt.filing@gmail.com). The nodal agency will be Chief Conservator of Forest, UP.

4. The applicant may furnish a set of papers each to the Chief Conservator of Forest, Uttar Pradesh and the Commissioner Chitrakoot Dham within one week and file an affidavit of service.

List for further consideration on 02.08.2019.



Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

May 09, 2019  
Original Application No. 410/2019  
A

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH AT NEW DELHI

ORIGINAL APPLICATION NO. 410 OF 2019

IN THE MATTER OF:

Sajal Agrawal S/o Shri Sanjay Agarwal  
Resident of H. No. 255,  
In front of Nagar Palika Office  
Purani Bazaar, Karwi,  
District Chitrakoot, Uttar Pradesh-210205. ...APPLICANT

VERSUS

1. Union of India (Ministry of Environment, Forest and Climate Change) Through Its Secretary Paryavaran Bhawan,  
Jor Bagh Road, New Delhi-110003.
2. State of Uttar Pradesh through its Chief Secretary to the Govt. of  
UP, Secretariat, Lucknow, Uttar Pradesh- 226001.
3. Chief Conservator of Forest, Uttar Pradesh,  
17, Rana Pratap Marg, Lucknow -226001.
4. Commissioner (Chitrakoot Dham),  
Office of Commisisoner, In Front of Police Lines,  
Chitrakoot Dham, Banda-210001.
5. District Magistrate, Chitrakoot,  
Collectorate Campus, Sonapur,  
Karwi, Chitrakoot, Uttar Pradesh-210205.
6. District Forest Officer, Chitrakoot,  
Forest Office, Allahabad Road,  
Karwi, Chitrakoot, Uttar Pradesh-210205.
7. District Supply Officer, Chitrakoot,  
In Front of District Consumer Forum,  
Karwi, Chitrakoot, Uttar Pradesh-210205.
8. Senior Divisional Retail Sales Manager, Indian Oil Corporation  
Ltd, Divisional Office, 5<sup>th</sup> Floor, Indira Bhawan, Civil Lines,  
Allahabad-211001.
9. Jai Kamta Nath Filling Station through its proprietor Shri  
Lakshman Singh, Resident of Mohalla Shatrughanpuri, Devangna  
Road, Karwi, Chitrakoot. Uttar Pradesh

.....RESPONDENTS

(PAPER BOOK)

Rishi Kapoor, Ashish Pandey, Nikhil Mishra  
**CHAMBERS OF ADVOCATE RISHI KAPOOR**  
ADVOCATES AND LEGAL CONSULTANTS  
B 20 NIZAMUDDIN WEST, NEW DELHI- 13  
9871253307 [advrshikapoor@gmail.com](mailto:advrshikapoor@gmail.com)

## PRINCIPAL BENCH AT NEW DELHI

ORIGINAL APPLICATION NO.

OF 2019

## INDEX

S.NO.	PARTICULARS	PAGES
COMPILATION I		
1.	List of Dates & Events	1-2
2.	Original Application under section 18 (1) read with Sections 14, 15, 16 & 17 of National Green Tribunal Act, 2010) & Section 2 of the Forest (Conservation) Act, 1980 along with affidavit.	3-22
COMPILATION II		
3.	<u>ANNEXURE A-1</u> True copy of the notification No. 1115/XIV33150 dated 10.02.1960	23-25
4.	<u>ANNEXURE A-2</u> True translated copy of the letter dated 28.09.2013	26-27
5.	<u>ANNEXURE A-3</u> True translated copy of the order dated 14.03.2013 passed by the DM.	28-30
6.	<u>ANNEXURE A-4</u> True translated copy of the letter dated 05.07.2014 written by DFO to the DM.	31-34
7.	<u>ANNEXURE A-5 (Colly.)</u> True translated copies of the forest offences registered against Respondents No. 8 & 9.	35-44
8.	<u>ANNEXURE A-6</u> True translated copy of the order passed dated 10.07.2014 passed by the DM.	45-46

9.	<u>ANNEXURE A-7</u> Copy of the order dated 14.07.2014 passed by the Hon'ble High Court of Allahabad in Writ Petition No. 34897 of 2014.	47
10.	<u>ANNEXURE A-8</u> Copy of the order dated 20.08.2014 passed in Writ Petition No. 34897 of 2014.	48
11.	<u>ANNEXURE A-9</u> True translated copy of the order dated 18.09.2014 passed by the Divisional Commissioner.	49-61
12.	<u>ANNEXURE A-10 (Colly.)</u> True translated copies of the said orders dated 05.12.2014, 27.01.2015 & 28.02.2019 passed by the DM.	62-83
13.	<u>ANNEXURE A-11 (Colly.)</u> True translated copies of the orders dated 20.11.2018 (in appeal No. 110/2015) & 12.03.2019 (in Appeal No. 183/2019) respectively passed by the Divisional Commissioner.	84-96
14.	<u>ANNEXURE A-12</u> True translated copy of the written objection dated 15.12.2018 addressed to the Director, Ministry of Petroleum and Natural Gas, New Delhi.	97-100
15.	Vakalatnama	107

Applicant

THROUGH COUNSEL

Place: New Delhi  
Date:

Rishi Kapoor, Ashish Pandey, Nikhil Mishra  
CHAMBERS OF ADVOCATE RISHI KAPOOR  
 ADVOCATES AND LEGAL CONSULTANTS  
 B-20 NIZAMUDDIN WEST  
 NEW DELHI-13  
 9871257307advrishikapoor@gmail.com

LIST OF DATES AND EVENTS

24

DATES	EVENTS
10.02.1960	Vide notification No. 1115/XIV33150 certain area around <i>NH 35 (Old NH 76)</i> (earlier falling in District <i>Banda</i> ) has been declared as a protected forest area.
26.09.2013	Respondent No. 9 submitted an application before the DM to acquire NOC for setting up petrol pump.
14.03.2014	DM granted NOC without the DFO/Forest Department giving any approval to the setting up of the said petrol pump.
02.07.2014	DFO also registered Forest Offences being No. 3/2004-05 & 5/2004-05 against the respondents No. 8 & 9 under Section 2 of the Forest Conservation Act, 1980.
05.07.2014	DFO, inter-alia, informed the DM that no report or NOC had been issued by the DFO as has been recorded in the NOC dated 14.03.2014.
10.07.2014	Upon receiving the letter dated 05.07.2014 from the DFO, the DM stayed the NOC dated 14.03.2014
14.07.2014	Order passed by the Hon'ble High Court of Allahabad in Writ Petition No. 34897 of 2014 stating that permission of central government required for setting up the petrol pump.
20.08.2014	Order dated 20.08.2014 passed in Writ Petition No. 34897 of 2014 dismissing the said petition as not pressed.
18.09.2014	Order dated 10.07.2014 passed by the DM set aside by the Divisional Commissioner in Appeal No. 440/2013-14.
05.12.2014,	Orders passed by the DM rejecting the applications
27.01.2015	& filed by Respondent No. 9 for grant of NOC for High

28.02.2019

Speed Diesel.

2

25

20.11.2018

12.03.2019

& Orders passed by the DM set aside by the Divisional Commissioner.

15.12.2018

Written objection addressed to the Director, Ministry of Petroleum and Natural Gas, New Delhi by the Applicant.

5

(26)

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH AT NEW DELHI

MEMORANDUM OF APPLICATION  
(under section 18 (1) read with Sections 14, 15, 16  
& 17 of National Green Tribunal Act, 2010)

ORIGINAL APPLICATION NO.

OF 2019

IN THE MATTER OF:

Sajal Agrawal S/o Shri Sanjay Agarwal  
Resident of H.No. 255, In front of Nagar Palika Office  
Purani Bazaar, Karwi, District Chitrakoot, Uttar Pradesh-210205.

...APPLICANT

VERSUS

1. Union of India (Ministry of Environment, Forest and Climate Change) Through Its Secretary Paryavaran Bhawan, Jor Bagh Road, New Delhi-110003.
2. State of Uttar Pradesh through its Chief Secretary to the Govt. of UP, Secretariat, Lucknow, Uttar Pradesh- 226001.
3. Chief Conservator of Forest, Uttar Pradesh, 17, Rana Pratap Marg, Lucknow -226001.
4. Commissioner (Chitrakoot Dham), Office of Commisisoner, In Front of Police Lines, Chitrakoot Dham, Banda-210001.
5. District Magistrate, Chitrakoot, Collectorate Campus. Sonapur, Karwi, Chitrakoot, Uttar Pradesh-210205.
6. District Forest Officer, Chitrakoot, Forest Office, Allahabad Road, Karwi, Chitrakoot, Uttar Pradesh-210205.
7. District Supply Officer, Chitrakoot, In Front of Distriect Consumer Forum, Karwi, Chitrakoot, Uttar Pradesh-210205.
8. Senior Divisional Retail Sales Manager, Indian Oil Corporation Ltd, Divisional Office, 5<sup>th</sup> Floor. Indira Bhawan, Civil Lines. Allahabad-211001.

- T
- (27)
9. Jai Kanta Nath Filling Station through its proprietor Shri Lakshman Singh, Resident of Mohalla Shatrughanpuri, Devangna Road, Karwi, Chitrakoot, Uttar Pradesh

.....RESPONDENTS

To,

The Hon'ble Chairperson and

His Hon'ble Companion Members of the

Hon'ble National Green Tribunal, Principal Bench at New Delhi.

MOST RESPECTFULLY SHOWETH:

1. That the address of the Applicant is given above for the service of the notices of this application and that of their representative.
2. That addresses of the Respondents are as given above for service of notices of the application.
3. That Applicant above-named begs to present the memorandum of application against the illegal, arbitrary, *malafide* acts and actions of the respondents on the grounds set-out here under :-
4. **FACTS IN BRIEF:**
  - 4.1. That present Application is being filed U/s 14 & 15 (b) & (c) R/w section 18(1) & (2) of the National Green Tribunal Act, 2010 (hereinafter, the 'NGT Act') by the aggrieved person.

being person interested in the protection of the environment, forests and ecology.

4.2. That the present application is being filed by the petitioner, to seek enforcement various guidelines laid and directions given for functioning of petrol pumps operating in the areas notified as protected forests without prior permission of the Central Government & the Forest Department. The rampant illegal functioning of such petrol pumps, without prior clearance and/or in violation of the conditions stipulated from time to time, is affecting the integrity of protected forests, the ecosystem and the overall ecology of the areas concerned resulting in grave violation of the Forest Conservation Act, 1980, and thus there is substantial question relating to environment, wherein the community at large is affected by the environmental consequences, which needs to be decided by this Hon'ble Tribunal.

4.3. That the petitioner is a journalist and interested in the protection of environment and ecology. He has been active in seeking enforcement of the laws and guidelines issued from time to time relating to protection of environment and forests in the District of Chitrakoot, Uttar Pradesh.

4.4. That the respondent No. 9 is the proprietor of the petrol pump being run under name and style of *M/s Jai Kamtanath Filling Station*. The said petrol pump is situated between KM Stones No. 87 to 89 on NH-35 (on the Left Track of Chainage 88.036), *Khasra* No. 703, Village Akbarpur, Karwi-Banda Road, *Tehsil* Karwi, District Chitrakoot, Uttar Pradesh (admeasuring 0.067760 hectares).

4.5. That vide entry 4 of Item 27 of notification No. 1115/XIV33150 dated 10.02.1960, certain area around *NH 35 (Old NH 76)* (earlier falling in District *Banda*) has been declared as a protected forest area and in view of the aforesaid notification, certain acts over the said area are prohibited without the prior approval of the concerned forest department. The petrol pump outlet of the Respondent No. 9 falls within the area notified in the said notification. A copy of the said notification No. 1115/XIV33150 dated 10.02.1960 is annexed herewith as ANNEXURE A-1 (Pages 23 to 24)

4.4 That it is also pertinent to mention herein that directions have been issued by the Hon'ble Supreme Court in the Writ Petition (Civil) No. 202 of 1995 *T.N. Godavarman Thirumulpad v. Union of India & Ors* directing that for any non-forest activity in any area of any forest in any state

throughout the country, the prior approval of the Central Government is a *sine qua non*.

4.5 That it is apposite to mention here that this Hon'ble Tribunal has examined the law relating to the setting up of such petrol pump outlets along the national highways in areas notified as protected forests in Original Application No. 7 of 2013 (*Shyam Sunder v. Union of India & Ors.*). However, despite the fact that this Hon'ble Tribunal has held that the prior permission of the Forest Department and the authority prescribed by the Government of India is mandatory, the violation of the said directions is continuing unabated in the state of Uttar Pradesh.

4.6 That with the intention of setting up the petrol pump at the aforesaid location, the Respondent No. 9, vide application dated 26.09.2013, submitted a request to the District Magistrate, *Chitrakoot* (hereinafter referred to as *the DM*) to acquire no objection certificate (*hereinafter referred to as the NOC*) from various departments including the District Forest Officer (hereinafter referred to as *the DFO*). Upon receiving the said application, the DM called for reports from all the concerned departments vide letter dated 28.09.2013. A true translated copy of the said letter dated 28.09.2013 is annexed herewith as ANNEXURE A-2 (Pages 25 to 26)

- 4.7 That vide order dated 14.03.2014, the then DM proceeded to grant an NOC to the Respondent No. 9 for setting the said petrol pump in the stated area. It is pertinent to mention here that the DFO/Forest Department had not accorded any sanction to the setting up of the said petrol pump in form of a no objection certificate. A true translated copy of the said order dated 14.03.2013 is annexed herewith as ANNEXURE A-3 (Pages 27 to 29)
- 4.8 That upon receiving the said NOC from the DM (without there being an NOC issued by the DFO on record), the Respondent No. 9 started construction of the said petrol pump along with approach and exit roads by destroying plants, felling of trees and leveling the ground.
- 4.9 That the DFO, upon receiving the information that the DM had issued the aforesaid NOC, immediately addressed a letter to the DM on 05.07.2014 whereby it was, inter-alia, informed to the DM no report or NOC had ever been issued by the DFO as has been recorded in the NOC dated 14.03.2014 issued by the DM. The DFO also informed the DM that in view of the judgment of the Hon'ble Supreme Court in *T.N. Godavarman Thirumulpad v. Union of India & Ors.* no approval could have been accorded without the prior permission of the Central Government. A true translated copy

of the said letter dated 05.07.2014 is annexed herewith as ANNEXURE A-4 (Colly.) (Pages 30 to 37)

4.10 That the DFO also inspected the site of the said petrol pump and found that the Respondent No. 9 was destroying the said protected forest area by felling trees, uprooting the flora and leveling the ground for approach and exit roads. Immediately, vide another letter dated 06.07.2014, the DFO issued a warning to the Senior Divisional Retail Sales Manager, Indian Oil Corporation that the activities at the petrol pump should immediately be ceased and the approval of the Central Government be taken.

4.11 That in view of the said destruction of flora and trees and leveling of area of the protected forest area, the DFO also registered Forest Offences being No. 3/2004-05 & 5/2004-05 against the respondents No. 8 & 9 under Section 2 of the Forest Conservation Act, 1980. True translated copies of the said registered forest offences are annexed herewith as ANNEXURE A-5 (Colly) (Pages 38 to 43)

4.12 That upon receiving the letter dated 05.07.2014 from the DFO, the DM suspended the NOC dated 14.03.2014 issued to Respondent No. 9 vide its order dated 10.07.2014. True translated copy of the said order passed dated 10.07.2014 annexed herewith as ANNEXURE A-6 (Pages 44 to 45)

4.13 That in the meantime, the Respondent No. 9 instituted a Writ Petition being No. 34897 of 2014 before the Hon'ble High Court of Judicature at Allahabad, inter-alia, praying for a writ of mandamus for grant of NOC/licence for the sale of High Speed Diesel oil. The said writ petition was vehemently opposed by the state and the fact that no NOC from the DFO or the Central Government had been obtained by the Respondent prior to the setting up the said petrol pump was brought to the notice of the Hon'ble Court. Accordingly, the Hon'ble High Court made the following observations:

*"Learned Standing Counsel has received instructions from the District Supply Officer, Chitrakoot on behalf of the District Magistrate, Chitrakoot by which he has been informed that Ms. Neelam Ahlawat, District Magistrate, Chitrakoot has suspended the grant of license to the petitioner on the ground that no objection given by Zila Stariya Van Adhikar Samiti, Chitrakoot dated 3.3.2014 is not proper in as much as the concerned site and the left side of Banda Karvi National Highway No.35 falls within the area of reserve forest and thus unless no objection is given by the Central Government in accordance with the procedure set up in the judgment of the Supreme Court in T.N. Godavarman Thirumulpad v. Union of India dated 12.12.1996 (Writ Petition (Civil) No.2002 of 1995) the license may not be given by the District Magistrate.*

The District Magistrate has also referred to some proposal given by the Indian Oil Corporation to the Central Government for giving no objection for running petrol pump on the concerned site, which is still pending with the Central Government.

Under the directions of Hon'ble the Supreme Court in T.N. Godavarman Thirumulpad (Supra) such permission has to be given by the Centrally Empowered Committee set up by the Supreme Court for such purpose."

A copy of the said order dated 14.07.2014 passed by the Hon'ble High Court of Allahabad in Writ Petition No. 34897 of 2014 is annexed herewith as ANNEXURE A-7 (Page 46)

4.14 That in order to evade the observations made by the Hon'ble High Court in the said writ petition filed by the Respondent No. 9, the said writ petition was withdrawn by the Respondent No. 9. A copy of the order dated 20.03.2014 passed in Writ Petition No. 34897 of 2014 is annexed herewith as ANNEXURE A-8. (Page 47)

4.15 That against the aforesaid order dated 10.07.2014 passed by the DM, the Respondent No. 9 filed an appeal before the Divisional Commissioner being Appeal No. 440/2013-14. By means of order dated 18.09.2014, the said appeal was allowed while setting aside the order dated 10.07.2014 passed by the DM. As a result thereof, the NOC granted by the DM

1 ← (35)

dated 14.03.2014 has been revived by the orders of the Divisional Commissioner. True translated copy of the said order dated 18.09.2014 passed by the Divisional Commissioner is annexed herewith as ANNEXURE A-9 (Pages 48 to 60)

4.16 That thereafter, the Respondent No. 9 has presented various applications to the DM for the grant of NOC for supply of High Speed Diesel Oil. The said applications have been dismissed by the DM each time for the reason that neither any NOC had been obtained from the DFO/Forest Department nor has any approval been taken from the Central Government by means of orders dated 05.12.2014, 27.01.2015 & 28.02.2019. However, the Divisional Commissioner has been setting aside the said orders passed by the DM by means of orders dated 20.11.2018 (in appeal No. 110/2015) & 12.03.2019 (in Appeal No. 183/2019) respectively.

True translated copies of the said orders dated 05.12.2014, 27.01.2015 & 28.02.2019 passed by the DM are annexed herewith as ANNEXURE A-10 (Colly.) (Pages 61 to 82)

True translated copies of the said orders dated 20.11.2018 (in appeal No. 110/2015) & 12.03.2019 (in Appeal No. 183/2019) respectively passed by the Divisional

1 ✓

(36)

Commissioner (respectively) are annexed herewith as  
ANNEXURE A-11 (Copy.) (Pages 83 to 95)

4.17 That it is pertinent to mention here that an objection has been addressed to the Director, Ministry of Petroleum and Natural Gas, New Delhi bringing to their notice the rampant violation of regulations and destruction of forest areas by the petrol pumps in the District of *Chitrakoot*. However, no action has been taken by the said respondent. True translated copy of the written objection dated 15.12.2018 addressed to the Director, Ministry of Petroleum and Natural Gas, New Delhi is annexed herewith as ANNEXURE A-12 (Pages 96 to 99)

4.18 That in view of the orders passed by the Divisional Commissioner, the NOC dated 14.03.2014 issued in favour of Respondent No. 9 has been revived despite the fact that no approval has yet been granted by either the DFO/Forest Department or the Central Government which is a mandatory pre-requisite for setting up petrol pump outlets in areas notified as protected forests.

4.19 That it is submitted that in the present case the respondent authorities have failed and/or have intentionally not implemented the precautionary principle. It is submitted that there would be an irreversible damage to the ecology and

17

(37)

environment and would cause long term environmental degradation, if the illegal activities are carried on with the help of State Machinery is not prevented.

4.20 That it is submitted that the State Authorities have not taken adequate measures to ensure that such petrol pump outlets are not established without prior environment clearance and approval resulting in grave violation of the Forest Conservation Act, 1980.

4.21 That the State Authorities have also failed to initiate stringent action against the delinquent outlets for not following various environmental directives and obtaining mandatory pre-requisite permissions.

4.22 That despite the fact that these have been brought to the notice of the authorities, such activities are continuing unabated and the authorities have lost sight of the fact that the Respondent No. 9 has not been granted any NOC from either the Forest Department or the Central Government till date.

4.23 That the outlets of the Respondent along with certain other outlets are operating in the said area without any sanction/approval of the Forest Department or the Central Government. Therefore, it is necessary directions may kindly be issued by this Hon'ble Tribunal for regulating the same.

4.24 That in view of the aforesaid facts and circumstances, the present application is being presented on following amongst other grounds which the applicant may take at the time of hearing after craving leave of this Hon'ble Tribunal:

5. GROUNDS

- A. For that, in view of the orders passed by the Divisional Commissioner, the NOC dated 14.03.2014 issued in favour of Respondent No. 9 has been revived despite the fact that no approval has yet been granted by either the DFO/Forest Department or the Central Government which is a mandatory pre-requisite for setting up petrol pump outlets in areas notified as protected forests.
- B. For that, in the present case the respondent authorities have failed to and/or have intentionally not implemented the precautionary principle.
- C. For that, there would be an irreversible damage to the ecology and environment and would cause long term environmental degradation, if the illegal activities are carried on with the help of State Machinery is not prevented.
- D. For that, the State Authorities have not taken adequate measures to ensure that such petrol pump outlets are not established without prior clearance and approval.

- E. For that, the State Authorities have also failed to initiate stringent action against the delinquent outlets for not following various environmental directives and pre-requisite permissions.
- F. For that, despite the fact that these have been brought to the notice of the authorities, such activities are continuing unabated.
- G. For that, the outlets of the Respondent No. 9 along with certain other outlets are operating in the said area without any sanction/approval of the Forest Department or the Central Government. Therefore, it is necessary that directions may kindly be issued by this Hon'ble Tribunal for regulating the same.

6. GROUNDS OF INTERIM RELIEF

For that, in view of the facts and circumstances of the case, it is evident that the petrol pumps are being operated in the areas notified as protected forests without mandatory approval of the Central Government or the Forest Department presenting a continuing threat to the forests, ecology and environment and therefore, it is necessary that directions may kindly be issued by this Hon'ble Tribunal restraining the delinquent petrol pumps from operating along-with directions to the Respondent authorities

to formulate and place on record strategy/scheme to prevent operation of such petrol pump outlets operating without seeking prior clearance of the Forest Department and the Central Government in violation of the Forest Conservation Act, 1980.

7. LIMITATION

That the Present Application is being filed, against the illegal and continuous running of the petrol pumps on the in notified protected forest areas on NH-35 in the district of *Chitrakoot* without any approval of the DFO/Forest Department or the Central Government, and since the same is continuing every-day, it is a continuing violation of the provisions of enactment specified in Schedule 1 of the National Green Tribunal Act, 2010, and thus the present Application is well within limitation.

8. MAIN PRAYER

In view of the above facts and circumstances it is most respectfully prayed that this Hon'ble Tribunal may be pleased to:

- (i) Pass appropriate order quashing/setting aside the No Objection Certificate dated 14.03.2014 issued by the District Magistrate, Chitrakoot, Uttar Pradesh granted to the Respondent No. 9 [Annexure A-3].
- (ii) Pass appropriate order quashing/setting aside orders dated 18.09.2014 (in Appeal No. 440/2013-14), 20.11.2018 (in appeal No. 110/2015) & 12.03.2019 (in Appeal No. 183/2019) passed by the Divisional Commissioner.

Chitrakoot Dham, Banda, Uttar Pradesh, [Annexure A-11  
(Colly.)]

- (iii) Pass appropriate directions removing the petrol pump being operated by Respondent No. 9 situated between KM Stones No. 87 to 89 on NH-35 (on the Left Track of Chainage 88.036), *Khasra* No. 703, Village Akbarpur, Karwi-Banda Road, *Tehsil* Karwi, District Chitrakoot, Uttar Pradesh (admeasuring 0.067760 hectares).
- (iv) Direct the Respondent Authorities to take appropriate legal action against all such petrol pumps operating in the areas notified as protected forests, being operated without seeking prior clearance of the Forest Department or the Central Government in violation of the Forest Conservation Act, 1980 and other laws for protection of forests, and report the same to this Hon'ble Tribunal;
- (v) Direct the Respondent Authorities to formulate and place on record strategy/scheme to prevent operation of petrol pump outlets operating without seeking prior clearance of the Forest Department and the Central Government in violation of the Forest Conservation Act, 1980 and other laws for protection of forests, and report the same to this Hon'ble Tribunal;
- (vi) Direct the Respondent Authorities to prohibit the running of such petrol pumps operating without seeking prior clearance of the Forest Department and the Central

Government in violation of the Forest Conservation Act, 1980 and other laws for protection of forests, and report the same to this Hon'ble Tribunal;

- (vii) Pass any such other or further order as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

9. INTERIM RELIEFS

In view of the above facts and circumstances it is most respectfully prayed that this Hon'ble Tribunal may be pleased to:

- (i) Stay the effect and operation of the No Objection Certificate dated 14.03.2014 issued by the District Magistrate, Chitrakoot, Uttar Pradesh granted to the Respondent No. 9 [Annexure A-3] during the pendency of the present original application.
- (ii) Stay the effect and operation of the orders dated 18.09.2014 (in Appeal No. 440/2013-14), 20.11.2018 (in appeal No. 110/2015) & 12.03.2019 (in Appeal No. 183/2019) passed by the Divisional Commissioner, Chitrakoot Dham, Banda, Uttar Pradesh. [Annexure A-11 (Colly.)] during the pendency of the present original application.
- (iii) Restrain the Respondent No. 9 from operating the petrol pump situated between KM Stones No. 87 to 89 on NH-35 (on the Left Track of Chainage 88.036), Khasra No. 703, Village Akbarpur, Karwi-Banda Road, Tehsil Karwi, District Chitrakoot, Uttar Pradesh (admeasuring 0.067760

hectares) during the pendency of the present original application.

- (iv) Direct the Respondent Authorities to take appropriate legal action against all such petrol pumps operating in the areas marked as protected forests, being operated without seeking prior clearance of the Forest Department and the Central Government in violation of the Forest Conservation Act, 1980 and other laws for protection of forests, and report the same to this Hon'ble Tribunal during the pendency of the present original application;
- (v) Pass any such other or further order as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

Applicant

**THROUGH COUNSEL**

Place: New Delhi  
Date:

Rishi Kapoor, Ashish Pandey, Nikhil Mishra  
**CHAMBERS OF ADVOCATE RISHI KAPOOR**  
 ADVOCATES AND LEGAL CONSULTANTS  
 B-20 NIZAMUDDIN WEST  
 NEW DELHI- 13  
 9871233307  
[advrshikapoor@gmail.com](mailto:advrshikapoor@gmail.com)

**VERIFICATION:**

Verified at New Delhi on this \_\_\_\_ day of \_\_\_\_\_ 2019 that the contents of para nos. \_\_\_\_ to \_\_\_\_ of the Applicant are true and correct to the best of my knowledge, and the contents of para nos. \_\_\_\_ to \_\_\_\_ of the Plaint are true to my information and legal opinion received and believed to be true and correct.

The last para is a prayer to this Hon'ble Tribunal.

**APPLICANT**



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL 73AD 8312P8  
PRINCIPAL BENCH AT NEW DELHI  
ORIGINAL APPLICATION NO. OF 2010

IN THE MATTER OF:

Sajal Agrawal APPLICANT

VERSUS

Union of India & Ors. RESPONDENTS

AFFIDAVIT

I, Sajal Agrawal, S/o Shri Sanjay Agarwal, aged about 31 years, Resident of H.No. 255, in front of Nagar Palika Office, Parahi Bazaar, Karwi, Chitrakoot, Uttar Pradesh do hereby solemnly affirm and declare as under:

1. That, I am the sole Applicant in the above mentioned original application and well conversant with the facts and circumstances of the case. As such I am competent and duly authorized to swear this affidavit for and on behalf of the Applicant herein.

- 2. That, the averments made in the accompanying Application from paragraphs ... to ... are drafted on the instructions and the contents thereof are true and correct to the best of my knowledge and belief. The contents of the same may please be read as part of this affidavit also as the same may be being repeated hereon for the sake of brevity.
- 3. That, the contents of this affidavit are true and correct to the best of my knowledge and honest material has been conveyed in accordance.
- 4. That, the annexures documents filed herewith are true copies/true translations of their respective originals.

*[Signature]*  
DEPONENT

VERIFICATION:

I, Smt. Agneta S. S. Shri. Sangeet Agarwal aged about 33 years, residing at No. 255, in front of Nagar Palika Office, Purani Jajau, Karwi, Chitrakoot, Uttar Pradesh do hereby verify that the contents of the said ... are true to my personal knowledge and that ... to be true on legal advice and ... not suppressed any material facts.

Date: 06-04-2019

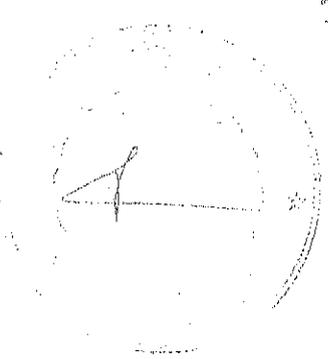
Place: Karwi, Chitrakoot

*[Handwritten signatures and notes in Hindi]*

*[Signature]*  
DEPONENT

*[Handwritten notes and date]*  
06.04.19

15  
6.4.2019  
465  
*[Signature]*



## Forest Department

## Notification

10<sup>th</sup> Feb 1960

Notification no. 1117/14-331-50

It is the opinion of the Governor of the state of UP that under sub section 3 of section 21 of Indian Forest Act, 1927, (Act no. 13 of 27), required investigation and documentation, which is a time taking process, therefore, due to the dangerous/menace & urgent situation, the State Govt. in accordance to it's rights is passing the said Circular/Notification.

Exercising the power under section 60 A read with sub section 1 of Section 21 of the above mentioned Act, the Governor of Uttar Pradesh declares that till the time the inquiry/investigation & documentation is under process, the Annexed Schedule of Chapter 4 of the above mentioned Act, would be applicable on the following lands:

District	Name of Road	Distance in miles, feet etc	Remark
1. Meerut	1. Meerut-Saharanpur	3 miles to 31 miles 2 farlang	is mentioned by stones
	2. Bagpat- Sharanpur	1 m - 25 m and 2 farlang(f)	Do
	3. Bagpat-komishadara	0-17 m and 2f and 260 feet	Do
	4. Meerut- Muana	2 m -- 17 m	Do
	5. Meerut-Bulandsher	2m - 21m	Do
	6. DRM Road	41m-44m	Do
	7. GT Road	870-873m	Do
	8. Bangmabad-Vancitifari	1-26m	Do
	9. Murad Nagar Railway	0-2f 103 feet	Do
	10. Modinagar railway feeder	0-640 feet	Do
	11. Modinagar railway feeder	0-4f 10feet	Do

	12. Meerut-sadrana road	2.426-12.3.2	Do
	13. Bariely-Rairama road	0000-6.420	Do
	14. Bulandshaer-Senagadh road	23m-31m 3f 200 feet	Do
	15. Barot pathroli	1-1m	Do
	16. Meerut-Barashod road	23M-31M 6F 3f 200feet	Do
	17. National Highway no. 24	27m 6f-7f & 3 mile, 1f- 3f	Do
	18. GT Road from Ghazipur to Uttar pradesh pounder.	974m - 549f to 971m- 2f 70 feet	Do
	19. Ghazipur - Hapur road	1m-21m 6f 241 feet	Do
	20. Hapur gadh road	1m 876feet- 11m 4f 70feet	Do
2. Muzzaffarnagar	1. Dru road	56m-11m	Do
	2. Khatoli Jansangh peacepur bijnor	24m 6f- 2m 31feet	Do
	3. Muzzafarnagar samli Kareena	2m-31m	Do
	4. Muzzafarnagar-Sharanpur	77m-10m	Do
	5. Muzzafarnagar-Bijnor	73m-21m	Do
	6. Morma-rafiratal	0-3m	Do
	7. Muzzafarnagar-ghugna road	7m	Do
	8. Muzzafarnagar-Bagpat Sharanpur road	24m-53m 2f	Do
3. Rampur	1. Mohara Manpur Osa	0 10 0 0	Do
	2. Sarbisalpur	0 17 0 0	Do
	3. kuvakra-mimeera	0 5 0 0	Do
	4. Sanvpipli	0 1 0 0	Do
	5. Manpur Arial	0 3 0 0	Do
	6. Dirhal Kashipur	0 6 0 0	Do
	7. Manfara Kiuri	0 5 0 0	Do
	8. Shahbad Dakiya	0 1 0 0	Do
	9. Parvard joulpur	0 5 0 0	Do
24. Unnao	1. Unnao-Hardoi road	1m - 36m	Do

	2. Allahabad-Unnao (Unnao Bhigapur Lalganj road)	12m-123m	Do
25. Lucknow	1. Mohanlal Ganj- Bunny road	0-12m	Do
	2. Bunny haraoni road	0-7m	Do
	3. Machli Bhawan By pass road	0-2m	Do
	4. Chinnat Mashuo road	0-1m 7f 200 feet	Do
	5. Lucknow Hardoi road	Xxx	Do
27. Bandha	1. FBS Road	24m-70m	Do
	2. PNK Road	2m-32m	Do
	3. Pava batiha vabh road	1m-24m	Do
	4. AP Road	32m-119m	Do
	5. KPR Road	1-20	Do
	6. Bareni Kalingar road	1-16	Do
26. Fatehpur	1. NNGT road	543m-512m	Do
	2. FBS Road	1-23	Do
	3. AEF Road	174-112	Do
	4. GB Road	1-7	Do
	5. FRS Road	1-15	Do
	6. Shiv ralpur billaroad	4-10	Do
	7. BS Road	6-20	Do
	8. Baga nauratta road	2-10	Do
	9. Fatehpur Vittur road	2-7	Do
	10. Jahanabad by pass	1-2	Do
28. Kanpur	1. Narial Sarof road	606m 5f 571 feet gt road	Do
	2. Chakekero road- railway feeder road	0-0-0 to 0-2- 326	Do
	3. Vignu railway feeder road- Malgodam road	0-0-0 to 0-7- 537 feet	Do

ANNEXURE A-2

No. 731 /VII-Judicial Assistant/2013 Date: Sep 28, 2013

Sub: In reference to seeking No-Objection for the establishment of proposed New Retail Outlet (Indian Oil) on Land No. 703, Village Akbarpur (B), Teh. Karvi, Distt. Chitrakoot in the District.

- 1. Police Commissioner, Chitrakoot
- 2. Presiding Forest Officer, Chitrakoot
- 3. Sub-District Officer, Karvi
- 4. District Fire Officer, Chitrakoot
- 5. Executive Engineer, National Road Section,
- 6. Executive Engineer, Electricity Distribution Section, Chitrakoot
- 7. Regional Officer, U.P. Pollution & Control Board, Chilla Road Banda.

Please refer above mentioned subject S.D.R.M.S. Blue print of proposed site with map is received for the establishment of M.S. & H.S.D. Filling station New Retail Outlet in Land No. 703, Village Akbarpur (B) N.H.-35, Banda Karvi Road (K.M. stone No. 88 to 89), Tehsil Karvi, District Chitrakoot S.D.R.M.S. Indian Oil Corporation Ltd. (.....), Civil Lines Allahabad vide its letter No. 2013/IN000115/u.p./000021/1401/00007 dated 26.09.2013, a request is made for providing No-Objection Report and related information for the establishment of Retail Outlet Petrol Pump in concerned village/place.

Therefore, photocopy of afore-mentioned letter and blue print of map in its original form is being forwarded enclosed with this instruction that please ensure that No-Objection report of your department with original certification of map be made available instantly.

Enclosed: As Above

Sd/-  
Addl. District Officer (....)  
..... District Officer, Chitrakoot

No. and date as above

CC:

1. Forwarded to District Officer for review
2. Forwarding photocopy of above mentioned letter and copy of proposed sitemap to District Purti Officer, Chitrakoot with this instruction to please ensure the availability of clear (suspasht) No-Objection Report with original attachments at the earliest.

Sd/-  
Addl. District Officer (....)  
..... District Officer, Chitrakoot

## ANNEXURE A-3

## OFFICE OF DISTRICT MAGISTRATE, CHITRAKOOT

No. 121 /VII-Judicial Asstt. /2014 Date: March 14, 2014

NO-OBJECTION CERTIFICATE

(Under rule 144 Petroleum Guidelines 2002)

Sr. Divisional Retail Sales Manager, Indian Oil Corporation Limited, Allahabad vide its letter No. 2013/IN00115/UP/000021/1401/0007 dated 26.09.2013 seeking No-Objection for the establishment of New Retail Outlet (M.S.& H.S.D. Facility) under 89 Kms. (Channels 88.036 towards left) of National Highway (Old N.H.-76) on Banda-Karvi road in village Akbarpur (B) situated at Khasra No. 703, Tehsil Karvi, District Chitrakoot. Instantaneously, the reports were obtained from Police Commissioner, Chitrakoot, District Fire Resistant Officer, Chitrakoot, Addl. District Officer, Karvi, Executive Engineer Electricity Distribution Division, Chitrakoot, Divisional Forest Officer, Forest Division Chitrakoot, Executive Engineer, N.H. Division, P.W.D., Banda, Regional Officer, Pollution Control Board of U.P., Banda. As per reports of Addl. District Officer, Karvi, the transferable land is recorded in the name of Khata owner Laxman Singh S/o Kamta Prasad, R/o

Devangana Road, Karvi of Khasra No. 703 measuring 0.500 hectares in the present Khatauni Khasra No. 193 with consideration Rs. 8.70. The above khasra No. 703 is located towards Kms. 89 (illegible 88.036) Banda Karvi Road of National Highway-35 (old N.H.-76). Because of establishment of proposed Retail Outlet in above mentioned Khasra No. 703, there is no damage to the property of Gram Sabha and Nazool. For the establishment of New Retail Outlet, Revenue Department has no objection. According to the report of Executive Engineer N.H. Division, P.W.D., Banda, provisional No-objection has been granted vide letter dated 27.01.2014 of Regional Officer, Ministry of Road Transport & National Highway, Govt. of India, Lucknow under all instructions/restrictions mentioned in it. No-Objection for the establishment of New Retail Outlet on proposed Khasra No. 703 has been granted by police deptt., Executive Engineer, Electricity Distribution Divn., Divisional Forest Officer, District Fire Resistant Officer, Chitrakoot, Regional Officer, Pollution Control Board of U.P., Banda also.

In the above mentioned reports, no objection has been raised by the concerned departments in the establishment of New Retail Outlet (M.S. & H.S.D. Facility) of Indian Oil Corporation Limited, Allahabad in Khasra No. 703,

TehsilKarviDistt, Chitrakoot situated at village Akbarpur. KhasraNo. 703 measuring 0.500 hectares with illegible consideration amount Rs. 8.70, is recorded land transferable in the name of khata owner Laxman Singh S/o Kamta Prasad, R/o Devangana Road Karviin the and in question Khata No. 193.

Therefore, No-Objection is granted for the establishment of New Retail Outlet (M.S. & H.S.D. Facility) of Indian Oil Corporation Limited, Allahabad in khasra No. 703, TehsilKarvi, District Chitrakoot situated at Village Akbarpur (B) under sufficient safety conditions/restrictions etc. of site-plan (map) under District Fire ..... Officer Chitrakoot, Executive Engineer N.H. Divn., P.W.D., Banda and Petroleum Act, 1934 and guidelines 2002 on grounds of reports obtained as mentioned above.

Encl.: 3 true copies of site-plan.

Sd.  
District Magistrate, Chitrakoot

## ANNEXURE A-4

OFFICE OF DIVISIONAL FOREST OFFICER,  
CHITRKOOT FOREST DIVISION, CHITRKOOT

Letter No. 63/33-1/date, Chitrkoot July..., 2014

To,

District Officer  
Chitrkoot

Sub: In reference with dismissal of No-Objection Certificate conferred for the establishment of Retail Outlet of Indian Oil Corporation Ltd. On left track of of km. 88.036 of N.H.-35 (Old N.H.-76), Banda Karvi on khasra No, 703 located at Akbarpur (B), TehsilKarvi

Ref: Your letter No. 121/7-Judicial Assistant dated 14.03.2014

Madam,

In the above referenced letter, No-Objection Certificate is issued by then District Officer, Chitrkoot Shri. Surender Vikram for the establishment of Retail Outlet of Indian Oil Corporation Ltd. On Km. No. 89.00 (on left track of Chains 88.036) of N.H.-35 (Old N.H.-76), Banda Karvi on

khasra No. 703 located at Akbarpur (B), Tehsil Karvi.  
(Attachment -01)

This is to inform regarding above that Banda Karvi National Highway No. 35 (Old National Highway No. 76) is declared conserved forest vide Notification No. 1115/14-331-50 dated 10.02.1960. Under Section 2 of Forest Conservation Act, 1980, non-forestry work of any kind cannot be carried out in conserved, reserved and any other type of forest area without prior permission from the Government of India vide order dated 12.12.1936 passed by Hon'ble Supreme Court in writ petition (civil) 202/95 T.N. Gonda Barman Thirumalakpad Vs. Union of India & Ors.

Under Forest Conservation Act, 1980, the forest land transfer proposal for the establishment of Retail Outlet in 0.06776 hectares of conserved forest land (on left track of 88,036 chains of old N.H.-76) Banda-Karvi National Highway No. 35 is prepared and forwarded by Indian Oil Corporation Limited. (Attachment-02) wherein some lacunae were found which were written to Indian Oil Corporation Ltd., Allahabad to overcome them.

It is mentioned in No-Objection Certificate issued by the then District Officer Sir that report has been obtained to confer No-Objection Certificate from Divisional Forest

Officer, Chitrkoot. It is to inform in this connection that any report/ No-Objection Certificate has not been forwarded by undersigned in National Highway which is declared as Conserved Forest area under Forest Conservation Act, 1980.

Madam, from the above referenced letter, it is clear violation of Section 2 of Forest Conservation Act, 1980, Section 29 & 33 of Indian Forest Act, 1927 and order dated 12.12.1996 of Supreme Court from the No-Objection Certificate being conferred for the establishment of New Retail Outlet in conserved forest land. The retail has been installed forcefully by Indian Oil Corporation Ltd. by grabbing conserved forest land of 0.06776 hectares and highway on conserved forest land is being used by saying that No-Objection Certificate has been conferred for the establishment of Retail Outlet by District Officer, whereas, Indian Oil Corporation is fully aware that 0.06776 hectares of conserved forest land is required for commuting in Retail Outlet and proposal seeking permission from Government of India is also sent by them.

In the orders of above, it is a humble request to madam to kindly cancel No-Objection Certificate for the establishment of outlet issued vide letter No. 121/7-judicial-Asstt./ dated 14.03.2014 by the then District Officer and please get the

operation of petrol pump stopped, so that violation of Section -2 of Forest Conservation Act, 1980 and Section 29 & 33 and order dated 12.12.1996 passed by Supreme Court may be stopped.

Encl: As Above

Sd/-  
(Moolchand)

Divisional District Officer, Chitrakoot

No. ....and date as above

CC: forwarded to below mentioned with this request that appropriate action on their own level may kindly be taken on the above.

1. Chief Forest Conservator/ Nodal Officer, Lucknow, U.P.
2. Chief Forest Conservator, Bundelkhand Zone, U.P.,  
Jhansi
3. Chief Forest Conservator, Chitrakootdham illegible,  
U.P., Banda

Sd/-  
(Moolchand)

Divisional District Officer, Chitrakoot

58

35

ANNEXURE A-5

OFFICE OF DIVISIONAL FOREST OFFICER,  
CHITRKOOT FOREST DIVISION, CHITRKOOT

Letter No. /33-1/date, Chitrkoot July 6, 2014

To,

Shri Ashish Kumar Gupta,  
Senior Grp. Retail Sales Manager,  
S.D.R.S.M.,  
Indian Oil Corporation Ltd. (M.D.)  
Allahabad Mandal Office,  
Vth Floor, Indira Bhawan,  
Civil Lines, Allahabad

Sub: In reference with land transfer proposal of  
0.06776 hectares conserved forest land without  
felling of trees for the establishment of Retail  
Outlet of Indian Oil Corporation Ltd. On left track  
of km. 88.036 of N.H.-35 (Old N.H.-76), Banda  
Karvi Road on khasra No. 703 located at  
Akbarpur (B) in the district Chitrkoot.

Ref: Your letter No. 5331/33-12 dated 29.06.2014

In the order of the above referred letter you have conveyed through vide your letter A.L.B./R.S. dated 02.07.2014 that Retail Outlet is installed after getting No-Objection certificate from District Officer, Chitrkoot on 14.03.2014.

As you are already aware that Banda Karvi National Highway No. 35 (Old National Highway No. 76) is declared conserved forest vide Notification No. 1115/14-331-50 dated 10.02.1960. Under Section 2 of Forest Conservation Act, 1980, non-forestry work of any kind cannot be carried out in conserved, reserved and any other type of forest area without prior approval from the Government of India and the approval can be given only and only by the Government of India. In the same order, a proposal was forwarded by you for obtaining No-Objection for obtaining approval for path for commuting of vehicles in 0.06776 hectares of above said conserved forest area from the Government of India which is attached hereto. It is clear violation of Section 2 of Forest Conservation Act, 1980 and Section 29, section 33 of Indian Forest Act, 1927, Biodiversity Act, 2004 and order dated 12.12.1936 passed by Hon'ble Supreme Court in writ petition (civil) 202/95 T.N. Gonda Barman Thirumalakpad Vs. Union of India & Ors by you and installed outlet and constructed path for commuting by destroying the houses of various flora and fauna and vegetation and unlawful use of this path in the above forest conservation area without obtaining approval from the Government of India.

Therefore, you are apprised finally that you stop commuting from the conserved forest area in question within 24 hours with immediate effect. In case of otherwise, statutory proceedings will be implemented against you under relevant sections. You will be solely responsible for this unfortunate situation. Moreover, this is to inform you also that the proposal for forest land transfer in above said conserved forest area forwarded by you has some lacunae and you are informed vide this referenced letter to remove those lacunae. Please remove these lacunae and ensure conferring of approval from the Government of India.

Sd/-  
(Moolchand)  
Divisional District Officer  
Chitrakoot

No.64 A/same date

1. CC: Forwarded for necessary action to Forest Conservator, Chitrkoot Circle, Banda from his own level.
2. CC: Forwarded to District Officer, Chitrkoot for further action in order of letter -63/33-1 dated 06.07.14.
3. CC: Information to General Manager (office of state of U.P. -1) Indian Oil Corporation Ltd. (U.P.S.O. first)

T.C. 39-V Vibhuti Clause Gomati Nagar, Lucknow-226010 and forwarded with this intent that ensuring of stopping establishment of outlet without approval by govt. of India in the area of conserved forest.

4. CC: Forwarded to Sub-divisional forest officer, Chitrkoot & Regional forest officer, Karvi with this intent that legal action as per rules is ensured in above said case. CC: Forwarded to Forest Conservator, Chitrkoot Circle, Banda for necessary action from his own level.

Sd/-  
(Moolchand)  
Divisional District Officer  
Chitrakoot

Forest Department: Circle. :Banda Division:Chitrkoot

Book No.:

Forest Offence:Violation of section 2 of Forest Conservation Act, 1980

Report No.:03/2014-15 Date: 2.7.2014 Range:Karvi

---

**1. Name, Father's Name and residence of offender:**

1. Ashish Kumar Gupta, S.B. R.S.M. Indian Oil Corp. Filling Station Ltd. (M.D.) Allahabad Mandal Office -5, Teh. IndiraBhawan Civil Lines, Allahabad.
2. Dealer Laxman Singh, Indian Oil Prop. Jai Kamtanath Filling Station Bharatkoop, Distt. Chitrkoot.

**1. Name of witness:**

Shri. Narender Singh, illegible Karvi to Shri. Hari Shankar Singh and self.

**2. Detail and date of alleged offence:**

Violation of Section 2 of Forest Conservation Act, 1980

**3. Value:**

In the mid of Jhansi Mirzapur N.H. km. No. 88-89  
Filling soil on left track

**4. Remarks about challan and investigation:**

Section 2 of Forest Conservation Act, 1980

**5. Particulars of report with evidence:**

Sir,

It is humbly requested that it is known from reliable sources that Shri. Laxman Singh, dealer Indian Oil, Prop. Jai Kamtanath Filling Station Bharatkoop, filled soil and started petrol pump by filling soil in the mid of Jhansi-Mirzapur National Highway Km. No. 88-89(88.036) on the left track which is conserved forest without seeking permission of government of India. On 27.06.2014 at around 12 PM during day with aforesaid illegible reached the site to get the path closed on J.C.B. As soon as we tried to get the drain dugged, Laxman Singh, dealer, Indian Oil arrived with his associates on the site and protested of drain digging on the path and did not allowed us to close the path. In view of fear of disturbance of peace, we returned taking J.C.B. with us.

Illegal possession on conserved forest without seeking permission of government of India by aforesaid accused persons is an open violation of section 2 of Forest Conservation Act, 1980, committed by them, which is a punishable crime.

Therefore, report is submitted at your service.

Sd.

Forest Department: Circle. :Banda Division:Chitrkoot

Book No.:

Forest Offence: Violation of section 2 of Forest Conservation Act, 1980

Report No.:03/2014-15 Date: 2.7.2014 Range:Karvi

**2. Name, Father's Name and residence of offender:**

3. Ashish Kumar Gupta, S.B. R.S.M. Indian Oil Corp. Filling Station Ltd. (M.D.) Allahabad Mandal Office -5, Teh. IndiraBhawan Civil Lines, Allahabad.

4. Dealer Laxman Singh, Indian Oil Prop. Jai Kamtanath Filling Station Bharatkoop, Distt. Chitrkoot.

**6. Name of witness:**

Shri. Narender Singh, illegible Karvi to Shri. Hari Shankar Singh and self.

**7. Detail and date of alleged offence:**

Violation of Section 2 of Forest Conservation Act, 1980

**8. Value:**

In the mid of Jhansi Mirzapur N.H. km. No. 88-89  
Filling soil on left track

**9. Remarks about challan and investigation:**

Section 2 of Forest Conservation Act, 1980

**10. Particulars of report with evidence:**

42

(65)

Forest Department:U.P. Circle.:Banda

**Division:**Chitrkoot Book No.:

Forest Offence: Violation of section 2 of Forest Conservation Act, 1980

Report No.:03/2014-15 Date: 2.7.2014 Range:Karvi

---

**4. Name, Father's Name and residence of offender:**

5. Ashish Kumar Gupta, S.B. R.S.M. Indian Oil Corp.  
Filling Station Ltd. (M.D.) Allahabad Mandal Office -5,  
Teh. IndiraBhawan Civil Lines, Allahabad.

6. Dealer Laxman Singh, Indian Oil Prop. Jai Kamtanath  
Filling Station Bharatkoop, Distt. Chitrkoot.

**5. Name of witness:**

Shri. Narender Singh, illegible Karvi to Shri. Hari  
Shankar Singh and self.

**6. Detail and date of alleged offence:**

Violation of Section 2 of Forest Conservation Act,  
1980

**7. Value:**

In the mid of Jhansi Mirzapur N.H. km. No. 88-89  
Filling soil on left track

**8. Remarks about challan and investigation:**

Section 2 of Forest Conservation Act, 1980

**9. Particulars of report with evidence:**

Sir,

The aforesaid accused persons filled soil and started petrol pump by filling soil in the mid of Jhansi-Mirzapur National Highway Km. No. 88-89(88.036) on the left track which is conserved forest without seeking permission of government of India on 27.6.2014. On 27.06.2014, Shri. Narender Singh area illegible Karvi and Shri. Hari Shankar Singh, with illegible reached the site tried to close the commuting way but failed. Registered case No. 3/2014 against aforesaid accused persons for encroachment in conserved forest land. On 2.7.2017 again, got special information from informer that soil is filled on rugged road and road is made for commuting by Shri. Laxman Singh, dealer, Indian Oil. Believing the information, reached the site with associates on 2.7.2014 at around 8 am in the morning and saw that the path was made even by filling soil brought from outside on the land of conserved forest by Laxman Singh, dealer, Indian Oil, Prop. Jaikamtanath filling Station Bharatkoop with the help of 8-10 persons. We made effort to take tools of workers in our possession but our effort failed because of ShriLaxman Singh. There was chance of disturbance of peace and fight if more force would have been applied. It was stated by Laxman Singh that whatever force or law you can apply, do it. I will not let the commuting way closed

(67)

44

because I have got no-objection from District Officer, Chitrkoot and illegible. I am carrying this work with the consent of manager, retail sales S.D.R.S.M. Indian Oil Corporation (M.D.). Jhansi-Mirzapur (Allahabad-Banda) N.H. 36 vide illegible No. 1115/14-331-illegible date 10.2.1960 is declared conserved forest. Shri Ashish Kumar Gupta, illegible.....

Therefore, Information Report is forwarded at your service.

45

68

ANNEXURE A-6

OFFICE OF DISTRICT MAGISTRATE, CHITRKOOT

No.939/7-Judicial Asst./2014

Date; July 10, 2014

ORDER

A humble request has been made for the dismissal of No-objection Certificate letter No. 121/7-Judicial Assistant/date:14.03.2014 by the office of Divisional Forest Officer Chitrkoot, Forest Deptt. Vide its Letter No. 63/33-1/date: Chitrkoot July 06, 2014 mentioning that any kind of non-forestry work cannot be carried without prior approval of Govt. of India in forest area for the establishment of retail outlet of Indian Oil Corporation Ltd. On left track of Km. 88.036 of Banda-Karvi National Highway No. 35 (Old National Highway No. 76) on Khasra No. 703 situated at Akbarpur (B), Tehsil Karvi in district Chitrkoot. In the process, the concerned file of establishment of retail outlet is reviewed whereby it was explained that in this connection, a proposal regarding conferring No-objection has been sent to Govt. of India by Indian Oil Corporation Ltd but the govt. of India has not yet given No-Objection till date. In the present case, considering No-Objection conferred by District level Authority Committee, Chitrkoot on 03.03.2014 as ground for the establishment of retail outlet of Indian Oil Corporation Ltd On left track of Km.

88.036 of Banda-Karvi National Highway No. 35 (Old National Highway No. 76) on Khasra No. 703 situated at Akbarpur (B), Tehsil Karvi in district Chitrkoot, was installed on 11.03.2014 which does not appear justified. In such circumstance, No-objection Certificate No. 121/7-Judicial Assistant/date:11.03.2014/14.03.2014 are postponed unless No-objection is not duly conferred by the govt. of India in this regard. Accordingly, all the concerned may kindly be informed for necessary action.

This order will be effective immediately.

Sd/-  
District Magistrate, Chitrkoot

No. and date as above

CC:

1. Senior Retail Sales Manager, Allahabad Division Office, Indian Oil Corporation Ltd. With this intent that No-objection Certificate be made available at the earliest while exercising necessary action on above said case.
2. For information and necessary action to Divisional Forest Officer, Chitrkoot.
3. For information and necessary action to Sh. Laxman Singh, Dealer Indian Oil, Propreitor Jai KamtaNath filling station, Bharatkoop, Chitrkoot.

Sd/-  
District Magistrate, Chitrakoot

Annexure A-7

70

47

Court No. - 32

Case :- WRIT - C No. - 34897 of 2014

Petitioner :- Jai Kanta Nath Billing Station Thru Prop. B. Another

Respondent :- State Oil P. & S. Corp.

Counsel for Petitioner :- R. N. Singh, A.K. Tivedi

Counsel for Respondent :- C.S.C.

Hon'ble Sunil Ambwani, J.

Hon'ble Attau Rahman Masoodi, J.

The impleadment application to implead Indian Oil Corporation is allowed.

Learned Standing Counsel has received instructions from the District Supply Officer, Chitrakoot on behalf of the District Magistrate, Chitrakoot by which he has been informed that Ms. Neelam Ahlawat, District Magistrate, Chitrakoot has suspended the grant of license to the petitioner on the ground that no objection given by Zila Stariya Van Adhikar Samiti, Chitrakoot dated 3.3.2014 is not proper in as much as the concerned site and the left side of Banda Karvi National Highway No.35 falls within the area of reserve forest and thus unless no objection is given by the Central Government in accordance with the procedure set up in the judgment of the Supreme Court in T.N. Godavarman Thirumulpad v. Union of India dated 12.12.1996 (Writ Petition (Civil) No.2002 of 1995) the license may not be given by the District Magistrate.

The District Magistrate has also referred to some proposal given by the Indian Oil Corporation to the Central Government for giving no objection for running petrol pump on the concerned site, which is still pending with the Central Government.

Under the directions of Hon'ble the Supreme Court in T.N. Godavarman Thirumulpad (Supra) such permission has to be given by the Centrally Empowered Committee set up by the Supreme Court for such purpose.

Let detailed counter be filed by the Standing Counsel bringing on record the order of the District Magistrate dated 10th July, 2014. Shri Tarun Verma appearing for the Indian Oil Corporation will also file counter affidavit.

List on 4th August, 2014 in the additional cause list.

Order Date :- 14.7.2014

SP/

Annexure A-8

71

Court No. - 21

48

Case :- WRIT - C No. - 34897 of 2014

Petitioner :- Jai Kamta Nath Filling Station Thru' Prop. & Another  
Respondent :- State Of U.P. & 3 Others  
Counsel for Petitioner :- R.N. Singh, A.K. Trivedi  
Counsel for Respondent :- C.S.C.

Hon'ble Amreshwar Pratap Sahi, J.

Hon'ble Vivek Kumar Birla, J.

Sri R.N. Singh alongwith Sri Trivedi pray that the writ petition be dismissed as not pressed.

The writ petition is, accordingly, dismissed as not pressed.

Order Date :- 20.8.2014  
Irshad

## ANNEXURE A-9

Appeal No. C2014070000440 under Rule 154(2)

Petroleum guidelines 2002, district Chitrkoot.

Jai KamtaNath Filling Station, Bharatkoop  
Thru Dealer/Prop. Laxman Singh

Versus

State Government of U.P.

ORDER

This appeal is filed being aggrieved by the order dated 10.07.2014 passed by District Magistrate, Chitrkoot under which No-objection Certificate No. 121/7-Judicial Assistant/date 11.03.2014/14.03.2014 issued to appellant is deferred until No-objection is duly conferred by the Govt. of India in regard to the case by District Magistrate.

Heard the learned advocate of appellant and learned District Govt. Advocate (Revenue) on behalf of opponent State and appeal file and original file of office of District Magistrate, Chitrkoot related to case are reviewed equally.

The facts of case in brief are such that vide letter No. 2013 dated 26.09.2013 of Sr. Divisional Retail Sales Manager, Indian Oil Corporation Limited, Allahabad, sought permission for the establishment of new Retail Outlet on K.M. 89 (Chains 88.036 towards left) Banda-Karvi road on

National Highway No. 35 (Old National Highway No. 76) located at khasra No. 703 in village Akbarpur and requested for No-objection Certificate from District Magistrate, Chitrkoot. In the process of which, the then District Magistrate obtained reports from police superintendent, district Fire extinguishing officer, Dy. District Officer Karvi, Executive Engineer Electricity, Divisional Forest Officer, Forest Division Chitrkoot, Executive Engineer, N.H. Clause, PWD, Banda, Regional Officer, Pollution Control Board of U.P., Banda. According to the report of Dy. District Officer, Karvi land No. 703 measuring 0.500 hectares transferable land record in the name of Khata owner Laxman Singh is registered in Khata No. 193 of present khatauni of proposed New Retail Outlet M.S. & H.S.D. Facility, village Akbarpur (B). there is no damage to Gram Sabha and Nazool property because of the establishment of proposed retail outlet in said land and revenue deptt. has no objection. Similarly, according to the reports of Executive Engineer N.H. PWD, Banda, a Provisional No-Objection related to case is sanctioned under all the instructions/restrictions mentioned in letter dated 27.01.2014 of Regional Officer, Ministry of Road Transport and National Highway, Government of India, Lucknow. Moreover, No-objection has conferred for the establishment of New Retail Outlet on

proposed site by the officers of other aforesaid departments, keeping view of these, in above mentioned under conditions/restrictions of installation of underground tank according to siteplan, adquate fire related safety etc. according to standards under Petroleum Act, 1934 and guidelines 2002 for the establishment of New Retail Outlet of Indian Oil Corporation Limited, Allahabad in above mentioned Khasra No. 703 which is Bhumidhari No., No-objection No. 121/7-Judicially Assistant/date 11.03.2014/14.03.2014 was issued by the then District Magistrate Shri. SurenderVikram. In the process of which inauguration of filling work/petrol pump was initiated by appellat on 23.06.2014.

After the inauguration of said filling station, letter No. 63/33-1/date 06.07.2013 was forwarded to District Magistrate, Chitrkoot with this intent that Banda-Karvi road is declared conserved forest area vide Notification No. 1115/14-331-50 dated 10.02.1960 by Divisional Forest Officer, Chitrkoot. Any kind of non forestry work cannot be carried without prior permission from the government of India in Conserved, Reserved and other types of forest areas. The proposal of forest transferable land was prepared for the establishment of above said Retail Outlet under Forest Conservation Act, 1980 and forwarded by Indian Oil

Corporation Limited, wherein some lacunae are there for which Indian oil Corporation was written to remove these lacunae. It is mentioned in No-objection issued by the then District Officer that report is obtained from Divisional forest Officer, Chitrkoot for giving No-objection. Whereas, in this connection, no report/no-objection certificate was forwarded to District Officer under Forest Conservation Act, 1980. Thus, prayed for the dismissal of No-objection certificate issued by the then District Officer, Chitrkoot by Divisional forest Officer, in order of which, it is mentioned in order in question dated 10.07.2014 of District Magistrate that for conferring No-objection regarding establishment of New Retail Outlet, proposal by Indian Oil Corporation Limited has been sent to the government of India, but No-objection has not been obtained from the government of India till date. On 03.03.14 in case, considering No-objection conferred by district level Forest Rights Committee, Chitrkoot as ground, No-objection provided for the establishment of retail outlet of Indian Oil Corporation Limited in question does not seem right. No-objection certificate No. 121/date 11.03.2014/14.03.14 issued by former District Magistrate is dismissed until it is obtained from the government of India by present District Magistrate, Chitrkoot. Thus, this appeal is submitted

against above said order dated 10.07.2014 of present District Magistrate.

According to the statements mentioned in grounds of appeal, it is stated by the learned advocate of appellant in his main argument that only after getting all reports of all departments and District Divisional Officers, Chitrkoot; the then District Magistrate issued No-objection Certificate dated 11.03.2014/14.03.14. This mention in letter dated 06.07.2014 of Divisional Forest Officer is wrong that no report/No-objection certificate was sent to District Officer by them. In support of his statement, the certificate issued by district level Forest Rights Committee, Chitrkoot on which District officer/Director, District level Forest Rights Committee, Chitrkoot, Chitrkoot Forest Division, Chitrkoot affixed signature on 03.03.2014 and as a member of committee in Divisional Forest Officer, Chitrkoot, Chitrkoot Forest Division Chitrkoot affixed signature on 12.02.14, was got reviewed and stated that said certificate is issued under Forest Rights Act, 2006 in which it is clearly mentioned that committee has no objection allowing use of non forestry work without felling trees on 0.06776 hectares conserved forest land for the construction of proposed retail outlet. Similarly, Certificate dated 06.02.14 of Sub-divisional level Forest Rights Committee and passed the proposal

unanimously by village level Forest Rights Committee Akbarpur (B) and conferred No-objection certificate in favour of appellant, on grounds of which No-objection certificate was issued in favour of appellant by the then District Magistrate. In regard to the necessity of no-objection of govt. of India, got list dated 11.09.14 with informations available under Right to Information Act, 2005 reviewed and stated that all petrol pumps installed after year 1980 are required to obtain approval from govt. of India necessarily. According to information dated 04.08.2014 of Divisional Forest Officer/D.I.O (District Information Officer, Chitrkoot, no-objection of petrol pumps installed on declared conserved forest roads are not yet obtained from govt. of India in district Chitrkoot. Similarly, according to information of Divisional Forest Officer, Banda, there are 10 petrol pumps are established in conserved forest road. No petrol pump has got No-objection from the govt. of India under Forest Conservation Act, 1980. Thus, this mention of order dated 10.07.2014 in question of District Magistrate, Chitrkoot that 'as long as no-objection is not duly provided by the govt. of India in this regard, No-objection is postponed dated 11.03.2014/14.03.14 for the time being.'The order in question is not relevant theoretically because it takes too long to get no-objection of

government of India as it is evident from the review of information obtained under Right to Information Act. It is stated that filling work/petrol pump of appellant has started from 23.06.2014, the appellant will suffer irreparable loss if stopped it. There is no loss and damage to forestry/environment from pump of appellant by the appellant. No condition is being violated by the appellant and the petitioner will not violate any terms & conditions in future also. It is prayed to accept the appeal, dismiss order dated 10.07.14 passed by District Magistrate and revoke No-objection certificate in situ.

It is stated, on behalf of state, by District Government Advocate (revenue) that Banda-Karvi National Highway No. 35 (old N.H. No. 76) is declared as conserved forest region. Any kind of non-forestry work cannot be carried without prior permission from the government of India in conserved forest region, but it takes too long to get No-objection from the government of India. There are many petrol pump/filling stations are installed on Banda-Karvi road after year 1980, which has not got No-objection from the government of India till date. If these petrol pumps will be made to close without the permission of government of India then entire development work will get interrupted. Also, revenues will also get damaged. In the hope of getting

no-objection of government of India, development work and under certain conditions in view of revenue, No-objection certificate dated 11.03.2014/14.03.14 issued by District Magistrate, Chitrkoot are revoked.

I contemplated the above said arguments of both parties seriously and observed the appeal file and case related true file related of office of District Magistrate, Chitrkoot and evidences presented by appellant comprehensively. From the observation of case related original file, it is evident that according to reports of Dy. District Office, Karvi, land No. 703 measuring 0.500 hectares transferable land record in the name of Khata owner Laxman Singh is registered in Khata No. 193 of present khatauni of proposed New Retail Outlet M.S. & H.S.D. Facility, village Akbarpur (B). there is no damage to Gram Sabha and Nazool property because of the establishment of proposed retail outlet in said land and revenue deptt. has no objection. Similarly, according to the reports of Executive Engineer N.H. PWD, Banda, a Provisional No-Objection related to case is sanctioned under all the instructions/restrictions mentioned in letter dated 27.01.2014 of Regional Officer, Ministry of Road Transport and National Highway, Government of India, Lucknow. Similarly, No-objection was obtained from other concerned departments also such as Police Superintendent, district

57

80

Fire Extinguishing Officer, Executive Engineer Electricity, Regional Officer, U.P. Pollution Control Board, Village level forest rights committee, Sub-divisional level forest rights committee and district level forest rights committee. The countersigned 'Report' is forwarded to the then district officer under Forest Rights Act, 2006 (FRA 2006) regarding issuance of No-objection certificate for permission of non-forestry use without deforestation of 0.06776 hectares protected forest land of Khasra No. 703 for the construction of proposed petrol pump of Indian Oil Corporation Ltd. under letter No. 2503/date /33-1 dated 17.01.2014 of ShriMoolchand, Divisional Forest Officer, Chitrkoot, which is annexed hereto with case related original file on paper No. 87. Moreover, Divisional Forest officer, Chitrkoot affixed his signature as a member of aforesaid committee on 12.02.2014 on No-objection certificate issued by district level forest rights committee, Chitrkoot. Thus, it is mentioned in letter No. 63/33-1/date 06.07.2014 of Divisional Forest Officer, Chitrkoot that no report/ No-objection Certificate has been forwarded to District Officer by them under Forest Conservation act, 1980. In view of above, the facts are not justified because Divisional Forest Officer was cognizant of this fact that No-objection for retail outlet is to be issued by Forest officer, then along with

aforesaid forwarded report, the provisions of Forest conservation Act, 1980 should also be mentioned by them. After the operation of Filling Station in question of appellant started, the letter 63 dated 06.07.2014 of Divisional Forest officer with subject to dismiss No-objection certificate dated 11.03.2014/ 14.03.2014 issued by the then District Magistrate was not justified. Because no objection was obtained of all concerned departments by the then District Magistrate and only after obtaining No-objection certificate and consent of all concerned departments, No-objection Certificate dated 11.03.2014/14.03.2014 was issued in favour of appellant, wherein no illegality is reflected. In the original file, it is apparent from reviewing photograph annexed with proposed New Retail Outlet site that any kind of deep forest nearby proposed site is not there, however, only a tree is planted on the land of forest area. It is apparent from the observation of roadmap of proposed New Retail Outlet that it is located at BharatkoopBazar near Kms. 89 Chains (Chains 88.036 towards left)Banda Karvi road of National Highway No. 35 (old N.H. 76) at towards road nearest to Filling Station Bharatkoop Railway Station and religious heritage Bharatkoop Temple, because of its establishment, supply of petroleum products will be accessible to general public from time to time with the

development of area. Because of proposed new Outlet, Chitrkoot being on the way to pilgrimage area, and because of business of gitti, kesar in Bharatkoop, vehciles commute more often on this place, because of this reason, there is the possibility of revenue growth due to its operation. So far prior permission/no-objection from the govt. of India related to the case is concerned, then it is evident from reviewing of information by appellant that many petrol pumps have been installed after the year 1980 in the conserved forest area in district Chitrkoot and Banda. Thus, keeping in view of delay of No-objection obtained from Government of India, appeal is acceptable under below mentioned restrictions and conditions:-

1. The trees on the land of conserved forest area will not be cut by appellant. However, they will be conserved with their own cost.
2. For commuting unto proposed New Outlet, minimum land of conserved forest area will be used and forestation will be carried at their own cost for the conservation of forest.
3. Construction work of any kind, permanent or temporary, will not be carried by appellant on the land of protected forest area and no holding will be installed on the land of protected forest area.

4. The order/conditions/restrictions, whatever, passed by the govt. of India or govt. of U.P. in connection with establishing proposed New Outlet or regarding land of protected forest area, will be bound on appellant, which will be inevitable for the appellant to comply with it.

**ORDER**

No-objection Certificate no. 121/7-Judicial Assistant/date 11.03.2014/14.03.2014 issued by former District Magistrate is restored in situ accepting appeal accepted under aforesaid review and conditions and revoking postponed order dated 10.07.2014 in question passed by District Magistrate, Chitrkoot. In case, the appellant is violating or found violated any condition from among above said conditions, then District Magistrate, Chitrkoot is free to take legal action against appellant. Since new outlet is in operation at present, therefore, no hinderance against law will be created against the its operation. The case related original file along with certified copy of this order be returned immediately. The appeal file be submitted to the office after necessary action.

**Date: September 18, 2014**

Sd/-  
Commissioner

61

(84)

This order is duly signed with date and announced by me in  
an open court.

Date: September 18, 2014

Sd/-  
Commissioner

## ANNEXURE A-10

ORDER

In view of Divisional Forest Officer letter No.63/33-1 dated 06.07.2014, in order of No-objection not issued from government of India, vide official letter No. 121/7-Judicial Assistant/2014 dated 11.03.2014/14.03.2014 is postponed unless No-objection is not duly given by the government of India in this matter.

Aggrieved by the above said order of N.O.C. postponement, this appeal No. C 2014070000440/2014 is filed before the Hon'ble Court of Commissioner, ChitrkootdhaamMandal Banda by Shri. Laxman Singh, Prop. M/s Jai Kamtanath Filling Station Bharatkoop. Hon'ble Court of Commissioner accepted this appeal on condition "the directives/conditions/restrictions, whatsoever, passed from government of India or government of U.P. in connection with land of conserved forest region and regarding proposed New Retail Outlet, will be compulsive on appellant, the compliance of which will be indispensable by the appellant."

Writ petition No. 34897/2014 was filed in Hon'ble High Court by Shri. Laxman Singh, Prop. M/s Jai Kamtanath Filling Station Bharatkoop prior to this wherein it is

mentioned by Hon'ble High Court in its order dated 14.07.2014 that "Under the direction of the Hon'ble Supreme Court in T.N. GodavarmanThirumulpad (Supra) such permission has to be given by the Centrally Empowered Committee set up by the Supreme Court for such purpose."

The legal opinion was also sought by District Government Advocate, Civil on 09.11.2014 in this case wherein District Government Advocate, Chitrkoot mentioned that as long as order of accepting appeal is concerned by honorary commissioner in referenced case, it is pertinent in clause 4 of this order that N.O.C. is required for conserved forest region from government of India. In these circumstances, order duly passed in Hon'ble Supreme Court in T.N. GodavarmanThirumulpad (Supra) Vs. Union of India, such permission has to be given by the Centrally Empowered Committee set up by the Supreme Court for such purpose by which I agree.

Since, no records were attached hereto with his application dated 05.05.2014 or in his applications post this in connection with obtaining N.O.C. from government of India for conserved forest area by proprietor of above said retail outlet . Therefore, Shri. Laxman Singh, Prop. M/s Jai

64

(87)

Kamtanath Filling Station Bharatkoop is directed to obtain No-objection certificate from government of India for conserved forest area for grant of sale license of diesel from his aforesad retail outlet and submit this in the office of District Supply Officer, Chitrkoot so that his said application can be disposed of.

Sd.  
(Neelam Ahlawat)  
District Officer, Chitrkoot

OFFICE OF DISTRICT OFFICER, CHITRKOOT

Letter No. 3625/D.S.O./petrol.license/2014-15

Date: 05 December, 2014

1. Sh. Laxman Singh Prop., M/s Jai Kamtanath Filling Station Bharatkoop.
2. Sr. Mandal Manager, Indian Oil Corpn. Ltd. Allahabad.
3. District Supply Officer, Chitrkoot

Sd.  
District Officer, Chitrkoot

ORDER

The application is submitted by ShriLaxman Singh M/s. Jai Kamtanath Filling Station Bharatkoop from his aforesaid retail outlet for the issuance of sale license of high speed diesel on 05.05.2014. In the meantime, it is mentioned by Divisional Forest Officer, Chitrkoot, Chitrkoot Forest Department that any kind of non-forestry work cannot be carried on conserved forest area without prior approval from the govt. of India for installing retail outlet of Indian Oil Corporation on left track of Km. 88.036 of Banda-Karvi National Highway No. 35 (Old National Highway No. 76) on Khasra No. 703 situated at Akbarpur (B), TehsilKarvi in district Chitrkoot and prayed for the dismissal of No-objection Certificate No. 121/7-Judicial Asst. / 2014 dated 14.03.2014 issued by my former officer. Whereupon, No-objection Certificate issued in the past has been deferred vide letter No. 939/7-Judicial Assistant/2014 dated 10.07.2014 of District Magistrate, Chitrkoot till No-objection is duly conferred by the govt. of India in this connection. In the meantime, writ petition No. 34897/2014 is filed by ShriLaxman Singh, Prop. M/s. Jai Kamtanath Filling Station Bharatkoop in Hon'ble High Court of Allahabad. In aforesaid writ petition, this order was passed by Hon'ble High Court of Allahabad that "Under the direction of Hon'ble

Supreme Court in T.N. Gondavarman Thirumulpad (Supra) such permission has to be given by the centrally empowered committee set up by the Supreme Court for such purpose."

It is also mentioned in above case that counter affidavit through District Supply Officer is also submitted in Hon'ble High Court by defendant no. 02, 03 and 04 on 01.08.2014. Afterwards, aforesaid writ No. 34897/2014 was dismissed vide order dated 20.08.2014 of Hon'ble High Court of Allahabad because of absence of prosecution in case by proprietor of aforesaid firm Shr. Laxman Singh. Thereafter, appeal No. 4040/2013-14 was submitted before Hon'ble Court of Commissioner Chitrkoot, Mandal Banda by M/s. Jai Kamtanath. On aforesaid appeal, Shri. Laxman Singh, Prop. M/s. Jai Kamtanath attached copy of order dated 18.09.2014 passed by Hon'ble Court of Commissioner, submitted application on 21.11.2014 and made a humble request for the disposal of his application dated 05.05.2014 submitted in the past for grant of sale license of high speed diesel oil. Consequently, applicant's case, office letter No. 3625/D.S.O. -Petro. License/2014-15 was disposed of on 05.12.2014 with this directive that for grant of sale license of diesel from retail outlet, obtain N.O.C. for conserved forest area from government of India

and submit. In addition to above, an application was submitted by Shri. Laxman Singh on 28.11.2014 wherein 22 petrol pumps of district Chitrkoot and Banda is mentioned and informed that N.O.C. is also not obtained by these from the government of India in the order of Forest Conservation Act, 25 October, 1980, even then these have been granted sale license of high speed diesel. It is noticeable here that 10 petrol/diesel pumps of district Banda and 12 petrol/diesel pumps of district Chitrkoot are mentioned in aforesaid application dated 28.11.2014 submitted by Shri. Laxman Singh, 08 petrol/diesel pumps out of 12 petrol/diesel pumps of district Chitrkoot are located at National Highway in which 02 pump were installed in Chitrkoot Filling Station on 04.02.1985 and Kissan Filling Station Mau is installed on 11.01.1995 which are installed prior to the order dated 12 December, 1996 of Hon'ble Supreme Court. Reliance Filling Station, Amanpur which was installed on 01.09.2005 but presently closed. The remaining 5 pumps Koko Filling Station Bharatkoop, Gurukrapa Filling Station Khoh, Kamadgiri Filling Station, Khoh, Bharat Petroleum Bodipokhari, Rani Shankar Filling Station Ahiri Mau which were installed on 03.08.2000, 25.09.2006, 02.01.2002, 24.01.2005 and 19.11.2011 respectively which are installed on National Highway and

were installed post order dated 12.12.1996 of Hon'ble Court. Among them, Notice is issued for obtaining No-Objection Certificate of Government of India for use of conserved forest area on National Highway to Koko Filling Station Khoh by the undersigned and Gurukrapa Filling Station Khoh, Kadamgiri Filling Station Khoh, Bharat Petroleum Bodipokhri, Ranishankar Filling Station Ahiri Mau by Divisional forest officer, which is mentioned in the opinion of D.G.C. Civil. Swaroop Filling Station Sitapur Road Karvi, Gopalji & Brothers Ranipurbhatt, Maa Mulia Filling Station Pahari, Shri Ganesh Filling station Khutora were installed on 23.12.2006, 16.04.2005, 20.07.2007, 19.03.2012 respectively which are not located at National Highway.

Shri. Laxman Singh, Proprietor, M/s. Jai Kamtanath Filling Station Bharatkoop again filed Writ petition No. 66818/2014 in Hon'ble High Court of Allahabad for the disposal of his application dated 05.05.2014 in connection with the grant of sale license of his high speed diesel without compliance of instructions given under letter dated 05.12.2014 of undersigned whereupon below mentioned order was passed on 10.12.2014 by Hon'ble High Court of Allahabad in above mentioned writ petition:-

In view of the facts and circumstances, without going into the merit of the case, we direct the respondent No. 2 Direct Magistrate, Chitrkoot to dispose of the application of the petitioner for grant of license for sale of high speed diesel of presentation of certified copy of this order, in accordance to law, after giving opportunity of hearing of the petitioner.

In compliance of aforesaid order of Hon'ble High Court, Shri. Laxman Singh was directed to appear before undersigned in Collectorate Conference Room on 07.01.2015 and present his side vide letter No. 3677/D.S.O./Petro.License/2014-15 dated 31 December, 2014 of District Supply Officer. Shri Laxman Singh appeared and presented his side and copy of writ petition 66814/2014 was submitted in Hon'ble High Court on 13.01.2015 whereupon legal opinion of D.G.C. Civil was obtained on 14.01.2015. It is made apparent in aforesaid legal opinion of D.G.C. Civil that National Highway No. 35 (old National Highway No. 76) is declared conserved forest area and retail outlet of Jai Kamtanath lies on left track of chains 88.036 of this highway in conserved forest land. For which proposal for transfer of forest land was submitted by Indian Oil Corporation Limited. In such circumstance, grant of license without obtaining N.O.C. from committee set up

by Hon'ble Court is contempt of order of Hon'ble Supreme Court to which I agree. Since, No-objection Certificate for grant of sale license of high speed diesel oil from afore said retail outlet in the process of directions of orders dated 10.07.2014 and 05.12.2014 of undersigned from Government of India for conserved forest area is obtained and is not submitted by Shri. Laxman Singh, Prop. M/s. Jai kamtanath Filling Station. Consequently, grant of sale license of diesel for retail outlet for use of conserved forest area without obtaining N.O.C. from Govt. of India will be a contempt of court order of Hon'ble Supreme Court.

Thus, as explained in aforementioned second para that appellant filed a writ petition No. 34897/2014 in Hon'ble Supreme Court, whereupon order dated 14.07.2014 passed by Hon'ble Court was not complied by the petitioner however, at the time of filing writ petition No. 66814/2014 dated 08.12.2014, did not present order dated 14.07.2012 of Hon'ble High Court and order dated 05.12.2014 for disposal of report of undersigned before Hon'ble High Court and concealed the facts whereupon order dated 10.12.2014 has been passed. Thus, not presenting order dated 05.12.2014 for disposal of report of petitioner by undersigned before Hon'ble High Court by the applicant and also for non-compliance of order dated 14.07.2014 of

Hon'ble Court and concealing facts before Hon'ble Court is the contempt of court by the applicant.

Therefore, in the light of aforesaid facts, application dated 05.05.2014 for grant of sale license of high speed diesel from his aforesaid retail outlet submitted by ShriLaxman Singh, Prop. M/s. Jai Kamtanath Filling Station Bharatkoopis disposed of with dismissal.

Sd/-  
(NeelamAhlawat)  
District Officer, Chitrkoot

Office of District Officer, Chitrkoot

No. 014-15

Date: 27 January, 2015

For information and necessary action to:

Jai Kamtanath Filling Station Bharatkoop, district Chitrkoot:

Sd/-  
District Officer, Chitrkoot

ORDER

Shri. Laxman Singh, Prop., M/s. Jai Kamtanath Filling Station Bharatkoop attached certified copy of Order dated 20.11.2018 passed by court in M/s Jai Kamtanath Filling Station Vs. State Government of U.P. in appeal No. 2015070000110/2015 filed in the court of commissioner, Chitrkoot Mandal Banda with report submitted on 05.12.2018, demanded grant of issue for sale license of high speed diesel in order of order passed.

In order of compliance of aforesaid adjudication dated 20.11.2018 passed by the Court of Commissioner, ChitrkootdhaamMandal Banda on 03.01.2019, a meeting of District Government Advocate (Civil) Chitrkoot, Divisional Forest Officer, Chitrkoot and District Supply Officer, Chitrkoot was convened. In order of directives given in above said meeting, it was requested to Divisional Forest Officer vide official letter No. 6397/D.S.O./Petroleum A./2018-19 dated 7th Jan, 2019 that in connection with the compliance of aforesaid adjudication dated 20.11.2018, if any rule/law related to your department is violated, then please ensure the availability of your explicit report regarding grant of sale license of diesel to proprietor of aforesaid pump.

Thereupon, Divisional Forest Officer, forest and wildlife department, Chitrkoot made his report available vide his letter No. 2088/33-1 dated 8th Jan, 2019 that without permission of government of India, any kind of non-forestry work in conserved forest area is violation of section 2 of Forest Conservation Act, 1980. Consequently, in the said case, suggestion of forwarding online proposal was given by the company/working organisation so that in the referenced case, advance action may be taken for No-objection.

Therefore, for appropriate action in compliance of report dated 08.01.2019 of Divisional Forest Officer, Chitrkoot and above adjudication passed by Court of Commissioner, ChitrkootdhaamMandal Banda, District Government Advocate, Civil was directed to investigate the case and make the reports available. Thereupon, District Government Advocate (Civil), Chitrkoot got the case examined on 19.01.2019 and gave his opinion as mentioned below:-

"In my opinion, in regard to case, it will be justified of compliance of order dated 20.11.2014 passed in M/s. Jai Kamtanath Filling Station Vs. State govt. of U.P. and grant of sale license of diesel to the applicant in appeal No. 2015070000110/2015 by the court of commissioner, ChitrkootMandal Banda."

It is noticeable in regard to the case that Shri. Laxman Singh, Prop. M/s. Jai Kamtanath Filling Station Bharatkoop, application for grant of sale license of high speed diesel from his aforementioned retail outlet was submitted before the then District Officer on 05.05.2014, by above said. In regard to the disposal of aforementioned application of applicant, below mentioned order passed in order No. 3740/D.S.O.-P.L./2014-15 dated 27th January, 2015 of the then District Officer, Chitrkoot:-

"It is mentioned vide letter No. 63/33-1 date 06.07.2014 by Divisional Forest Officer, Chitrkoot, Forest Division, Chitrkoot, that any kind of non-forestry work cannot be carried on conserved forest area without prior approval from the govt. of India for installing retail outlet of Indian Oil Corporation on left track of Km. 88.036 of Banda-Karvi National Highway No. 35 (Old National Highway No. 76) on Khasra No. 703 situated at Akbarpur (B), Tehsil Karvi in district Chitrkoot and prayed for the dismissal of No-objection Certificate No. 121/7-Judicial Asst. / 2014 dated 14.03.2014 issued by my former officer. Whereupon, No-objection Certificate issued in the past has been deferred vide letter No. 939/7-Judicial Assistant/2014 dated 10.07.2014 of District Magistrate, Chitrkoot till No-objection is duly conferred by the govt. of India in this connection. In

the meantime, writ petition No. 34897/2014 is filed by ShriLaxman Singh, Prop. M/s. Jai Kamtanath Filling Station Bharatkoop in Hon'ble High Court of Allahabad. In aforesaid writ petition, this order was passed by Hon'ble High Court of Allahabad that "Under the direction of Hon'ble Supreme Court in T.N. GondavarmanThirumulpad (Supra) such permission has to be given by the centrally empowered committee set up by the Supreme Court for such purpose."

It is also mentioned in above case that counter affidavit through District Supply Officer is also submitted in Hon'ble High Court by defendant no. 02, 03 and 04 on 01.08.2014. Afterwards, aforesaid writ No. 34897/2014 was dismissed vide order dated 20.08.2014 of Hon'ble High Court of Allahabad because of absence of prosecution in case by proprietor of aforesaid firm Shr. Laxman Singh. Thereafter, appeal No. 4040/2013-14 was submitted before Hon'ble Court of Commissioner Chitrkoot, Mandal Banda by M/s. Jai Kamtanath. On aforesaid appeal, Shri. Laxman Singh, Prop. M/s. Jai Kamtanath attached copy of order dated 18.09.2014 passed by Hon'ble Court of Commissioner, submitted application on 21.11.2014 and made a humble request for the disposal of his application dated 05.05.2014 submitted in the past for grant of sale license of high speed

diesel oil. Consequently, applicant's case, office letter No. 3625/D.S.O. -Petro. License/2014-15 was disposed of on 05.12.2014 with this directive that for grant of sale license of diesel from retail outlet, obtain N.O.C. for conserved forest area from government of India and submit. In addition to above, an application was submitted by Shri. Laxman Singh on 28.11.2014 wherein 22 petrol pumps of district Chitrkoot and Banda is mentioned and informed that N.O.C. is also not obtained by these from the government of India in the order of Forest Conservation Act, 25 October, 1980, even then these have been granted sale license of high speed diesel. It is noticeable here that 10 petrol/diesel pumps of district Banda and 12 petrol/diesel pumps of district Chitrkoot are mentioned in aforesaid application dated 28.11.2014 submitted by Shri. Laxman Singh. 08 petrol/diesel pumps out of 12 petrol/diesel pumps of district Chitrkoot are located at National Highway in which 02 pump were installed in Chitrkoot Filling Station on 04.02.1985 and Kissan Filling Station Mau is installed on 11.01.1995 which are installed prior to the order dated 12 December, 1996 of Hon'ble Supreme Court. Reliance Filling Station, Amanpur which was installed on 01.09.2005 but presently closed. The remaining 5 pumps Koko Filling Station Bharatkoop, Gurukrapa Filling Station Khoh, Kamadgiri Filling Station,

Khoh, Bharat Petroleum Bodipokhari, Rani Shankar Filling Station Ahiri Mau which were installed on 03.08.2000, 25.09.2006, 02.01.2002, 24.01.2005 and 19.11.2011 respectively which are installed on National Highway and were installed post order dated 12.12.1996 of Hon'ble Court. Among them, Notice is issued for obtaining No-Objection Certificate of Government of India for use of conserved forest area on National Highway to Koko Filling Station Khoh by the undersigned and Gurukrapa Filling Station Khoh, Kadamgiri Filling Station Khoh, Bharat Petroleum Bodipokhari, Ranishankar Filling Station Ahiri Mau by Divisional forest officer, which is mentioned in the opinion of D.G.C. Civil. Swaroop Filling Station Sitapur Road Karvi, Gopalji & Brothers Ranipurbhatt, MaaMulia Filling Station Pahari, ShriGanesh Filling station Khutora were installed on 23.12.2006, 16.04.2005, 20.07.2007, 19.03.2012 respectively which are not located at National Highway.

Shri. Laxman Singh, Proprietor, M/s. Jai Kamtanath Filling Station Bharatkoop again filed Writ petition No. 66818/2014 in Hon'ble High Court of Allahabad for the disposal of his application dated 05.05.2014 in connection with the grant of sale license of his high speed diesel without compliance of instructions given under letter dated 05.12.2014 of

undersigned whereupon below mentioned order was passed on 10.12.2014 by Hon'ble High Court of Allahabad in above mentioned writ petition:-

In view of the facts and circumstances, without going into the merit of the case, we direct the respondent No. 2 Direct Magistrate, Chitrkoot to dispose of the application of the petitioner for grant of license for sale of high speed diesel of presentation of certified copy of this order, in accordance to law, after giving opportunity of hearing of the petitioner.

In compliance of aforesaid order of Hon'ble High Court, Shri. Laxman Singh was directed to appear before undersigned in Collectorate Conference Room on 07.01.2015 and present his side vide letter No. 3677/D.S.O./Petro.License/2014-15 dated 31 December, 2014 of District Supply Officer. Shri Laxman Singh appeared and presented his side and copy of writ petition 66814/2014 was submitted in Hon'ble High Court on 13.01.2015 whereupon legal opinion of D.G.C. Civil was obtained on 14.01.2015. It is made apparent in aforesaid legal opinion of D.G.C. Civil that National Highway No. 35 (old National Highway No. 76) is declared conserved forest area and retail outlet of Jai Kamtanath lies on left track of

chains 88.036 of this highway in conserved forest land. For which proposal for transfer of forest land was submitted by Indian Oil Corporation Limited. In such circumstance, grant of license without obtaining N.O.C. from committee set up by Hon'ble Court is contempt of order of Hon'ble Supreme Court to which I agree. Since, No-objection Certificate for grant of sale license of high speed diesel oil from afore said retail outlet in the process of directions of orders dated 10.07.2014 and 05.12.2014 of undersigned from Government of India for conserved forest area is obtained and is not submitted by Shri. Laxman Singh, Prop. M/s. Jai kamtanath Filling Station. Consequently, grant of sale license of diesel for retail outlet for use of conserved forest area without obtaining N.O.C. from Govt. of India will be a contempt of court order of Hon'ble Supreme Court.

Thus, as explained in aforementioned second para that appellant filed a writ petition No. 34897/2014 in Hon'ble Supreme Court, whereupon order dated 14.07.2014 passed by Hon'ble Court was not complied by the petitioner however, at the time of filing writ petition No. 66814/2014 dated 08.12.2014, did not present order dated 14.07.2012 of Hon'ble High Court and order dated 05.12.2014 for disposal of report of undersigned before Hon'ble High Court and concealed the facts whereupon order dated 10.12.2014

has been passed. Thus, not presenting order dated 05.05.2014 for disposal of report of petitioner by undersigned before Hon'ble High Court by the applicant and also for non-compliance of order dated 14.07.2014 of Hon'ble Court and concealing facts before Hon'ble Court and the contempt of court by the applicant. In view of these, dismissing application dated 05.05.2014 for grant of sale license of high speed diesel of ShriLaxman Singh, Prop. M/s. Jai Kamtanath Filling Station Bharatkoop, matter is disposed of.

Filed this appeal No. 2014070000978/2014 aggrieved from the direction given for obtaining No-objection certificate from government of India and presenting vide official letter No. 3625/D.S.O. -P.L./2014-15 dated 05.05.2014 of the then District Officer regarding application dated 21.11.2014 subjected for grant of sale license of high speed diesel from his aforesaid retail outlet, in the court of Commissioner Chitrkootdham, Mandal Banda and filed appeal No. 2015070000110/2015 in the court of commissioner ChitrkootdhamMandal Banda aggrieved from the order of dismissal of his aforesaid application dated 05.05.2014 in M/s Jai Kamtanath Filling Station Vs. State Government of U.P. by Shri. Laxman Singh, Prop. M/s Jai Kamtanath Filling Station Bharatkoop.

The court of commissioner, ChitrkootdhamMandal Banda passed below mentioned adjudication in the said appeal No. 2015070000110 filed in M/s. Jai Kamtanath Filling Station Bharatkoop by appellant Shri. Laxman Singh Prop. M/s Jai Kamtanath Filling Station Bharatkoop:

"Appeal is accepted and application of appellant related to grant of diesel license is accepted dismissing order of District Officer, Chitrkoot in question. The District Officer, Chitrkoot is directed to ensure proceeding of issuing diesel license within a month to appellant. The above order will be applicable on appeal No. 2014070000978 also."

In compliance of aforesaid adjudication dated 20.11.2018 passed by the court of commissioner, ChitrkootdhamMandal Banda, request for grant of sale license of diesel from his retail outlet is made. Whereas, he has been directed vide official letter No. 3625/D.S.O. -P.L./2014-15 dated 05.12.2014 in the past to obtain No-objection from government of India for conserved forest area and submit, because of non-compliance by him, the then District Officer vide order No. 3740/D.S.O. -P.L./2014-15 dated 27th January, 2015 dismissed application dated 05.05.2014 regarding grant of sale license of High Speed Diesel from

his aforesaid retail outlet, is disposed of. Given clear directions in adjudication passed in writ petition No. 34897/2014 filed in Hon'ble High Court on 14.07.2014 by the Hon'ble High Court of Allahabad that "Under the direction of Hon'ble Supreme Court in T.N. Gondavarman Thirumulpad (Supra) such permission has to be given by the centrally empowered committee set up by the Supreme Court for such purpose."

In view of all above said facts, application dated 05.05.2014, 05.12.2018 and 05.02.2019 subjected seeking grant of sale license of diesel from his said retail outlet submitted by Shr. Laxman Singh, Prop. M/s. Jai Kamtanath Filling Station Bharatkoop is dismissed and disposed of with this direction that he will obtain No-objection from government of India for use of conserved forest area from his retail outlet so that advance proceedings related to sale license of diesel may be taken.

(Vishakh G.)  
District Officer, Chitrkoot

Office of District Officer, Chitrkoot

Letter No. 6459/D.S.O.-P.N./2018-19

Date: 28 January, 2019

For information and necessary action to:

1. Shri. Laxman Singh, Prop. M/s Jai Kamtanath Filling Station Bharatkoop, district Chitrkoot.
2. Divisional Forest Officer, Forest & Wildlife Division, Chitrkoot.
3. District Supply Officer, Chitrkoot.

(Vishakh G.)  
District Officer, Chitrkoot

ORDER SHEET

COURT: COMMISSIONER

MANDAL: CHITRKOOTDHAM, DISTRICT:;TEHSIL:

CASE No. 110/2015

COMPUTERISED CASE No. C201507000000110

JAY KAMTANATH FILLING STATION Vs. STATE

U/S 9, ACT: U.P. HIGH SPEED DIESEL OIL & LIGHT  
DIESEL OIL (MAINTENANCE & DISTRIBUTION)ORDER  
1981

ORDER

Submitted today. Appeal No. C2014070000978 is filed u/s 9 U.P. High Speed Oil and Light Diesel Oil (Maintenance & Distribution). Order 1981 aggrieved by the letter No. 3625/D.S.O./petrol .../dated 05.12.2014 of District Officer, Chitrkoot, vide which Laxman Singh Prop. M/s. Jai Kamtanath Filling Station Bharatkoop is directed to obtain No-objection certificate for grant of sale license of diesel from aforesaid retail outlet, for conserved forest region from government of India and submit in the office of District Supply Officer, Chitrkoot.

Appeal No. C 2015070000110 u/s 9 U.P. High Speed Diesel Oil and Light Diesel Oil (Maintenance & Distribution) order 1981 letter No. 3140/D.S.O./Petrol N. dated 27.01.2015 wherein it is mentioned that order dated 05.12.2014 for

disposal of report of petitioner by undersigned was not submitted before Hon'ble Supreme Court and also not complied the order dated 14.07.2014 of Hon'ble Court and concealment of facts before Hon'ble Court by applicant is an act of contempt of Hon'ble Court by the applicant. Thus, submitted petition dated 05.05.2014 is dismissed, aggrieved by this, the appeal in question is submitted on various grounds.

The No-objection Certificate by government of India is required before installing pump. In connection of whereof, court order dated 18.09.2014 is final and bound on subordinate court which was not referenced by inferior court. After said order, liability of No-objection of government of India cannot be laid down on appellant. The subordinate court did the contempt of order dated 18.09.2014 by shielding it with Hon'ble Supreme Court order. Whereas, Supreme Court order is not related to the case of appellant. In lower court, it is reviewed ignoring points raised in submitted report dated 07.01.2015 that Supreme Court order was not complied in other petrol pumps. The petrol pumps are established and sale in progress. Ignoring the provisions, the license application of appellant is dismissed intentionally. The appellant never concealed any facts. The entire case is apparent. Full

transparency is followed. The subordinate court deliberately makes the case complicated, does not want to settle. Therefore, appeal of appellant be accepted and thereby application for diesel license be accepted. The District Officer, Chitrkoot be directed to issue diesel license dismissing summary order dated 27.01.2015.

Heard both parties. Repeating facts of his appeal memo in his argument, the learned advocate of appellant prayed for the appeal to be accepted as well as prayed for the dismissal of order dated 27.01.2015 in question and application regarding diesel license is prayed to be accepted.

On behalf of state, it is argued by District Government Advocate, Revenue-Banda that it is essential to obtain No-objection from government of Inida for conserved forest region which appellant has not obtained. In such circumstance, this appeal is inadmissible.

Heard the arguments of both parties. Afterwards, file of subordinate court and order in question was reviewed. The appellant is offered dealership of petrol pump on Banda-Allahabad Road in district Chitrkoot by Indian Oil Corporation Ltd, reports were obtained from concerned departments by former District Officer, Chitrkoot and No-

objection certificate was issued on 11.03.2014/14.03.2014 prior to its establishment. After petrol pumps were installed, No-objection certificate of appellant was postponed vide order dated 10.04.2014 because the appellant did not get No-objection certificate from government of India for conserved forest region. The appellant petitioned appeal against order dated 10.04.2014 in the court of commissioner wherein accepting appeal under order dated 18.09.2014, No-objection certificate was revoked. The sale of petrol is continuing. Application for Diesel License was dismissed again on same grounds that No-objection certificate for conserved forest region was not obtained from the government of India. There is no mention of any provision of obtaining No-objection certificate for getting license for sale of diesel in petrol pump in operation. Requirement of No-objection certificate for installing petrol pump only is mentioned in the provisions of sections 144 of Petroleum Act, 1934. It is informed that after qualifying all eligibilities by the appellant, issuance of diesel license is recommended by District Supply Department and Addl. District Officer, Chitrkoot. N.O.C. has been issued by District Officer for installation of pump only after obtaining reports of Divisional Forest Officer, Chitrkoot. On same ground, revoking No-objection certificate in order passed on

18.09.2014, requirement of No-objection of government of India is not explained by my previous officer/ commissioner. There is no justification left after installation of petrol pump, and also No-objection certificate is required for diesel license in petrol pump in operation. In view of above, any legal complexities or irregularities does not seem to be there in the issuance of diesel license. In such circumstance, order dated 27.01.2015 in question of District Officer, Chitrkoot is liable to be dismissed and appeal is accepted, with the acceptance of diesel license application of appellant.

In the light of above, appeal is accepted and diesel license related application of appellant is accepted dismissing order dated 27.01.2015/05.12.2014 in question, of district officer. The District Officer, Chitrkoot is directed to ensure issuance of diesel license of appellant within one month. The above said order is applicable on appeal No. C 2014070000978 also. Attach Copy of order with this appeal also. Copy of order be forwarded to subordinate court with immediate effect. File be submitted after necessary action.

Date: 20 November, 2018 Sd/-  
(Sharad Kumar Singh)Commissioner

Order is announced today in open court with date and signatures affixed by me.

Date: 20 November, 2018

Sd/-  
(Sharad Kumar Singh) Commissioner

ORDER SHEET

COURT: COMMISSIONER

MANDAL: CHITRKOOTDHAM, DISTRICT:; TEHSIL:

CASE No. 00183/2019

COMPUTERISED CASE No. C201907000000183

JAY KAMTANATH FILLING STATION Vs. STATE

U/S 9, ACT: U.P. HIGH SPEED DIESEL OIL & LIGHT  
DIESEL OIL (MAINTENANCE & DISTRIBUTION) ORDER  
1981

ORDER

Submitted today. The appeal in question, order sheet No. 6459/D.S.O.-P.A./ date 28.02.2019 of District Officer, Chitrkoot under -P.N./District Officer, is filed on various grounds, aggrieved with order dated 28.02.2019 for cancellation of application for grant of sale license of diesel of appellant.

Heard the arguments of both parties. It is stated on the basis of appeal memo that order in question is against law and adverse to facts. The subordinate court has no jurisdiction to repeal application of appellant for sale of license. Application dated 05.05.2014 for sale license of diesel was accepted under order dated 20.11.2018, which was not complied and disregarded (disdained) the appellate

court order by District Officer. District Officer has no jurisdiction for the screening/reviewing order dated 20.11.2018 of commissioner because order dated 20.11.2018 of commissioner is final and undisputed. Stating on the point of basis of obtaining No-objection of government of India, application for sale license of diesel is dismissed by District Officer, Chitrkoot, the opinions of learned commissioner have been given in orders dated 18.09.2014 and 20.11.2018 in this regard. Any kind of illegible is done in competent court/Hon'ble High Court against aforesaid orders by District Officer, Chitrkoot. It is the responsibility of District Officer, Chitrkoot to comply by the appellate court order dated 20.11.2018, but disregarding order dated 20.11.2018, order in question is passed beyond its jurisdiction by the subordinate court which is nothing and liable to be dismissed. There is no land of forest deptt. Between road and petrol pump installed in Khasra No. 703. However, National Highway is the land of PWD of which No-objection has been obtained. In section 2 of Forest Conservation Act, 1980, there is a provision of obtaining No-objection from government of India for use of non-forestry of reserved forest land. In this act, there is no provision of getting any kind of permission for conserved forest land. In the order of District Officer, reviewed order

91

of Hon'ble Supreme Court is not related to petrol pump and it is not applicable in this case either. The sale of petrol is continue from installed petrol pump and the road on which commuting of petrol vehicles is going on, commuting of diesel vehicles is also there on the same road. No-objection certificate is a legal procedure before petrol pump installation. There is no provision of getting No-objection from any other department for sale of diesel license. And also it is no loss to any other department along with forest department either. Ignoring the public facilities and misuse of power, order in question is passed by District Officer, Therefore, appeal be accepted and proceedings of contempt be taken against District Officer dismissing order in question of District Officer, passing order to issue sale license of diesel. On behalf of opponent, it is especially stated by District Government Advocate, Revenue Banda in his written objection dated illegible that in compliance of order dated 20.11.2018 of commissioner in application with subject of grant of sale license of diesel by District Officer, it is stated giving reference of order dated 14.07.2014 passed in writ petition No. 34897/2014 to submit No-objection from government of India for use of conserved forest area from their retail outlet. Thus, application dated 05.05.2014, 05.01.2018 and 05.02.2019 with subject of

sale of diesel submitted by appellant were dismissed which is lawful. Any disregard is not exercised in order-in-question passed by District Officer rather aforesaid order is passed in reverence of orders of Hon'ble Supreme Court. In order dated 18.09.2014 passed by commissioner Shri. MurlidharDubey, submission of No-objection is compulsive on appellant but N.O.C. was not submitted by appellant. Therefore, appeal be repealed.

In the case in question, Sanjay Aggarwal, PuraniBazarkarvi submitted objection dated 11.03.2019 and pleaded for dismissal of appeal. The case in question is between Jai Kamtanath Filling Station Bharatkoop and State wherein option of making third person, party is neither lawful nor there is option of hearing him. Therefore, objection of Sanjay Aggarwal is dismissed.

In rejoinder dated 12.03.2019 presented by appellant, it is stated that with silent consent of Sanjay Aggarwal & Co., diesel is being sold without license in Bharatkoop. With issuance of diesel license to appellant, their conundrum will be stopped. The illegal sale of Sanjay Aggarwal is stopped. Notwithstanding, illegal sale is still continued behind curtains even today. The application for diesel license of appellant has been accepted on 05.05.2014 vide order

dated 20.11.2014 of appellate court. District Officer has no jurisdiction to dismiss this. Paper cutting regarding illegal sale of diesel is annexed hereto. Finally, request for acceptance of appeal is made.

Heard arguments of both parties. Order-in-question of District Officer, Chitrkoot and other orders passed in the past are reviewed. Below mentioned orders were passed in order dated 20.11.2018 passed by me that appeal is accepted and diesel license related application of appellant is accepted dismissing order-in-question dated 27.01.2015/05.12.2014 of District Officer, District Officer, Chitrkoot is directed to take action of issuing diesel license of appellant within a month. Against which no petition is filed in Hon'ble High Court by you or on behalf of State and dismissal of applications in connection with granting license for sale of license giving references of directives given in order dated 14.07.2014 passed in writ petition No. 34897/2014 of Hon'ble High Court is a disregard of appellate court order dated 20.11.2018 by you because the law system which is mentioned in order dated 14.07.2014 passed in writ petition of Hon'ble High Court, for complying same law system, in order dated 12.12.1996 passed in T.N. GodavarmanThirumallakpad Vs. Union of India & Ors. in writ petition (civil) No. 34897/2014 of Hon'ble High court,

it is directed in para 2 of government order No. 208/14-2-97-405(299)/96 dated 06 January, 1997 issued by Chief Secretary, Industrial Development Department, U.P. Forest Department -2 that "explaining the above said situation in his aforesaid order by Hon'ble Supreme Court, it is made clear specially regarding mining works in forest area that any kind of non-forestry work, wherein aramil, plywood veniers and mining work etc. are included, in forest area cannot be carried without prior permission of government of India under provisions of Forest Conservation Act, 1980. In the same perspective, reference of explaining the aspects of applicability of Forest Conservation Act, 1980 in decisions given in matters below in aforesaid order has been given completely by Hon'ble Supreme Court."

It is evident from above said that described process of law is not applicable in the case-in-question. This process of law is specifically illegal mining, aramil, plywood veniers etc. such works whereby illegal cutting of trees planted in forest area are related, so it is compulsory to get permission from government of India for non forestry works. The case in question is based on license seeking for sale license of diesel from operating petrol pump. Because of sale of diesel from operating petrol pump, it is possible that forest will be damaged. So the petrol pump should be closed eventually.

The above legal system is directly related to mining work like non-forestry work. This system is not applicable in said case in question because sale of diesel work - mining work, aramil, plywood veniers etc. are included in non forestry work. Therefore, it is not justified to dismiss license for sale of license vide order-in-question on ground of above said law system. It is also mentioned herein that position of last para-5 of described government order dated 06.01.1997 is explained that inspite of expiry of lease period in forest region of TihriGarhwal, without obtaining permission of government of India under provisions of Forest Conservation Act, 1980, mining work is continue under orders of Hon'ble courts. Similarly, mining work, in other forest regions of state wherein it is necessary to get prior permission of government of India, are continued without obtaining under orders of Hon'ble courts or by the orders of other authorities. Therefore, in all such matters, in the light of order passed by Hon'ble Supreme Court on 12.12.1996, please ensure immediate closure of all such non-forestry works and immediate requisite action from your level. The situation is evident from this also that described method is related to mining work.

The order dated 20.11.2014 passed by appellate court is duly passed whereupon it is mentioned that order of law is

not applicable. District Officer has no jurisdiction to violate appellate court order on these grounds. In these circumstances, District Officer, Chitrkoot order dated 28.02.2019 is not sustainable and previous appeal order dated 20.11.2018 is restored in situ. Accordingly, appeal is accepted and order in question, of District Officer is dismissed and it seems justified to issue directives to issue sale license of diesel in favour of appellant.

The appeal is accepted on above said grounds. The District Officer, Chitrkoot order sheet No. 6549/D.S.O. -Petrol. L./2018-19 is dismissed and District Officer, Chitrkoot is directed to issue license for sale of diesel within 2 weeks in favour of appellant. Copy of order be sent to District Officer, Chitrkoot. File be submitted in the office after necessary action.

Sd.  
(Sharad Kumar Singh)  
Commissioner

Order is announced today and duly signed with date by me  
in open court.

Date; 12 March, 2019

Sd.  
(Sharad Kumar Singh)  
Commissioner

97

120

ANNEXURE A-12

Date: 15.12.2018

To,  
Director  
Ministry of Petroleum & Natural Gas  
Shastri Bhawan, New Delhi-110001

Sub: In reference with order passed on grounds of  
wrong facts related to Jai Kamtanath filling Station  
Bharatkoop. Court: Commissioner, Mandal:  
Chitrkootdham Case No.: 110/2015 Jai Kamtanath  
Filling Station Bharatkoop

Sir,

It is humbly requested that order dated 20th November, 2018 passed in case No. C 2015070000110 Jai Kamtanath Filling Station Bharatkoop Vs. Government by Hon'ble Commissioner Sir ChitrkootdhamMandal is totally unlawful and against law. Because it is clearly mentioned in guidelines issued by Government of India that if any petrol pump is launched on National Highway then it is necessary to get permission of use of non-forestry without cutting trees of forest land from Ministry of Environment & Forest, Government of India. But, with connivance of department staff, concealing true facts from the then District Officer, got No-objection Certificate No. 121/7-Judicial Assistant/2014 date 14.03.2014 issued by the then District

Officer on the basis of N.O.C. issued by Divisional forest Officer, Forest Department, Chitrkoot. In the order of which, petrol pump was started by Jai Kamtanath Filling Station without sale license of diesel on 23.06.2014. It was requested for the dismissal of No-objection Certificate issued by the then District Officer mentioning any kind of non-forestry work cannot be carried in any kind of forest area without prior permission of Government of India for the establishment of retail outlet of Indian Oil Corporation Ltd. On left track of km. 88.036 of Banda-Karvi National Highway No. 35 (Old N.H. No. 76) located at Khasra No. 703 situated at village Akbarpur (B) Tehsil Karvi in district Chitrkoot vide letter No. 63/33-1 dated 06.07.2014 by Divisional Forest Officer, Chitrkoot, Forest Department, Chitrkoot whereupon No-objection Certificate issued in the past was postponed till No-objection is not duly provided by Government of India in this connection vide letter No. 939/7-Judicial Assistant/2014 dated 10.07.2014 of office of District Magistrate, Chitrkoot. But even after that, taking diesel petrol from petrol pump of his associate M/s Rameshwar Filling Station, Collectorate Road, Sonapur, Karvi Chitrkoot and sold from Jai Kamtanath Filling Station illegally without sale license and No-objection certificate. The complaint of which was made to District Officer by the

customers. Taking cognisance of which, a letter was written to Indian Oil Corporation by the then District Officer. In the same order, Jai Kamtanath filling Station got orders of issuance of sale license of diesel issued to Jai Kamtanath Filling Station on 20th November, 2018 without getting No-objection by the Ministry of Environment & Forest, government of India, based on wrong facts in the court of Hon'ble commissioner, ChitrkootdhamMandal. Whereas, in the order "it is argued by District Government Advocate, Revenue-Banda on behalf of State that it is necessary to get No-objection certificate for conserved forest area from government of India which was not obtained by the appellant. In such condition, appeal is liable to be dismissed."It is apparent from this completely that opinion of District Government Advocates and guidelines of Hon'ble High Court were sidelined and order is passed with the aim of benefitting one party which is completely unlawful and against law.

Therefore, it is a humble request to you that you please direct the competent officer from your level that only after examining entire case, action of issuing llcense should be proceeded. Until the investigation is completed, please direct Direct Officer to not issue sale license of diesel.

Encl:

1. Photocopy of order dated 20.11.2018 of Hon'ble Commissioner, ChitrkootdhamMandal.
2. Photocopy of order dated 05.12.2014 passed by District Officer Madam, Chitrkoot.
3. Photocopy of order dated 18.09.2014 of Hon'ble Commissioner, ChitrkootdhamMandal.
4. Photocopy of order dated 27.01.2015 passed by District Officer Madam, Chitrkoot.
5. Photocopy of Public Notice obtained by District Supply Officer, Chitrkootd.
6. Photocopy of form issued by Ministry of Forest & Environment, Government of India. (as example)

Yours faithfully  
Sd.

VAKALATNAMA  
IN THE HON'BLE NATIONAL GREEN TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

ORIGINAL APPLICATION NO. \_\_\_\_\_ OF 2019

IN THE MATTER OF:

*Sajal Aggarwal*

...Petitioner/ Appellant/ Complainant

VERSUS

*Union of India & Ors.*

...Respondent(s)

I *Sajal Aggarwal*....., the Petitioner/Appellant/Complainant, do hereby appoint and retain *Mr. Rishi Kapoor, Adv. (Chambers of Adv. Rishi Kapoor) 62-D, Pocket-C, New Delhi-110 9871253307*..... Advocate to act and appear for me / us in the above Revision Petition/Appeal / Complaint/ Reference and on my / our behalf to conduct and prosecute. ( or defend ) the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein including proceedings in taxation and application for REVIEW to file and obtain return of documents and to deposit and receive money on my / our behalf in the said Appeal / Petition / Reference and application of review and to represent me / us and to take all necessary steps on my/ our behalf in the above matter.

I / We agree to ratify all acts done by the aforesaid, Advocate in pursuance of this authority.

Dated this the *16<sup>th</sup>*..... Day of *April*....., 2019

*D/3625/14*      *D/2429/14*  
*Rishi Kapoor, Advocate*

( *Sajal Aggarwal* )  
Signature of Client

( *Rishi Kapoor* )  
Signature of Advocate

Fidelity. *[Signature]*  
*D/3625/14*

OFFICE OF CHIEF CONSERVATOR OF FOREST, BUNDELKHAND  
ZONE, UATTAR PRADESH, JHANSI

Letter No. 5281/10-Case, Jhansi, dated June 27, 2010

To,

Principal Chief Conservator of Forest and Head of Department,  
Uttar Pradesh, Lucknow

Subject: Directions passed by the Hon'ble National Green Tribunal  
(Principal Bench at New Delhi) by means of order dated  
09.05.2019 passed in Original Application No. 410/2019 (Sajal  
Agrawal v. Union of India & Ors.)

Ref: Your office letter No.-K.K. 2041/6E-2S.C. (N.G.T.) dated  
24.06.2019

Sir,

It is to be informed that in pursuance to your above-  
mentioned letter, in the subject matter, the report is being sent to  
you after receiving report from Forest Division Chitrakut and  
perusal of records and investigation, for necessary action.

Attachment: as mentioned above.

Sincerely,

Sd/-

(Sanjay Kumar)

Chief Conservator of Forest,  
Bundelkhand Zone, U.P., Jhansi.

Enforcement No. /above-dated

Copy to- Conservator of Forest Chitrakut Dham Vratt, Banda, in  
pursuance of his letter no. 223 T.C./ 26-1 dated 24.06.2019 for  
necessary action.

Sd/-

(Sanjay Kumar)

Chief Conservator of Forest,  
Bundelkhand Zone, U.P., Jhansi.

In pursuance of the order dated 09.05.2019 passed by the Hon'ble National Green Tribunal (Principal Bench), New Delhi in Original Application No. 410/2019 (Sajal Agrawal versus Union of India & Ors.)

Background and key events:-

The subjected matter is regarding the establishment and operation of petrol pump without prior permission of the Government of India pertaining to the use of forest land (total rakba 0.067676, copy of the gazette attached as Annexeure-1) as commercial land, as per the provisions of the Forest Conservation Act, 1980. Key events of the matter are as following:

- ❖ This matter started with application dated 26.09.2013 (annexure-2) addressed to the District Magistrate, Chitakut, for issuance of No Objection Certificate for the opening of retailer outlet of Indian Oil Corporation Limited, in pursuance of which it was requested by the District Magistrate office through letter No. 731/ Saat-Nyay Sahayak/ 2013 dated 28.09.2013, to the Forest Divisional Officer alongwith other departments to provide the report on the same. The said letter is also endorsed to District Supplies Department, Chitrakut, in which it has been expected from him that he, after getting the no objection certificate reports from all the departments and after the site inspection, should provide his satisfaction report alongwith the original no objection reports to the office of District Magistrate. The copy of said letter is annexed **(Annexure-3)**.
- ❖ Thereafter it has been again requested by the office of District Magistrate, Chitrakut, through its letter No. 966/ Saat-Nyay Sahayak/ 2013 dated 08.11.2013, to the Divisional Forest Officer, Chitrakut, to provide the annexed certificates pertaining to the Forest Rights Act (F.R.A.) after signing the same as soon as possible. The copy of the concerned letter is annexed **(Annexure-4)**. As per the available records, certificate has been issued by the District Level Forest Rights Committee, Chitrakoot, under the Forest Rights Act, 2006, in which it has been certified that neither any claim has been received under the said Act nor any such claim is pending. No objection was granted by the \*. Signatures of District Welfare Officer/ Secretary dated 11.02.2014, Divisional Forest Officer/ Member dated 12.02.2004 and District Magistrate/ President, District Level Forest Right Committee, have been made on the said certificate. The copy of the said certificate is annexed **(Annexure-5)**. Accordingly, paper dated 08.03.2014 was issued from the office of the District Magistrate, signed by the District Magistrate dated 03.03.2014 in proper form-1 regarding no claim under Forest Right Act. The copy of the said letter is annexed **(Annexure-6)**.

- ❖ Thereafter no objection certificate was issued under the signature of Shri Surendra Vikram, the then District Magistrate, Chitrakut, dated 11.03.2014, through office of District Magistrate letter No. 121/ Saat-Nyay Sahayak/ 2013 dated 14.03.2014. The said no objection certificate has mentioned therein regarding the no objection certificate issued by all the departments, but there is no mention of no objection issued by the District Level Forest Right Committee, Chitrakut. The copy of the said No Objection Certificate issued by the District Magistrate is annexed **(Annexure-7)**.
- ❖ After coming to knowledge about the said No Objection Certificate, it was denied by the Divisional Forest Officer, Chitrakut Forest Division, Karvi, through its letter to the then District Magistrate, Chitrakut, vide office letter No. 63/33-1 dated 06.07.2014, to have issued any report or no objection certificate under the Forest Conservation Act, 1980. Alongwith the same it was informed by them to the District Magistrate, Chitrakut, regarding notifying the National Highway-35 (Old NH-76) as the forest conservative area vide notification No. 1115/ 14-331-50 dated 10.02.1960. It is also mentioned in the said letter that Indian Oil Corporation Limited has sent the proposal to change the land use of Banda-Karvi National Highway No.-35 (Old NH-76 selected 88.036 left lane) under Forest Conservation Act, 1980 to establish its retail outlet on 0.06776 hectare forest conservative land, in which certain defects were found and it was written to the Indian Oil Corporation to make good the same. Besides it, it has also been mentioned clearly that the no objection certificate issued for the establishment of retail outlet at the forest conservative land is clearly in violation of the section-2 of the Forest Conservation Act, 1980, sections-29 and 33 of the Forest Act, 1927 and the order of the Hon'ble Supreme Court. It has also been mentioned that Indian Oil Corporation has forcibly taken the possession of the forest land and established its retail outlet there and the conservative land is being used saying that no objection has certificate has been issued by the District Magistrate for establishment of the retail outlet, however the concerned company is fully aware that it is the conservative forest land which they are using for transportation and for the permission of the which they have sent a proposal letter. At the end of the said letter, the Divisional Forest Officer has requested the then District Magistrate to quash/ revoke the no objection certificate dated 14.03.2014 and to remove the petrol pump. The copy of the said letter of the Divisional Forest Officer, Chitrakut, is annexed **(Annexure-8)**.
- ❖ Taking the cognizance of the said letter of the Divisional Forest Officer, Chitrakut, Mrs. Neelam Ahlawat, the then District Magistrate, Chitrakut, through its office order No. 939/ Saat-Nyay Sahayak/ 2014 dated 10.07.2014, suspended the no objection

certificate dated 11.03.2014/ 14.03.2014 issued by the her predecessor, till the issuance of no objection certificate by the Government of India in this regard. It has been mentioned in the said order that the concerned filed has been perused by her (District Magistrate), and it became clear from the same that a proposal was sent by the Indian Oil Corporation to the Government of India for issuance of No Objection Certificate, but No Objection Certificate has not been issued by the Government of India till the date of passing this order. It has also been mentioned therein that it does not seem appropriate to issue no objection certificate on 11.03.2014 by the then District Magistrate for the establishment of Indian Oil Corporation retail outlet on left lane at 88.036 km on National Highway-35 (Old NH-76), Khasra No. 703 situated at village- Akbarpur (B), Tehsil-Karvi, on the basis of the no objection certificate dated 03.03.2014 issued by the District Level Committee, Chitrakut. The copy of the said order has been sent to the Senior Retail Sales Manager, Allahabad Division Officer, Indian Oil Corporation Limited, and it was expected from them to take necessary action in this matter and to get the no objection certificate from the Government of India as soon as possible. Besides it, the copy of the said order has also been endorsed to Divisional Forest Officer, Chitrakut and Shri Lakshman Singh, Delaer, Indian Oil, Pro. Jay Kaamta Nath Filing Station, Bharatkup, Chitrakoot. The copy of the order dated 10.07.2014 of the District Magistrate is annexed **(Annexure-9)**.

- ❖ Aggrieved by the order dated 10.07.2014 passed by the District Magistrate, Chitrakut, Jay Kaamta Nath Filing Station Bharatkup, through its dealer Shri Laxaman Singh, filed Appeal No. C-2014070000440 against the State of Uttar Pradesh, before the Commissioner Court, Chitrakut Dham Zone Banda, under Rule 154(2) of Petroleum Regulations, 2002. After hearing both the parties and perusal of records by the Commissioner, it, vide its order dated 18.09.2014, allowed the appeal and quashed the order dated 10.07.2014 passed by the District Magistrate thereby holding the no objection certificate 121/ Saat-Nyay Sahayak/ 2014 dated 14.03.2014 issued by the earlier District Magistrate correct. The points which have been held by the then Commissioner Shri Murlidhar Dubey includes the point of making signature by the Divisional Forest Officer, Chotrakoot on 12.02.2014 on the no objection certificate issued by the District Level Committee as being the member of the said committee. He has also mentioned in his order that it is not appropriate as has been mentioned by the Divisional Forest Officer, Chitrakoot, in his letter dated 06.07.2014 that he has not sent the report/ no objection under Forest Conservation Act, 1980, because it was in the knowledge of the Divisional Officer that the no objection certificate for the retail outlet has to be issued by the District Magistrate, then he must

had to mention the provisions of the Forest Conservation Act, 1980 alongwith the report sent. Commissioner has also mentioned regarding his conclusion that it is inappropriate to be requested by the Forest Divisional Officer for revoking/ quashing of the no objection certificate after the filing station became functional. He has also taken this as a ground there is no dense forest area as per the photographs annexed, however there is only one tree standing there on the forest land. In his order, he has also mentioned about the development to get happened in the locality because of establishment of petrol pump there and that the general public will get benefitted with the services of the filing station and because the petrol pump is situated at the Teerth road of Chitrakoot, and having Grit Crusher business in Bharatpur, there is lot of transportation activities happen there and that the same would be benefitting in increasing the public exchequer. It has been commented by him regarding to get prior permission/ no objection certificate of the Government of India that it is clear from the perusal of the public information filed by the appellant that there are many other petrol pump/ filing stations got established on the Chitrakoot and Banda forest passage after year 1980, which have not got no objection from the Government of India till date. In his order, considering the delay in issuing the no objection by the Government of India, has opined that the appeal deserves to be allowed subject to the terms and conditions. In the said conditions, not to fell down the trees in the said conservative forest area, to conserve them with its own resources, to use minimum passage of forest area for transportation, to do plantation between both the passages with its own resources, not to make any permanent or temporary construction, not to put hording and to be bound by the conditions notified by the State government of the Government of India or orders passed by them, the conditions to be binding on the appellants and strict compliance of the same be followed etc. are included. The order dated 18.09.2014 passed by the Commissioner, Chitrakoot Dham Zone, is annexed **(Annexure-10)**.

- ❖ Thereafter, in the documents, it is the order of Smt. Neelam Ahlawat, District Magistrate, Chitrakoot, which has been issued by the District Magistrate office vide letter No. 3625/G.Pu.A./ Petro.Anu./2014-15, dated 05.12.2014, is pertinent. It has been commented in the said order by the then District Magistrate that earlier a petitioner was filed by Laxman Singh, Proprietor M/s Jai Kamtanath Filing Station, Bharatkup, before the Hon'ble High Court being Writ Petition 34897/2014, in which the Hon'ble High Court passed order dated 14.07.2014 mentioning that, **"Under the direction of the Hon'ble Supreme Court in T.N. Godavarman Thirumulpad (Supra) such permission has to be given by the Centrally Empowered Committee set up by the Supreme Court for such purpose."**

It is also mentioned in the said order of the District Magistrate that legal advise has been received on 09.11.2014 from the

District Government Counsel (Civil) in this matter, in which District Government Counsel, Chitrakoot, has mentioned that as far as the point of allowing appeal by the Hon'ble Commissioner in the referred matter is concerned, it is clearly mentioned in para 4 of this order that NOC has to be taken from Government of India for conservative forest area. In such circumstances, legally, in light of the order passed by the Hon'ble Supreme Court in .N. Godavarman Thirumulpad versus Union of India and Ors., the license can be granted only after getting permission from the Government of India only, which is agreed by the District Magistrate.

It has also been mentioned in the said order that because the proprietor of the said retail outlet has not provided any documents/ records alongwith its application moved for getting NOC for the Forest Conservative Land from the Government of India dated 05.05.2014 and with other applications filed thereafter, therefore Shri Laxman Singh, Proprietor of M/s Jai Kamtanath Filing Station, Bharatkup, is being directed that he should produce the No Objection Certificate for the conservative forest area, after receiving the same from the Government of India for issuance of license to sell diesel at the said retail outlet , in the office of the District Supply officer, Chitrakoot, so that his said application can be disposed off. The said letter of District Magistrate, Chitrakoot, dated 05.12.2014 is annexed (**Annexure-11**).

- ❖ Aggrieved by the order dated 05.12.2014 passed by the District Magistrate, Chitrakoot, Shri Laxman Singh, Proprietor of M/s Jai Kamtanath Filing Station, Bharatkup, filed appeal no. 2014070000978 before the Court of the Commissioner, Chitrakoot Dham Zone, Banda. It has been mentioned by the commissioner in its order dated 20.11.2018 passed in the said appeal that- "appeal No. 2014070000978 under section 9 U.P. High Speed Diesel Oil and Light Diesel Oil (conservation and distribution) Order, 1981, has been filed by the petitioner on different grounds aggrieved by the District Magistrate, Chitrakoot letter no, 3740/ Ji.Pu.A./ Petro Anu., dated 27.01.2015 in which it has been mentioned that contempt of Hon'ble High Court has been done by the applicant by not producing the application disposal order dated 15.12.2014 before the Hon'ble High Court and by not complying with order dated 14.07.2014 passed by the Hon'ble High Court and by concealing the facts before the Hon'ble High Court. In this manner the application dated 05.05.2014 was disposed.

It has been commented by him in his order that -"sale of petrol is on. The diesel license has been cancelled again on the same grounds that the no objection certificate has not been issued by the Central Government for the conservative forest area. There is no mention of any provision regarding to get no objection certificate to get the license for the sale of diesel on a running petrol pump. It is only for

the establishment of the petrol pump that the no objection certificate is required under the section-144 of the Petroleum Act, 1934. It has been apprised that it is after qualifying all the eligibility criteria that the application for getting the diesel license from the Divisional Forest Officer and District Magistrate, Chitrakoot was filed. It is only after getting the report from the Divisional Forest Officer, Chitrakoot, that the No Objection Certificate has been issued by the District Magistrate for opening the petrol pump. On the basis of this ground only, my predecessor officer, vide its order dated 08.09.2014, confirmed the No Objection Certificate, without the no objection certificate of Government of India. No Objection Certificate does not remain concerned after the establishment of petrol pump and neither there is any requirement of No Objection Certificate to get license to sell diesel in a functional petrol pump. In such circumstances, the subjected order dated 27.01.2015 passed by the District Magistrate, Chitrakoot, deserves to be quashed and the application of the applicant for diesel license deserves to be allowed."

Accordingly allowing the appeal and setting aside the order dated 27.01.2015/05.12.2014 passed by the District Magistrate, Chitrakoot by the Commissioner, Chitrakoot Dham Zone, Banda, directed the District Magistrate, Chitrakoot, to ensure the proceedings of issuance of diesel license within one month and it has also been said in the said order that this shall also be applicable in appeal No. 20014070000978. The copy of the said order of the Commissioner, Chitrakoot Dham Zzone, Banda is annexed (**Annexure-12**).

- ❖ Thereafter, in the records, the order of Shri Vishaakh Ji, District Magistrate, which has been issued by the office of District Magistrate through letter No. 6459/ Ji. Pu. A./ 2018-19 dated 28.02.2019, and endorsed the Additional Divisional Forest Officer, Chitrakoot and District Supply Officer, Chitrakoot, alongwith Shri Laxaman singh, Pro. M/s Jai Kamtanath Filing Station, Bharatkup, District-Chitrakoot, is pertinent. In the said order, describing all the events, which is mentioned herein above in points 1 to 8, the then District Magistrate, Chitrakoot, Shri Vishaakh ji, considering the abovementioned order of the Court of Commissioner dated 20.11.2018, the deliberations made in the meeting of Divisional Forest Officer, Chitrakoot, District Suplly officer, Chitrakoot and District Government Counsel (Civil) held on 03.01.2019, legal advise of the District Government Counsel (Civil) dated 14.01.2015, orders of his predecessors, orders passed in the Writ Petition Nos. 34897/2014 and 66818/2014 instituted by Shri Laxaman Singh, Pro M/s Jai Kamtanath Filing Station, Bharatkup, Chitrakoot, before the Hon'ble High Court of Allahabad, made his comments that the request has been made by Shir Laxmand Singh in compliance of order dated 20.11.2018 passed by the Court of the Commissioner, Chitrakoot Dham Zone, Banda, to issue the license for sale of diesel at its retail outlet, however he was already directed vide office letter no. 3625/Ji.Pu.A.-Pe.Anu./2014-15 dated 05.12.2014, to get the No Objection Certificate from the Central Government for the conservative forest area and the produce the

same in the office, and because of non-compliance of the same by him, the then District Magistrate, disposed off the application dated 05.05.2014 for issuance of license to sell diesel by dismissing the same vide its order No. 3740/ Ji.P.A.-Pe.Abu./2014-15 dated 27.01.2015. Alongwith the same it has been made clear by the Hon'ble High Court in its order dated 14.07.2014 passed in the Writ Petition No. 34897/2014 filed by him, that, **"Under the direction of the Hon'ble Supreme Court in T.N. Godavarman Thirumulpad (Supra) such permission has to be given by the Centrally Empowered Committee set up by the Supreme Court for such purpose."**

It is also mentioned that Shri Laxman Singh, Proprietor M/s Jai Kamtanath Filing Station, Bharatkup, without complying with the directions given vide the said letter No. 3625/Ji.Pu.A.-Pe.Anu./ 2014-15 dated 05.12.2014, again filed Writ No. 66818/2014 in the Hon'ble High Court, Allahabad for disposal of application dated 05.05.2014 pertaining to the issuance of license for sale of high speed diesel. The following order has been passed by the Hon'ble High Court in the said petition vide its order dated 10.12.2014:

**In view of the facts and the circumstances, without going into the merit of the case, we direct the respondent no. 2 District Magistrate, Chitrakoot to dispose of the application of the petitioner for grant of license for sale of high speed diesel oil at his filing station, expeditiously, within a period of four weeks from the date of presentation of certified copy of this order, in accordance to law, after giving opportunity of hearing to the petitioner.**

At the end, the District Magistrate in its order dated 28.02.2019 directed- "in light of all the abovementioned facts and circumstances, the application dated 05.05.2014, 05.12.2018 and 05.02.2019 filed by PShri Laxmand Singh, proprietor M/s Jai Kamtanath Filing Station, Bharatkup, for grant of license to sell diesel at his said outlet, are being dismissed with the directions that they shall produce the No Objection Certificate issued by the Government of India for using the conservative forest area by the said retail outlet, so that the action can be taken to issue the license to sell diesel. The copy of the order dated 28.02.2019 passed by the District Magistrate, Chitrakoot, is annexed **(Annexure-13)**.

- ❖ Aggrieved by the said order dated 28.02.2019 passed by the District Magistrate, Chitrakoot, case No. 001832019 has been instituted by Shri Lakshman Singh, Proprietor Jay Kaamta Nath Filing Station, Bharatkup, Chitrakut, in the Court of the Commissioner, Chitrakoot Dham Zone, Banda. The Commissioner, Chitrakoot Dham Zone, Banda, mentioned in its order dated 12 March 2019 that- "...following order has been passed in my order dated 20.11.2018 that the appeal is allowed and setting aside the order dated 27.01.2015/05.12.2014 passed by the District Magistrate, Chitrakoot, the application

regarding grant of license for sale of diesel is acceptor. District Magistrate, Chitrakoot, is being directed to take action on the application of the appellant regarding grant of license to sell the diesel, within one month. Against which on behalf of the State, petition has been filed in the Hon'ble High Court and disregard of appellate order dated 20.11.2018 has been conducted by you citing the order dated 14.07.2014 passed by the Hon'ble High Court in Writ Petition No. 34897/ 2014, because the case law which has been cited by the Hon'ble High Court while passing the said order dated 10.07.2014 in Writ Petition No. 34897/ 2014, the same case law has been cited in para-2 of the directions passed by the Chief Secretary, Industries Development Department, Uttar Pradesh Forest Department-2, in Government Order No. 208/ 14-2-97-405 (290)/96 dated 06 January 1997 issued in compliance of order dated 12.12.1996 passed by the Hon'ble Supreme Court in Writ Petition (Civil) No. 202/95 T.N. Godavarman Thirulmulkpaad verus Union of India & Ors., that- "it has been made clear by the Hon'ble Supreme Court in the above-mentioned order, considering the said situation regarding mining to be conducted in the forest area that any non-forestry conduct on the forest land like Aramil, Plywood Viniers and Mining Work etc. are included in the same, cannot be performed without prior permission of the Government of India under the provisions of Conservation of Forest Act, 1980. In regard to the same, it is also referred by the Hon'ble Supreme Court in clear terms regarding the applicability of provisions of Forest Conservation Act, 1980 in the mentioned matter.

It is clear from the abovementioned that the mentioned case law is not applicable in the present matter. This case law is mainly concerned with the illegal mining, Aramil, Plywood Works Viniers etc., those conducts which are related to the illegal feeling of forest trees, therefore it is required to have prior permission of Government of India for these non-forestry works. The subjected matter is based on this ground that the functional petrol pump is requesting for the license of selling diesel. If there is any anticipation of harm to the forest area due to selling diesel on a functional petrol pump, then the petrol pump should be shut down. The said case law is directly concerned with the non-forestry works like mining. This principle is not applicable in the subjected matter because selling of diesel from a functional petrol pump, is not included in the non-forestry work like mining work, Aramil, Plywood Viniers etc. Therefore it is not justifiable to cancel the license of selling diesel vide the subjected order relying upon the said case law.

In the said order, the Commissioner, Chitrakoot Dham Zone, Banda, has observed that the legal principle mentioned in order dated 12.12.1996 passed by the Hon'ble Supreme Court is concerned with the mining works and said that the earlier order dated 20.11.2018 passed by him is based upon the sound legal principles, on which the mentioned legal principle does not become applicable, and the District Magistrate does not have jurisdiction to disregard the

order of the Appellate Court on the ground of said case law. In light of the abovementioned, allowing the appeal, the order dated 28.02.2019 passed by the District Magistrate has been quashed and it was directed to the District Magistrate, Chitrakoot, to issue the license for the sale of diesel. The copy of the said order dated 12.03.2019 passed by the Commissioner, Chitrakoot Dham Zone, Banda, is annexed **(Annexure-14)**.

- ❖ It has been mentioned at point no. 4 in the letter No. 3788/10 case dated 22.06.2019 of Divisional Forest Officer, Chitrakoot addressed to the Forest Conservator, Chitrakootdhaam Vratt, Banda and endorsed to Chief Forest Conservator, Bundelkhand Zone, U.P., Jhansi, that on 03.06.2019 site inspection was conducted by the Deputy Divisional Forest Officer, Chitrakoot and Departmental Surveyor, on which the operation of the retail outlet has been already found to be closed. The copies of the said report of the Divisional Forest Officer and the mentioned inspection report dated 03.06.2019 are annexed **(Annexure-15)**.

**Investigation**

After the perusal of the abovementioned facts and circumstances and investigation of the same, following points have become clear:

- ❖ That in the no objection certificate dated 11.03.2014/ 14.03.2014 issued by the District Magistrate, Chitrakoot, there is nowhere mentioning of any report of no objection from all the departments and original satisfaction report after inspection of the site as has been expected from the District Supply Officer to be provided to the officer of District Magistrate, Chitrakoot vide its letter No. 731/ Saat-Nyay Sahayak/ 2013 dated 28.09.2013.
- ❖ That, through different letters in this regard, the no objection reports regarding the Forest Rights, have been sought from the Divisional Forest Officer and other departments by the office of the District Magistrate. It is clear from the same that the District Magistrate office had this knowledge that these both are independent process and these are not interlinked with each other in any manner. It is also clear from the facts mentioned in the abovementioned para 2 that the president and members of the District Level Forest Right Committee have signed the said No Objection Certificate on different dates, which shows that these three officers did not conduct the meeting together but signed on the file personally by circulating the said file in their offices.
- ❖ That the then District Magistrate Shri Surendra Vikram has not mentioned regarding the no objection given by the District Level Forest Right Committee, on the said no objection certificate. Without receiving the no objection certificate from Divisional Forest Officer, sought through District Magistrate office letter No. 731/ Saat-Nyay Sahayak/2013 dated 28.09.2013, there is mentioning of no objection from the Divisional Forest Officer on the said No Objection Certificate issued by the District Magistrate.
- ❖ That the facts mentioned in the above para no. 4 are correct in light of the letter sent by the Divisional Forest Officer to the District

Magistrate. It became clear on the perusal of the records available in the office that Divisional Forest Officer, through its letter No. 5331/33-1 dated 27.06.2014, intimated Shri Ashish Kumar Gupta, Senior Zone Retail Sales Manager, S.D.R.S.M., Indian Oil Corporation Limited (M.D.), regarding the defects in the proposal letter sent by the said organization for diversion of the forest land and directed to ensure to provide the same again to the office of the Divisional Forest Officer after removing the mentioned defects. The letter of Chief Forest Conservator/ Nodal Officer, U.P., Lucknow, has also been annexed with the said letter. It is clear that it was well in the knowledge of the said officer of the Indian Oil Corporation Limited that the subjected area comes under the conservative forest area and it is required to get prior permission of the Central Government to conduct any non-forestry activity on the same. In pursuance of the same, the copy of the proposal letter sent by the Indian Oil Corporation Limited alongwith the said letter of the Divisional Forest Officer, Chitrakoot, addressed to said Shri Gupta, are annexed **(Annexure-16)**.

- ❖ That the said Shri Gupta, vide its letter dated 02.07.2014 (copy annexed-**Annexure-17**) in reply to the Divisional Forest Officer letter dated 27.06.2014, apprised the Divisional Forest Officer that the petrol pump has been established only after getting the No Objection Certificate from the District Magistrate, which is having mentioning of expected consent of the forest department, and after complying with all the legal formalities. It is clear from the same that the said Shri Gupta of Indian Oil Corporation Limited has not taken the cognizance of the facts mentioned in the Divisional Forest Officer, Chitrakoot letter dated 27.06.2014 and avoiding the same, without amending the proposal under the Forest Conservation Act, under the shadow of the no objection certificate issued by the District Magistrate, tried to show the establishment of petrol pump legal and under the regulatory compliance. Thereafter, again the Divisional Forest Officer, Chitrakoot, vide its office letter No. 64/ 33-1 dated 06.07.2014, gave the warning to Shri Gupta informing him with all the legal provisions in this regard and to stop the non-forestry use of the forest land and to provide the proposal letter again after removing the defects to the office of the Divisional Forest Officer, Chitrakoot, and to get the permission from the Central Government. The copy of the said letter was also endorsed to the District Magistrate, Chitrakoot alongwith General Manager (U.P. state office) Indian Oil Corporation Limited, Lucknow. The copy of the said letter of the Divisional Officer is annexed **(Annexure-18)**.
- ❖ That taking cognizance of all the facts and circumstances and considering the mandate to take No Objection under the Forest Conservation Act from the Government of India, Smt. Neelam Ahlawat, the then District Magistrate, Chitrakoot, suspended the No Objection Certificate issued by her predecessor officer as per the law. She, holding it not appropriate to get the No Objection from the District Level Forest Right Committee as alternative or equal to the

no objection from the Divisional Forest Officer, taking action on the Indian Oil Corporation Limited, directed them to produce the no objection issued by the Government of India.

In the records available in the office of the Divisional Forest Officer, Chitrakoot, it is seen that the letter dated 20.08.2014 written by the said Shri Gupta of the Indian Oil Corporation Limited, addressed to the District Magistrate, Chitrakoot, the copy of which is also endorsed to the Divisional Forest Officer, Chitrakoot, in which it was requested to grant no objection for diversion of the said forest land for non-forestry use for the establishment of the petrol pump. The copy of the said letter is annexed **(Annexure-19)**. Through this letter, he informed the District Magistrate, Chitrakoot, regarding the stay of execution of its order dated 10.07.2014 by the Hon'ble Court of Commissioner, Chitrakoot, in pursuance of the Appeal No. 440/2013-14. In reply to the said letter of Shri Gupta, it is again made clear in the officer letter No. 648/ 33-1 dated 25.08.2014 issued by the Divisional Forest Officer, Chitrakoot, that it is mandatory to take the permission from the Government of India for the diversion of the conservative/ reserved forest land for its use for any non-forestry activities. The Divisional Forest Officer, Chitrakoot, is not the competent officer to issue the No Objection Certificate. It was said to said Shri Gupta, through the said letter, to remove the defects in the proposal letter sent earlier as soon as possible and to sent it again after such modification. The said letter of the Divisional Forest Officer, Chitrakoot, dated 25.08.2014 is annexed **(Annexure-20)**.

- ❖ That the then Commissioner Shri Murlidhar Dubey, vide its order dated 18.09.2014, through which he reiterated the order of the District Magistrate, Chitrakoot, Shri Surendra Vikram dated 14.03.2014 and set aside the order dated 10.07.2014 passed by Smt. Neelam Ahalawat, District Magistrate, Chitrakoot, held it to be no objection of the Divisional Forest Officer, Chitrakoot, as being signed by the Divisional Forest Officer, Chitrakoot, on the No Objection Certificate being the member of the District Level Forest Right Committee, and it has been observed that the Divisional Forest Officer, Chitrakoot, had to mention the provisions of the Forest Conservation Act, 1980 alongwith the its said report. The order has been issued by him subject to the conditions mentioned therein on the grounds of petroleum products be easily available for the general public, profit to public exchequer, the public information given by the appellants that there are many other petrol pumps established on the same highway without getting no objection from the Government of India.

Here it is pertinent to note that Shri Surendra Vikram, then the District Magistrate, Chitrakoot, in the No Objection Certificate issued vide its order dated 14.03.2014, has not mentioned anything about the no objection certificate received from the District Level Forest Right Committee, however without receiving no objection certificate from the Divisional Forest Officer, Chitrakoot, the said District Magistrate, Chitrakoot, has shown therein the No Objection

Certificate to have received the No Objection from the Divisional Forest Officer, Chitrakoot. It is nowhere mentioned in the said No Objection Certificate issued by the District Magistrate, Chitrakoot, that because the Divisional Forest Officer, Chitrakoot, is the member of the District Level Forest Right Committee, so the signature made by him in the capacity of the member of the District Level Forest Right Committee, shall be considered as no objection of the forest department and there would not be any necessity of any proceedings under the Forest Conservation Act. In light of the said fact, the said observation made by the Commissioner, Chitrakoot Dhaam Zone, Banda, in regard to the no objection of the Divisional Forest Officer, Chitrakoot, seems to be an afterthought.

The Commissioner, Chitrakoot Dhaam Zone, Banda, in its order, has considered and accepted the ground the public information filed by the appellants that there are many other petrol pumps functioning without the permission of the Government of India and the delay on the part of the Government of India to issue the No Objection, but he has not tried to know that the action has not been taken by the said company on the defects in its proposal as were intimated to it. The question of delay arises only when the proposal has been submitted. It seems to be prejudice to consider the delay on the part of the Government of India without going into the facts.

As far as the question of other petrol pumps running without such permission is concerned, it is pertinent to mention that if any mistake has been committed earlier then the same would mean that the same mistakes shall be repeated again in other matters. If the information has been taken by the Commissioner, Chitrakoot Dhaam Zone, Banda, from the Divisional Forest Officer, Chitrakoot, then he must be acquainted that the petrol pumps which come under the territory of the conservative forest area under Forest Conservation Act, 1980 and which have not taken the prior permission of the Government of India, there has been mentioned a provision to issue notice to them to produce the proposal for permission (Ex. Post facto).

That then the District Magistrate, Chitrakoot, Smt. Neelam Ahalawat, after the said order of the Commissioner, Chitrakoot Dhaam Zone, Banda, vide her order dated 05.12.2014 intimated the mandate of getting permission from the Government of India. Alongwith the same, it was directed to be provided with the no objection certificate issued by the Government of India before issuing the license for the sale of diesel.

That it is clear from the facts and circumstances mentioned in the abovementioned para-8 that it has been said by Shri Sharad Kumar Singh, Commissioner, Chitrakoot Dhaam Zone, Banda, holding the order given by the predecessor officer in his order dated 20.11.2018 that the NOC for establishment of pump has been issued only after receiving the report from the Divisional Forest Officer, Chitrakoot and in the order dated 18.09.2014 passed by his predecessor, it was not opined to have any requirement of No objection from the Government of India. The ground has been taken by him while

setting aside the order of the District Magistrate that the petrol pump has already been established and the petrol is being sold at the same, therefore it is not illegal to issue diesel license, but the Commissioner, Chitrakoot Dhaam Zone, Banda, has not considered the main objective of the order of the District Magistrate, Chitrakoot, dated 05.12.2014, in which it has been clearly said that the concerned company has not got the permission of the Government of India and which shall be obtained. Neither was it tried by the Commissioner, Chitrakoot Dhaam Zone, Banda, to know that why the Company or its dealer is not producing the proposal under the Forest Conservation Act, 1980.

- ❖ That it is clear from the facts mentioned in the para-9 that Shir Vishaakh Ji., District Magistrate, Chitrakoot, after considering and deliberating all the points, has directed to produce the no objection certificate after getting the same from the Government of India. He, in his order dated 28.02.2019, mentioned the orders passed by the Hon'ble High Court, Allahabad, in Writ Petition Nos. 34897/2014 and 66818/2014, from which it is clear that it was tried by the said dealer to show it legal to establish petrol pump and to get rid from producing the proposal for diversion of forest land for non-forestry use under the Forest Conservation Act, 1980, under the garb of the no objection certificate granter by the District Magistrate, Chitrakoot. It is clear in the order dated 14.07.2014 passed by the Hon'ble High Court in Writ Petition No. 34897/2014 that **"Under the direction of the Hon'ble Supreme Court in T.N. Godavarman Thirumulpad (Supra) such permission has to be given by the Centrally Empowered Committee set up by the Supreme Court for such purpose."**

On the next date of hearing on 20.08.2014, on the request of the advocate on behalf of the said dealer and on withdrawal of the said writ petition, the Hon'ble High Court dismissed the said writ petition. In the same manner, in other Writ Petition No. 68818/2017, giving opportunity to hear the District Magistrate, Chitrakoot, it was directed to dispose of the matter. It is clear from the same that in pursuance of the directions given by the District Magistrate, Chitrakoot, to the said dealer of the Indian Oil Corporation Limited, other actions were taken by him but not producing the permission after getting the same from the Government of India and till getting desired order in his favour, case/appeal/petitions were filed in different Courts.

That it is clear from the facts and circumstances mentioned in the abovementioned para-10 that many reasons have been given by the Commissioner, Chitrakoot Dhaam Zone, Banda, to not to follow the requisite procedure under the Forest Conservation Act, 1980, for diversion of forest land for its non-forestry use, in which it is also mentioned about the non-applicability of the principles held in order dated 12.12.1996 passed by the Hon'ble Supreme Court in Writ Petition (Civil) No. 202/95. As per him, the mandate to get permission from the Government of India is applicable specifically only for illegal mining, Aramil, Plywood, Viniers etc., the conduct in

which it is the possibility of illegal felling of trees. He has mentioned that the subjected matter is based on the ground that there has not been caused any harm to the forest area due to the operation of the petrol pump already established there, then the sale of diesel from an operational petrol pump is not included in mining, Aaramil, Plywood, Viniers etc. kind of non-forestry activities. It is clear that Shri Sharad Kumar Singh, Commissioner, Chitrakoot Dhaam Zone, Banda, has not perused the provisions regarding the procedure to be followed under the Forest Conservation Act, 1980 and its provisions, neither he tried to understand the objective behind the orders of the District Magistrate, Chitrakoot, Smt. Neelam Ahlawat and Shri Vishaakh Ji, pertaining to provide the no objection certificate of the Government of India for the purpose of non-forestry use of the forest land. In this manner, misinterpreting the order dated 12.12.1996 passed by the Hon'ble Supreme Court, the orders of the District Magistrates passed in the light of regulations in regard to the same, have been set aside and order has been passed in favour of the appellants.

**Conclusion:**

The following conclusion is drawn after perusal of abovementioned events, orders of the officers and other records available for perusal that:

- ❖ It is not appropriate to have mentioned in the No Objection Certificate issued by Shri Surendra Vikram, District Magistrate, Chitrakoot, about the no objection report of the Divisional Forest Officer, Chitrakoot, without receiving the same from the Divisional Forest Officer, Chitrakoot. It is pre-requisite to have the certificate of the District Magistrate regarding not to have the forest right, in the terms of producing proposal for the mentioned projects under the Forest Conservation Act, 1980. For issuance of the said certificate, it is clear from getting certificate in this regard from two members of the District Level Forest Right Committee, Chitrakoot, by Shri Surendra Vikram, District Magistrate that he has knowledge of this fact that it is required to take prior permission from the Government of India to conduct any non-forestry work on the forest land under the Forest Conservation Act, 1980, even then, without producing the proposal by the applicant company under the Forest Conservation Act, 1980, showing the no objection received from the Divisional Forest Officer, Chitrakoot, the certificate has been issued at his level seems to be deliberate.
- ❖ Shri Aashish Kumar Gupta, Senior Zonal Sales Manager, Indian Oil Corporation Limited, deliberately avoided the regulations despite having the knowledge of the same. Even after intimating from the Divisional Forest Officer, Chitrakoot, not producing the proposal and to try to show it correct the conducts against the provisions of the Forest Conservation Act, 1980, shows his contempt conduct against the settled legal principles. Shri Gupta has clearly violated the provisions of the Forest Conservation Act, 1980.
- ❖ The letter of the Divisional Forest Officer, Chitrakoot, No. 64/33-1 dated 06.07.2014 is also endorsed to the General Manager, (U.P. State Office-1), Indian Oil Corporation Limited (U.P.SO. First) T.C. 39 Vibhuti Khand, Gomti Nagar, Lucknow-226010. Therefore it is pertinent to note that

what action has been taken at his level to check the violation of the provisions of the Forest Conservation Act, 1980.

- ❖ Shri Laxaman Singh, dealer Indian Oil, Proprietor Jay Kamtanath Filing Station, Bharatkoop, Chitrakoot, has tried to escape from the compliance of the provisions of the Forest Conservation Act, 1980 for the non-forestry use of the conservative forest land and to show the established of the petrol pump legal in the garb of the no objection certificate issued by the District Magistrate, Chitrakoot. In this manner he has also violated the provisions of the Forest Conservation Act, 1980.
- ❖ Smt. Neelam Ahlawat and Shri Vishaakh ji, the then District Magistrate, Chitrakoot, have tried their best to comply with the provisions of the said Act, even to the extent that they remained adamant to the permission of the Government of India despite the orders passed by their senior officers. In their orders, they directed the Indian Oil Corporation Limited and its dealer to get the permission from the Government of India for non-forestry use of the said forest area.
- ❖ Shri Muralidhar Dubey, the then Commissioner, Chitrakoot Dhaam Zone, Banda, tried to justify their act of not taking desired action under the Forest Conservation Act, 1980, on the ground of delay on the part of the Government of India, not having permission of Government of India to other established petrol pumps as per the public information, considering the signature made by the Divisional Forest Officer, Chitrakoot, in the capacity of the member of the District Level Forest Right Committee, as its no objection etc. His orders seem to be full of pre-conceptions and after thoughts. He never tried to know that why the concerned company has not removed the defects intimated to it by the Divisional Forest Officer, Chitrakoot, and then did not provide the proposal. He did not consider it as objection of the Divisional Forest Officer, Chitrakoot, to not to provide the no objection of all the concerned departments as expected by the District Magistrate, Chitrakoot. It is clear from the same that he did not give importance to the procedure followed under the provisions of the Forest Conservation Act, 1980.
- ❖ It is clear from both the orders of Shri Sharad Kumar Sing, Commissioner, Chitrakoot Dhaam Zone, Banda, that he has not perused the provisions of the Forest Conservation Act, 1980, and the procedure followed under the same, and neither tried to understand the objective behind the orders passed by the then District Magistrate, Chitrakoot, Smt. Neelam Ahlawat and Shri Vishaakh ji, pertaining to the requisite of permission of the Government of India. Misinterpretation of the order dated 12.12.1996 passed by the Hon'ble Ssupreme Court in Writ Petition (Civil) No. 202.95 T.N. Godavarman Thirumulkpadaam versus Union of India & Ors., has been done by them to justify his order. The provisions of the Forest Conservation Act, 1980, are equally applicable on reserved area, conservative area, forest area and others. In this manner he has not given importance to the desired legal procedure under the Forest Conservation Act, 1980.

**GAZETTE OF UTTAR PRADESH,  
20<sup>th</sup> February 1960  
Correction letter  
11<sup>th</sup> February, 1960**

Please read the word "Superintendent Engineer" as "Superintending Engineer" published in page No. 32 of No. 511-S-T/36-A/1216 (S-t)-59-Uttar Pradesh Gazette (Part -1), dated 1<sup>st</sup> January, 1960 in the Release No. 6797 (S-M)/36-A-1216 (S-M)-59, dated 2<sup>nd</sup> January, 1960.

By Order,  
Harish Chandra Saxena  
Secretary

**FOREST DEPARTMENT**

Miscellaneous  
10<sup>th</sup> February, 1960

No. 1115/14-331-50 - The Ld. Governor of the Uttar Pradesh opined that under sub section (3) of section 21 of the Indian Forest Act, 1927 (Act No. 16, 1927), the requisite in examining and in collecting the record will take as much time that in the meanwhile, the rights of the State Government may get threatened.

Thus, the Ld. Government of Uttar Pradesh by vesting its right conferred under above said sub-section and section 80-A of the above Act read with sub-section (1) of the above said Act, declares that the Applicance of chapter 4 of the above said Act will be applicable on the referred/ described land in the enclosed list.

**LIST**

District	Name of the Road	Distance in mile, (ineligible) and in feet	Description
1. Meerut Seat	1. Meerut Baghpat Road	From 3 Mile to 31 mile 2 feet.	The boarder of the land had been marked by the milestone.
	2. Baghpat - Saharanpur	From 1 Mile to 24 Mile 2 feet	The boarder of the land had been marked by the milestone.
	3. Baghpat - Loni - Shadara	From 0 to 17 mile 2 feet 260 feet	The boarder of the land had been marked by the milestone.
	4. Meerut - Nuana	From 2 mile to 17 mile	The boarder of the land had been marked by the milestone.
	5. Meerut to Bulandshahar	From 2 mile to 29 mile	The boarder of the land had been marked by the milestone.
	6. T.R.M. Road	From 41 mile to 55 mile	The boarder of the land had been marked by the milestone.
	7. G. T. Road	From 870 mile to 873 mile	The boarder of the land had been marked by the milestone.
	8. Begumabad - Banstifri	From 1mile to 6 mile	The boarder of the land had been marked by the milestone.
	9. Muradabad Railway	From 0 to 2 f. 106 feet	The boarder of the land had been marked by the milestone.

	10. Modinagar - Railway Feeder	From 0 to 640 feet	The boarder of the land had been marked by the milestone
	11. Modinagar - Railway Feeder	From 0 to 4 f. 10 feet	The boarder of the land had been marked by the milestone
	12. Meerut - Sadarna Road	From 2.426 to 12.3.320	The boarder of the land had been marked by the milestone
	13. Durela - Sadrena Road	From 0.0.0 to 6.4.260	The boarder of the land had been marked by the milestone
	14. Bulandshahar - Senagarh Road	From 13 mile to 31 mile 3 f. 200 feet	The boarder of the land had been marked by the milestone
	15. Yarot - Chaprili	From 1 to 9 mile	The boarder of the land had been marked by the milestone
	16. Meerut - Bareily Road	From 23 mile to 61 mile 3 f. 200 feet	The boarder of the land had been marked by the milestone
	17. National Hardwerat No. 24	From 28 mile 6 f. to 8 f. From 3 mile 1 f. to 3 f.	The boarder of the land had been marked by the milestone
	18. GT Road - Gazipur to Uttar Pradesh Pounder	From 874 mile 547 f to 789 mil 2 f 80 feet	The boarder of the land had been marked by the milestone
	19. Gazipur - Hapur Road	From 1 mile to 29 mile 6 f 249 feet	The boarder of the land had been marked by the milestone
	20. Hapur Road	From 1 mile 478 feet to 19 mile 4 f 80 feet	The boarder of the land had been marked by the milestone
2. Muzaffar nagar	1. D.R.M Road	From 16 mile to 19 mile	The boarder of the land had been marked by the milestone
	2. Khatini - Jansendh- Pispur-Bijnaour	From 24 mile 6 f to 2 nile 31 feet	The boarder of the land had been marked by the milestone
	3. Muzaffarnagar - Shamli-Karauna	From 2 mile to 31 mile	The boarder of the land had been marked by the milestone
	4. Muzaffarnagar - Saharanpur	From 88 mile to 10 mile	The boarder of the land had been marked by the milestone
	5. Muzaffarnagar - Bijnaur	From 83 mile to 21 mile	The boarder of the land had been marked by the milestone
	6. Morma - Rakirataal	From 0 to 3 mile	The boarder of the land had been marked by the milestone
	7. Muzaffarnagar - Khubna Road	Till 8 mile	The boarder of the land had been marked by the milestone
	8. Muzaffarnagar - Bagpat - Saharanpur Road	From 24 mile to 53 Mile 3 f.	The boarder of the land had been marked by the milestone
(Rampur)	18. Ohra-ManpurOja	0 10 0 0	The boarder of the land had been marked by the milestone
	19. SARghisalpur	0 17 0 0	The boarder of the land had been marked by the milestone
	20. KanyakaraMithora	0 5 0 0	The boarder of the land had been marked by the milestone
	21. Khopipli	0 9 0 0	The boarder of the land had been marked by the milestone.
	22. ManpurSariyal	0 3 0 0	The boarder of the land had been marked by the milestone
	23. DirhalKashipur	0 6 0 0	The boarder of the land had been marked by the milestone
	24. MankaraKimri	0 5 0 0	The boarder of the land had been marked by the milestone
	25. SahabaadDha kiya	0 9 0 0	The boarder of the land had been marked by the milestone
	26. ParwardJaulpur	0 5 0 0	The boarder of the land had been marked by the milestone
25. Unnao	1. Unnao - Harboi Road	From Mile 1 to Mile 36	The boarder of the land had been marked by the milestone

	2. Allahabad - Unnao (Unnao Bighapur Laganj Road)	From Mile 92 to mile 123	The boarder of the land had been marked by the milestone
16. Lucknow	1. Mohanlal Gunj Bani Road	From 0 to 11 mile	The boarder of the land had been marked by the milestone
	2. Bani - Harauni Road	From 0 to 7 mile	The boarder of the land had been marked by the milestone
	3. Machli Bhawan By pass Road	From 0 to 2 mile	The boarder of the land had been marked by the milestone
	4. Chinhat Malho Road	From 0 to 1 mile 7 f. 300 f.	The boarder of the land had been marked by the milestone
	5. Lucknow - Hardoi Road	XX	The boarder of the land had been marked by the milestone
27. (ineligible)	1. F. B. S. Road	From Mile 24 to mile 70	The boarder of the land had been marked by the milestone
	2. BNK Road	From Mile 2 to mile 32	The boarder of the land had been marked by the milestone
	3. Banda Ahila Barel Road	From Mile 1 to mile 25	The boarder of the land had been marked by the milestone
	4. A. B, Road	From Mile 32 to mile 118	The boarder of the land had been marked by the milestone
	5. KPR Road (Eastern, Pahadi, Yajapur)	From Mile 1 to mile 20	The boarder of the land had been marked by the milestone
	6. Garaini - Kalinger Road	From Mile 1 to mile 16	The boarder of the land had been marked by the milestone
98. Fatehpur	1. N.N.G.T. Road	From mile 543 to mile 592	The boarder of the land had been marked by the milestone
	2. FBS Road	From 1 mile to 23 mile	The boarder of the land had been marked by the milestone
	3. A E F Road	From 175 mile to 192 mile	The boarder of the land had been marked by the milestone
	4. BB Road	From 1 mile to 7 mile	The boarder of the land had been marked by the milestone
	5. FRS Road	From 1 mile to 15 mile	The boarder of the land had been marked by the milestone
	6. Shivrajpur - Chilla Road	From 4 mile to 10 mile	The boarder of the land had been marked by the milestone
	7. BL Road	From 6 mile to 20 mile	The boarder of the land had been marked by the milestone
	8. Aga-Niravta Road	From 1 mile to 10 mile	The boarder of the land had been marked by the milestone
	9. Fatehpur - Bithur Road	From 1 mile to 8 mile	The boarder of the land had been marked by the milestone
	10. Jahanabad By Pass	From 1 mile to 2 mile	The boarder of the land had been marked by the milestone
29. Kanpur	1. Narwal Saraol Road	606 M 5 F. 571 ft. of GT Road	The boarder of the land had been marked by the milestone
	2. Vakeri Railway Feeder Road	0-0-0 to 0-6-326	The boarder of the land had been marked by the milestone
	3. Vidhmu Railway Feeder Road and Malgodam Road	From 0-0-0 0-7-537 ft.	The boarder of the land had been marked by the milestone

Ref: 2013/IN000115/U.P./000C21/140100007 Date: 26.09.2013

To,

The District Magistrate,  
Chitrakut,  
Uttar Pradesh.

Subject: No Objection Certificate for proposed outlet.

Location: At Khasra No. 703, Village- Akbarpur (B), Tehsil- Karvi  
and District- Chitrakut, State- Uttar Pradesh.

Sir,

We propose to develop an MS & HSD Filing Station (Retail Outlet) at Akbarpur (b) on Banda-Karwi Road, NH-35 (Old NH-76) between km stone no. 88 to 89, District- Chitrakoot, for expansion of our retail network and to serve our customer in a better way.

In order to enable us in obtaining the Explosive License from the Department of Explosives, Agra, your valuable "No Objection Certificate" is essentially required. We are enclosing herewith 10 (Ten) copies of Layout Diagram of the proposed Retail Outlet for your kind perusal with a request to kindly return two copies of the same duly approved by your kind self.

In view of the foregoing, we would humbly request you to kindly grant your "No Objection Certificate" in favour of Indian Oil Corporation Limited at the earliest. Your early NOC will enable us in putting up the facilities and development of the Retail Outlet as early as possible.

Thanking you and assuring you best services at all times.

Sincerely, Yours  
For INDIAN OIL CORP. LTD.

Sd/-(illegible)  
Ashish Kumar, SDRSM,  
Indian Oil Corp. Ltd.

Annexure-3

(143)

OFFICE OF DISTRICT MAGISTRATE, CHITRAKOOT

No.731/Saat-Nyay Sahayak/2013

Dated:23Sep. 2013

Subject:Regarding the No objection Certificate for the establishment of proposed new outlet of Indian Oil Corporation at Arazi Nno.-703, Vill.-Akbarpur (B), Tehsil-Karwi, Distt.-Chitrkoot.

1. Superintendent of Police, Chitrakoot.
  2. Divisional Forest Officer, Chitrakoot.
  3. Sub-District Magistrate, Karwi.
  4. District Fire Officer, Chitrakoot.
  5. Executive Engineer, National Highway Block, PWD, Banda.
  6. Executive Engineer, Electricity Distribution Block, Chitrakoot.
  7. Regional Officer, UPPCB, Chilla Road, Banda.
- 

In regard to the abovementioned subject a proposal letter No.2013/ IN000115/U.P./000021/1401/ 00007 dated 28.09.2013 has been received from S.D.R.M.S., Indian Oil Corporation Limited, Civil Lines, Allahabad, for establishment of M.S. and H.S.D. Filing station new retail outlet at Arazi No. 703, Akbarpur (B) N.H.-76, Banda Karwi Road ( KM Stone No. 88 to 89), Tehsil-Karwi, Distt.-Chitrakoot, alongwith the map blueprint of the proposed site, for the issuance of No Objection Certificate for the same.

Therefore the copy of the abovementioned letter and blueprint of the map, is being sent to provide the no objection report of your department alongwith the verification of the map of the proposed site.

Enclosed: as above

Sd/-  
(Santosh Kumar)  
Additional District Magistrate (Vi./Ra.)  
Incharge District Magistrate ,  
Chitrkoot.

No. and date as above

Copy to:

1. District Magistrate, Chitrkoot for kind perusal.
2. District Supply Officer, Chitrkoot, the copy of the said letter alongwith the map of the proposed site to get the no objection report from all the departments and then provide the no objection report alongwith the verification of the proposed site.

Sd/-  
(Santosh Kumar)  
Additional District Magistrate (Vi./Ra.)  
Incharge District Magistrate ,  
Chitrkoot.

OFFICE OF DISTRICT COLLECTOR, CHITRAKOOT

No. 966/ Saat-Nyay Sahayak/ 2013

Dated Nov. 08, 2013

Subject: Regarding the permission of use of land without cutting the forest on the forest conservative area of 0.06770 hectare for establishment of proposed petrol pump of Indian Oil Corporation Limited KM 88.038 Left Lane at Khasra No. 703, Village-Akbarpur, Tehsil-Karwi.

Divisional Forest Officer,  
Chitrakoot

Kindly take note of the order dated 06.11.2013 (annexed in original) endorsed by the District Magistrate on the application of S.D.R.M.S., Indian Oil Corporation Limited, Civil Lines, Allahabad, dated 02.11.2013 pertaining to the above-mentioned subject, in which it was requested to provide the signed certificate for issuance of the certificate under Forest Right Act, 2006 for the establishment of the mentioned project any forest right is not being violated under the provisions of the Forest Act, 1980 in regard to the land in front of Gata No. 730 and that there is no Tribal Group or any other forest conservatives are not there so that any forest scheme shall not be violated.

Therefore the said certificate and certificate of Forest Right Act, 2006 is being sent to you with this request that please provided the counter-signed annexed certificate of FRA as soon as possible.

Enclosed: as above

Sd/- 08.11.2013  
(Santosh Kumar)  
Additional District Magistrate,  
Incharge District Magistrate,  
Chitrakoot.

"Stamp"  
Office of Divisional Forest Officer,  
Chitrakoot Forest Division, Chitrakoot,  
No. 2148

File No. 33-1  
Dated 13.11.2013

Sd/- (illegible)12.11.2013

DISTRICT LEVEL FOREST RIGHTS COMMITTEE CHITRAKOOT

Certificate

(under Forest Right Act, 2006)

It is certified that neither any claim has been received nor pending under the Forest Right Act, 2006 (FRA 2006). There is no objection of District Level Forest Right Committee to issue no objection certificate to Indian Oil Corporation Limited, Zonal Office, Fifth Floor, Indira Bhwan, Civil Lines, Allahabad- 211001, for diversion of 0.067760 hectare forest conservative land without feeling of trees for establishment of proposed retail outlet at the left lane KM 88.036 at Banda-Karwi Road, National Highway-35 (Old NH-76) in Khasra No. 703 situated at Akbarpur (B), Tehsil-Karwi and District- Chitrakoot, State- Uttar Pradesh.

Sd/- (illegible) 11.02.2014

District Public Welfare Officer/ Secretary  
Chitrakoot

Sd/- (illegible) 12.02.2014

Divisional Forest Officer/ Member,  
Chitrakoot.

Sd/-(illegible) 03.03.2014

(Surendra Kumar)

District Magistrate, Chitrakoot.

District Collector/ President

District Public Welfare Officer/ Secretary  
Chitrakoot

## Form-I

(for linear project)

Government of Uttar Pradesh

Office of the District Collector Chitrkoot

No. 80

Date: 08.03.2014

## TO WHOMSOEVER IT MAY CONCERN

In compliance of the Ministry of Environment and Forests (MoEF), Government of India's letter No. 11-9/98-FC (pt.) dated 3<sup>rd</sup> August 2009 wherein the MoEF issued guidelines on submission of evidence for having initiated and completed the process of settlement of rights under the Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Right) Act, 2006 ('FRA' for short) on the forest land proposed to be diverted for non-forest purposes read with MoEF's letter dated 5<sup>th</sup> February 2013 wherein MoEF issued certain relaxation in respect of linear projects, it is certified that 0.067760 hectare of forest land proposed to be diverted in favour of INIDNA OIL CORPORATION LIMITED MARKETING DIVISION 5<sup>th</sup> floor Indira Bhawan Civil Line Allahabad for New Retail Outlet Construction (purpose for diversion of forest land) in CHITRAKOOT District falls within jurisdiction of AKBARPUR (B) in KARWI Tehsils.

It is further certified that:

- a) The complete process for identification and settlement of rights under the FRA has been carried out for the entire 0.067760 hectares of forest area proposed for diversion. A copy of records of all consultations and meetings of the Forest Rights Committee(s), Gram Sabha(s), Sub-Division Level Committee(s) and the District Level Committee are enclosed as annexure 1 to annexure 03.
- b) The diversion of forest land for facilities managed by the Government as required under section 3 (2) of the FRA have been completed and the Gram Sabhas have given their consent to it;
- c) The proposal does not involve recognized right of Primitive Tribal Groups and Pre-agricultural communities.

Encls: As above

Sd/-  
(Surendra Kumar)  
District Collector,  
Chitrakoot

OFFICE OF DISTRICT MAGISTRATE, CHITRAKOOT  
Letter No.1201/ Saat-Nyay Sahayak/ 2014 dated March14, 2014  
No Objection Certificate

(under Rule 144 Petroleum Regulations,2002)

Senior Divisional Retail Sales Manager, Indian Oil Corporation Limited, Allahabad, through its letter No. 2013/IN00115/UP/ 00002I/1401/0007 dated 26.09.2013, requested to issue the No Objection Certificate for the establishment of new retail outlet (N.S. and H.S.D. Facility) at National Highway-35 (Old Highway-76) at Km 89 (Chainez 88.036 left lane) Banda-Karwi road at Village-Akbarpur (B) situated Khasra No. 703 Tehsil-Karwi District Chitrakoot. In pursuance of the same reports from Superintendent of Police, Chitrakoot, District Fire Brigade Officer, Chitrakoot, Sub-divisional Magistrate, Karwi, Executive Engineer Electricity Distribution Block Chitrakoot, Divisional Forest Officer, Forest Division Chitrakoot, Executive Engineer, N.H. PWD, Banda, Regional Officer, U.P., Pollution Control Board, Banda, have been received. As per the report of the Sub-divisional Magistrate, Karwi, the rakba 0.500 hectare in Khasra No. 703 Ma.Mu. Rs. 8.70 in village Akbarpur (B) Tehsil-Karwi is registered in Khatauni in Account No. 193 in the name of Laxman Singh S/o Shri Kamta Prasad R/o Dewangana Road Karwi, as Sankramani Bhumidhar. The said khasra No. 703 is situated at the left side at km 89 (Chainez 88.036) on National Highway-35 (Olds NH-76). There is no harm to the Gram Sabha and Nazul because of the establishment of the said retail outlet at the said Khasra No.703. Revenue Department has no objection in the establishment of the said retail outlet. As per the report of the Executive Engineer, NH Khand, PWD, Banda, provisional no objection has been given subject to the directions and terms mentioned in the letter of the Regional Officer, Ministry of Road Transport and Highway, Government of India, letter dated 27.01.2014. No objection has been granted by the Police Department, Executive Engineer Electricity Distribution Unit, Divisional Forest Officer, District Fire Brigade Officer, Chitrakoot, Regional Officer, U.P. Pollution Control Board, Banda, for the establishment of the proposed new retail outlet at Khasra No. 703.

In the said reports, no objection has been raised by the concerned departments against the establishment of new retail outlet (M.S. & HSD Facility) of Indian Oil Corporation Limited, Allahabad at Khasra No. 703, Tehsil-Karwi, District-Chitrakoot. The subjected land is registered in the name of Laxman Singh S/o Kamta Prasad R/o Dewangana Road, Karwi in his account No. 193 in Khasra No. 703 rakba 0.500 hectare Ma. Mu. Rs. 8.70.

Therefore, no objection certificate is granted for the establishment of new retail outlet (M.S. & HSD Facility) of Indian Oil Corporation Limited, Allahabad at Khasra No. 703, Tehsil-Karwi, District-Chitrakoot, under the Petroleum Act, 1934 and Regulations 2002 and as per the site plan for the establishment of the underground tanks etc. subject to the terms and conditions regarding the safety parameters at the site as per Fire Brigade department.

Sd/-11.03.2016  
(Surendra Vikram)  
District Magistrate,  
Chitrakoot.

Important/ Urgent

OFFICE OF DIVISIONAL FOREST OFFICER, CHITRAKOOT FOREST  
DIVISION, CHITRAKOOT

Letter No.63/33-1/dated July06, 2014, Chotrakoot

To,

The District Collector,  
Chotrakoot.

Subject: Regarding revoking/ quashing of No-Objection certificate issued for the establishment of retail outlet of Indian Oil Corporation Limited at the left lane KM 88.036 at Banda-Karwi Road, National Highway-35 (Old NH-76) in Khasra No. 703 situated at Akbarpur (B), Tehsil- Karvi and District- Chitrakoot.

Ref: Your letter no. 121/7-Nyay Sahayak dated 14.03.2014

Sir,

No objection certificate has been issued through the abovementioned letter by the then District Collected, Shri Surendra Vikram, regarding the establishment of retail outlet of Indian Oil Corporation Limited at the left lane KM 88.036 at Banda-Karwi Road, National Highway-35 (Old NH-76)in Khasra No.703 situated at Akbarpur(B), Tehsil-Karvi and Distt.- Chitrakoot.(Annexure-1).

It is to be informed regarding the same that Banda-Karwi National Highway-35 (Old NH-76) is notified as forest conservative land vide notification No. 1115/ 14-331-50 dated 10.02.1960. In pursuance to the section-2 of the Forest Conservation Act, 1980 and the order of the Hon'ble Supreme Court passed in Civil Writ No. 202/95 T.N. Godavarman Thirumalkapaad versus Union of Indian, any non-forestry work cannot be carried out on the conservative, reserved or any other forest land without prior permission of the Government of India.

The proposal letter for diversion of forest land for establishment of retail outlet at the left lane KM 88.036 at Banda-Karwi Road, National Highway-35 (Old NH-76) in Khasra No. 703 situated at Akbarpur (B), Tehsil- Karvi and District- Chitrakoot, has been sent by the Indian Oil Corporation Limited (Annexure-3), in which certain defects have been found and for which the Indian Oil Corporation Limited has been intimated in writing to remove the same.

It has been mentioned in the no objection certificate issued by the then District Collector that report has been called from the Forest Divisional Officer, Chitrakoot, to issue to No Objection Certificate. It is to be informed in this regard that no report/ no objection certificate under the Forest Conservation Act, 1980, has been sent by the undersigned to

the District Magistrate, pertaining to the National Highway, which is a conservative forest area. (149)

Madam the no objection certificate issued by the above referred letter for establishment of new retail outlet on the forest conservative land, violates and contravenes the section-2 of Forest Conservation Act, 1980, Sections 29 and 33 of the Indian Forest Act, 1927 and order dated 12.12.1996 passed by the Hon'ble Supreme Court. It is that the Indian Oil Corporation Limited has forcibly taken possession of the forest conservative land and established its outlet their and the passage on the forest conservative land is being used saying that no objection certificate has been granted to it by the District Collector for opening retail outlet, however Indian Oil Corporation is fully aware that it is 0.06776 hectare of forest land which is used as passage to reach the retail outlet and a proposal letter has also been sent by them to the Government of India to get the permission.

It is requested in pursuance of the above that please revoke/ quash the no objection certificate issued by the then District Collector vide its letter No. 121/ Saat-Nyay Sahayak/dated 14.03.2014 for establishing the retail outlet and to stop the operation of the petrol pump, so that the violation of section-2 of Forest Conservation Act, 1980, Sections 29 and 33 of the Indian Forest Act, 1927 and order dated 12.12.1996 passed by the Hon'ble Supreme Court, can be stopped.

Enclosed: as above

Sincerely,  
Sd/- 06.07.2014  
(Moolchand)  
Divisional Forest Officer,  
Chitrakoot.

No. 63A/ as dated:

Copy to: the following alongwith the annexure, requesting them to take necessary action.

1. Chief Forest Conservator/ Nodal Officer, U.P., Lucknow.
2. Chief Forest Conservator, Bundelkhand Zone, U.P., Jhansi.
3. Forest Conservator, Chitrakoot dhaam, U.P. Banda.

Sd/- 06.07.2014  
(Moolchand)  
Divisional Forest Officer,  
Chitrakoot.

OFFICER OF DISTRICT COLLECTOR, CHITRAKOOT

No. 939/ Saat-Nyay Sahayak/ 2014

Dated: July10, 2014

ORDER

The Divisional Forest Officer, Chitrakoot, vide its letter No. 63/93-1/ Chitrakoot dated July06, 2014, requested to cancel the no objection certificate issued vide the officer letter No. 121/ Saat-Nyay Sahayak/ dated 14.03.2014 for the establishment of retail outlet at the left lane KM 88.036 at Banda-Karwi Road, National Highway-35 (Old NH-76) in Khasra No. 703 situated at Akbarpur (B), Tehsil- Karvi and District- Chitrakoot, on the ground of the said dealer not having the prior permission of the Government of India to conduct non-forestry activity on the conservative forest area. In pursuance of the same, the file pertaining to the establishment of the retail outlet of Indian Oil Corporation, has been perused, and it became clear from the same that the Indian Oil Corporation has sent proposal to the Government of India for its permission/ no objection, but no objection has not been granted by the Government of India till date. In the present matter, the no objection certificate has been granted on 11.03.2014 for establishment of retail outlet at the left lane KM 88.036 at Banda-Karwi Road, National Highway-35 (Old NH-76) in Khasra No. 703 situated at Akbarpur (B), Tehsil- Karvi and District- Chitrakoot, on the basis of the no objection granted by the District Level Forest Right Committee, Chitrakoot, which does not seem to be appropriate. In such circumstances, the no objection certificate No. 121/ Saat-Nyay Sahayak/ dated 11.03.2014/14.03.2014 is suspended till the no objection is not being granted by the Government of India as per the procedure. Accordingly, all the concerned are informed to take appropriate setps.

This order shall come into effect immediately.

Sd/-  
(Neelam Ahlawat)  
District Magistrate,  
Chitrakoot.

No. and date as above

Copy to:

1. Senior Retail Sales Manager, Allahabad Division Office, Indian Oil Corporation Private Limited, for taking necessary action in the abovementioned matter and to proved the no objection issued by the Government of India as soon as possible.
2. Divisional Forest Officer, Chitrakoot, for kind information and to take necessary action.
3. Shri Laxman Singh, Delaer Indian Oil Corporation Limited, Proprietor, Jay Kamta Nath Filing Station, for kind information and to take necessary action.

Sd/-  
District Magistrate,  
Chitrakoot.

## COURT OF COMMISSIONER, CHITRAKUT DHAM ZONE BANDA

Appeal No.- C.2014070000440 under rule 154(2) of Petroleum Regulation, 2002

Mauja: Akbar Pargana-Karwi Distt.:Chitrakoot

Jay Kamta Nath Filing Station, Bharatkoot through its dealer/ Pro.  
Laxman Singh Versis State of UP

ORDER

This appeal has been filed aggrieved by the order dated 10.07.2014 passed by the District Magistrate, Chitrakoot, whereby the District Magistrate, Chitrakoot, has suspended the issued No Objection Certificate No. 121/ Saat-Nyay Sahayak/ dated 11.03.2014/ 14.03.2014 till grant of no objection by the Government of India as per the procedure.

The learned advocate for the appellant and District Government Counsel (Civil ) for the State of UP, have been heard and the appeal and the original file of the office of the District Magistrate, Chitrakoot, pertaining to the matter, have been perused.

The brief facts germane to the case are that vide letter No. 2013 dated 26.09.2013, it was requested by the Senior Retail Sales Manager, Indian Oil Corporation Limite, Allahabad, addressed to the District Magistrate, Chitrakoot, to grant No Objection Certificate for establishing Indian Oil Corporation retail outlet on left lane at 88.036 km on National Highway-35 (Old NH-76), Khasra No. 703 situated at village- Akbarpur (B), Tehsil-Karwi. In pursuance of the same, reports of the Superintendent of Police, District Fire Brigade Officer, Sub-District Magistrate, KARWI, Executive Engineer, Divisional Forest Officer, Chitrakoot, Executive Engineer, Ra. Ma. Block, PWD, Banda, Regional Officer, UP Pollution Control Board, Banda, have been submitted in the office of the District Magistrate, Chitrakoot. As per the report of the Sub-District Magistrate, Karwi, Khasra No. 703 rakba 0.500 hectare is registered in account no. 193 of Proprietor Laxman Singh being Sankramani Bhumidhar. There is no objection/ harm to the Gram Sabha and Revenue department due to establishment of the said petrol pump over the said land. in the same manner, as per the report of the Executive Engineer, National Highway PWD, Banda, the provisional no objection has been granted subject to the letter of Regional Officer, Road and Transport Department and Ministry State Highway, Government of India, Lucknow, dated 27.01.2014. Besides it, the officers of other departments have given their no objection for the establishment of the said Retail Outlet over the said piece of land, and considering the same the then District Magistrate, Chitrakoot, Shri Surendra Vikram, for the establishment of retail outlet of the Indian Oil Corporation Limited over the said Khasra No. 703 which is bhumidhari account, the no objection certificate No. 121/ Saat-Nyay Sahayak/ dated 11.03.2014/ 14.03.2014 has been issued under the Petroleum Regulations 1934 and 2002, for the establishment of new retail outlet and for the same, to establish grounded tank as per the site plan, subject to the terms and conditions of having sufficient management of fire brigade etc. as per the norms in

this regard. In pursuance of which the filing station/ petrol pump has been inaugurate on 23.06.2014 by the appellant.

After the inauguration of the said filing station, letter No. 63/ 33-1 dated 06.07.2013 has been sent by the Divisional Forest Officer, Chitrakoot, to the District Magistrate, Chitrakoot, stating that the Banda-Karwi National Highway NH-35( old NH-76) is conservative forest area notified under the notification No. 1115/14-331-50 dated 10.02.1960. No non-forestry activity can be carried out over the protected, reserved or any other forest area, without the prior permission/ no objection of the Government of India. The proposal for diversion of the said forest land under the Forest Conservation Act, 1980 has been sent by the Indian Oil Corporation Limited for establishing the said retail outlet, in which certain defects have been found and it has been written to the Indian Oil Corporation Limited to remove the said deficiencies. It has been mentioned in the no objection certificate issued by the then District Magistrate, Chitrakoot, that the report has been received from the Divisional Forest Officer, Chitrakoot, to issue to said certificate, however no such report under the Forest Conservation Act, 1980 pertaining to the said matter has been sent by the Divisional Forest Officer, Chitrakoot. In this manner, the Divisional Forest Officer, Chitrakoot, has requested the District Magistrate, Chitrakoot, to revoke the no objection certificate dated 14.03.2014, in pursuance of the same, the District Magistrate, Chitrakoot, vide its impugned order dated 10.07.2014, suspended the said no objection certificate, mentioning therein that proposal has been sent by the Indian Oil Corporation Limited for issuance of the no objection for establishing the said retail outlet but the no objection has not been granted by the Government of India till date. The no objection dated 11.03.2014 issued on the ground of considering the no objection of District Level Forest Rights Committee, Chitrakoot, dated 03.03.2014 as the no objection of the Divisional Forest Officer, Chitrakoot, does not seem to be appropriate. The current District Magistrate, Chitrakoot, has suspended the no objection certificate no. 121 dated 11.03.2014/14.03.2014 issued by the earlier District Magistrate, Chitrakoot, till granting No Objection from the Government of India. In this manner, this appeal has been filed against the order dated 10.07.2014 passed by the current District Magistrate, Chitrakoot.

The main ground has been taken by the learned advocate for the appellant that the then District Magistrate, Chitrakoot, has issued the no objection certificate dated 11.03.2014/14.03.2014 after receiving no objection from all the concerned departments and after receiving the report of the Divisional Forest Officer, Chitrakoot. It is wrongly mentioned in the letter of the Divisional Forest Officer, Chitrakoot dated 06.07.2014 that no report/ no objection has been sent by him to the District Magistrate, Chitrakoot. He has produced the no objection issued by the District Level Forest Right Committee, Chitrakoot, which is signed by the District Magistrate/ President, District Level Forest Right Committee, Chitrakoot on 03.03.2014 and signed dated 12.02.2014 by the Divisional Forest Officer, Chitrakoot, being the memberof the District Level Forest Right Committee, Chitrakoot, in his support and argued that

(153)

the said certificate has been issued under the Forest Right Act, 2006, in which it is clearly mentioned that it has no objection for the non-forestry use of the 0.06776 hectare forest land without felling of trees establishment of the proposed retail outlet. In the same manner, it has also been proposed unanimously by the Sub-Block level Forest Rights Committee, certificate dated 06.02.2014 and Village Level Forest Right Committee, Akbarpur (B) and no objection has been issued in favour of the appellant, on the basis of which the then District Magistrate, Chitrakoot, has issued the said no objection certificate in favour of the appellant. In regard to the permission of the Government of India, producing and perusing the list dated 11.09.2014 received under the Right to Information Act, 2005, it has been said that it is not required to take permission of the Government of India for the petrol pump established after 1980. As per the information dated 04.08.2014 provided by the Divisional Forest Officer/ Public Information Officer, the no objection of the Government of India has not been taken till date by the petrol pumps established in the district Chitrakoot on the notified forest area. In the same manner, as per the report of the Divisional Forest Officer, Banda, there are 10 petrol pumps established on the forest reserve passage. None of the said petrol pump has been granted no objection by the Government of India. In this manner, the subjected order dated 10.07.2014 passed by the District Magistrate, Chitrakoot, mentioning that "till the time the no objection is not granted by the Government of India, the no objection certificate dated 11.03.2014/ 14.03.2014 is being suspended". The impugned order is not good as per the established principles because there is lot of delay in granting NOC by the Government of India, which is apparent from the perusal of the information received under the Right to Information Act. it has been said that the petrol pump of the appellant is operational from 23.06.2014, and the appellant shall suffer irreparable loss if the operation of the petrol pump be stopped. There is no harm by the petrol pump of the appellants to the forestry/environment. No terms and conditions has been violated by the appellant and he shall neither do the same in future. On the basis of these grounds only, it has been prayed to allow the appeal and to set aside the order dated 10.07.2014 passed by the District Magistrate, Chitrakoot and to restore the said no objection certificate as it is.

It has been said by the District Government Counsel (Civil) on behalf of the State that the Banda-Karwi National Highway-35 (old NH-76) is a notified conservative forest area. Non-forestry activities cannot be carried out on the forest land without prior permission of the Government of India, but it gets too much delay in getting the permission of the Government of India. There are many petrol pumps/filling stations have been established on the reserved forest area in district Banda and Chitrakoot, which have not got the no objection from the Government of India till date. If these petrol pumps be shut down without having permission of the Government of India, then whole the work would get suffer and alongwith the same the same shall cause loss to the revenue of the government. The no objection certificate dated

(154)

11.03.2014/ 14.03.2014 issued by the District Magistrate, Chitrakoot, can be reaffirmed on the ground of loss to the revenue and hindered in the development, even in the absence permission of the Government of India.

I have heard the arguments of both the parties and perused the appeal and the original file of the office of the District Magistrate, Chitrakoot, and deliberated on the same. It is clear from the perusal of the original file of the present matter that as per the report of the Sub-District Magistrate, Karwi, in the current Khatauni of new retail outlet M.S. and H.S.D. Facility Villgae Akbarpur (B) in account No. 193, the Arazi No. 702 rakbs 0.500 hectare is registered in the account holder (Proprietor Filing Station) Laxman Singh. The Gram Sabha and Nazul Sampatti and Revenue Department has no loss/ objection in the establishment of the proposed retail outlet. In the same manner, the provisional no objection has been granted subject to terms and conditions mentioned in the letter of Ministry of Road and Transport, Government of India, Lucknow dated 27.01.2014 on the basis of report of the Executive Engineer, NH PWD, Banda. In the same manner no objections have been received from other concerned departments e.g. Superintendent of Police, District Fire Brigade Officer, Executive Engineer Electricity, Regional Officer, UPPCB, Village Level Forest Right Committee, Sub-Block Level Forest Right Committee and District Level Forest Right Committee. Shri Moolchand, Divisional Forest Officer, Chitrakoot, vide its letter No. 2503/dated/33-1 dated 07.01.2014, sent his counter signed report pertaining to the issuance of no objection certificate under the Forest Right Act, 2006, for the use of Kharsra No. 703 0.06776 hectare conservative forest land for non-forestry use for the establishment of the petrol pump of Indian Oil Corporation Limited, to the District Magistrate, Chitrakoot, which is paper no. 87 on the record. Besides it, the no objection issued by the District Level Forest Right Committee, Chitrakoot, has been signed by the Divisional Forest Officer, Chitrakoot, being member of the said committee on 12.02.2014. In this manner, the fact mentioned in the letter of the Divisional Forest Officer, Chitrakoot, No.63/33-1/ dated 06.07.2013 that no objection, under the Forest Conservation Act, 1980, has not been sent by him to the District Magistrate, Chitrakoot, is not appropriate in the light of the said facts because it was in the knowledge of the Divisional Forest Officer, Chitrakoot that the no objection certificate has to be issued by the District Magistrate, Chitrakoot, then he must have to mention the provisions of the Forest Conservation Act, 1980 alongwith his report. It is not appropriate to be requested by the Divisional Forest Officer, Chitrakoot vide its letter No. 63 dated 06.07.2014 to the then District Magistrate, Chitrakoot, to cancel the no objection certificate dated 11.03.2014 in the circumstances when subjected filing station of the appellant has become operational. It is only after that no objection certificates received from all the concerned departments and that in absence of any objection from any one of them, the said no objection certificate dated 11.03.2014/ 14.03.2014 has been issued by the then District Magistrate, Chitrakoot, in favour of the appellant, in which there

(155)

is no apparent illegality. It is clear from the perusal of the original photographs of the site of the petrol pump as filed on record that there is no dense forest area around the proposed filling station site and it is only tree which is there. It is clear from the road map of the proposed outlet that the same is situated at the road connecting Bhatarkoop Railway station to the Bharatkoop temple, on the HN-35 (Old NH-76) at KM 89 Banda-Karwi road, and with the establishment of the same there would be development of the local area and it would be convenient for the local public to get the petroleum products easily. Because the proposed petrol pump is situated on the way of Chitrakoot pilgrimage and there is also Bharatkoo Grit crusher business there, due to which there is lot of transportation happens there, so the same would add in the revenue of the government. As for as the question of prior permission of Government of India in the present matter is concerned, in this regard, it is clear from the perusal of public information filed by the appellants that there are many other petrol pumps situated on the Banda-Karwi road conservative forest area, which have not received the permission of the Government of India till date. In this manner considering the delay in issuing the no objection on the part of the Government of India, the appeal deserves to be allowed subject to the following conditions:

1. The trees which are there over the conservative forest area shall not be fell down by the appellants, but the protection of the same has to be ensured with its own resources.
2. Minimum conservative forest passage shall be used for the transportation to the proposed new outlet and the area (both side) alongside the passage has to be maintained and trees to be planted there with its own resources by the appellant.
3. There shall not be done temporary or permanent structure construction by the appellant over the conservative forest area and no hording shall be placed over there.
4. Any terms and conditions which shall be passed by the Government of India or the UP Government, shall have to be followed by the appellant and the appellant shall be bound by the same.

#### **Order**

Allowing the appeal subject to the above-mentioned analysis and terms, setting aside the impugned order dated 10.07.2014 passed by the District Magistrate, Chitrakoot, the no objection certificate No. 121/ Saat-Nyay Sahayak/ dated 11.03.2014/14.03.2014 issued by the then District Magistrate, Chitrakoot, is reiterated and reaffirmed as it is. If it is found to be violation of any abovementioned terms and conditions by the appellant, then the District Magistrate, Chitrakoot, shall be free to take appropriate legal action against the appellant. Because the new petrol pump is operational presently, therefore no legal action or any hindrance shall be created in its operation. The file of the matter be sent back with this order immediately. The appeal file be sent to the office for appropriate action.

Date: September 18, 2014

Sd/-  
(Murlidhar Dubey)  
Commissioner

This order has been pronounced and signed by me in the open court.

Sd/-  
(Murlidhar Dubey)  
Commissioner

**ORDER**

In light of the letter of the Divisional Forest Officer, Chitrakoot, No. 63/33-1 dated 06.07.2014 in regard to the non issuance of NOC from the Government of India, vide office letter No. 939/ Saat-Nyay Sahayak/ 2014 dated 10.07.2014, the no objection certificate issued by the earlier District Magistrate, NOC letter No./Saat-Nyay Shayak/ 2014 dated 11.03.2014/ 14.03.2014, has been suspended till the permission is not granted by the Government of India in this regard.

Aggrieved by the suspension of NOC order, Shri Laxman Singh, Proprietor Jay Kaamta Nath Filing Station, Bharatkup, Chitrakoot, has filed the appeal No. 2014070000440/2014 before Commissioner Court, Chitrakoot Dham Zone Banda. Hon'ble Court of Commissioner has allowed the appeal subject to the condition that the conditions notified by the Government of India or the Government of UP pertaining to the new outlet or regarding the conservative forest area, shall be binding on the appellant and the compliance of which shall be ensured by the appellant.

Earlier Sh.Laxman Singh, Proprietor Jay Kaamta Nath Filing Station, Bharatkoop, Chitrakoot, has filed the Writ Petition No. 34894/ 2014, in which it is mentioned in the order dated 14.07.2014 passed by the Hon'ble High Court that "Under the direction of the Hon'ble Supreme Court in T.N. Godavarman Thirumulpad (Supra) such permission has to be given by the Centrally Empowered Committee set up by the Supreme Court for such purpose."

The legal advise dated 09.11.2014 of the District Government Counsel (Civil) has also been received in this matter. It has been mentioned in the said by the District Government Counsel that as far as the question of allowing the appeal and passing directions in this matter by the Commissioner Court is concerned it is clearly mentioned in the para 4 of this order 4 that NOC has to be taken from Government of India for conservative forest area. In such circumstances, legally, in light of the orders passed by the Hon'ble Supreme Court in .N. Godavarman Thirumulpad versus Union of India and Ors., the license can be granted only after getting permission from the Government of India only. I agree with the same.

Because the proprietor of the said outlet has not produced any documents alongwith his application dated 06.06.2014 or even after that for getting the permission of the Government of India for conservative forest area. Therefore, Shri Laxman Singh, Proprietor Jay Kaamta Nath Filing Station, Bharatkup, Chitrakoot, is being directed to produce the No Objection Certificate after getting the same from the Government of India, in the office of the District Supply Office, for issuance of license for the sale of diesel, so that his application may be disposed of.

Sd/-  
(Neelam Ahlawat)  
District Magistrate,  
Chitrakoot

OFFICE OF THE DISTRICT MAGISTRATE, CHITRAKOOT.

Date 05 September 2014

Letter No. 3125/ Ji.Pu.Ad./ Ppetro.Anu./2014-15

1. Shri Laxman Singh, Proprietor Jay Kaamta Nath Filing Station, Bharatkup, Chitrakoot.
2. Senior Zonal Manager, Indian Oil Corporation Limited, Allahabad.
3. District Supply Officer, Chitrakoot.

Sd/-  
(Neelam Ahlawat)  
District Magistrate,  
Chitrakoot

ORDER SHEET  
COURT: COMMISSIONER,  
ZONE: CHITRAKOOT DHAAM  
Case No. 110/2015

Computerized case No. C2015070000110  
Jaykamtanath Filing Station, Bharatkoop versus State  
Under section 9, U.P. High Speed Diesel Oil and Light Diesel Oil (Conservation  
and Distribution) Order, 1981

Order

Today present. Appeal No. C2014070000978 has been filed under section-9 of U.P. High Speed Diesel Oil and Light Diesel Oil (Conservation and Distribution) Order, 1981, aggrieved by the order of the District Magistrate, Chitrakoot, passed vide its letter No. 3625/ Ji. Pu.A./ Petrol Anu. Dated 05.12.2014 whereby Shri Laxman Singh, Proprietor of M/s Jaykamtanath Filing Station, Bharatkoop, was directed to provide the no objection certificate to the office of the District Supply Officer, Chitrakoot, after getting the same from the Government of India for issuance of license for sale of diesel from the said retail outlet.

Appeal No. C2014070000978 has been filed under section-9 of U.P. High Speed Diesel Oil and Light Diesel Oil (Conservation and Distribution) Order, 1981, against the order of the District Magistrate, Chitrakoot, vide its letter No. 3740/ Ji.Pu.Aad./Petro Anu. dated 27.01.2015, in which it is mentioned that it is contempt of the Hon'ble Court by concealing the facts and not complying with the order dated 14.07.2014 of the Hon'ble Court and not producing the order dated 05.12.2014 passed by the undersigned before the Hon'ble High Court. In this manner the present application dated 05.05.2014 has been dismissed, aggrieved by the same the present appeal has been filed on different grounds.

The no objection certificate of the Government of India is required before the establishment of the petrol pump, in regard of which the order dated 18.09.2014 passed by this Court is final and the same is binding on the subordinate court, which has not been referred by the subordinate Court. After the said order, the responsibility of the no objection of the Government of India cannot be put on the appellants. The subordinate court has committed contempt of order dated 18.09.2014 of this Court in the shadow of the order of the Hon'ble Supreme Court, however the said order of the Hon'ble Supreme Court is not applicable in the facts and the circumstance of the present case. The investigation conducted by the subordinate court is without considering the points mentioned by the appellant in his proposal dated 07.01.2015 that the compliance of the order of the Hon'ble Supreme Court has not been done in other cases. There is no work is to be done regarding forestry for diesel license. Petrol pump is established and the sale of the petrol is on there. The license application of the appellant has been dismissed avoiding the provisions of law. The appellant has never concealed any fact. The whole matter is clear, whole transparency has been maintained. The Subordinate court wants to complicate the matter deliberately. It does not want to dispose of the matte in light of principles of settled law. Therefore this appeal be allowed and the application of the appellant for issuing license be allowed. Setting aside the impugned order dated 27.01.2015, the District Magistrate, Chitrakoot, be directed to issue diesel license.

Both the parties have been heard. The advocate for the appellant, reiterating the facts of the appeal memo of the appellant, prayed to allow the appeal and setting aside the impugned order dated 27.01.2015, allow the diesel license application of the appellant.

The District Government Counsel, Rvenue-Banda, argued for the State that the no objection certificate issued by the Government of India is mandatory for conservative forest area, which has not been got by the appellants. In such circumstances the appeal deserves to be dismissed.

After hearing the arguments of both the parties, the file of the subordinate court and the impugned order, have been perused. The appellants have been given the dealership of the petrol pump of Indian Oil Corporation Limited situated alongside the Banda-Allahabad road, Bharatkoop, Distt.-Chitrakoot, before the establishment of the same, the no objection certificate has been issued by the District Magistrate, Chitrakoot on 11.03.2014/ 14.03.2014. The said No objection certificate has been suspended vide order dated 10.04.2014 after the establishment of the petrol pump because the no objection certificate has not been received by the appellant from the Government of India for conservative forest area. Appeal has been filed against the order dated 10.04.2014 before the Court of the Commissioner, Chitrakoot Dhaam Zone, Banda, in which allowing the appeal, order dated 18.09.2014 has been passed upholding the no objection certificate. Sale of petrol is on there. The diesel license application has been dismissed again on the same grounds that the no objection certificate has not been received from the Government of India for conservative forest area. No provision has been mentioned pertaining to the issuance of license for sale of diesel from an operational petrol pump. It is only for the establishment of the petrol pump that it is mentioned in the section-144 of the Petroleum Act, 1934 to get no objection certificate. It has been appraised that it is only after qualifying all the eligibilities by the appellant that the no objection has been granted by the District Supply Department and Additional District Magistrate, Chitrakoot, approved for the issuance of the diesel license. It is only after receiving the report of the Divisional Forest Officer, Chitrakoot, that the NOC was issued by the District Magistrate, Chitrakoot. It is only on this ground that my predecessor/ commissioner passed order dated 18.09.2014 upholding the No Objection Certificate without calling for any necessity of No Objection of the Government of India. There is no need of no objection certificate after the establishment of the petrol pump and neither it is necessity of no objection certificate for issuing diesel license for an operational petrol pump. In light of the abovementioned, there is no legal intricacy or irregularity seems to be there in issuing diesel license in the present matter. In such circumstances, the order dated 27.10.2015 passed by the District Magistrate, Chitrakoot, deserves to be set aside and the application of the appellant for issuance of diesel license deserves to be allowed.

In light of the abovementioned the appeal is allowed and setting aside the impugned order dated 27.01.2015/05.12.2014 passed by the District Magistrate, Chitrakoot, the application of the appellant regarding diesel license is allowed. It is directed to the District Magistrate, Chitrakoot, to ensure the action on the application of the appellant for issuing diesel license within one month. The said order shall also be applicable in appeal No. C02014070000978. The copy of the order be kept in this appeal. The copy of the order be sent to the Subordinate Court immediately. The file shall be sent to the office for necessary action.

Date 20 November, 2018

Sd/-20.11.2018  
 (Sharad Kumar Singh)  
 Commissioner

This order has been pronounced and signed by me today in open court.

Date 20 November, 2018

Sd/-20.11.2018  
 (Sharad Kumar Singh)  
 Commissioner

**ORDER**

Shri Laxman Singh, Proprietor Jay Kaamta Nath Filing Station, Bharatkup, Chitrakoot, along with his application dated 05.12.2018, copy of the order dated 20.11.2018 passed by the Court of Commissioner in Appeal No. 2015070000110/2015 Jay Kaamta Nath Filing Station versus State of UP, has been sent, therein requesting to issue diesel license for the sale of high speed diesel.

In compliance of the said order dated 20.11.2018 passed by the Court of Commissioner, Chitrakoot Dham Zone, Banda, a meeting of the District Government Counsel (Civil), Divisional Forest Officer, Chitrakoot and District Supply Officer, Chitrakoot, has been convened on 03.01.2019. In pursuance of the directions passed in the said meeting, vide office letter No. 6397/ Ji. Pu Ad./ Petro. Anu./2018-19 dated 07 January 2019, it has been requested by the District Supply officer, Chitrakoot to the Divisional Forest Officer, Chitrakoot that if there happens any violation of rules and regulations pertaining to your department in compliance of the said order dated 20.11.2018 then kindly take action as per law in this regard and if there happens no violation of any rule/ law, then kindly provide your clear report in regard to issue the license to the proprietor of the said pump for sale of diesel.

In pursuance of the same, the report has been provided by the Divisional Forest Officer, Chitrakoot and Wildlife Division, Chitrakoot, vide its letter No. 2088/ 33-1 dated 08 January 2019 that it is the violation of section-2 of the Forest Conservation Act, 1980 to conduct any non-forest activity over the reserved/ conservative forest area without prior permission of the Government of India. Resultantly, it was advised by them send the proposal online by the company/ incharge in the present matter, so that action can be taken for grant of no objection in the present matter.

"In my view it would be appropriate to comply with the order dated 20.11.2016 passed by the Court of Commissioner in Appeal No. 2015070000110/2015 M/s Jay Kaamta Nath Filing Station versus State of U.P. and to issue the diesel license to the applicant"

It is pertinent in regard to the matter that Shri Laxman Singh, Proprietor of M/s Jay Kaamta Nath Filing Station, Bharatkup, Chitrakoot, produced his application dated 05.05.2014 before the then District Magistrate for issuance of license for the sale of diesel on the said pump. The following order has been passed by the then District Magistrate for the disposal of the said application of the applicant vide its order No. 3740/ Ji.Pu.Aa.-Pe.Anu./2014-15 dated 27 January, 2015:

"the Divisional Forest Officer, Chitrakoot, vide its letter No. 63/ 33-1 dated 06.07.2014 mentioning therein that non-forestry conduct can not be carried on without prior permission of the Government of India pertaining to the retail outlet of the Indian Oil Corporation

Limited at Banda-Karwi National Highway-35 situated (Old NH-76) Km 88.036 on the left lane at Khasra No. 703 situate in Village-Akbarpur (B) Tehsil-Karwi, requested to cancel/ revoke the no objection certificate No. 121/Saat-Nyay Sahayak/2014 dated 14.03.2014 issued by my predecessor officer. On which the then District Magistrate, Chitrakoot, vide its letter No. 939/Saat-Nyay Sahayak/2014 dated 10.07.2014 suspended the said no objection certificate till the permission is not granted by the Government of India. In the meanwhile Shri Laxman Singh, proprietor of Jay Kaamta Nath Filing Station, Bharatkup, Chitrakoot, has filed writ petition No. 34897/2014. The following order has been passed by the Hon'ble High Court vide its order dated 17.07.2014 in the said writ petition **"Under the direction of the Hon'ble Supreme Court in T.N. Godavarman Thirumulpad (Supra) such permission has to be given by the Centrally Empowered Committee set up by the Supreme Court for such purpose."**

It is also pertinent to mention in the said matter that affidavit dated 01.08.2014 has also been filed by the District Supply Officer on behalf of respondents Nos. 2, 3 and 4 before the Hon'ble High Court in the said matter. Thereafter the Hon'bel High Court has dismissed the said Wrot petition No. 34897/2014 vide its order dated 20.08.2014 due to no representation by Shri Laxman Singh in the said matter. Thereafter, appeal No. 4040/ 2013-14 was filed by M/s Jay Kaamta Nath Filing Station, Bharatkup, Chitrakoot in the Court of Commissioner, Chitrakoot Dham Zone, Banda. Shri Laxman Singh, Proprietor Jay Kaamta Nath Filing Station, Bharatkup, Chitrakoot, has filed application datd 21.11.2014 enclosing the order dated 18.09.2014 passed by the Commissioner in the said appeal, requesting therein to dispose of his earlier application dated 05.05.2014 for the issuance of license for sale of diesel. Resultantly, the matter of the applicant has been disposed of vide office letter No. 3625/Ju.Pu.Ad.-Pe.Anu./2014-15 dated 05.12.2014 with the directions that the applicant should produce the no objection issued by the Government of India to take action on his application for issuance of license to sale diesel. Besides the same, Shri Laxman Singh mentioned in his application dated 28.11.2014 that it is that the no objection certificate has also not been received under section-25 of the Forest Conservation Act, 1980, by 22 other petrol/diesel pumps e.g. Sankal Filing Station, Khurhand, Sitaram Gautam Indian Oil Khurhand, M/s Patel Filing Station, Mahoba ROAD Banda, Mool Chand Ram Prasad Filing Station Mataudh, Mahadev Filing Station Banda, Hanumat Filing Station Banda, Kisaan Sewa Kendra Kaalijar, Pratap Filing Station Paprenda, Bhagwati Filing Station Babru, Maa Vaisho Filing Station Babru, all situate in Distt. Banda and Chitrakoot Filing Station Bedupulia, Sswaroop Filing Station Sseetapur Road Karwi, Gopal ji & Brother Ranipur, Koko retail outler Bbharatkoop, Reliance retail outlet Amanpur, Gurukripa Filing Station Khoha, Kamagiri Filing

Station Khoh, Bharat Petroleum Bodipokhari, Ranishankar Filing Station Ahiri Mau, Kisaan Filing Station Mau, M/s Muliya Filing Station Pahari, Shri Gganesh Filing station Khutaur etc. in Chitrakoot, even then these have been issued with the license to sell high speed diesel. It is pertinent to mention here that in the said application filed by the Laxman Singh, petrol pump situated in Distt. Chitrakoot, Chitrakoot Filing Station 04.02.1985 and Kisaan Filing Station Mau 11.01.1995 are established from the time before the said order of the Hon'ble Supreme Court and remaining Swaroop Filing station Seetapur Road Karwi 23.12.2006, Gopal ji and Brothers Ranipuram 16.04.2005, Koko retail Bharatkoop 03.08.2000 (closed), Reliance retail outlet Amanpur 01.09.2005 (closed), Gurukripa Filing station Khoh 25.09.2008, Kaadamgiri Filing Station Khoh 24.01.2005, Bharat Petroleum Bodipokhari 02.01.2002, Ranishankar Filing station Ahiri Mau 19.11.2011, Maa Muloya Filing station Pahari 20.07.2007, Shri Ganesh filing station Khutaura 19.03.2012 have been established after the said order of the Hon'ble Supreme Court, and notice has been issued to them for producing the no objection after getting the same from the Government of India by the Divisional Forest Officer, Chitrakoot, the same has been mentioned in the advise of DGC Civil.

Shri Laxman Singh, Proprietor M/s Jai Kamtanath Filing Station, Bharatkup, has without complying with the directions of this office given vide the said letter No. 3625/ Ji. Pu. A.- Pe.Anu./ 2014-15 dated 05.12.2014, again filed Writ petition No. 66818/2014 before the Hon'ble High Court, Allahabad for disposal of his application dated 05.05.2014 pertaining to the issuance of license for selling diesel. The Hon'ble High Court Allahabad has passed the following order vide its order dated 10.12.2014:

In view of the facts and the circumstances, without going into the merit of the case, we direct the respondent no. 2 District Magistrate, Chitrakoot to dispose of the application of the petitioner for grant of license for sale of high speed diesel oil at his filing station, expeditiously, within a period of four weeks from the date of presentation of certified copy of this order, in accordance to law, after giving opportunity of hearing to the petitioner.

In compliance of the said order of the Hon'ble High Court Allahabad, the District Supply Officer, Chitrakoot, vide its letter No. 3677/ Ji. Pu. A./ Petro.Anu./ 2014-15 dated 31 December 2014, directed Shri Laxmand Singh to present before the then District Magistrate for putting his version of the matter. Shri Laxman Singh placed his version on 07.01.2015 and produced the copy of the Writ No. 66814/2014 filed before the Hon'ble High Court on 13.01.2015. on which the legal advice of DGC (Civil) has been received on 14.01.2015. It is clear in the said legal advise of DGC (Civil) that NH-35 (Old NH-76) is a conservative forest area and it is on the left lane at chainej 88.036 that the Jay Kamta Nath Filing Station is situated. For which the proposal for diversion of land has been sent by the

Indian Oil Corporation Limited. In such circumstances, it shall be contempt of the order of the Hon'ble Supreme Court to issue license for selling diesel without receiving the NOC from the Committee constituted by the Hon'ble Supreme Court, with which I am agreed. Because, in pursuance of the direction given vide order dated 10.07.2014 and 05.12.2014 by the undersigned, proposal has not been sent yet by Shri Laxman Singh to get the no objection from the Government of India for getting the license to sell diesel, resultantly issuing license to sell diesel without receiving NOC from the Government of India, shall be contempt of the order of the Hon'ble Supreme Court.

In this manner, as it is clear in above-mentioned second paragraph that Shri Laxman Singh, Proprietor of M/s Jay Kamta Nath Filing Station, Bharatkoop, has filed Writ Petition No. 34897/2014 before the Hon'ble High Court Allahabad. And on which the order dated 14.07.2014 passed by the Hon'ble High Court has not been complied with, but the facts have been concealed at the time of filing Writ Petition No. 66814/2014 dated 08.12.2014 before the Hon'ble High Court and on which order dated 10.12.2014 has been passed by the Hon'ble High Court. In light of the facts that not producing the order dated 05.12.2014 passed by the then District Magistrate, Chitrakoot disposing of the application of Shri Laxman Singh for issuance of license and not complying with the order darded 14.07.2014 passed by the Hon'ble High Court and to file Writ petition before the Hon'ble High Court concealing the facts, contempt of the order dated 14.07.2014 passed by the Hon'ble High Court, the application dated 05.05.2014 for the issuance of diesel license to Shri Laxman Singh, Proprietor of M/s Jay Kamta Nath Filing Station, is disposed off as dismissed.

Shri Laxman Singh has filed the Appeal No. 2014070000978/2014 before the Court of the Commissioner, Chitrakoot Dhaam Zone, Banda aggrieved by the order passed by the District Magistrate, Chitrakoot vide its letter No. 3625/ Ji.Pu.A.-Petro.Anu./2014-15 dated 05.12.2014 pertaining to the application dated 21.11.2014 filed by Laxman Singh for grant of license to sell diesel at M/s Jay Kamta Nath Filing Station, Bharatkoot and appeal no. 2015070000110/2014 Jay Kamta Nath Filing Station versus State of U.P., has been filed before the Court of the Commissioner, Chitrakoot Dhaam Zone, Banda, aggrieved by the disposal of the said application dated 05.05.2014.

The following order has been passed by the Court of the Commissioner, Chitrakoot Dhaam Zone, Banda, in the appeal No. 2015070000110/2015 filed by Sshri Laxman Singh, Proprietor of Jay Kamta Nath Filing Station, vide its order dated 20.11.2018:

"Appeal is allowed and setting aside the impugned orders 27.01.2015/05.12.2014 passed by the District Magistrate, Chitrakoot, the application of the appellant pertaining to grant diesel license is

163  
allowed. It is directed to the District Magistrate, Chitrakoot, to ensure the action on the application of the appellant within one month. This order shall also be applicable on 2014070000978."

In compliance of the said order of the Court of the Commissioner, Chitrakoot Dhaam Zone, Banda, dated 20.11.2018, it was requested to issue the license for selling diesel for the said retail outlet. However they have been already directed vide office letter No. 3625/ Ji.Pu.A.-Petro.Aanu./ 2014-15 dated 05.12.2014 to get the no objection from the Government of India regarding the conservative forest area, and because of non-compliance of the same by them, their application dated 05.05.2014 has been disposed of as dismissed by the then District Magistrate, Chitrakoot, vide its order No. 3740/ Ji.Pu.A.-Ppetro.Anu./ 2014-15 dated 27 January 2015. Alongwith the same it has been clearly directed by the Hon'ble High Court to them in the order dated 14.07.2014 passed in Writ Petition No. 34897/2014 filed by them before the Hon'ble High Court that **"Under the direction of the Hon'ble Supreme Court in T.N. Godavarman Thirumulpad (Supra) such permission has to be given by the Centrally Empowered Committee set up by the Supreme Court for such purpose."**

In light of the abovementioned facts and circumstances, the applications dated 05.05.2014, 05.12.2018, and 05.02.2019 filed by Shri Laxman Singh, Proprietor of M/s Jay Kamta Nath Filing Station, Bharatkoop, for sale of diesel at the said outlet, are being disposed of as dismissed with the direction to him to produce the no objection after getting the same from the Government of India for the use of the conserved forest area, so that action could be taken in regard to the grant of diesel license.

Sd/-  
(Vishaak Jo.)  
District Magistrate,  
Chitrakoot

OFFICE OF DISTRICT MAGISTRATE, CHITRAKOOT

Letter No. 6459/ Ji. Pu.A.-Pe.Anu./2018-19

Dated 28 February, 2019

Copy to: the following for kind information and to take necessary action.

1. Shri Laxman Singh, Pro. Of M/s Jay Kamta Nath Filing Station, Bharatkoop, Distt.-Chitrakoot.
2. Divisional Forest Officer and Wildlife Divisions Chitrakoot.
3. District Supply Officer, Chitrakoot.

Sd/-  
(Vishaak Jo.)  
District Magistrate,  
Chitrakoot

## Order Sheet

Court of the Commissioner, Chitrakoot Dhaam Zone, Banda

Case No. 00183/2019

Computerised case no. C2019070000000183

Jay Kamta Nath Filing Station Versus State of UP

U/s9 of the UP High Speed Diesel Oil and Light Diesel Oil (Conservation and Distribution) Oorder-1981

**Order**

Presented today. The present appeal has been filed aggrieved by the order of the District Magistrate, Chitrakoot, passed vide its letter No. 6459/Ji.Pu.Adh./Pe.Anu./2018-19 dated 28.02.2019 whereby application dated 28.02.2019 of the appellant pertaining to the grant of license to sell diesel ahs been disposed of, on different grounds.

The arguments of both the parties have been heard. It has been argued by the appellant on the basis of his appeal memo that impugned order is against the law and the facts. The subordinate Court has no jurisdiction to dismiss the application of the appellant for issuing the diesel license. The application of the appellant dated 05.05.2014 has been allowed vide its order 20.11.2018 by the Commissioner. And it has been committed District Magistrate by not complying with the said order. The District Magistrate has no jurisdiction to review/ screening of the order dated 20.11.2018 passed by the Commissioner because the order dated 20.11.2018 passed by the Court of the Commissioner, Chitrakoot Dhaam Zone, Banda, was final and undisputed. The point on which the District Magistrate, Chitrakoot, has taken the ground stating the requirement of the permisssion of the Government of India, dismissed the application for issuing diesel license, in this regard the learned Commissioner has given the explanation of the same in its order dated 18.09.2014 and 20.11.2018. The District Magistrate, Chitrakoot, has not filed any appeal/ objection against these order before the competent Court/ Hon'ble High Court. It is the duty of the District Magistrate, Chitrakoot, to comply with the order dated 20.11.2018 passed by the appellate Court, but the impugned order has been passed by the subordinate court committing contempt of the order dated 20.11.2018 passed by appellate court, which has no value and the same deserves to be quashed. There is no land of Forest Department lying between the road and the petrol pump situated in Gata No. 703, however the National Highway is the land of Public Work Department, and the no objection of which has been granted. It is provided in section-2 of the Forest Conservation Act, 1980 to take permission of the Government of India for non-forestry use of the forest land. There is no provision to take such permission for protected land under the Forest Conservation Act. The order of the Hon'ble Supreme Court mentioned in the order of the

District Magistrate is not about the petrol pump and neither the same is applicable in this matter. The sale of petrol is on from the established petrol pump and the passage which is used for the transportation of the petrol vehicle shall only be used for the transportation of the diesel vehicles. No objection certificate is the mandate before establishing the petrol pump. There is no provision to take no objection for the issuance of diesel sale license from forest department or any other department and neither there is any harm to any department including the forest department. The impugned order has been passed by the District Magistrate avoiding the public convenience and its abuse of power. Therefore the appeal be allowed and setting aside the impugned order of the District Magistrate, passing order to issue diesel license and the contempt proceedings be started against the District Magistrate.

It has been mainly said in the objection dated 11.03.2019 filed by the District Government Counsel, Revenue Banda, on behalf of the respondent that it has been said by the District Magistrate, relying upon the order dated 14.07.2014 passed by the Hon'ble High Court in Writ Petition No. 34897/2014, in the application filed for issuance of diesel license in compliance of order dated 20.11.2018 passed by the Commissioner that the permission of the Government of India be taken and to be produced in the officer, in this manner the applications dated 05.05.2014, 05.01.2019 and 05.02.2019 have been dismissed which is legal. There is no contempt in the impugned order passed by the District Magistrate but the said order has been passed in consonance with the order passed by the Hon'ble Supreme Court. It has been said in the order dated 16.09.2014 passed by Shri Murlidhar Dubey that the no objection certificate is mandatory but the NOC has not been produced by the appellant. Therefore the appeal may be dismissed.

It has been requested by Sanjay Agrawal, Old Market Karwi through its objection dated 11.03.2019, prayed to dismiss the present appeal. The present appeal is between Jay Kamta Nath Filing Station, Bharatkoop versus State of UP, in which neither it is appropriate/ legal to implead any third party in the same nor there is any reason to hear the same. Therefore the objection of Sanjay Agrawal is hereby dismissed.

It has been said by the appellant in his rejoinder dated 12.03.2018 that sale of diesel without license is being done in Bharatkoop by Sanjay Agrawal and company with the silence consent of the officers. His illegal business will get out if the diesel license be issued to the appellant. The illegal sale of diesel by the Sanajy Agrawal is being checked. Although, there is happening some sale in moonlight. The application dated 05.05.2014 diesel license of the appellant has been allowed by the appellate court vide its order dated 20.11.2018 and the District Magistrate does not have jurisdiction to quash the same. The cutting of

paper is annexed regarding the illegal sale of diesel. It has been prayed in the end to allow the appeal.

The impugned order passed by the District Magistrate, Chitrakoot and other previous orders have been perused after hearing the parties. The following orders have been passed in the earlier order dated 20.11.2018 passed by me that the appeal is allowed and setting aside the order dated 27.01.2015/05.12.2014 passed by the District Magistrate, Chitrakoot are set aside, the application of the appellant for grant of diesel license is allowed. It is directed to the District Magistrate, Chitrakoot that he must take action on the application of the appellant pertaining to the diesel license within one month. Against which no appeal has been filed either by you or State before Hon'ble High Court and by yourself, sighting the order dated 14.07.2014 passed by the Hon'ble Court in Writ Petition No. 34897/2014, dismissing the application pertaining to issuance of license to sell the diesel, you have committed contempt of the order dated 20.11.2018 passed by the appellate court. Because the legal position observed by the Hon'ble Supreme Court which has been mentioned by the Hon'ble High Court in its order dated 14.07.2014 passed in Writ petition No. 34897/2014, in compliance of the said legal position settled by the Hon'ble Supreme Court in Writ Petition (C) No. 202/95 T.N. Godaverman Thirumulkpaad versus Union of India and Ors., the principal secretary, Industries Development Department, UP, Forest Department-2 has issued Government Order No. 208/ 14-2-97-405 (290)/96 dated 06 January 1997, and it has been directed in the para-2 of the same that- "the Hon'ble Supreme Court in the said order has made it clear making the said position clear regarding mining to be conducted in the forest area that any non-forestry activity in the forest area including Aaramil, Plywood Viniers and Mining etc., cannot be done without the permission of the Government of India subject to the provisions of the Forest Conservation Act, 1980. In context of the same it has also been referred to clear all the points pertaining to the Forest Conservation Act, 1980, in the said order only."

It is clear from the abovementioned that the mentioned legal principle is not applicable in the present matter. This legal principle is specially for Mining, Aramil, Plywood Viniers etc, which caused felling of trees, so the same is required to have the prior permission of the Government of India. The subjected matter is based upon the ground that it is only the license for selling diesel from the operational petrol pump is being requested. If there is possibility of any harm to the forest by selling diesel from operational petrol pump, then the operational petrol pump be stopped. The said legal position is concerned with the non-forestry conduct like mining etc. The said legal position is not applicable in the present matter because sale of diesel from operational

(167)

petrol pump is not included in the mining work, aramil, plywood viniers etc. kind of non-forestry conduct. Therefore it is not appropriate/ legal to dismiss the application for issuance of license for sale of diesel on the ground of the said legal position.

It is also pertinent to mention here that it is clear in the last para-5 of the said Government Order dated 06.01.1997 that mining is continued in Tihari Garwal forest area under the provisions of the Forest Conservation Act, 1980, without the permission of the Government of India and even after the expiry of the lease period, under the orders of the Hon'ble Courts. In the same manner, mining work in the other parts of the country, in which the permission of the Government of India is mandatory, but without getting the same the same are operating on the basis of the orders of the Courts and other authorities. Therefore in all these matters, in the light of the order dated 12.12.1996 passed by the Hon'ble Supreme Court, kindly ensure the action at your level to stop all these non-forestry activities. The situation also becomes clear from the same that the mentioned position is for mining activities only.

The order dated 20.11.2018 has been passed by the appellate Court in light of the settled legal principles, on which the mentioned position of law is not applicable, and taking the ground of the same the District Magistrate has no jurisdiction to commit contempt of the order of the appellate court. In such circumstances, order dated 28.02.2019 passed by the District Magistrate, Chitrakoot, does not deserve to be stable and the earlier appellate court's order dated 20.11.2018 is reiterated and confirmed. Accordingly, allowing the appeal and setting aside the impugned order of the District Magistrate, Chitrakoot, it seems appropriate to pass direction to issue to lincense for selling diesel in faovur of the appellant.

On the basis of the abovementioned, the appeal is allowed. The order of the District Magistrate, Chitrakoot, order No. 6459/ Ji.Pu.Ad.-pe.Anu./ 2018-19 dated 28.02.2019 is set aside and it is directed to the District Magistrate, Chitrakoot, that it should issue the diesel license in favour of the appellant within two weeks. The copy of the order be sent to the District Magistrate, Chitrakoot. The file shall be kept in office for necessary action.

Sd/-12.03.2019  
(Sharad Kumar Singh)  
Commissioner

Order has been pronounced and signed by me today in open court.  
Date: 12 March 2019

Sd/-  
(Sharad Kumar Singh)  
Commissioner

OFFICE OF DIVISIONAL FOREST OFFICER, FOREST AND WILDLIFE  
DIVISION, CHITRAKOOT

Letter No. /10 case/ date, Chitrakoot june22, 2019

To,

Conservator of Forest,  
Chitrakoot Dham Vratt, U.P.  
Banda

Subject: order dated 09.05.2019 passed by the Hon'ble National Green Tribunal New Delhi (Principal Bench) in OA No. 410/2019 Sajal Agrawal versus Union of India & Ors.

Reference: Principal Chief Conservator of Forest and Head of Department, U.P., Lucknow, letter No.K.K. 2041/ 6E-2 S.C. (N.G.T.) dated 24.05.2019 and Chief Conservator of Forest, Bundelkhand Zone, U.P., Jhansi letter No. 5017/10 case dated 12.06.2019.

Sir,

In pursuance of the above referred letters, the pointwise report in pursuance to the applicaiotn dated 13.05.2019 filed by Sajal Agrawl, R/o House No-255, infront of Nagar Palika Office, Old Market, Krwi, Distt-Chitrakott, and order dated 09.05.2019 passed in O.A. No. 410/2019:

The subjected new retail outlet was to be established by Shri Laxman Singh, proprietor of M/s Jay Kamta Nath Filing Station, Bbharatkoot, Distt.-Chitrakoot, on behalf and agent of Indian Oil Corporation Limited, Allahabad.

**Point No. 1:** The District Magistrate, Chitrakoot, vide its office letter No. 731/Saat-Nyay Sahayak/2013 dated 28.09.2013, requested for providing the no objection report regarding the establishment of new retail outlet of Indian Oil Corporation Limited at Arazi No. 703, village- Akbarpur (B), Tehsil-Karwi, District-Chitrakoot (Annexure-1). 0.067760 hectare of the forest land shall be affected by the transportation on the Mirjapur-Banda-Jhansi road for the purpose of the said retail outlet. The copy of the gazette notification is being annexed here for your perusal (Annexure-2), from which it is clear that the no objection for the conservative forest area can be granted by the Government of India only under section-2 of the Forest Conservation Act, 1980.

It is mandatory to verify the no objection under the Forest Right Act, 2006 before granting no objection for the non-forestry use of the conservative forest area under the Forest Conservation Act, 1980. If

any person has any claim over the forest land under the Forest Right Act, 2006, then the same is to be addressed first before granting permission for the non-forestry use of the conservative forest area by the Government of India. The District Magistrate, Chitrakoot, vide its letter No. 966/ Saat-Nyay Sahayak/2013 dated 08.11.2013, requested the Divisional Forest Officer, Chitrakoot, to provide the counter signed no objection report under the Forest Right Act, 2006 as soon as possible (Annexure-3).

In pursuance of the same, the signature was made on the Forest Right No Objection Certificate in the capacity of the member of the District Level Forest Right Committee, Chitrakoot, on 12.02.2014. Considering the said no objection certificate of the District Level Forest Right Committee, Chitrakoot, as the no objection of the Forest Department for the non-forestry use of the forest land, the District Magistrate, Chitrakoot, vide its letter No. 121 Saat-Nyay Sahayak/2014 dated 14.03.2014, without receiving the permission of the Government of India under the Forest Conservation Act, 1980, issued the no objection certificate for establishing new retail outlet of the Indian Oil Corporation Limited in Village-Akbarpur (B), Gata No. 703, Tehsil-Karwi, Distt.-Chitrakoot (Annexure-5).

In pursuance of the same the petrol pump has been established by the organization.

The Divisional Forest Officer, Chitrakoot, when it came to his knowledge, vide its letter No. 63/ 93-1 dated 06.07.2014, apprising the situation in the matter, requested the District Magistrate, Chitrakoot, to revoke the no objection used vide its office letter No. 121/ Saat-Nyay Sahayak/2014 dated 14.03.2014 and to shut down the operation of the said retail outlet, so that the violation of the section-2 of the Forest Conservation Act, 1980, section-29 and 33 Indian Forest Act, 1927 and the order dated 12.12.1996 passed by the Hon'ble Supreme Court in Writ Petition No. 202/95 T.N. Godaverman Thirmulpaad versus Union of India & Ors., can be checked (Annexure- 6 and 7).

In pursuance of the letter No. 63/ 33-1 dated 06.07.2014 issued by the Divisional Forest Officer, Chitrakoot, the District Magistrate, Chitrakoot, vide its office letter No. 939/ Saat-Nyay Sahayak/2014 dated 10.07.2014 suspended the no objection certificate granted vide its office letter No. 121/ Saat-Nyay Sahayak/2014 dated 14.03.2014 till the permission is granted by the Government of India for use of the conservative forest area for non-forestry activities (Annexure-8).

Shri Laxman Singh, Proprietor of M/s Jay Kamta Nath Filing Station, Bharatkoop, filed appeal before the Court of Commissioner, Chitrakoot Dhaam, Banda, against the said order of the District Magistrate, Chitrakoot, No. 939/ Saat-Nyay Sahayak/2014 dated 10.07.2014, bearing appeal No. 2014070000440. The Court of Commissioner, Chitrakoot Dhaam, Banda, vide its order dated 18.09.2014, allowed the said appeal subject to the following terms and conditions:

1. The trees which are there over the conservative forest area shall not be fell down by the appellants, but the protection of the same has to be ensured with its own resources.
2. Minimum conservative forest passage shall be used for the transportation to the proposed new outlet and the area (both side) alongside the passage has to be maintained and trees to be planted there with its own resources by the appellant.
3. There shall not be done temporary or permanent structure construction by the appellant over the conservative forest area and no hording shall be placed over there.
4. Any terms and conditions which shall be passed by the Government of India or the UP Government, shall have to be followed by the appellant and the appellant shall be bound by the same.

In pursuance of the order dated 18.09.2014 passed by the Hon'ble Court of Commissioner, Chitrakoot Dhaam, Banda, in appeal No. 2014070000440, the District Magistrate, Chitrakoot, passed order vide its office letter No. 3625/Ji.Pu.Ad./Ppe.Anu./2014-15 dated 05.12.2014, the operative part of which is as following:

"Because the proprietor of the said outlet has not produced any documents alongwith his application dated 06.06.2014 or even after that for getting the permission of the Government of India for conservative forest area. Therefore, Shri Laxman Singh, Proprietor Jay Kaamta Nath Filing Station, Bharatkup, Chitrakoot, is being directed to produce the No Objection Certificate after getting the same from the Government of India, in the office of the District Supply Office, for issuance of license for the sale of diesel, so that his application may be disposed."(Annexure10)

**Pointe No.2:** Again the case No. 110/2015 has been filed against the said order of the District Magistrate, Chitrakoot, passed vide its office letter No. 3625/ Ji.Pu.Ad./ Petro.Anu./ 2014-15 dated 05.12.2014, before the Court of Commissioner, Chitrakoot Dhaam, Banda, in which the Court of Commissioner, Chitrakoot Dhaam, Banda, has passed

order dated 20.11.2018, the operative part of the same is as following:

"Appeal is allowed and setting aside the impugned orders 27.01.2015/05.12.2014 passed by the District Magistrate, Chitrakoot, the application of the appellant pertaining to grant diesel license is allowed. It is directed to the District Magistrate, Chitrakoot, to ensure the action on the application of the appellant within one month. This order shall also be applicable on 2014070000978."

**Point No. 3:** In pursuance of the order dated 20.11.2018 passed by the Court of Commissioner, Chitrakoot Dhaam, Banda in appeal No. 110/2015 M/s Jay Kamta Nath Filing Station, Bharatkoop versus State of U.P., the applications dated 05.05.2014, 05.12.2018 and 05.02.2019, have been dismissed by the District Magistrate, Chitrakoot, and passed the following order vide its office letter No. 6450/ Ji.Pu.Ad/Pe.Anu./2018-19 dated 28.02.2019:

"In light of the abovementioned facts and circumstances, the applications dated 05.05.2014, 05.12.2018, and 05.02.2019 filed by Shri Laxman Singh, Proprietor of M/s Jay Kamta Nath Filing Station, Bharatkoop, for sale of diesel at the said outlet, are being disposed of as dismissed with the direction to him to produce the no objection after getting the same from the Government of India for the use of the conserved forest area, so that action could be taken in regard to the grant of diesel license." (Annexure-12)

**Point No. 4:** The site inspection was conducted on 03.06.2019 by the Deputy Divisional Forest Officer, Chitrakoot, and Departmental Surveyor. It was found the operation of the retail outlet totally closed on the site. (Annexure-13).

The point-wise report is being sent for kind information and necessary action.

Enclosed: As above.

Sincerely,  
Sd/-  
(Kailash Prakash)  
Divisional Forest Officer,  
Chitrakoot

End. No. 3788a/ dated as above

Copy to the Chief Conservator of forest, Bundelkhand Zone, U.P., Jhansi, in pursuance of his referred letter.

Sd/-  
(Kailash Prakash)  
Divisional Forest Officer,  
Chitrakoot

(174)

INSPECTION REPORT

Inspection of the site of M/s Jay Kamta Nath Filing Station, Bharatkoop, which is situated at NH-76/35 (Allahabad-Banda road), village-Akbarpur (B) Tehsil-Karwi, Distt.-Chitrakoot at Gata No. 703, was carried out on 03.06.2019 by Shri Sanjay Agrawal, Deputy Divisional Forest Officer, Chitrakoot and Shri Suresh Kumar, Departmental Surveyor and Shri Harishankar Singh, Deputy Regional Forest Officer, Karwi, visiting the said site. It has been found during the inspection that the operation of the said petrol pump is totally shut down. It seems on the inspection of the site that the operation of the said petrol pump is shut down for long time.

Sd/-	Sd/- 03.06.2016	Sd/- 03.06.2016
03.06.2016	(Suresh Kumar)	(Sanjay
(Harishankar	Departmental	Agrawal) Deputy
Singh)	Surveyor	Divisional Forest
Deputy		Officer,
Regional Forest		Chitrakoot
Officer, Karwi		

OFFICE OF DIVISIONAL FOREST OFFICER, CHITRAKOOT FOREST  
DIVISION, CHITRAKOOT

Letter No. 5337/ 33-1/ date, Chitrakoot, June 27, 2014

To,

Shri Ashish Kumar Gupta,  
Senior Zonal Retail Sales Manager,  
S.D.R.S.M.,  
Indian Oil Corporation Limited (M.D.)  
Allahabad Zone,  
5<sup>th</sup> Floor, Indra Bhawan, Civil Lines, Allahabad

Subject: Regarding the diversion of forest land of 0.06776 hectare without felling of trees for the establishment of retail outlet of the Indian Oil Corporation Limited at Banda-Karwi Road, NH-35 (Old NH-76) at Km-88.036 towards the left lane in Khasra No. 703 situated at Akbarpur (B), Tehsil-Karwi.

The proposal has been sent by you regarding the transfer/ diversion of conservative forest land of 0.06776 hectare area for establishing petrol pump towards the left lane at Km88.036 at Banda-Karwi Road, NH-35 (Old NH-76). Many defects have been found in the said proposal, which are as following:

1. Place and date has not been mentioned properly by you in part-1 of the prescribed form.
2. The No Objection Certificate of Public Works Department (National Highway) is not annexed, besides it kindly ensure the action in compliance of point Nos. 1, 2, 3, 11, 21, 25, 27, 30 mentioned in the letter of the Additional Chief Conservator of Forest/ Nodal Officer, U.P., Lucknow, letter No. 2374/11 C Samanaya dated 30.05.2014 (Annexed herewith).

(174)

Petrol pump has been established by you at the said place without getting the permission from the Government of India, which is clear violation of the section-2 of the Forest Conservation Act, 1980. The operation of the petrol pump shall be shut down immediately, and ensure to get the permission of the Government of India for non-forestry use of the conservative forest area, otherwise in any other case, action shall be taken against you as per law and you shall have the sole responsibility of the same.

Please ensure to remove the defects after getting five copies of the proposal sent by you from this office and send back the said proposal to this office after removal of the said defects in appropriate format.

Enclosed: As above

Sd/-

(Mool Chandra)

Divisional Forest Officer,  
Chitrakoot

Letter No. 5331 a/ dated as above

Copy to: Deputy Divisional Forest Officer, Karwi, with direction to ensure legal action in the abovementioned subject and to apprise the undersigned regarding the same and ensure that the forest area shall not be used till the permission of the Government of India is not granted in this matter.

Sd/-

(Mool Chandra)

Divisional Forest Officer,  
Chitrakoot

(175)

OFFICE OF CHIEF CONSERVATOR OF FOREST/NODAL OFFICER, U.P., LUCKNOW  
Letter No. 2374/11C-General date, Lucknow, May30,2014

To,

All Divisional Forest Officer,  
Uttar Pradesh

Subject: The incomplete proposal for the diversion of the forest land matters.

It has been seen generally that most of the proposals sent at your level are being sent to this office with incomplete information. It is not possible for this office to take complete action on such proposals and the matter for the disposal of no objection remained pending for long period in correspondence. Because of which the valuable time is wasted at one side and at the same time the labour is also been wasted in correspondence on the other side. Due to long delay in approval of the projects, the cost of the project got increased at one side and at the same time it adversely affects the reputation of the Government.

You are informed that it is expected at the level of the Government of India to send the proposals as per the amended Conservation of Forest Act, 1980. You are totally aware of the defects raised at the level of the Government of India. Detailed instructions in this regard have been sent to you earlier and following documents are being enclosed for your convenience.

1. The defects which are generally found in the proposal (point30).
2. Defects in the report sent under the terms of the regulations (point 6).
3. Regarding the disposal of wastage/ management scheme (point 08+02).
4. Certificate issued at the level of the District Magistrate under the Forest Right Aact.

Note:

- i. None of the Districts of the State is exempted from the provisions of this Act. Therefore the comment 'Not Applicable' is not acceptable.
- ii. This certificate shall be valid only if issued by the District Magistrate. No other officer shall be competent for the same.
- iii. Form-I and Form-II shall be used as per the prescribed format only.
5. The cost profit analysis (enclosure VI(a), VI(b), VI(c) shall be provided only in the prescribed format.
6. Annexure-VII description of all the approvals before the District shall be provided.

It is expected from you the proposal be sent only after deeply reviewing the same and preparing accordingly. If any proposal is not received in the correct format now-onwards even after the same then the undersigned shall be bound to bring the same in the notice of the Government.

Sincerely,  
Sd/- 30.05.2014  
(Ajay Kumar)

Chief Conservator of Forest/ Nodal Officer,  
U.P., Lucknow.

Letter No. 2374/ as above dated

Copy to all chief conservator of forest, all Zonal Chief Conservator of Forest and all Chief Conservator of Forest, U.P., Lucknow, with direction that you all forward the proposal to the office only after reviewing/checking the same as per the guide book at your level.

Sd/- 30.05.2014  
(Ajay Kumar)

Chief Conservator of Forest/ Nodal Officer,  
U.P., Lucknow.

**Defects generally found in the proposals**

1. Incomplete checklist.
2. Without index/ incomplete index and non-mentioning of page number.
3. Page numbering not done correctly.
4. Non-filing of approval of the competent officer for the project.
5. Non-filing of desired no objection certificate.
6. Non-filing of map and description of necessity of the land for different elements of the project.
7. Non-filing of purpose of the proposed project in forest area.
8. Different in the figures and information given at different pages.
9. Incomplete inspection report of the Divisional Forest Officer and lack of recommendation and date alongwith the signature.
10. Non-mentioning of scientific names of the trees.
11. Non-filing of chart of description of forest and non-forest land in the project (check list No. 8 and 9) and Bar-chart.
12. Incomplete description of wastage emission, its disposal and reclamation plan. Note is annexed.
13. In the cases of widening of roads, non-filing of the list of description of the current width and ROW and proposed width and ROW and the availability of the space alongside the road for plantation.
14. Incomplete joint inspection report.
15. Non-mentioning of the optional alignment/ site in the Toposheet.
16. Non-filing of the list of trees falling under the transmission line and separate list of trees to be fallen down.
17. Non-filing of cost profit analysis in case of project of more than 05 hectare of forest land.
18. Illegible and unverified copies.
19. Difference in the computation of trees to be fallen down and its preface.
20. List of the trees not be signed by the Divisional Forest Officer.
21. Improper mentioning of defying the provisions of the Forest Conservation Act.
22. Non-approval of the electricity transmission line by the competent officer.
23. Non-filing of coloured copy of the Toposheet.
24. Non-filing of digital map verified by the competent officer mentioning the proposal site.
25. Non-filing of layout plan of the approval from the National Highway Authority/ Public Work Department in cases of petrol pump (alongwith the length and width) and length and width is not to be according the directions issued by the Ministry of Environment and Forest, Government of India.
26. Non-filing of certificates under the Forest Conservation Act and non-mentioning of the date with the signature.
27. Non-mentioning of Index and Heading in the map.
28. Non-filing of the consent letter of the owner of land where the wastage to be disposed of.
29. Non-mentioning of the descriptive wastage disposal scheme (list of the desired information alongwith the wastage disposal is enclosed.).
30. Non-mentioning of heading and index in the provided map.

**Defects in the report in compliance of the mandatory approvals**

1. Incomplete compliance report in compliance of the terms and conditions.
2. Difference in the amount paid in compliance of the regulatory approval and the amount mentioned in the proposal.
3. Non-filing of the certificate of the Divisional Forest Officer in case of long difference in the compliance of the regulatory approvals under the Forest Conservation Act.
4. Non-filing of the regulatory approvals mentioned in the amount proposal camper. Payment of more than one proposals in one campa (due to which it causes long delay in the verification of the payment in Campa, New Delhi.)
5. Incomplete/defective or non-filing of the prescribed form for the verification of the payment for regulatory approvals by the concerned Divisional Forest Officer.
6. Not making the payment for the regulatory approval through RTGS/ Bank Draft and in case of the same, not providing the details of the same.

FORM-A

Indian Oil Corporation Limited, Zonal Office, 5th Floor, Indra Bhawan, Civil Lines, Allahabad-211001, for the establishment of a retail outlet at Banda-Karwi Road, NH-35 (Old NH-76) at Km-88.036 towards the left lane in Khasra No. 703 situated at Akbarpur (B), Tehsil-Karwi.

PART-I

Description of Project

(i) Brief description of the proposal/ project for the desired forest area: The establishment of a new retail outlet at Banda-Karwi Road, NH-35 (Old NH-76) at Km 88.036 on the left lane at Khasra No. 703, situated in Akbarpur(B), Tehsil-Karwi, Distt.-Chitrakoot, by the Indian Oil Corporation Limited, Zonal Office, Fifth Floor, Indra Bhawan, Civil Lines, Allahabad-211001. It is a requirement of 0.06776 hectare of forest land on NH-35 (Old NH-76) for non-forestry activities.

Therefore, 0.06776 hectare of forest land on Banda-Karwi road, NH-35 (Old NH-76) shall be used for non-forestry activities.

(ii) Map: The map of the proposed retail outlet at a scale of 1:50000 is annexed.

(iii) Cost of the Project: Rupees 84 Lacs.

(iv) The purpose of establishing the project in a conservative forest area: It is to provide petroleum products to the general public, the retail outlet is being established by the Indian Oil Corporation Limited. There is no other passage other than the conservative forest passage for the transportation to the proposed retail outlet.

(v) Cost, Profit and Analysis: Annexed.

(vi) Employment possibility: About 16 to 18 persons and their dependent family.

1. The purposive description of the total expected area of land: 0.06776 hectare for the purpose of transportation of vehicle to the retail outlet.

Entry and Exit Gate	0.046464 H.
Entry	0.010648 H.
For Exit	0.010648 H.

---

Total expected area 0.067760 H.

2. Description of displacement of people due to the project, if any:

(i) No. of Families: No applicable

(iii) No. of SC and ST families: Not applicable

(iii) Rehabilitation scheme (to be annexed) : NA

3. Is it mandatory to get permission under the Environment protection Act, 1988? NO

4. Compensatory forestation and in compliance of the same penalty alongwith the scheme prepared by the State Government, Cost of protection and conservation etc. Annexed

5. Description of documents/ certificates required to be submitted as per the direction:

1. Map of the proposed retail outlet.
2. Brief description of the project.
3. Circle rate list issued by the District Magistrate.
4. Protected forest land calculation
5. Joint Inspection report.
6. Market value of the land.
7. Letter of the District Magistrate, Chitrakoot.
8. Khatauni/ registered sale deed.
9. Lease deed/ sale deed.

Date:

Place: Chitrakoot

Sincerely,  
Sd/-  
(Ashish Kumar Gupta)  
Senior Zonal Retail Slaes Manager,  
Indian Oil Corporation Limited (MD)  
Allahabad.

INDIAN OIL CORPORATION LIMITED  
Divisional Office, Allahabad  
6<sup>TH</sup> Floor, Indira Bhawan, Civil Lines, Allahabad-211001  
Phone: 0532-2408165, 2400001 Fax:0532-2408179  
(Marketing Division)

Registered Post

Ref: ALD/RS

Date: 02.07.2014

To,

District Forest Officer,

Chitrakoot

Pin code: 201205

Sub: COMMISSIONING OF INDIAN OIL CORPORATION LIMITED  
RETAIL OUTLET AT KM 88.036 NH 35 AT KHASRA NO. 703,  
VILLAGE- AKBARPUR, TEHSIL- KARWI, DISTT- CHITRAKOOT.

Dear Sir,

This is in reference to your letter No. 5331 dated 27.06.2014 regarding commissioning of IOCL Retail Outlet at Km 88.036 at Khasra No. 703, Village- Akbarpur, Tehsil- Karwi, Distt- Chitrakoot. We had commissioned the subject Retail Outlet after obtaining the NOC dated 14.03.,2014 from District Magistrate, Chitrakoot. As per the NOC issued (copy enclosed) by District Magistrate, Chitrakoot, the requisite approvals from the Forest department had been obtained by the office at District Magistrate, Chitrakoot, as mentioned in the said NOC.

In view of the above, we have commissioned the subject Retail Outlet after obtaining all statutory approvals.

Thanking you.

Yours faithfully,  
For Indian Oil Corporation Limited  
Sd/-02.07.2014  
(Ashish Kumar Gupta)  
Sr. Divisional Retail Sales Manager,  
Allahabad

Encl: A/a

CC: District Magistrate, Chitrakoot, for kind information.

(180)

OFFICE OF THE DIVISIONAL FOREST OFFICER, CHITRAKOOT FOREST  
DIVISION, CHITRAKOOT

Letter No. 64/ 33-1/ dated, Chitrakoot, July06, 2014

Shri Ashish Kumar Gupta,

Senior Zonal Retail Sales Manager,

S.D.R.S.M.,

Indian Oil Corporation Limited (M.D.)

Allahabad Zone,

5<sup>th</sup> Floor, Indra Bhawan, Civil Lines, Allahabad

Subject: Regarding the diversion of forest land of 0.06776 hectare without felling of trees for the establishment of retail outlet of the Indian Oil Corporation Limited at Banda-Karwi Road, NH-35 (Old NH-76) at Km-88.036 towards the left lane in Khasra No. 703 situated at Akbarpur (B), Tehsil-Karwi.

Reference: Letter of this office No. 5331/ 33-12 dated 29.06.2014.

In pursuance to the above referred letter, you have apprised with your letter- A.L.B./ R.S. dated 02.07.2014 that the retail outlet has been established by you after getting no objection certificate dated 14.03.2014 from the District Magistrate, Chitrakoot.

As you are yourself know that Banda-Karwi road, NH-35 (Old NH-76) is conservative forest area notified under the notification No. 1115/ 14-331-50 dated 10.02.1960. Non-forestry activities can not be carried out over the conserved, protected or reserved or any other forest area and it is required to take the prior permission of the Government of India for conducting any non-forestry activity in the conserved, protected or reserved or any other forest area, under section-2 of the Forest Conservation Act, 1980. In pursuance of the same, proposal has been sent by you to take permission of the Government of India for using 0.06776 hectare of forest area for the transportation of vehicle, which is annexed. It is clear violation of the section-2 of the Forest Conservation Act, 1980, sections-29 of the Indian Forest Act, 1927 and Section 33 of the Diversity Act, 2004 and order dated 12.12.1996 passed by the Hon'ble Supreme Court in Writ Petition (Civil) No. 202/95 T.N.

(181)

Godavarman Thirulmulkpaad verus Union of India & Ors, by you by establishing the said retail outlet and making illegal passage for transportation for the same by destroying the bio diversity.

Therefore, it is last time your are being requested, that you please stop the transportation from the subjected conservative forest area within 24 hours and otherwise legal action under different provisions of law shall be taken against you, and you shall be solely liable for the said unwanted action. Alongwith the same, it is also informed to you that the proposal sent by you for the diversion of the said forest land, has been found defective and the same was informed to you through letter of this office requesting therein to remove the dame. Kindly remove these defects immediately and ensure to take the permission from the Government of India.

Sd/- 06.07.2014

(Mool Chandra)

Divisional Forest Officer,

Chitrakoot

No. 64A/ as dated above.

1. Copy to Conservator of Forest, CHitrakoot Dhaam Vratt, Banda, for ensuirng action at its level.
2. Copy to the District Magistrate, Chitrakoot, in pursuance of letter of this office No. 63/ 33-1 dated 06.07.2014 for further action.
3. Copy to General Manager (U.P. State Office-1) Indian Oil Corporation Limited (U.O.S.O. First) T.C. 39-V, Vibhuti Khand, Gomti Nagar, Lucknow-226010, for kind information and to stop the retail outlet in the conservative forest area without the permission of the Government of India.
4. Copy to Deputy Divisional Forest Officer, Chitrakoot and Regional Forest Officer, Karwi, for ensuring the legal action in this matter.

Sd/- 06.07.2014

(Mool Chandra)

Divisional Forest Officer,

Chitrakoot

INDIAN OIL CORPORATION LIMITED  
Divisional Office, Allahabad  
5<sup>TH</sup> Floor, Indira Bhawan, Civil Lines, Allahabad-211001  
Phone: 0532-2408165, 2400001 Fax:0532-2408179

(Marketing Division)

Registered Post

Ref: Retail/ Jyakamtanath/8  
Date: 20.06.2014

To,

District Magistrate,  
District-Chitrakoot

Subject: In compliance of order dated 18.07.2014 passed by the Court of Commissioner, Chitrakoot Dhaam, Banda, in appeal No. 440/ 2013-14 M/s Jay Kamtanath Filing Station versus State of U.P.

Sir,

It is to be informed in the above-captioned matter that order has been passed by you vide letter No. 939/ Saat-Nyay Sahayak/2014 dated 10 July 2014, thereby suspending the no objection certificate dated 11.03.2014/14.03.2014, granted to the Jay Kamtanath Filing Station, Akbarpur, District- Chitrakoot, till the permission of the Government of India is not received.

Complying with your suspension order, we immediately stopped the sales and supply at the said retail outlet and through our letters dated 26.07.2014 and 11.08.2014 informed you regarding the said action taken by us and considering the loss to the revenue of the Government of India and difficulties faced by the local public due to the shut down of the said retail outlet, requested the Divisional Forest Officer, Chitrakoot, to issue no objection certificate as soon as possible.

The Court of Commissioner, Chitrakoot Dhaam, Banda, hearing the appeal No. 440/ 2013-14, passed order dated 18.07.2014 whereby the Court of Commissioner, Chitrakoot Dhaam, Banda, has suspended the execution of your suspension order dated 10.07.2014 till the next dated of hearing.

Therefore complying with the order dated 18.07.2014 passed by the Hon'ble Court of Commissioner, Chitrakoot Dhaam, Banda, whereby it, considering the loss to the revenue of the Government of India and difficulties faced by the local public due to the shut down of the said retail outlet, confirmed the sale and supply to the said retail outlet till the next date of hearing and the action will be taken in the said matter as per the next order of the Hon'ble Court.

Copy of order dated 18.07.2014 is being sent for your perusal and necessary action.

Thankingyou.

Sincerely,  
For INDIAN OIL CORP. LTD.  
Sd/-(20.08.2014)

Ashish Kumar,  
Senior Zonal Retail Sales Manager,  
Allahabad Zonal Office

Copy to:

1. Divisional Forest Officer, Chitrakoot Forest Division:- kindly grant the NOC for diversion of the said forest land without felling of trees for the establishment of the new retail outlet.
2. Conservator of Forest, Chitrakoot Vratt, Banda: for kind information and to take necessary action.
3. Deputy Divisional Forest Officer, Chitrakoot and Range Forest Officer, Karwi: for kind information and to take necessary action.
4. Shri Laxman Singh, dealer proprietor jay kamtanath Filing Station, Akbarpur, Distt.-Chitrakoot: for kind information and to take necessary action.

OFFICE OF THE DIVISIONAL FOREST OFFICER, CHITRAKOOT  
FOREST DIVISION, CHITRAKOOT

Letter No. 648/ 33-1/ dated, Chitrakoot, August 25, 2014

To,

Shri Ashish Kumar Gupta,  
Senior Zonal Retail Sales Manager,  
S.D.R.S.M.,  
Indian Oil Corporation Limited (M.D.)  
Allahabad Zone,  
5<sup>th</sup> Floor, Indra Bhawan, Civil Lines, Allahabad

Subject: Regarding the compliance of order dated 18.07.2014  
passed by the Court of Commissioner, Chitrakoot Dhaam,  
Banda, in appeal No. 440/2012-14 Jay Kamtanath Filing  
Station versus State of U.P..

Reference: Your letter dated 20.08.2014.

Sir,

The above-referred letter has been sent by you addressing the District Magistrate, Chitrakoot, and endorsing to the undersigned, stating therein that the no objection certificate may be issued to you for diversion of the conservative forest area for establishing the said proposed new retail outlet.

It is mandatory to get prior-permission of the Government of India for diversion of any conservative/ reserved forest area or any other forest area for any non-forestry activity. The Divisional Forest Officer is not the competent officer to issue no objection certificate. Kindly provide the proposal after removing the intimated defects, so that the proposal may be examined and the action may be taken on the same.

Sincerely,  
Sd/-  
Divisional Forest Officer,  
Chitrakoot

OFFICE OF CHIEF CONSERVATOR OF FOREST/ NODAL OFFICER, UTTAR PRADESH,  
LUCKNOW

Letter No. 1336/11-C, dated, Lucknow, February 14, 2013.

To,

All Regional Chief Forest Officer/  
All Regional Forest Officer/  
All Divisional Forest Officer/ Divisional Director, U.P.

Subject: Regarding the ex post facto permission of the Government of India for the non-forestry use of the conservative forest area by the petrol pump established besides the conservative forest passage.

Sir,

You are informed that it is mandatory to get the permission of the Government of India under the Forest Conservation Act, 1980, for non-forestry use of conservative forest area. Most of lanes of the National highways, State Highways and other Highways, are notified conservative forest areas. The new petrol pumps which are being established besides these lanes, the proposal of the same regarding the non-forestry use of the conservative forest area are being received and the permission is being granted by the Government of India.

It has been expected by the Government of India that all these petrol pumps, which are being established after the enforcement of the Forest Conservation Act, 1980, conducting non-forestry activities over the conservative forest area and the permission of the Government of India has not been received by them regarding the same, they should produce the proposal for Ex. Post Fato permission of the Government of India. In pursuance of these directions, you all were directed to take necessary action in this regard and proposals are being sent by many departments.

It has been appraised, through proposal, by the UP Petroleum Traders Association to the department and the Government of U.P. that the notice is being served by the Divisional Forest Officer/ Divisional Directors under the Forest Conservation Act, 1980, to those petrol pumps of their owners, which are situated on such roads which are not conservative forest land and the same were established before year 1980 i.e. before the enforcement of the Forest Conservation Act, 1980. In this regard, a meeting was convened on 08.02.2013 in the chairmanship of the principal Secretary, Forest with the representatives of the U.P. Petroleum Traders Association and it was directed by the Principal Secretary, Forest that unnecessary notice shall not be given to the owners of those petrol pumps which have been established before the enforcement of the Forest Conservation Act, 1980, which do not come under the ambit of the Act.

Therefore it is necessary that the following points may be verified to issue notice to any petrol pump dealer/company for Ex. Post facto permission of the Government of India:

1. The lane on which the subjected petrol pump is situated has been notified as the conservative forest area.
2. The Forest Conservation Act, 1980, has come into force in 1980 and so it is not applicable on the petrol pumps established before the Forest Conservation Act, 1980 come into force.
3. The notice shall also be issued to the petrol pump company alongwith the petrol pump dealers for Ex. Post facto permission under the Forest Conservation Act, 1980.

Encl: As above

Sincerely,  
Sd/-14.02.2013  
(A.K. Dwevedi)  
Chief conservator of Forest/ Nodal Officer,  
Uttar Pradesh, Lucknow.

(185)

LIST OF THE ADDRESSES OF THE OIL COMPANIES

For all over the State of UP

General Manager (UP State Office-1), Indian Oil Corporation Limited,  
T.C.39-V, Vibhuti Khand, Gomti Nagar, Lucknow-226010

(Name of the Districts falling under Indian Oil Corporation Limited)

Azamgarh, Mau, Balia, Basti, Siddhart Nagar, Sant Kabir Nagar, Chitrakoot, Banda, Hamirpur, Mahoba, Gonda, Balrampur, Bahraich, Shravasti, Faizabad, Ambedkar Nagar, Sultanpur, Amethi, Allahabad, Pratapgarh, Ffatehpur, Kaushambi, Gorakhpur, Deoria, Kushinagar, Jhansi, Llaitpur, Jalaun, Orai, Lucknow, Barabanki, Hardoi, Lakhimpur, Seetapur, Raibareilly, Unnao, Mirjapur, Sant Ravidas Nagar (Bhadohi), Sonebhadra, Varanashi, Gazipur, Chandauli, Jaunpur, Kanpur Nagar, Kkanpur Dehat, Etawah, Kannauj, Auraiya.

General Manager (UP State Office-2), Indian Oil Corporation Limited,  
E-8, Sector-1, Noida-201301.

(Name of the Districts falling under Indian Oil Corporation Limited)

Agra, Mainpuri, Farukkhabad, Aaligarh, Firozabad, Etah, Mathura, Bareilly, Badaun, Pilibhit, Shahjanpur, Meerut, Hapur, Ghaziabad, Bulandshahar, Gautam Buddh Nagar(Noida), Bagpat, Moradabad, Sambhal, Rampur, Bijnour, J.P. Nagagr (Amroha), Saharanpur, Muzaffan Nagar.

For all over Iindia (Bharat Petroleum Corporation Limited)

- 1) General Manager, Bharat Petroleum Corporation Limited, A-5 and 6, Sector-1, Noida-201301.
- 2) Regional Manager, Bharat Petroleum Corporation Limited, Mahatma Gandhi Marg, Lucknow-226001.

For all over Iindia (Hindustan Petroleum Corporation Limited)

- 1) General Manager, Hindustan Petroleum Corporation Limited, 6-7<sup>th</sup> Floor, Core-2, North Tower, Scop Meenar, Laxmi Nagar, New Delhi-110092.
- 2) Deputy General Manager, Hindustan Petroleum Corporation Limited, Plot No.-1, Nehru Enclave, Gomti Nagar, Lucknow-226010.

For all over India (Essar oil company Limited)

General Manager, Essar oil company Limited, New Delhi, through Shri Regional Manager, Essar oil, Gomti Nagar, Lucknow-226010

From,  
The Commissioner,  
Chitrakoot Dhaam Zone,  
Banda.

To,  
Principal Chief Conservator of Forest  
And Head of Department, U.P.,  
Lucknow.

Letter No. 1092/ reader-commissioner/2019 dated: July24, 2019  
Subject: Direction passed by the Hon'ble National Green Tribunal  
(Principal Bench at New Delhi) by means of order dated  
09.05.2019 passed in Original Application No. 410/2019  
(Sajal Agrawal v. Union of India & Ors.)

Sir,

Kindly refer to your letter No. K.K. 95/ 6E-2S.C. (N.G.T.),  
Lucknow dated 16.07.2019, in which in pursuance of the report  
sent by the Chief Conservator of Forest, Bundelkhand Zone, U.P.,  
Jhansi, it is expected from the undersigned to provide report and  
comment regarding the same, which is following:

1. That it was requested by the Senior Divisional Retail Sales  
Manager, Indian Oil Corporation Limited Allahabad, vide its  
letter No. 2013 dated 26.09.2013, to the District Magistrate,  
Chitrakoot, to issue No Objection for establishment of new  
retail outlet at National Highway 35 (Old NH-76) at KM 89  
(Chainez 88.036 left lane), Banda-Karwi Road in Village-  
Akbarpur (B) situated at Khasra No. 703.
2. The then Commissioner, Shri Murlidhar Dubey, as mentioned  
in his order dated 18.09.2014, the then District Magistrate,  
Chitrakoot, received the reports from the Superintendent of  
Police, District Fire Brigade Officer, Sub-District Magistrate,  
Karwi, Executive Engineer (Electricity), Divisional Forest  
Officer, Chitrakoot Forest Division, Executive Engineer,  
National Highway Block, PWD, Banda, Regional Officer, U.P.  
Pollution Control Board, Banda.
3. That as per the report of the Sub-district Magistrate, the  
Khasra No. 703 rakba 0.500 hectare is registered in Khatauni  
account No. 193 in the account of Laxman Singh as  
Sankramani Bhumidhar.
4. That the said petrol pump was inaugurated on 23.06.2014.

5. That referring the notification No. 1115/14-331-50 dated 10.02.1960 by the Divisional Forest Officer, Chitrakoot, has said that Banda-Karwi National Highway-35 (Old NH-76) is notified conservative forest area and no non-forestry activity can be carried out over conservative/ protected forest area without prior permission of the Government of India. In this regard, a letter was sent to the then District Magistrate, Chitrakoot, and it was also objected that no report has been sent to the then District Magistrate, Chitrakoot, by the Divisional Forest Officer, Chitrakoot, regarding the same.
6. It has been mentioned by then the Commissioner, Chitrakoot Dhaam Zone, Banda, in its order dated 18.09.2014 that the no objection certificate issued by the District Level Forest Right Committee, Chitrakoot, is signed by the Magistrate/ President, District Level Forest Right Committee, Chitrakoot, on 03.03.2014. The Divisional Forest Officer, Chitrakoot, has signed the same on 12.02.2014 being the member of the District Level Forest Right Committee, Chitrakoot. It is clear from the same that there was no objection to the District Level Forest Right Committee, Chitrakoot, in issuing the no objection certificate for non-forestry use of 0.06776 hectare of conservative forest area for the construction of the said retail outlet and no objection certificate has been issued in favour of the appellant by the Village Level Forest Right Committee, Aakbarpur (B) by passing a resolution unanimously.
7. That it is also mentioned in the order dated 18.09.2014 passed by then the Commissioner, Chitrakoot Dhaam Zone, Banda, that there is no harm to the Gram Sabha and Nazur due to the establishment of the retail outlet. The no objection certificate issued by the District Level Forest Right Committee, Chitrakoot, has been signed by the Divisional Forest Officer, Chitrakoot, on 12.02.2014 in the capacity of the member of the District Level Forest Right Committee, Chitrakoot.
8. That there is no dense forest around the subjected retail outlet. This filing station is situated at NH-35 (Old NH-76) on the road passing through Bharatkoop Railway Station and Pilgrimage Bharatkoop Temple, at Km 89 (Chainez 88.036 towards left side) at Banda-Karwi Marg in Bharatkoot market, and the establishment of the same would speed up the

development of the local area and it would be convenient to the local residents to get the petroleum products easily.

9. That it is also mentioned in the order dated 18.09.2014 passed by then the Commissioner, Chitrakoot Dhaam Zone, Banda, that the trees standing there over the conservative forest area shall not be fell down by the appellants but the protection of the same shall be done by him with his own resources. Minimum conservative forest passage shall be used for the transportation to the proposed new outlet and the area (both side) alongside the passage has to be maintained and trees to be planted there with its own resources by the appellant. There shall not be done temporary or permanent structure construction by the appellant over the conservative forest area and no hording shall be placed over there.

10. That the undersigned has passed orders dated 20.11.2018 and 12.03.2019 in appeal No. C-2015070000110 and C-201907000000183 Jay Kamtanath Filing Station versus State of U.P., under its duty being appellate court.

Clear report has not been produced in regard to the facts mentioned in the report provided by the Chief Conservator of Forest, Bundelkhand Zone, Jhansi.

Encl: Orders dated 18.09.2014, 20.11.2018 and 12.03.2019.

Sincerely,  
Sd/- 24.07.2019  
(Sharad Kumar Singh)  
Commissiner.

COURT OF THE COMMISSIONER, CHITRAKOOT DHAAM ZONE, BANDA  
Appeal No. C-2014070000440 under Rule 154(2) Petroleum Regulations,  
2002.

Mauja: Akbar Pargana-Karwi Distt.:Chitrakoot  
Jay Kamta Nath Filing Station, Bharatkoot through its dealer/ Pro.  
Laxman Singh Versis State of UP

**ORDER**

This appeal has been filed aggrieved by the order dated 10.07.2014 passed by the District Magistrate, Chitrakoot, whereby the District Magistrate, Chitrakoot, has suspended the issued No Objection Certificate No. 121/ Saat-Nyay Sahayak/ dated 11.03.2014/ 14.03.2014 till grant of no objection by the Government of India as per the procedure.

The learned advocate for the appellant and District Government Counsel (Civil ) for the State of UP, have been heard and the appeal and the original file of the office of the District Magistrate, Chitrakoot, pertaining to the matter, have been perused.

The brief facts germane to the case are that vide letter No. 2013 dated 26.09.2013, it was requested by the Senior Retail Sales Manager, Indian Oil Corporation Limite, Allahabad, addressed to the District Magistrate, Chitrakoot, to grant No Objection Certificate for establishing Indian Oil Corporation retail outlet on left lane at 88.036 km on National Highway-35 (Old NH-76), Khasra No. 703 situated at village- Akbarpur (B), Tehsil-Karwi. In pursuance of the same, reports of the Superintendent of Police, District Fire Brigade Officer, Sub-District Magistrate, KARWI, Executive Engineer, Divisional Forest Officer, Chitrakoot, Executive Engineer, Ra. Ma. Block, PWD, Banda, Regional Officer, UP Pollution Control Board, Banda, have been submitted in the office of the District Magistrate, Chitrakoot. As per the report of the Sub-District Magistrate, Karwi, Khasra No. 703 rakba 0.500 hectare is registered in account no. 193 of Proprietor Laxman Singh being Sankramani Bhumidhar. There is no objection/ harm to the Gram Sabha and Revenue department due to establishment of the said petrol pump over the said land. in the same manner, as per the report of the Executive Engineer, National Highway PWD, Banda, the provisional no objection has been granted subject to the letter of Regional Officer, Road and Transport Department and Ministry State Highway, Government of India, Lucknow, dated 27.01.2014. Besides it, the officers of other departments have given their no objection for the establishment of the said Retail Outlet over the said piece of land, and considering the same the then District Magistrate, Chitrakoot, Shri Surendra Vikram, for the establishment of retail outlet of the Indian Oil Corporation Limited over the said Khasra No. 703 which is bhumidhari account, the no objection certificate No. 121/ Saat-Nyay Sahayak/ dated 11.03.2014/ 14.03.2014 has been issued under the Petroleum Regulations 1934 and 2002, for the establishment of new retail outlet and for the same, to establish grounded tank as per the site plan, subject to the terms and conditions of having sufficient management of fire brigade etc. as per the norms in

this regard. In pursuance of which the filing station/ petrol pump has been inaugurate on 23.06.2014 by the appellant.

After the inauguration of the said filing station, letter No. 63/ 33-1 dated 06.07.2013 has been sent by the Divisional Forest Officer, Chitrakoot, to the District Magistrate, Chitrakoot, stating that the Banda-Karwi National Highway NH-35( old NH-76) is conservative forest area notified under the notification No. 1115/14-331-50 dated 10.02.1960. No non-forestry activity can be carried out over the protected, reserved or any other forest area, without the prior permission/ no objection of the Government of India. The proposal for diversion of the said forest land under the Forest Conservation Act, 1980 has been sent by the Indian Oil Corporation Limited for establishing the said retail outlet, in which certain defects have been found and it has been written to the Indian Oil Corporation Limited to remove the said deficiencies. It has been mentioned in the no objection certificate issued by the then District Magistrate, Chitrakoot, that the report has been received from the Divisional Forest Officer, Chitrakoot, to issue to said certificate, however no such report under the Forest Conservation Act, 1980 pertaining to the said matter has been sent by the Divisional Forest Officer, Chitrakoot. In this manner, the Divisional Forest Officer, Chitrakoot, has requested the District Magistrate, Chitrakoot, to revoke the no objection certificate dated 14.03.2014, in pursuance of the same, the District Magistrate, Chitrakoot, vide its impugned order dated 10.07.2014, suspended the said no objection certificate, mentioning therein that proposal has been sent by the Indian Oil Corporation Limited for issuance of the no objection for establishing the said retail outlet but the no objection has not been granted by the Government of India till date. The no objection dated 11.03.2014 issued on the ground of considering the no objection of District Level Forest Rights Committee, Chitrakoot, dated 03.03.2014 as the no objection of the Divisional Forest Officer, Chitrakoot, does not seem to be appropriate. The current District Magistrate, Chitrakoot, has suspended the no objection certificate no. 121 dated 11.03.2014/14.03.2014 issued by the earlier District Magistrate, Chitrakoot, till granting No Objection from the Government of India. In this manner, this appeal has been filed against the order dated 10.07.2014 passed by the current District Magistrate, Chitrakoot.

The main ground has been taken by the learned advocate for the appellant that the then District Magistrate, Chitrakoot, has issued the no objection certificate dated 11.03.2014/14.03.2014 after receiving no objection from all the concerned departments and after receiving the report of the Divisional Forest Officer, Chitrakoot. It is wrongly mentioned in the letter of the Divisional Forest Officer, Chitrakoot dated 06.07.2014 that no report/ no objection has been sent by him to the District Magistrate, Chitrakoot. He has produced the no objection issued by the District Level Forest Right Committee, Chitrakoot, which is signed by the District Magistrate/ President, District Level Forest Right Committee, Chitrakoot on 03.03.2014 and signed dated 12.02.2014 by the Divisional Forest Officer, Chitrakoot, being the memberof the District Level Forest Right Committee, Chitrakoot, in his support and argued that

the said certificate has been issued under the Forest Right Act, 2006, in which it is clearly mentioned that it has no objection for the non-forestry use of the 0.06776 hectare forest land without felling of trees establishment of the proposed retail outlet. In the same manner, it has also been proposed unanimously by the Sub-Block level Forest Rights Committee, certificate dated 06.02.2014 and Village Level Forest Right Committee, Akbarpur (B) and no objection has been issued in favour of the appellant, on the basis of which the then District Magistrate, Chitrakoot, has issued the said no objection certificate in favour of the appellant. In regard to the permission of the Government of India, producing and perusing the list dated 11.09.2014 received under the Right to Information Act, 2005, it has been said that it is not required to take permission of the Government of India for the petrol pump established after 1980. As per the information dated 04.08.2014 provided by the Divisional Forest Officer/ Public Information Officer, the no objection of the Government of India has not been taken till date by the petrol pumps established in the district Chitrakoot on the notified forest area. In the same manner, as per the report of the Divisional Forest Officer, Banda, there are 10 petrol pumps established on the forest reserve passage. None of the said petrol pump has been granted no objection by the Government of India. In this manner, the subjected order dated 10.07.2014 passed by the District Magistrate, Chitrakoot, mentioning that "till the time the no objection is not granted by the Government of India, the no objection certificate dated 11.03.2014/ 14.03.2014 is being suspended". The impugned order is not good as per the established principles because there is lot of delay in granting NOC by the Government of India, which is apparent from the perusal of the information received under the Right to Information Act. It has been said that the petrol pump of the appellant is operational from 23.06.2014, and the appellant shall suffer irreparable loss if the operation of the petrol pump be stopped. There is no harm by the petrol pump of the appellants to the forestry/ environment. No terms and conditions has been violated by the appellant and he shall neither do the same in future. On the basis of these grounds only, it has been prayed to allow the appeal and to set aside the order dated 10.07.2014 passed by the District Magistrate, Chitrakoot and to restore the said no objection certificate as it is.

It has been said by the District Government Counsel (Civil) on behalf of the State that the Banda-Karwi National Highway-35 (old NH-76) is a notified conservative forest area. Non-forestry activities cannot be carried out on the forest land without prior permission of the Government of India, but it gets too much delay in getting the permission of the Government of India. There are many petrol pumps/ filling stations have been established on the reserved forest area in district Banda and Chitrakoot, which have not got the no objection from the Government of India till date. If these petrol pumps be shut down without having permission of the Government of India, then whole the work would get suffer and alongwith the same the same shall cause loss to the revenue of the government. The no objection certificate dated

11.03.2014/ 14.03.2014 issued by the District Magistrate, Chitrakoot, can be reaffirmed on the ground of loss to the revenue and hindered in the development, even in the absence permission of the Government of India.

I have heard the arguments of both the parties and perused the appeal and the original file of the office of the District Magistrate, Chitrakoot, and deliberated on the same. It is clear from the perusal of the original file of the present matter that as per the report of the Sub-District Magistrate, Karwi, in the current Khatauni of new retail outlet M.S. and H.S.D. Facility Villgae Akbarpur (B) in account No. 193, the Arazi No. 702 rakbs 0.500 hectare is registered in the account holder (Proprietor Filing Station) Laxman Singh. The Gram Sabha and Nazul Sampatti and Revenue Department has no loss/ objection in the establishment of the proposed retail outlet. In the same manner, the provisional no objection has been granted subject to terms and conditions mentioned in the letter of Ministry of Road and Transport, Government of India, Lucknow dated 27.01.2014 on the basis of report of the Executive Engineer, NH PWD, Banda. In the same manner no objections have been received from other concerned departments e.g. Superintendent of Police, District Fire Brigade Officer, Executive Engineer Electricity, Regional Officer, UPPCB, Village Level Forest Right Committee, Sub-Block Level Forest Right Committee and District Level Forest Right Committee. Shri Moolchand, Divisional Forest Officer, Chitrakoot, vide its letter No. 2503/dated/33-1 dated 07.01.2014, sent his counter signed report pertaining to the issuance of no objection certificate under the Forest Right Act, 2006, for the use of Kharsra No. 703 0.06776 hectare conservative forest land for non-forestry use for the establishment of the petrol pump of Indian Oil Corporation Limited, to the District Magistrate, Chitrakoot, which is paper no. 87 on the record. Besides it, the no objection issued by the District Level Forest Right Committee, Chitrakoot, has been signed by the Divisional Forest Officer, Chitrakoot, being member of the said committee on 12.02.2014. In this manner, the fact mentioned in the letter of the Divisional Forest Officer, Chitrakoot, No.63/33-1/ dated 06.07.2013 that no objection, under the Forest Conservation Act, 1980, has not been sent by him to the District Magistrate, Chitrakoot, is not appropriate in the light of the said facts because it was in the knowledge of the Divisional Forest Officer, Chitrakoot that the no objection certificate has to be issued by the District Magistrate, Chitrakoot, then he must have to mention the provisions of the Forest Conservation Act, 1980 alongwith his report. It is not appropriate to be requested by the Divisional Forest Officer, Chitrakoot vide its letter No. 63 dated 06.07.2014 to the then District Magistrate, Chitrakoot, to cancel the no objection certificate dated 11.03.2014 in the circumstances when subjected filing station of the appellant has become operational. It is only after that no objection certificates received from all the concerned departments and that in absence of any objection from any one of them, the said no objection certificate dated 11.03.2014/ 14.03.2014 has been issued by the then District Magistrate, Chitrakoot, in favour of the appellant, in which there

is no apparent illegality. It is clear from the perusal of the original photographs of the site of the petrol pump as filed on record that there is no dense forest area around the proposed filling station site and it is only tree which is there. It is clear from the road map of the proposed outlet that the same is situated at the road connecting Bhatarkoop Railway station to the Bharatkoop temple, on the HN-35 (Old NH-76) at KM 89 Banda-Karwi road, and with the establishment of the same there would be development of the local area and it would be convenient for the local public to get the petroleum products easily. Because the proposed petrol pump is situated on the way of Chitrakoot pilgrimage and there is also Bharatkoo Grit crusher business there, due to which there is lot of transportation happens there, so the same would add in the revenue of the government. As for as the question of prior permission of Government of India in the present matter is concerned, in this regard, it is clear from the perusal of public information filed by the appellants that there are many other petrol pumps situated on the Banda-Karwi road conservative forest area, which have not received the permission of the Government of India till date. In this manner considering the delay in issuing the no objection on the part of the Government of India, the appeal deserves to be allowed subject to the following conditions:

1. The trees which are there over the conservative forest area shall not be fell down by the appellants, but the protection of the same has to be ensured with its own resources.
2. Minimum conservative forest passage shall be used for the transportation to the proposed new outlet and the area (both side) alongside the passage has to be maintained and trees to be planted there with its own resources by the appellant.
3. There shall not be done temporary or permanent structure construction by the appellant over the conservative forest area and no hording shall be placed over there.
4. Any terms and conditions which shall be passed by the Government of India or the UP Government, shall have to be followed by the appellant and the appellant shall be bound by the same.

Order

Allowing the appeal subject to the above-mentioned analysis and terms, setting aside the impugned order dated 10.07.2014 passed by the District Magistrate, Chitrakoot, the no objection certificate No. 121/ Saat-Nyay Sahayak/ dated 11.03.2014/ 14.03.2014 issued by the then District Magistrate, Chitrakoot, is reiterated and reaffirmed as it is. If it is found to be violation of any abovementioned terms and conditions by the appellant, then the District Magistrate, Chitrakoot, shall be free to take appropriate legal action against the appellant. Because the new petrol pump is operational presently, therefore no legal action or any hindrance shall be created in its operation. The file of the matter be sent back with this order immediately. The appeal file be sent to the office for appropriate action.

Date: September 18, 2014

Sd/-  
(Murlidhar Dubey)  
Commissioner

This order has been pronounced and signed by me in the open court.  
Date: September 18, 2014.

Sd/-  
(Murlidhar Dubey)  
Commissioner

COURT: COMMISSIONER,  
ZONE: CHITRAKOOT DHAAM

Case No. 110/2015

Computerized case No. C2015070000110

Jaykamtanath Filing Station, Bharatkoop versus State

Under section 9, U.P. High Speed Diesel Oil and Light Diesel Oil (Conservation and Distribution) Order, 1981

---

Order

Today present. Appeal No. C2014070000978 has been filed under section-9 of U.P. High Speed Diesel Oil and Light Diesel Oil (Conservation and Distribution) Order, 1981, aggrieved by the order of the District Magistrate, Chitrakoot, passed vide its letter No. 3625/ Ji. Pu.A./ Petrol Anu. Dated 05.12.2014 whereby Shri Laxman Singh, Proprietor of M/s Jaykamtanath Filing Station, Bharatkoop, was directed to provide the no objection certificate to the office of the District Supply Officer, Chitrakoot, after getting the same from the Government of India for issuance of license for sale of diesel from the said retail outlet.

Appeal No. C2014070000978 has been filed under section-9 of U.P. High Speed Diesel Oil and Light Diesel Oil (Conservation and Distribution) Order, 1981, against the order of the District Magistrate, Chitrakoot, vide its letter No. 3740/ Ji.Pu.Aad./Petro Anu. dated 27.01.2015, in which it is mentioned that it is contempt of the Hon'ble Court by concealing the facts and not complying with the order dated 14.07.2014 of the Hon'ble Court and not producing the order dated 05.12.2014 passed by the undersigned before the Hon'ble High Court. In this manner the present application dated 05.05.2014 has been dismissed, aggrieved by the same the present appeal has been filed on different grounds.

The no objection certificate of the Government of India is required before the establishment of the petrol pump, in regard of which the order dated 18.09.2014 passed by this Court is final and the same is binding on the subordinate court, which has not been referred by the subordinate Court. After the said order, the responsibility of the no objection of the Government of India cannot be put on the appellants. The subordinate court has committed contempt of order dated 18.09.2014 of this Court in the shadow of the order of the Hon'ble Supreme Court, however the said order of the Hon'ble Supreme Court is not applicable in the facts and the circumstance of the present case. The investigation conducted by the subordinate court is without considering the points mentioned by the appellant in his proposal dated 07.01.2015 that the compliance of the order of the Hon'ble Supreme Court has not been done in other cases. There is no work is to be done regarding forestry for diesel license. Petrol pump is established and the sale of the petrol is on there. The license application of the appellant has been dismissed avoiding the provisions of law. The appellant has never concealed any fact. The whole matter is clear, whole transparency has been maintained. The Subordinate court wants to complicate the matter deliberately. It does not want to dispose of the matte in light of principles of settled law. Therefore this appeal be allowed and the application of the appellant for issuing license be allowed. Setting aside the impugned order dated 27.01.2015, the District Magistrate, Chitrakoot, be directed to issue diesel license.

Both the parties have been heard. The advocate for the appellant, reiterating the facts of the appeal memo of the appellant, prayed to allow the appeal and setting aside the impugned order dated 27.01.2015, allow the diesel license application of the appellant.

The District Government Counsel, Rvenue-Banda, argued for the State that the no objection certificate issued by the Government of India is mandatory for

(195)

conservative forest area, which has not been got by the appellants. In such circumstances the appeal deserves to be dismissed.

After hearing the arguments of both the parties, the file of the subordinate court and the impugned order, have been perused. The appellants have been given the dealership of the petrol pump of Indian Oil Corporation Limited situated alongside the Banda-Allahabad road, Bharatkoop, Distt.-Chitrakoot, before the establishment of the same, the no objection certificate has been issued by the District Magistrate, Chitrakoot on 11.03.2014/14.03.2014. The said No objection certificate has been suspended vide order dated 10.04.2014 after the establishment of the petrol pump because the no objection certificate has not been received by the appellant from the Government of India for conservative forest area. Appeal has been filed against the order dated 10.04.2014 before the Court of the Commissioner, Chitrakoot Dhaam Zone, Banda, in which allowing the appeal, order dated 18.09.2014 has been passed upholding the no objection certificate. Sale of petrol is on there. The diesel license application has been dismissed again on the same grounds that the no objection certificate has not been received from the Government of India for conservative forest area. No provision has been mentioned pertaining to the issuance of license for sale of diesel from an operational petrol pump. It is only for the establishment of the petrol pump that it is mentioned in the section-144 of the Petroleum Act, 1934 to get no objection certificate. It has been appraised that it is only after qualifying all the eligibilities by the appellant that the no objection has been granted by the District Supply Department and Additional District Magistrate, Chitrakoot, approved for the issuance of the diesel license. It is only after receiving the report of the Divisional Forest Officer, Chitrakoot, that the NOC was issued by the District Magistrate, Chitrakoot. It is only on this ground that my predecessor/ commissioner passed order dated 18.09.2014 upholding the No Objection Certificate without calling for any necessity of No Objection of the Government of India. There is no need of no objection certificate after the establishment of the petrol pump and neither it is necessity of no objection certificate for issuing diesel license for an operational petrol pump. In light of the abovementioned, there is no legal intricacy or irregularity seems to be there in issuing diesel license in the present matter. In such circumstances, the order dated 27.10.2015 passed by the District Magistrate, Chitrakoot, deserves to be set aside and the application of the appellant for issuance of diesel license deserves to be allowed.

In light of the abovementioned the appeal is allowed and setting aside the impugned order dated 27.01.2015/05.12.2014 passed by the District Magistrate, Chitrakoot, the application of the appellant regarding diesel license is allowed. It is directed to the District Magistrate, Chitrakoot, to ensure the action on the application of the appellant for issuing diesel license within one month. The said order shall also be applicable in appeal No. C02014070000978. The copy of the order be kept in this appeal. The copy of the order be sent to the Subordinate Court immediately. The file shall be sent to the office for necessary action.

Date 20 November, 2018

Sd/-20.11.2018  
(Sharad Kumar Singh)  
Commissioner

This order has been pronounced and signed by me today in open court.

Date 20 November, 2018

Sd/-20.11.2018  
(Sharad Kumar Singh)  
Commissioner

(176)

Order Sheet

Court of the Commissioner, Chitrakoot Dhaam Zone, Banda

Case No. 00183/2019

Computerised case no. C2019070000000183

Jay Kamta Nath Filing Station Versus State of UP

U/s9 of the UP High Speed Diesel Oil and Light Diesel Oil

(Conservation and Distribution) Oorder-1981

Order

Presented today. The present appeal has been filed aggrieved by the order of the District Magistrate, Chitrakoot, passed vide its letter No. 6459/ Ji.Pu.Adh./Pe.Anu./ 2018-19 dated 28.02.2019 whereby application dated 28.02.2019 of the appellant pertaining to the grant of license to sell diesel has been disposed of, on different grounds.

The arguments of both the parties have been heard. It has been argued by the appellant on the basis of his appeal memo that impugned order is against the law and the facts. The subordinate Court has no jurisdiction to dismiss the application of the appellant for issuing the diesel license. The application of the appellant dated 05.05.2014 has been allowed vide its order 20.11.2018 by the Commissioner. And it has been committed District Magistrate by not complying with the said order. The District Magistrate has no jurisdiction to review/ screening of the order dated 20.11.2018 passed by the Commissioner because the order dated 20.11.2018 passed by the Court of the Commissioner, Chitrakoot Dhaam Zone, Banda, was final and undisputed. The point on which the District Magistrate, Chitrakoot, has taken the ground stating the requirement of the permission of the Government of India, dismissed the application for issuing diesel license, in this regard the learned Commissioner has given the explanation of the same in its order dated 18.09.2014 and 20.11.2018. The District Magistrate, Chitrakoot, has not filed any appeal/ objection against these order before the competent Court/ Hon'ble High Court. It is the duty of the District Magistrate, Chitrakoot, to comply with the order dated 20.11.2018 passed by the appellate Court, but the impugned order has been passed by the subordinate court committing contempt of the order dated 20.11.2018 passed by appellate court, which has no value and the same deserves to be quashed. There is no land of Forest Department lying between the road and the petrol pump situated in Gata No. 703, however the National Highway is the land of Public Work Department, and the no objection of which has been granted. It is provided in section-2 of the Forest Conservation Act, 1980 to take permission of the Government of India for non-forestry use of the forest land. There is no provision to take such permission for protected land under the Forest Conservation Act. The order of the Hon'ble Supreme Court mentioned in the order of the District Magistrate is not about the petrol pump and neither the same is applicable in this matter. The sale of petrol is on from the established petrol pump and the passage which is used

(197)

for the transportation of the petrol vehicle shall only be used for the transportation of the diesel vehicles. No objection certificate is the mandate before establishing the petrol pump. There is no provision to take no objection for the issuance of diesel sale license from forest department or any other department and neither there is any harm to any department including the forest department. The impugned order has been passed by the District Magistrate avoiding the public convenience and its abuse of power. Therefore the appeal be allowed and setting aside the impugned order of the District Magistrate, passing order to issue diesel license and the contempt proceedings be started against the District Magistrate.

It has been mainly said in the objection dated 11.03.2019 filed by the District Government Counsel, Revenue Banda, on behalf of the respondent that it has been said by the District Magistrate, relying upon the order dated 14.07.2014 passed by the Hon'ble High Court in Writ Petition No. 34897/2014, in the application filed for issuance of diesel license in compliance of order dated 20.11.2018 passed by the Commissioner that the permission of the Government of India be taken and to be produced in the officer, in this manner the applications dated 05.05.2014, 05.01.2019 and 05.02.2019 have been dismissed which is legal. There is no contempt in the impugned order passed by the District Magistrate but the said order has been passed in consonance with the order passed by the Hon'ble Supreme Court. It has been said in the order dated 16.09.2014 passed by Shri Murlidhar Dubey that the no objection certificate is mandatory but the NOC has not been produced by the appellant. Therefore the appeal may be dismissed.

It has been requested by Sanjay Agrawal, Old Market Karwi through its objection dated 11.03.2019, prayed to dismiss the present appeal. The present appeal is between Jay Kamta Nath Filing Station, Bharatkoop versus State of UP, in which neither it is appropriate/ legal to implead any third party in the same nor there is any reason to hear the same. Therefore the objection of Sanjay Agrawal is hereby dismissed.

It has been said by the appellant in his rejoinder dated 12.03.2018 that sale of diesel without license is being done in Bharatkoop by Sanjay Agrawal and company with the silence consent of the officers. His illegal business will get out if the diesel license be issued to the appellant. The illegal sale of diesel by the Sanjay Agrawal is being checked. Although, there is happening some sale in moonlight. The application dated 05.05.2014 diesel license of the appellant has been allowed by the appellate court vide its order dated 20.11.2018 and the District Magistrate does not have jurisdiction to quash the same. The cutting of paper is annexed regarding the illegal sale of diesel. It has been prayed in the end to allow the appeal.

The impugned order passed by the District Magistrate, Chitrakoot and other previous orders have been perused after hearing

the parties. The following orders have been passed in the earlier order dated 20.11.2018 passed by me that the appeal is allowed and setting aside the order dated 27.01.2015/05.12.2014 passed by the District Magistrate, Chitrakoot are set aside, the application of the appellant for grant of diesel license is allowed. It is directed to the District Magistrate, Chitrakoot that he must take action on the application of the appellant pertaining to the diesel license within one month. Against which no appeal has been filed either by you or State before Hon'ble High Court and by yourself, sighting the order dated 14.07.2014 passed by the Hon'ble Court in Writ Petition No. 34897/2014, dismissing the application pertaining to issuance of license to sell the diesel, you hve committed contempt of the order dated 20.11.2018 passed by the appellate court. Because the legal position observed by the Hon'ble Supreme Court which has been mentioned by the Hon'ble High Court in its order dated 14.07.2014 passed in Writ petition No. 34897/2014, in compliance of the said legal position settled by the Hon'ble Supreme Court in Writ Petition (C) No. 202/95 T.N. Godaverman Thirumulkpaad versus Union of India and Ors., the principal secretary, Industries Development Department, UP, Forest Department-2 has issued Government Order No. 208/ 14-2-97-405 (290)/96 dated 06 January 1997, and it has been directed in the para-2 of the same that- "the Hon'ble Supreme Court in the said order has made it clear making the said position clear regarding mining to be conducted in the forest area that any non-forestry activity in the forest area including Aaramil, Plywood Viniers and Mining etc., cannot be done without the permission of the Government of India subject to the provisions of the Forest Conservation Act, 1980. In context of the same it has also been referred to clear all the points pertaining to the Forest Conservation Act, 1980, in the said order only."

It is clear from the abovementioned that the mentioned legal principle is not applicable in the present matter. This legal principle is specially for Mining, Aramil, Plywood Viniers etc, which caused felling of trees, so the same is required to have the prior permission of the Government of India. The subjected matter is based upon the ground that it is only the license for selling diesel from the operational petrol pump is being requested. If there is possibility of any harm to the forest by selling diesel from operational petrol pump, then the operational petrol pump be stopped. The said legal position is concerned with the non-forestry conduct like mining etc. The said legal position is not applicable in the present matter because sale of diesel from operational petrol pump is not included in the mining work, aramil, plywood viniers etc. kind of non-forestry conduct. Therefore it is not appropriate/ legal to dismiss the application for issuance of license for sale of diesel on the ground of the said legal position.

(199)

It is also pertinent to mention here that it is clear in the last para-5 of the said Government Order dated 06.01.1997 that mining is continued in Tihari Garwal forest area under the provisions of the Forest Conservation Act, 1980, without the permission of the Government of India and even after the expiry of the lease period, under the orders of the Hon'ble Courts. In the same manner, mining work in the other parts of the country, in which the permission of the Government of India is mandatory, but without getting the same the same are operating on the basis of the orders of the Courts and other authorities. Therefore in all these matters, in the light of the order dated 12.12.1996 passed by the Hon'ble Supreme Court, kindly ensure the action at your level to stop all these non-forestry activities. The situation also becomes clear from the same that the mentioned position is for mining activities only.

The order dated 20.11.2018 has been passed by the appellate Court in light of the settled legal principles, on which the mentioned position of law is not applicable, and taking the ground of the same the District Magistrate has no jurisdiction to commit contempt of the order of the appellate court. In such circumstances, order dated 28.02.2019 passed by the District Magistrate, Chitrakoot, does not deserve to be stable and the earlier appellate court's order dated 20.11.2018 is reiterated and confirmed. Accordingly, allowing the appeal and setting aside the impugned order of the District Magistrate, Chitrakoot, it seems appropriate to pass direction to issue to license for selling diesel in favour of the appellant.

On the basis of the abovementioned, the appeal is allowed. The order of the District Magistrate, Chitrakoot, order No. 6459/ Ji.Pu.Ad.-pe.Anu./ 2018-19 dated 28.02.2019 is set aside and it is directed to the District Magistrate, Chitrakoot, that it should issue the diesel license in favour of the appellant within two weeks. The copy of the order be sent to the District Magistrate, Chitrakoot. The file shall be kept in office for necessary action.

Sd/-12.03.2019  
(Sharad Kumar Singh)  
Commissioner

Order has been pronounced and signed by me today in open court.

Date: 12 March 2019

Sd/-  
(Sharad Kumar Singh)  
Commissioner

OFFICE OF PRINCIPAL CHIEF COSERVATOR OF FOREST AND HEAD OF DEPARTMENT, U.P., LUCKNOW

Letter No. K.K. 251/6E-2S.C.(N.G.T.) dated, Lucknow, August 14, 2019

To,

Chief Conservator of Forest,  
BundelKhand Zone, U.P.,  
Jhansi

Subject: Directions passed by the Hon'ble National Green Tribunal (Principal Bench at New Delhi) by means of order dated 09.05.2019 passed in Original Application No. 410/2019 (Sajal Agrawal v. Union of India & Ors.)

Reference: Your office letter No. 5281/10-case dated 27.06.2019.

Sir,

The copy of your above referred office letter dated 27.06.2019 pertaining to the above-captioned subject matter, has been sent through this office letter No. K.K. 95/6E-2S.C.(N.G.T.) dated 16.07.2019 (also endorsed to you) to the Commissioner, Chitrakoot Dhaam Zone, Banda, requesting therein to him to provide his report after perusing the same, in case of necessity of any additional facts to be mentioned therein/any amendment, please provide your report annexing and referring properly such documents within 15 days to this office, alongwith the same also provide the Action Taken Report.

In pursuance of the abovementioned, the Commissioner, Chitrakoot Dhaam Zone, Banda, vide its office letter No. 1092/reader-commissioner/2019 dated 24.07.2019 (copy annexed), has report/comment has been provided. Paras 6 and 7, inter alia, are pertinent to be perused. It has been strongly said in it that the signature dated 12.02.2014 was made by the Divisional Forest Officer, Chitrakoot, on the no objection certificate issued by the District Level Forest Right Committee, Chitrakoot, as being the member of the same. Further it is mentioned that it is clear from the same that committee has no objection in issuance of no objection certificate for non-forestry use of the 0.06776 hectare of conservative forest area for the retail outlet. In this regard, it is pertinent to peruse the section-3(2) of Schedule Tribe and Other Traditional Forest Dwellers (Forest Rights) Act, 2006, under which the no objection certificate issued by the District Magistrate, Chitrakoot dated 08.03.2014 based on your subjected no objection certificate (annexure-6 of the report

received alongwith your referred letter dated 27.06.2019), the provisions of the same are reiterated herein:

(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, nemely:-

- (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 developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha.

It is clear from the above that the subjected matter under which no objection certificate has been issued for the proposed retail outlet of the Indian Oil Corporation Limited, is not included in the said concerned provision. Resultantly it is necessary to make it clear that in pursuance of which provision the signature were made by the Divisional Forest Officer, Chitrakoot, on the no objection certificate issued by the District Level Forest Right Committee, Chitrakoot, in the capacity of the member of the said committee. It is pertinent that it is notwithstanding anything contained in the Forest (Conservation) Act, 1980 that the provisions of the Scheduled Tribes And Other Traditional Forest Dwellers (Recognition Of Forest Rights) Act, 2006 are applicable. It is only pressing this certificate and the no objection certificate dated 08.03.2014 issued by the District Magistrate, Chitrakoot, that the report has been sent by the Commissioner, Chitrakoot Dhaam Zone, Banda.

(202)

In the abovementioned circumstances, please make clear within 3 days maximum that in pursuance of which provision the signature were made by the Divisional Forest Officer, Chitrakoot, on the no objection certificate issued by the District Level Forest Right Committee, Chitrakoot, in the capacity of the member of the said committee. The copy of the letter No. F. No. 23011/15/2008-SG II dated 18.05.2009 (with appendix) is being sent herewith, which is subjected as the Procedure for seeking prior approval for diversion of forest land for non forest purposes for facilities managed by the Government under Section-3(2) of the Scheduled Tribes And Other Traditional Forest Dwellers (Recognition Of Forest Rights) Act, 2006, issued by the Ministry of Tribal Affairs.

It is pertinent that 23.09.2019 has been fixed for hearing by the Hon'ble Tribunal on the request of the Standing Counsel, Hon'ble NGT, on the dated of hearing i.e. 02.08.2019 in O.A., and the action taken report by the undersigned and the Commissioner, Chitrakoot Dhaam Zone, Banda, has to be filed before the same, therefore the matter be given highest priority.

Encl: As above

Sincerely,  
Sd/-  
(Pawan Kumar)

Principal Chief Conservator of Forest and Head of Department, U.P.,  
Lucknow

No. 251/ dated as above

Copy to following officers alongwith the annexures for kind information and to take necessary action in this regard on highest priority basis:

1. Conservator of Forest, Chitrakoot Dhaam Vratt, Banda.
2. Divisional Forest Officer, Chitrakoot.

Sd/-  
(Pawan Kumar)

Principal Chief Conservator of Forest and Head of Department, U.P.,  
Lucknow

Annexure-8 (203)  
OFFICE OF CHIEF CONSERVATOR OF FOREST, BUNDELKHAND ZONE,  
UTTAR PRADESH, JHANSI

Ph No. 0510-2472068 121, Civil Lines, Forest Department, Jhansi,  
Email: ccfjhansi@gmail.com

To,

Principal Chief Conservator of Forest  
and Head of Department,  
U.P., Lucknow.

Subject: Order dated 09.05.2019 passed by the Hon'ble National Green  
Tribunal in O.A. No. 410/2019 Shri Sajal Agrawal versus Union  
of India & Ors.

Reference: Your letter No. K.K. 251/ 6E-2S.C.(N.G.T.) Lucknow dated  
14.08.2019

Sir,

In the above-captioned matter, the para mentioned in your above-referred letter "In the abovementioned circumstances, please make clear within 3 days maximum that in pursuance of which provision the signature were made by the Divisional Forest Officer, Chitrakoot, on the no objection certificate issued by the District Level Forest Right Committee, Chitrakoot, in the capacity of the member of the said committee. It is being sent the copy of letter No. 23011/16/2008-S.G. II dated 18.05.2009 as annexure of Ministry of Tribal Affairs, subjected Procedure for seeking prior approval for diversion of forest land for non forest purposes for facilities managed by the Government under Section-3(2) of the Scheduled Tribes And Other Traditional Forest Dwellers (Recognition Of Forest Rights) Act, 2006.", the Conservator of Forest, Chitrakoot Dhaam Vratt, Banda, vide its office letter No. 27 T.C./ Court case (N.G.T.) dated 29.08.2019, after receiving the report and approving the same, is sent alongwith the annexures for your kind information and necessary action.

Encl: As above

Sincerely,  
Sd/-(illegible)  
(P.P. Singh)

Chief Conservator of Forest,  
Bundelkhand Zone, U.P., Jhansi

Letter No. 883/a/ dated as above

Copy to the conservator of forest, Chitrakoot Dhaam Vratt Banda, in pursuance of his letter No. 27 T.C./ Court Case dated 29.08.2019.

Sd/-(illegible)  
(P.P. Singh)

Chief Conservator of Forest,  
Bundelkhand Zone, U.P., Jhansi

Dated May 18, 2009

Government of India  
Ministry of Tribal Affairs

**Procedure for seeking prior approval for diversion of forest land for non forest purposes for facilities managed by the Government under Section-3(2) of the Scheduled Tribes And Other Traditional Forest Dwellers (Recognition Of Forest Rights) Act, 2006.**

Sub-section (2) of Section-3 of the Scheduled Tribes And Other Traditional Forest Dwellers (Recognition Of Forest Rights) Act, 2006, provides that 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, 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 developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha

2. For implementation of the provisions of Sub-section (2) of Section-3 of the Scheduled Tribes And Other Traditional Forest Dwellers (Recognition Of Forest Rights) Act, 2006, the Central Government hereby lays down the following procedure:-

2.1 DEFINITIONS- (1) In these rules, unless the context otherwise requires,-

- a) "Act" means the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007);
- b) "District Level Committee" shall mean the committee constituted under Rule 7 of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2008;
- c) "Forest land" shall have the same meaning as defined in section 2(d) of the Act;
- d) "Gram Sabha" shall have the same meaning as defined in section 2(g) of the Act;
- e) "Nodal Officer" means any officer not below the rank of the Conservator of Forests, authorized by the State Government

to deal with matters relating to diversion of forest land under the Act;

- f) "Section" means section of the Act;
- g) "User Agency" means a department of the Central or State Government or a District Panchayat making a request for diversion of forest land for development projects by the Government as specified in sub-section (2) of section 3 of the Act;
- h) "Villgar" shall have the same meaning as defined in section 2(p) of the Act.

**2.2 Submission of the proposal seeking approval for diversion of the forest land under section (2) of Section 3 of the Act:**

- i. Every User Agency, that wants to use any forest land for any developmental project, specified in Section 3(2) of the Act, shall make a proposal in the appropriate Form r.p.pended, i.e. Form 'A', and place it before the general assembly of the concerned Gram Sabha for adopting a resolution to that effect.
- ii. A quorum of atleast half the members of the Gram Sabha should be present for adopting a resolution recommending the diversion of forest land.
- iii. On receipt of a recommendation o) the *pcoqosal* by the Gram Sabha, the User Agency will submit the pro,>osal to the concerned Range Forest Officer (RFO) of the area, along wi ih the resolution adopted by the Gram Sabha.
- iv. The Range Forest Officer (RFO) concerned will carry out site inspection of the proposed area to opine on the ac:::eptance of the proposal.
- v. The Range Forest Officer (RFO) c:>ricemed will submit the proposal and his recommendation to the concern.ed Divisional Forest Officer (DFO) ii. Y otrn 'B' appended, along with hi" site inspection report and his opinion within three weeks from the date o' receipt of complete proposal from the User Agency.
- vi. The Divisional Forest Officer (DFO) concerned will consider the proposal, and if he agrees, he will accord his approval and communicate his decision to the Range Forest Officer) concerned with a copy to the chairperson of the District Level Committee, within four weeks from the date of receipt of the proposal from the RFO.

- (200)
- vii. After receipt of the approval from the concerned DFO, the RFO will demarcate the area of the forest land approved for diversion and hand over the same to the User Agency under the supervision of the Gram Sabha.
  - viii. If the Divisional Forest Officer (DFO) concerned does not approved the proposal submitted by the User Agency through the Range Forest Officer (RFO), he shall forward the proposal to the District Level Committee for a final decision.
  - ix. The District Level Committee will meet and take a final decision, with at least 1/3 quorum, and convey the decision to the DFO for implementation and correction of records and map if the proposal accepted.
  - x. The approval for diversion of the forest land by the Divisional Forest Officer (DFO) or by the District Level Committee, as the case may be, shall be accorded subject to the condition that the land diverted for a specific purpose shall not be allowed to be used for any other purpose and the diverted land would be appropriated by the Forest Department if the activity for which the land was diverted is not started within one year of handling over the land to the User Agency.
  - xi. The DFO concerned will submit a quarterly report of the approvals accorded for diversion of forest land under section 3(2) of the Act to the Nodal Officer of the State who, in turn, will furnish the consolidated information quarterly to the Secretary, Tribal Welfare Department who will, in turn send the consolidated report to the Ministries of Tribal Affairs and Environment and Forests.
  - xii. The Nodal Officer will also monitor the progress.

(207)

DISTRICT LEVEL FOREST RIGHTS COMMITTEE CHITRAKOOT

Certificate

(under Forest Right Act, 2006)

It is certified that neither any claim has been received nor pending under the Forest Right Act, 2006 (FRA 2006). There is no objection of District Level Forest Right Committee to issue no objection certificate to Indian Oil Corporation Limited, Zonal Office, Fifth Floor, Indira Bhwan, Civil Lines, Allahabad- 211001, for diversion of 0.067760 hectare forest conservative land without feeling of trees for establishment of proposed retail outlet at the left lane KM 88.036 at Banda-Karwi Road, National Highway-35 (Old NH-76) in Khasra No. 703 situated at Akbarpur (B), Tehsil- Karvi and District- Chitrakoot, State- Uttar Pradesh.

Sd/- (illegible) 11.02.2014

District Public Welfare Officer/ Secretary  
Chitrakoot

Sd/- (illegible) 12.02.2014

Divisional Forest Officer/ Member,  
Chitrakoot.

Sd/-(illegible) 03.03.2014

(Surendra Kumar)

District Magistrate, Chitrakoot.

District Collector/ President

District Public Welfare Officer/ Secretary  
Chitrakoot

**APPENDIX**

Form for seeking prior approval for diversion of forest land for non-forest purpose for the facilities managed by the Government under sub-section (2) of section 3 of the Scheduled Tribes and Other Traditional Forest Dwellers (Regulation of Forest Rights) Act, 2006.

FORM - A

(See para 2.2 (i))

(To be filled up by the user agency)

1. Project details:

- i. Short narrative of the proposal and project/scheme for which the forest land is required.
- ii. Details of the forest land required (two options to be indicate)
  - a) Location- Survey No/ Compartment No.
  - b) Extent of area (in hectare)
  - c) Forest Division
  - d) Map showing the required forest land, boundary of adjoining forest on a 1:50,000 scale map.
- iii. Justification for locating the project in forest area.
- iv. Number of trees to be felled (per hectare) and number that will kept standing

2. Detailed Purpose-wise break-up of the total forest land required with proposed building/ activity area map:

3. Confirmation that User Agency will plant at least twice the number of trees to be felled, in the project or adjacent area and the amount to be provided annually for protection and maintenance of these plants for at least five years (Details to be enclosed):

4. Recommendation of the Gram Sabha-Accepted/Rejected (Please tick as the case may be). (Copy of the Gram Sabha resolution to be attached)

Signature of the authorized person for the User Agency  
(Name in Block Letters)

Address \_\_\_\_\_

Date: \_\_\_\_\_

Place: \_\_\_\_\_

Serial No. of the Proposal \_\_\_\_\_

(To be filled up by the Range Forest Officer with date of receipt)

FORM-B

(Se Para 2.2(iv))

(To be filled by the concerned Range Forest Officer)

Serial No. of proposal \_\_\_\_\_

1. Location of the project/Scheme:

- i. State/Union Territory
- ii. District.
- iii. Forest Division
- iv. Proposed forest land(s) (two option to be indicated)
  - a) Location: Survey No./ Compartment No.
  - b) Extent of the area(in hectare)
- v. Whether part of biosphere reserve, tiger reserve, elephant corridor, etc.

2. Site inspection report (to be attached), containing the date of visit, and justified opinion on the acceptability of the proposal (separately for the two options).

3. Specific recommendation of the Range Forest Officer for acceptance or otherwise of the proposal and the better option.

Signature of the RFO  
Name \_\_\_\_\_

Official Seal

Date: \_\_\_\_\_

Place: \_\_\_\_\_

Accepted/not accepted  
With reason to be recorded

Signature of the DFO  
Name \_\_\_\_\_

Official seal

Date: \_\_\_\_\_

Place: \_\_\_\_\_

(48)

OFFICE OF CONSERVATOR OF FOREST, CHITRAKOTT DHAM VRATT,  
BANDA

Letter No. 22TC/ Court case (N.G.T.)/ dated, Banda, August 29,  
2019

To,

Chief Conservator of Forest,  
Bundelkhand Zone,  
U.P. Jhansi.

Subject: Order dated 09.05.2019 passed by the Hon'ble National  
Green Tribunal in O.A. No. 410/2019 Shri Sajal Agrawal  
versus Union of India & Ors.

Reference: Letter of Principal Chief Conservator of Forest, U.P.,  
Lucknow, letter No. K.K. 251/ 6E-2 S.C. (N.G.T.) dated  
18.08.2019 and your letter No. 711/10 Case, dated  
19.08.2019.

Sir,

In the above-captioned matter, the Divisional Forest Officer,  
Chitrakoot, has sent letter No. 645/10 case dated 29.08.2019 to  
this office, which is being sent to you alongwith the annexures for  
your kind information and necessary action.

Encl: As above

Sincerely,  
Sd/-  
(Krishna Kumar Singh)  
Conservator of Forest,  
Chitrakoot Vratt, Banda

Endorsement No. 27T.C./a/ As dated above.

Copy to the Divisional Forest Officer, Chitrakoot, for kind  
information in pursuance its office letter No. 645/ 10 case dated  
29.08.2019.

Sd/-  
(Krishna Kumar Singh)  
Conservator of Forest,  
Chitrakoot Vratt, Banda

(211)

OFFICE OF DIVISIONAL FOREST OFFICER, FOREST AND WILDLIFE  
DEPARTMENT, CHITRAKOOT

Letter No. 645/10 case/dated, Chitrakoot, August 29, 2019

To,

Conservator of Forest,  
Chitrakootdhaam Vratt,  
Banda

Subject: Order dated 09.05.2019 passed by the Hon'ble National Green Tribunal in O.A. No. 410/2019 Shri Sajal Agrawal versus Union of India & Ors.

Reference: Letter of the Principal Chief Conservator of Forest and Head of Department, U.P., Lucknow, letter No. 251/ 6E-2 S.C.(N.G.T.) dated 14.08.2019, letter of the Chief Conservator of Forest, Bundelkhand Zone, Uttar Pradesh, Jhansi, letter No. 711/10 Case, dated 19.08.2019 and your letter No. 12 T.C./ Court case (N.G.T.), dated 16.08.2019.

Sir,

The report in the captioned matter in pursuance of the Principal Chief Conservator of Forest and Head of Department, U.P., Lucknow, letter No. 251/ 6E-2 S.C.(N.G.T.) dated 14.08.2019, is as following:

1. The Scheduled Tribes And Other Traditional Forest Dwellers (Recognition Of Forest Rights) Act, 2006, came into force on 01.01.2008.
2. Sub-section 2 of section 3 of the said Act pertaining to the rights of the Traditional Forest Dwellers is as following:
  - (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, nemely:-
    - (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 developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha.

It is clear from the abovementioned that the subjected matter, under which the no objection certificate has been granted for the establishment of the proposed retail outlet of Indian Oil Corporation Limited, is not concerned with the Schedule Tribes and other Traditional Dwellers, and the same is not in the letter subjected "Procedure for seeking prior approval for diversion of forest land for non forest purposes for facilities managed by the Government under Section-3(2) of the Scheduled Tribes And Other Traditional Forest Dwellers (Recognition Of Forest Rights) Act, 2006." Issued by the by the Government of India vide its letter No. 23011/15/2008 SGII dated May18, 2009.

The user agency Indian Oil Corporation Limited, Marketing Division, Fifth Floor, Indira Bhawan, Civil Lines, Allahabad- 211001, had to apply on the official website of the Ministry of Forest and Climate Change, Government of India, New Delhi: [www.forestclearance.nic.in](http://www.forestclearance.nic.in) , under the provisions of the Forest Conservation Act, 1980, for non-forestry use of the conservative forest area of 0.067760 to be used to reach/transportation to the subjected petrol pump, but the user agency did not do the same.

It seems that the Commissioner, Chitrakootdhaam Zone, Banda, vide its letter No. 1092/ reader-commissioner/2019 dated 24.07.2019, provided his report considering the certificate dated

03.03.2014 issued by the District Magistrate/ President, District Level Forest Right Committee, Chitrakoot, on which the signature dated 12.02.2014 has been made by the Divisional Forest Officer, Chitrakoot, in the capacity of the member of the said committee, as the no objection under section 3(2) of the Scheduled Tribes And Other Traditional Forest Dwellers (Recognition Of Forest Rights) Act, 2006.

Therefore the report is being sent for your kind information and necessary action.

Encl: As above

Sincerely,

Sd/-

(Kailash Prakash)

Divisional Forest Officer  
Forest and Willife Department,  
Chitrakoot.

Letter No. 645/ as dated

Copy to Chief conservator of forest, Bundelkhand Zone, Uttar Pradesh, Jhansi, for kind information and necessary action.

Sd/-

(Kailash Prakash)

Divisional Forest Officer  
Forest and Willife Department,  
Chitrakoot.

Annexure - 6 (219)  
OFFICE OF CHIEF CONSERVATOR OF FOREST, BUNDELKHAND ZONE,  
UTTAR PRADESH, JHANSI

Letter No. 1032/ 10 case, dated, Jhansi, September 09, 2019

To,

Principal Chief Conservator Of Forest  
and Head of Department,  
U.P., Lucknow

Subject: Order dated 09.05.2019 passed by the Hon'ble NGT in  
Original Application No. 410/2019 (Sajal Agrawal v. Union of  
India & Ors.)

Reference: Your letter No. K.K. 251/6E-2 S.C.(N.G.T.) Lucknow  
dated 14.08.2019.

Sir,

In compliance of the referred letter regarding the captioned  
subject, it is humbly to be informed that the report has been sought  
vide this office letter No. 711/10 case dated 19.08.2019 from  
Conservator of Forest, Chitrakootdhaam Vratt, Banda. The report has  
been sent by him vide his letter No. 27T.C./ Court Case (N.G.T.)  
dated 29.08.2019. The report in the subjected matter on the basis of  
the report provided by the Conservator of Forest, Chitrakootdhaam  
Vratt, Banda and the records, is as following:

Scheduled Tribes And Other Traditional Forest Dwellers  
(Recognition Of Forest Rights) Act, 2006, has come into force on  
01.01.2008. The sub-section 2 of section 3 of the said act pertaining  
to the subject matter is as following:

Section 3- Forest rights of Forest dwelling Schedule Tribes and other  
Traditional forest dwellers:-

(1) \*\*\*\*

(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, nemely:-

- (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 developmental projects shall be subject to the condition that the same is recommended by the Gram Sabha.

It is clear from the abovementioned that:

1. the subjected matter, under which the no objection certificate has been granted for the establishment retail outlet of Indian Oil Corporation Limited, is not traditional dwellers of the forest. The main objective of the Scheduled Tribes And Other Traditional Forest Dwellers (Recognition Of Forest Rights) Act, 2006, is the benefit the Schedule Tribes and traditional dwellers of the forest, however the applicant of the subjected retail outlet (Shri Sajal Agrawal) or user agency (Indian Oil Corporation Limited) neither comes under the Schedule Tribes nor under the traditional dwellers. Therefore the benefit extended under the Forest Rights Act is not available for the applicant.
2. Again for the benefit provided under the seub section 2 of the section 3 of the Scheduled Tribes And Other Traditional Forest Dwellers (Recognition Of Forest Rights) Act, 2006, the application of the applicant should be in prescribed format of Ministry of Tribal Affairs: "Procedure for seeking prior approval for diversion of forest land for non forest purposes for facilities managed by the Government under Section-3(2) of the Scheduled Tribes And Other Traditional Forest Dwellers (Recognition Of Forest Rights) Act, 2006." Which is not there.
3. There are 13 benefits are mentioned in sub-2section of section 3 of the Scheduled Tribes And Other Traditional Forest Dwellers (Recognition Of Forest Rights) Act, 2006, by diluting the provision of the Forest Conservation Act, 1980, however the petrol pump does not fall in these 13 benefits. Therefore, the dilution made in the Forest Conservation Act, 1980, is not applicable on petrol pumps.
4. The provisions of the Forest Conservation Act, 1980, have been diluted providing 13 benefits in in sub-2section of section 3 of the Scheduled Tribes And Other Traditional Forest Dwellers (Recognition Of Forest Rights) Act, 2006. It is clear as mentioned therein that the said dilution is only for these 13 conveniences , which is "managed by the Government". The convenience mentioned by the Applicant, Shri Sajal Agrawal, Proprietor M/s Jaykamtanath Filing Station, Bharatkoop, does not fall in that category.
5. The user agency Indian Oil Corporation Limited, Marketing Division, Fifth Floor, Indira Bhawan, Civil Lines, Allahabad- 211001, had to apply on the official website of the Ministry of Forest and Climate

(216)

Change, Government of India, New Delhi:  
www.forestclearance.nic.in, under the provisions of the Forest Conservation Act, 1980, for non-forestry use of the conservative forest area of 0.067760 to be used to reach/transportation to the subjected petrol pump, but the user agency did not do the same.

It is mandatory to enclose the necessary documents alongwith the prescribed format of application for non-forestry use of the forest area as per the provisions of the Conservation of Forest Act, 1980, like "as per the letter dated 03.08.2009 issued by the Ministry of Environment and Forest issued under the Forest Right Act, 2006, original proposal passed by the District Level Committee and Sub-District Level Committee and certified issued by the District Magistrate in prescribed format with signature alongwith the date or certified issued by the District Magistrate under the Forest Right Act, 2006, as per the new directions mentioned under the guideline date 28.10.2014 of the Government of India." A copy of letter No. 11/Mis./618/2010-17/U.P./Raj./Delhi/III/37 dated 23.06.2017 issued by the Ministry of Environment and Climate Change, Regional Office (Middle) Government of India under the Forest Right Act, 2006 is annexed (point No. 34) for your kind reference. Therefore, the certificate issued by the District Level Committee, Chitrakoot, which was to be sent to the Ministry of Environment and Climate Change, Government of India, after signing by the Public Welfare Officer (Nodal Officer), Divisional Forest Officer and District Magistrate, and enclosing the application for diversion of forest land alongwith the requisite annexures. The retail outlet was to be established only after getting the approval to be given by the Government of India after checking the above application, but the same has not been done in the matter.

Probably, the certificate issued by the District Magistrate/President, District Level Forest Rights Committee, Chitrakoot, on which the Divisional Forest Officer, Chitrakoot has signed in the capacity of the member of the said committee on 12.02.2014, considering the same as the no objection certificate under the section 3(2) of the Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Right) Act, 2006, the Commissioner, Chitrakootdhaam Zone, Banda, has provided his report vide its letter No. 1092/ reader-commissioner/2019 dated 24.07.2019.

The report is being sent for kind information and necessary action.  
Encl: As above

Sincerely,  
Sd/-  
(P.P. Singh)  
Chief Conservator of Forest,  
Bundelkhand Zone, U.P., Jhansi

Ministry Of Environment, Forest and Climate Change  
Regional Office (Central Region)

Kendriya Bhawan, 5<sup>th</sup> Floor, Sector-H, Aliganj, Lucknow-226024, Telefax: 2326696,  
2324340, 2324047, 2324025

Email: (Env.) [m\\_env@rediffmail.com](mailto:m_env@rediffmail.com), (Forest) [goimoefolkp@gmail.com](mailto:goimoefolkp@gmail.com)

Letter No. 11/Mis./616/2010-17/U.P./Raaj./Delhi/III/37 dated:23.06.2017

To,

Chief Conservator of Forest  
and Nodal Officer, Forest Department,  
17 Rana Pratap Marg, Lucknow.  
Principal Chief Conservator of Forest (Half),  
Forest Department, Aranya Bhawan,  
Jhalana Institutional Area, Jaipur, Rajsthan

Subject: Unnecessary delay in approval of proposal under the Forest Conservation Act because of defects in the same.

Reference: This office Letter- 11/Mis./618/2010/ U.P., Raj., dated 10.04.2014.

Sir,

Kindly refer the abovementioned letter. There had been found many similar defects in the proposals sent to the State government for approval for diversion of conservative forest land under the Forest Conservation Act, 1980 and these proposals are sent by the Divisional Forest Officer, Conservator of Forest and Nodal Officer to this office without checking the same, and it is due to which this office needs to do correspondence with the State government again and again to remove these defects and which causes unnecessary delay in the approvals of these proposals.

Therefore, it is to be informed to the State government providing the list of the defects which are found generally in the proposals annexing with the referred letter that removing the said defects from the proposals and checking the same, send to this office.

But again it is found that the same defects are being repeated in the proposals and the reports sought in this regard and it is causing unnecessary delay in the approval of proposals.

It is again requested in this regard to you that if any proposal is sent in future then the same be sent after reviewing it at every level and the defects mentioned in the enclosed list (copy enclosed) be not repeated again so that the approval may be granted.

If any of the defects mentioned in the list provided in the referred letter, be found in the proposal for approval of diversion of forest land then the proposal shall be sent back to state government, and the responsibility of the same shall be of state government/ user agency.

Encl: as above.

Sincerely,  
Sd/-23.06.2017  
(V.K. Singh)

Additional Chief Conservator of Forest (K.)

Office, Conservator of forest/ nodal officer, Uttar Pradesh, Lucknow

Letter No. 17/11-C-: Lucknow, dated July04, 2017

Copy to:

1. All Zonal Chief Conservator of Forest/ Regional Director, Uttar Pradesh, alongwith the annexures with request to sent back the proposals for diversion of forest land under the Forest Conservation Act, 1980, after removing the defects mentioned in the enclosed list.
2. All Regional Divisional Forest Officer/ Director, Uttar Pradesh with request to sent back the proposals through Chief Conservator of Forest/ Conservator of Forest for diversion of forest land under the Forest Conservation Act, 1980, after reviewing the same for the defects mentioned in the enclosed list.

Sd/- 04.07.2017  
(Dr. Prashant Kumar Verma)  
Chief Conservator of Forest/ Nodal Officer,  
U.P., Lucknow

**LIST OF THE MANDATORY CERTIFICATES TO BE ANNEXED  
UNDER THE FOREST CONSERVATION ACT, 1980**

1. Coloured map of 1:50000 measurement, in which the demarcation of the forest block, compartment etc. of the surrounding forest area has been shown properly alongwith the optional conservation.
2. Joint inspection report of Revenue Department and concerned Divisional Forest Officer/ Divisional Director, in which it is clearly to be mentioned that there is no alternative or optional area is available for the project and it is the minimum demand of forest area.
3. Site inspection report of the Government of India alongwith the signature and date.
4. If the land is to be given on lease, then the certificate of the time period of the lease and the final price of the forest area verified by the District Magistrate, rent and premium.
5. The description of the forest area to be provided to the Forest Department as compensation equal to the proposed conservative forest area and the scheme of afforestation on the same and conservation plan for 10 years.
6. Land Chart and Barchart for the diversion of the proposed forest land (for road).
7. Government order/ order of the approval of the project.
8. Justification Note certificate for proposing the project in the forest area.
9. No. of trees to get affected, scientific name with species and their price, which shall be signed by the Divisional Forest Officer.
10. The number of trees falling in the line of project, their scientific name alongwith their value.
11. Description of villages, families and population to be benefitted by the proposed construction work.
12. Certificate of the Geographic about the geographic structure of the land.
13. Certificate of the consent/ approval of the committees "task-force" constituted by the Project Commission.
14. The project which is required to be recommended/approved by the Government of Uttar Pradesh/ Government of India, the certificate of the said recommendation/ approval.
15. Certificate of the compliance of the terms and conditions set by the Forest Department, Government of Uttar Pradesh.
16. Cost and Profit analysis of the project in the proposal of more than 20 hectare.
17. Geo Referenced Digital Map, which is to be in kml shp file, of the proposed forest area, verified by the competent officer.
18. Description of plan for compensatory afforestation alongwith 10 years of maintenance plan equal to the twice of the affected conservative forest area.
19. Descriptive plan of afforestation of 100 trees and their 10 years of maintenance as compensation against the retail outlet.
20. Descriptive plan of afforestation below the electricity line and its 20 years maintenance plan.
21. The undertaking/ certificate for the expenses for compensatory forestation.

22. Geo Referenced Digital Map in kml shp file of the selected site for compensatory forestation, verified by the Divisional Forest Officer/ Director.
23. Coloured map of the site selected site for compensatory forestation, verified by the Divisional Forest Officer/ Director.
24. The certificate of availability of the selected site for compensatory forestation.
25. Undertaking to pay the price of the proposed forest land.
26. Undertaking to pay the increased amount of NPV after the amendment.
27. Computation of NPV as per Eco Class, which is counter signed by the Divisional Forest Officer/ Divisional Director.
28. No objection certificate of the department in ownership (P.W.D.).
29. The approval of the passage road for the retail outlet as per the guidelines dated 24.07.2013 issued by the Ministry of Road and Transportation, Government of India, issued by the department having ownership (P.W.D.).
30. The original Khatauni of the land on which the proposed outlet to be established, countersigned by the concerned officer.
31. Report/ certificate for retail outlet prepared as per the directions issued under the Government of India letter No. 11-268/2014 M.C. dated 11.07.2014.
32. Approval of the Chief Wildlife officer (for wildlife area).
33. Certificate regarding the marked forest area not be included in this proposal as per the letter of Chief Conservator of Forest, Lucknow, letter No. 1017/23 court case, dated 11.11.2013.
34. Original proposal passed by the Gram Sabha, Sub-District Level Committee and District Level Committee, as per the letter dated 03.08.2009 issued by the Ministry of Environment and Forest, Government of India, under the Forest Right Act, 2006 and the certificate in prescribed format issued by the District Magistrate having signature with date and certificate issued by the District Magistrate in consonance with the new directions of the Government of India issued vide its new guidelines dated 28.10.2014.
35. Certificate of the Pollution Control Board.
36. The liner plan of the width expansion of the passage/ road be given, in which the measurement of the current ROW and proposed ROW be mentioned and containing the description of the availability of the space alongside the road for plantation.
37. Copy of the Gazette Notification verified and marked by the Divisional Forest Officer/ Director.
38. Certificate issued by the Divisional Forest Officer/ Director regarding that no sanctuary/ wild life Vihar is situated in the diameter of 10 kms to the project.
39. Description of wastage emission, its disposal and reclamation plan which is to be counter signed by the Divisional Forest Officer/ Director.
40. Consent letter of the ownership of land, non-forest land, where the wastage is to be disposed of.
41. Index with full description of page numbers of the documents.
42. Acknowledge slip/ timeline detail of Online data entry.

F.No.11-29/2004-FC  
Government of India  
Ministry of Environment & Forests  
(FC Division)

Paryavaran Bhawan  
CGO Complex, Lodhi Road  
New Delhi-110 003

Dated: 15<sup>th</sup> July 2004

To

1. The Principal Secretary (Forests)
2. The Principal Chief Conservator of Forests  
(All States)/UTs.

**Sub: Diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980-Procedure for utilizing the land for approach/exit road to petrol pumps-reg.**

Sir,

The Ministry of Environment and Forests is receiving several proposals for diversion of forest land for approach/exit road/passage to the retail petrol pumps located on roads/highways. Development of infrastructure like roads/national highways is essential for the development of the country, as it will facilitate faster movement of passenger and goods traffic. However, several petrol pumps are coming along these roads and highways, resulting in large-scale destruction of roadside forest/plantations, which are declared as Protected Forest. A meeting was organized in the Ministry to discuss the above issue with various stakeholders like Indian Oil Corporation, Bharat Petroleum Corporation, Reliance Industries and official of National Highway Authority of India. The above issue was also examined by the Forest Advisory Committee in its meeting held on 21.06.2004. Ministry is aware that because of requirement of large number of petrol pumps, and extent of area involved for approach/exit roads for these petrol pumps, as per the new guidelines of Ministry of Road Transport and Highways, there will be significant loss of social forestry plantations along the road side which have been declared as protected forests by the States. Therefore, based on the recommendations of the Forest Advisory Committee, and taking a holistic view of the matter to minimize the loss of forest, it has been decided that the following procedure should be adopted for consideration of proposals for diversion of forest land for approach/exit road to petrol pumps under Forest (Conservation) Act, 1980.

- (i) The entry to the petrol pump/fuel station should be through an approach road of maximum 70 metre length and 5.5 metre width and exit should be through approach road having maximum length of 100 metre and width 5.5 metre, as per the norms issued by the Ministry of Road Transport and Highways.
- (ii) The minimum distance between 2 fuel stations, on each side of the road, should not be less than 5 kms. outside the city limits on highways. If 2 or more fuel stations are to be constructed in close proximity or adjacent to each other for some reasons, a common access and exit shall be provided. However, this condition shall not apply if no tree felling is involved.

- 21
- (iii) If the forest land has already been diverted for construction/widening of the road/national highway by one user agency and if another user agency intends to construct approach road/culvert for petrol pumps, the user agency shall take the permission of the Central Government after obtaining a no objection certificate from the first user agency about the use of the diverted land and after giving an undertaking that they will comply with all the conditions already stipulated while diverting the forest land for widening of road.
- (iv) Fuel stations should generally be a part of rest area complex having other amenities like place for parking, toilets, restaurants, rest rooms, shops etc. Proper planning should be done by the user agencies, in advance, for construction of such complexes along the highways so that destruction of road side forest is minimized.
- (v) Suitable signs and markings showing the location of the fuel station may be provided without disturbing the road side plantations.
- (vi) Separate proposals for diversion of forest land for approach road to each fuel station/petrol pump should be submitted by the User Agency for consideration by the Central Government as per the provisions of the Forest (Conservation) Act, 1980. Each proposal of diversion of forest land shall be dealt separately.
- (vii) Suitable plantations should be raised by the User Agency along the approach roads, separator island and other vacant areas in addition to the Compensatory Afforestation, if the area is more than 1 ha or plantation of 10 times or more number of the trees that are likely to be felled in such diversion proposals.

Yours faithfully

(Pankaj Asthana)  
Assistant Inspector General of Forests

Copy to:

1. The Secretary, Ministry of Road Transport and Highways, Transport Bhavan, Parliament Street, New Delhi.
2. The Secretary, Ministry of Petroleum, New Delhi.
3. The Chairman, National Highway Authority of India, New Delhi.
4. Nodal Officers-All States /UTs.
5. All Regional Offices of this Ministry.
6. Director (FC)/AIGs (FC).
7. CMD, Indian Oil Corporation.
8. CMD, Bharat Petroleum Corporation Limited.
9. CMD, Reliance Industries.
10. File No. 2-1/2003-FC.
11. Guard File.

  
(Pankaj Asthana)  
Assistant Inspector General of Forests

ANNEXURE - I

F.No.11-29/2004-FC  
Government of India  
Ministry of Environment & Forests  
(FC Division)

Paryavaran Bhawan  
CGO Complex, Lodhi Road  
New Delhi-110 003

Dated: 8<sup>th</sup> December 2004  
5/14

To

The Conservator of Forests,  
Regional Office,  
Chandigarh.

Subject: Diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980-Procedure for utilizing the land for approach/exit road to petrol pumps-reg.

Sir,

Please refer to your letter No. 25-33/2004-ROC/2487 dated 06.09.2004, on the subject cited above. In this connection, I am directed to inform you that the matter was examined by the Forest Advisory Committee. As recommended by the Committee the clarification in respect of issues raised in the above mentioned letter is given below :-

- (i) It is clarified that the condition of minimum distance of 5 kms. between two fuel stations shall not apply if no tree felling is involved.
- (ii) It is clarified that the condition of minimum distance between the fuel stations will apply to all the roads.
- (iii) Minimum distance between 2 fuel stations should be considered in respect of petrol pumps located on the same side of the road.

Yours faithfully,

(Pankaj Asthana)

Assistant Inspector General of Forests

1  
12/11/04

F. No. 5-3/2007-FC (Pt-I)  
Government of India  
Ministry of Environment & Forests  
(FC Division)

Paryavaran Bhawan,  
CGO Complex, Lodhi Road,  
New Delhi - 110510.  
Dated: 18<sup>th</sup> March, 2010

To  
The Principal Secretary (Forests),  
All States/UTs.

**Sub:- Guidelines for diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980 - procedure for utilizing the land for approach / exit road to petrol / CNG pumps.**

Sir,

The Ministry of Environment and Forests, Government of India has been receiving number of representations from different State / UT Governments and various Project Proponents seeking clarification in respect of detailed guidelines dated 15.07.2004 on procedure for utilizing the land for approach / exit road to petrol pumps. The representations / suggestions were discussed by the Forest Advisory Committee (FAC), constituted by the Central Government under section-3 of the said Act, in its meeting on 07.01.2010.

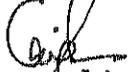
After careful examination of the proposal and on the basis of the recommendations of the FAC, the Central Government hereby conveys its approval for modifying the existing provisions of the guidelines dated 15.07.2004 for utilizing the land for approach / exit road to petrol / CNG pumps under the Forest (Conservation) Act, 1980 as given below:

1. The total frontage of 30 - 40 meter depending upon the request of the applicant be considered for clearance.
2. Excepting the entry & exit, the entire frontal portion should be maintained under some kind of shrubby or ornamental vegetation and never put to any commercial utilization including construction of buildings.
3. Entire periphery of the establishment should be lined up with tree plantation at a close spacing of 1.0 to 1.5 meter keeping an off set of 1.5 meter form the boundary, with light crown trees which will maintain greenery without compromising with the land requirement of the establishment.
4. The detailed guidelines issued by MoEF on procedure for utilizing the land for approach / exit road to petrol pumps dated 15.07.2004 may include petrol, diesel, LPG, CNG or any kind of fuel distribution.

224

The guidelines dated 15.07.2004 issued by the MoEF on procedure for utilizing the land for approach / exit road to petrol pumps stands modified to the extent mentioned above.

Yours faithfully,

  
(C.D. Singh)

Sr. Assistant Inspector General of Forests

Copy to:-

1. The Secretary, Ministry of Road Transport and Highways, Transport Bhawan, Parliament street, New Delhi for information.
2. The Secretary, Ministry of Petroleum, New Delhi for information.
3. The Chairman, National Highway Authority of India, New Delhi for information.
4. The Principal Chief Conservator of Forests, All States/UTs for information.
5. The Nodal Officers (FCA) -All States/UTs for information.
6. All Regional Offices of this Ministry/ ROHQ for information.
7. Director (FC)/AIGs(FC) for information.
8. CMD, Indian Oil Corporation.
9. CMD, Bharat Petroleum Corporation Limited.
10. CMD, Reliance Industries.
11. Guard File.

  
(C.D. Singh)

Sr. Assistant Inspector General of Forests

F. No. 11-268/2014-FC  
Government of India  
Ministry of Environment, Forests & Climate Change  
(Forest Conservation Division)

Indira Paryavaran Bhawan,  
Aliganj, Jorbagh Road,  
New Delhi - 110 001  
Dated: 11<sup>th</sup> July, 2014

To  
The Principal Secretary (Forests)  
All State / Union Territory Governments

Sub: Diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980-Procedure of utilizing the land for approach/ exit road to petrol pumps-reg.

Sir,

I am directed to refer to this Ministry's letters No. 11-29/2004-FC dated 15<sup>th</sup> July 2004, No. 11-29/2004-FC dated 8<sup>th</sup> -9<sup>th</sup> December 2004, No. 11-29/2004-FC dated 10<sup>th</sup> February 2005 and No. 5-3/2007-FC (pt-I) dated 18<sup>th</sup> March 2010 on the above-mentioned subject wherein this Ministry stipulated guidelines on diversion of forest land for non-forest purposes under the Forest (Conservation) Act, 1980 for approach/ exit road to petrol pumps. This Ministry has received representations to amend certain provisions of the said guidelines. It has also been brought to notice of this Ministry that certain provisions of the said guidelines are contrary to the norms for location, layout and access to fuel stations issued by the Ministry of Road Transport & Highways.

The matter has been examined in this Ministry and after careful consideration, keeping in view the road safety requirements, this Ministry hereby decides that, in supersession of the earlier guidelines issued by this Ministry vide letters No. 11-29/2004-FC dated 15<sup>th</sup> July 2004, No. 11-29/2004-FC dated 8<sup>th</sup> -9<sup>th</sup> December 2004, No. 11-29/2004-FC dated 10<sup>th</sup> February 2005 and No. 5-3/2007-FC (pt-I) dated 18<sup>th</sup> March 2010, the following procedure should be adopted for consideration of proposals for diversion of forest land under Forest (Conservation) Act, 1980 for approach/ exit road to fuel stations dealing with distribution of petrol, diesel, LPG, CNG or any kind of fuel:

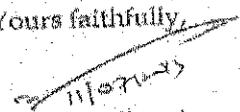
- (i) Requirement for diversion of forest land for construction of acceleration/ de-acceleration lane and exit/entry openings shall be based on approved layout plan provided in the guidelines issued by the Ministry of Road Transport and Highways in this regard. A copy of guidelines containing norms for location, layout and access to fuel stations along National Highways issued by the Ministry of Road Transport and Highways letter no. RW/NH-33023/19/99-DO III dated the 23<sup>rd</sup> July 2013 is enclosed.
- (ii) If 2 or more fuel stations are to be constructed in close proximity or adjacent to each other for some reasons, a common access and exit shall be provided.

11/07/14

- (iii) Fuel stations should generally be a part of rest area complex having other amenities like place for parking, toilets, restaurants, rest rooms, shops etc. Proper planning should be done by the user agencies, in advance, for construction of such complexes along the highways so that destruction of road side forest is minimized.
- (iv) In case approval under the Forest (Conservation) Act, 1980 for diversion of whole or a part of the forest land proposed to be utilised for construction of approach road for a fuel station has already been accorded by the Central Government for construction/widening of a road, approval under the Forest (Conservation) Act, 1980 for use of such forest land for construction of approach/ exit for fuel station will be required only if it involves clearing of or felling of any tree.
- (v) Suitable signs and markings showing the location of the fuel station may be provided without disturbing the road side plantations.
- (vi) Entire periphery of the establishment should be lined up with tree plantation at a close spacing of 1.0 to 1.5 meter keeping an offset of 1.5 meter from the boundary, with light crown trees which will maintain greenery without compromising with the land requirement of the establishment.
- (vii) Suitable plantations should be raised by the User Agency along the approach roads, separator island and other vacant areas in addition to the Compensatory Afforestation, required to be raised as per the extant guidelines

I am further directed to say that proposals for diversion of forest land under Forest (Conservation) Act, 1980 for approach/ exit road to fuel stations which are presently pending before the Regional Offices of this Ministry will be returned back to the State Government concerned in case requirement of forest land proposed to be diverted has not been assessed on the basis of the approved layout plan provided in the guidelines issued by the Ministry of Road Transport and Highways, in this regard.

This issue with the approval of the competent authority.

Yours faithfully,  
  
 (H.C. Chaudhary)  
 Director

Encl.: As above.

Copy to:-

1. Prime Minister's Office (kind attn.: Shri Santosh D. Vaidya, Director)
2. Secretary, Ministry of Road Transport and Highways, Government of India, New Delhi.
3. The Secretary (Coordination), Cabinet Secretariat, Rashtrapati Bhawan, New Delhi.
4. Principal Chief Conservator of Forests, all State/UT Governments.
5. Nodal Officer, the Forest (Conservation) Act, 1980, all State/UT Governments.
6. All Regional Offices, Ministry of Environment, Forests and Climate Change (MoEFCC), Government of India (GoI).
7. Joint Secretary in-charge, Impact Assessment Division, MoEFCC, GoI.

8. All Assistant Inspector General of Forests/ Directors in the Forest Conservation Division, MoEFCC, GoI.
9. Director Regional Offices Headquarters Division, MoEFCC, GoI.
10. Sr. Director (Technical), NIC, MoEFCC, GoI with a request to place a copy of the letter on website of this Ministry.
11. Sr. PPS to the Secretary, Ministry of Environment, Forests and Climate Change, GoI.
12. Sr. PPS to the Director General of Forests & Special Secretary, MoEFCC, GoI.
13. Sr. PPS to the Addl. Director General of Forests (Forest Conservation), MoEFCC, GoI.
14. PPS to the Inspector General of Forests (Forest Conservation), MoEFCC, GoI.
15. Guard File.

*(Signature)*  
(H.C. Chaudhary)  
Director