

**REPORT FILED BY THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS  
& HEAD OF FOREST FORCE, ANDHRA PRADESH BEFORE THE NATIONAL  
GREEN TRIBUNAL, SOUTHERN ZONE, CHENNAI IN O.A.No.09/2017.**

The applicant Sri Y.V. Pratap Reddy, Resident of Thonduru, Kadapa district, filed O.A.No.09/2017 aggrieved by the illegal installation of Wind Mills in Sy.No.1036/1, Mallela Village and Sy.no.1 of Udavagandla Village, Thondur Mandal, YSR Kadapa District, in an extent of 40 acres, in favour of the New and Renewable Energy Development Corporation of Andhra Pradesh (NREDCAP), a Government Corporation designated as the Nodal Agency for development of wind energy and developer M/s Esteem Energy (P) Ltd., Hyderabad for setting up wind mills, without obtaining the mandatory approvals under the Forest (Conservation) Act, 1980 and from other Government Departments.

It is respectfully submitted that, the process of installation of wind mill project commenced with the letter of **District Collector, Kadapa in Ref.no.E1/134/2015, dt:04-02-2015 (Annexure-I)** addressed to the Tahsildar, Thondur Mandal, who was directed to inspect the lands to an extent of Ac.30.00 cents in Sy.No.1036 of Mallela Village and to an extent of Ac. 10.00 cents in Sy.No.1 of Udavagandla Village of Thondur Mandal and submit lease proposals in full shape, if feasible for setting up wind power project. The Tahsildar, Thondur Mandal addressed a letter to the **Divisional Forest Officer, Proddatur WL in his Ref.no. A/52/2014, dt:02-03-2015 (Annexure-II)** and sought clarification whether the lands are vested under the control of Forest Department or not. **The Divisional Forest Officer, Proddatur WL in his letter no. 561/2015-P9, dt:12-03-2015 (Annexure- III)** replied the Tahsildar, Thondur Mandal stating that the lands in Sy.No.1036/1 and Sy.No.1 of Mallela and Udavagandla Village of Thondur Mandal are not falling in Reserve Forest or Wildlife Sanctuaries etc. He also informed that there is no objection from the Forest Department.

It is respectfully submitted that, as seen from the **counter affidavit filed by the Tahsildar, Thondur Mandal in WP (PIL) No.14/2016 (Annexure-IV)**, the said lands were given in advance possession to the District Manager, NREDCAP, Kadapa on 25-06-2015.

**It is respectfully submitted that, the Principal Chief Conservator of Forests & Head of Forest Force, Andhra Pradesh in Ref.no.D.O.No.17347/2015/FCA-3, dt:31-10-2015 (Annexure-V)** communicated the copy of affidavit in PIL No.273/2015 filed by Sri A. Srinivasulu Reddy, Kadapa to the Chief Conservator of Forests, Kurnool and informed that, if the status of land i.e., Sy.no.1036/1 of Mallela (V) is classified as

“Forest Reserve” land, then the proceeding issued by the Tahsildar, Thondur Mandal is null and void. The Chief Conservator of Forests, Kurnool Circle was further informed to address the District Collector, Kadapa to withdraw the orders of the Tahsildar, Thondur Mandal duly informing the procedure of F(C) Act, 1980 and also to take action against the Tahsildar. It was also advised to inform the user agency to follow the procedure laid down under the F(C) Act, 1980 and see that no violation takes place in the forest areas.

It is respectfully submitted that, as per the instructions of the Principal Chief Conservator of Forests & Head of Forest Force, Andhra Pradesh, **the Chief Conservator of Forests, Kurnool Circle, Kurnool in Ref.no. 4590/2015-TO, dt:16-11-2015 (Annexure-VI)** addressed the District Collector, Kadapa and requested to cancel the orders of the Tahsildar, Thondur Mandal for leasing the “**Forest Reserve**” lands for establishing Wind Mills, without prior approval under Forest (Conservation) Act, 1980. It was also requested to take action against the Tahsildar, Thondur Mandal for violating the provisions of Forest (Conservation) Act, 1980. It was also requested to advise the user agency to follow the procedure laid down under the Forest (Conservation) Act, 1980. The above letter was followed by two more letters dt:29-02-2016 and 02-09-2016, but there was no response from the District Collector, Kadapa.

**It is respectfully submitted that, the District Collector, Kadapa in Ref.no. E1/134/2015, dt: 22-12-2015 (Annexure-VII)** addressed the Revenue Divisional Officer, Jammalamadugu and Divisional Forest Officer, Proddatur to inspect the land and submit joint inspection report as to whether the said land belongs to Forest or Revenue, for onward submission to the Chief Commissioner of Land Administration (CCLA) Andhra Pradesh. **The joint inspection was conducted on 18-02-2016 (Annexure-IX)** and concluded that M/s Esteem Energy Private Limited has been laying the roads from Mallela Village and in their leased lands without prior permission from the Government.

**It is respectfully submitted that, the Divisional forest Officer, Proddatur WL** addressed a letter to the Revenue Divisional Officer, Jammalamadugu in **Rc.no.563/2015/P9, dt.12.01.2016 (Annexure-VIII)** to cancel any leases given for establishing Wind Mills and inform the user agency to follow the procedure laid down under the Forest (Conservation) Act, 1980.

Further, the **Divisional Forest Officer, Proddatur WL** has cancelled the No Objection issued for establishment of Wind Mills in Sy.no.1036/1 of Mallela village and Sy.no.1 of Udavagandla Village of Thondur Mandal in **Rc.no.563/2015/P9, dt.31.01.2016 (Annexure-X)**.

It is respectfully submitted that, **the District Collector, Kadapa in letter no. E6/2847/2016, dt:11-04-2017 (Annexure-XI)** addressed the Principal Chief Conservator of Forests & Head of Forest Force, Andhra Pradesh and reiterated that the Revenue Forest Reserve land in Mallela Village is not a forest land and will not attract the provisions of Forest (Conservation) Act, 1980. He also stated that the land lease is given in the name of a Government owned and Managed Corporation and hence there is no violation of sub-section 2(iii) of Forest (Conservation) Act, 1980. And there is no possibility of taking action against the investor under the Andhra Pradesh Water, Land and Trees Act, 2002 (A.P. WALTA Act, 2002) as no trees were cut down and no water courses are damaged. He further requested to issue suitable instructions on the proposals of lease to NREDCAP and its developer jointly as requested by the Chief Commissioner of Land Administration (CCLA) Andhra Pradesh in order to encourage, develop and promote wind power generation in the State with a view to meet the growing demand for power in an environmentally and economically sustainable manner. He also requested to initiate action against the Divisional Forest Officer, Proddatur for issuing No Objection Certificate, then arbitrarily cancelling it and filing a counter without properly examining the Forest (Conservation) Act, 1980 and the judgment of Hon'ble Apex Court.

The letter of **District Collector, Kadapa dt:11-04-2017 (Annexure-XI)** is not traceable in the office of Principal Chief Conservator of Forests & Head of Forest Force, Andhra Pradesh and hence no reply has been given to the District Collector, Kadapa, and there is no further correspondence from him.

It is respectfully submitted that, the classification of the land in Revenue records is not within the knowledge of the Forest Department and as soon as it was brought to the notice of the department through complaints and the PIL No.273/2015, the Forest Department requested the District Collector, Kadapa and the user agency to comply with the directions of the **Hon'ble Supreme Court of India order dt.12.12.1996 in W.P.no.202/95 (Annexure-XII) in T.N. Godavarman Thirumulpad Vs Union of India and Others** as the land proposed to be used by the user agency is classified as "Forest Reserve" in Revenue records/Government record.

It is respectfully submitted that as narrated above, the project proposals were not discussed at the Head Office level but were processed at the Tahsildar level only wherein the classification of land was not given prominence and the status was later revealed through complaints/court cases. The concerned officers were requested to advise the user agency to comply with the provisions of Forest (Conservation) Act, 1980.

It is respectfully submitted that, the justification given by the District Collector, Kadapa, in letter no.E6/2847/2016, dt:11-04-2017 (Annexure-XI), that the provisions of Forest(Conservation) Act, 1980 are not applicable to the present case is not acceptable as the Revenue records, which are Government records, contain the land recorded as "Forest Reserve" and no non-forestry activity shall be carried out without prior approval of Central Government.

It is respectfully submitted that, as per Revenue records, the extent of Sy.no.1036/1 of Mallela (V) is 1567.52 acres and classified as "Forest Reserve" which is adjoining to the Compartment no.52 of Mallela South RF, Mallela Beat, Muddanur Range of Proddatur WL division. The minimum distance between boundary of Mallela Reserve Forest and Wind Turbines is 56 m. The topography of Sy.no.1036/1 of Mallela Village and Sy.no.1 of Udavagandla Village of Thonduru Mandal is hilly and undulating covered with shrub growth consisting of thorny species such as *Zizyphus xylopyrus* (Gotti), *Carissa carandas* (Kalivi), *Acacia latronum* (Buddajola), *Prosopis juliflora* (Sarkar tumma ), *Zizyphus mauritiana* (Regu) etc., The canopy density is about 0.1.

During the field inspection of the Divisional Forest Officer on 07.11.2021, it was noticed that the following structures have been established by NREDCAP & developer M/s Esteem Energy Pvt. Ltd., in Sy.no.1036/1 of Mallela Village (classified as Forest Reserve in revenue records) and Sy.no.1 of Udavagundla (V) of Thondur (M) (classified as Hill Poramboke land in revenue records):-

Sl.no.	Description	Approximate area utilized in Sq.m
1	Establishment of 15 no. wind turbines (15x3.14x10 m x10 m)	4710
2	Transformers (17 no.) (17 x 10 m x 8 m)	1360
3	Office Room ( 15 m x 8 m)	120
4	Formation of Road (9500 m x average 5 m)	47500
	Total	53690 Sq.m (Or) 5.369 ha.

In addition to the above, the User Agency has laid transmission lines with RCC poles connecting transformers to the grid in the remaining area of above sy.nos. At present, the user agency is generating power using the Wind Turbines.

The Project proponent has to comply with the provisions of Forest (Conservation) Act, 1980 and submit proposals for consideration by Government of India, failing which the Project proponent would be liable for consequences.

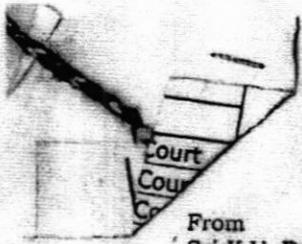
This is submitted for kind information

Dated at Guntur on this **11<sup>th</sup> Day of November 2021**



11.11.21

Principal Chief Conservator of Forests &  
Head of Forest Force, Andhra Pradesh.



C.No. 563  
7/3/15

**REVENUE DEPARTMENT**

From  
Sri K V. Ramana, IAS.,  
District Collector,  
Y.S.R District, Kadapa

To  
The Tahsildar,  
Thondur Mandal.



E-1.

**Ref.No.E1/134/2015 dated:04.02.2015**

Sir,

Sub:- Lease of LAND - Y.S.R. District - NREDCAP forwarded the application of M/s Esteem Energy Ltd., for allotment of land to an extent of Ac.30.00 cents in Sy.No.1036 of Mallela village and to an extent of Ac.10.00 cents in Sy.No.1 of Udavagandla village of Thondur Mandal on lease basis for setting up of Wind power project - Feasibility report called for - Regarding.

- Ref:-
- 1) The VC & Managing Director, NREDCAP Ref.No. NREDCAP/WE/EEPL/87/2015 Dt:-03.01.2015.
  - 2) This office Ref.No.E1/134/2015 Dt:-24.01.2015.
  - 3) Lr.No.3317/Revenue/2014 Dt:-28.01.2015.
  - 4) This office Note orders Ref.No.E1/134/2015 Dt:-02.02.2015.

-000-

I invite attention to the references cited.

In the reference 1<sup>st</sup> cited, the VC & Managing Director, NREDCAP has represented to the District Collector stating that the NREDCAP has sanctioned 19.50 MV & 6.42 MW capacity for setting up wind power project at Thondur Mandal by the M/s Esteem Energy Pvt Ltd. and the private developer has requested for allotment of land to an extent of Ac.30.00 cents in Sy.No.1036 of Mallela village and to an extent of Ac.10.00 cents in Sy.No.1 of Udavagandla village of Thondur Mandal on lease basis.

Finally, the VC & Managing Director, NREDCAP has requested to take necessary action for allotment of Government land on lease basis jointly in the name of the above Private developer and NREDCAP as per the G.O.Ms.No.571 Dt:-14.9.2012 on foot print basis to set up wind power project at the earliest.

I therefore request you to inspect the lands to an extent of Ac.30.00 cents in Sy.No.1036 of Mallela village and to an extent of Ac.10.00 cents in Sy.No.1 of Udavagandla village of Thondur Mandal and submit lease proposals in full shape if feasible for setting up of wind power project through the Revenue Divisional Officer, Jammalamadugu in accordance with new land policy.

Yours faithfully,  
Sd/-S.Sulochana  
For Collector,

\\t.c.b.o\1

Superintendent  
4/2/15

- Copy to the Revenue Divisional Officer, Jammalamadugu for necessary action.
- Copy to the VC & MD, NREDCAP, Nampally, Hyderabad for information.
- Copy to the M/s Esteem Energy Pvt Ltd, Ground Floor, 17-B, Vengal Rao Nagar, Hyderabad.

C.No. 561  
7/3/15

E-2

REVENUE DEPARTMENT



D. No.

Sri L.V. Prasad, B.Com.,  
Tahsildar,  
Thonduru.

To:  
The Divisional Forest Officer,  
Proddatur.

Roc. A/52/2014 dated: 2-3-2015.

Sir,

Sub:- Lease of Land - Y.S.R District - Thondur Mandal - Mallela and  
Udavagandla villages - Sy.No. 1036/1 Ext. of Mallela village and  
Sy. No. 1 of Udavagandla village - M/s Esteem Energy Private  
Limited, Hyderabad applied for lease of 40 acres of land for  
setting up of wind mills - Clarification regarding objection if  
any - Regarding.

Ref:- 1.Requisition of M/s Esteem Energy Private Limited,  
Hyderabad.  
2. District Collector, Kadapa Ref. No. E1/134/2015 dated 1-2  
2015.

\*\*\*

I am to inform that M/s Esteem Energy Private Limited, Hyderabad, has  
applied for lease of land for setting up of wind mills for generation of wind power on  
the hill tops situated in S. No. 1036/1 Ext. of Mallela village and Sy. No. 1 of  
Udavagandla village of this mandal. In the reference 2<sup>nd</sup> cited, the District  
Collector, Kadapa, directed to submit proposals for granting lease. The company  
proposes to set up 12 wind mills in Sy. No. 1036/1 Ext. of Mallela village and four  
wind mills in Sy. No. 1 of Udavagandla village.

As could be seen from the Revenue Records, the lands are Government lands  
vested with the Revenue Department. But the lands are covered by hillocks. I  
therefore request to kindly clarify whether these lands are vested under the control  
of the Forest Department or not?

*F.O.O  
Middanur  
said area  
and  
detail  
submit  
report  
into map  
8/3/15*

Yours faithfully,

*[Signature]*  
Tahsildar  
THONDUR MANDAL  
Y.S.R. DISTRICT, A.P.

Copy submitted to the Revenue divisional Officer, Jammalamadugu, for  
information.

Copy submitted to the District Collector, Kadapa, for kind information.

**Government of Andhra Pradesh**  
**Forest Department**

From

Sri P. Siva Sankara Reddy, SFS  
Divisional Forest Officer,  
Proddatur Wildlife Division,

To

The Tahsildar,  
Thondur (Mandal),  
YSR District.

**Re. No.561 / 2015 - P9, Dt. : 12-3-2015**

Sir,

Sub:- Lease of LanY.S.R.District-Thondur Mandal -Mallela and Udavagandla villages-Sy.No.1036/1 Ext.of Malla village and Sy.No.1 of Udavagandla village M/s. Esteem Energy Private Ltd., Hyderabad applied for lease of 40 Acres of land setting up of wind mills - Clarification regarding objection if any - It is not falling in RF - Issue of NOC - Regarding.

Ref :-Tahsildar, Thonduru Ref. No.A/52/ 2014, Dt : 02/03/2015.

\*\*\*\*

It is to inform that in the reference cited, the Tahsildar, Thonduru Mandal has requested to issue clarification regarding objection if any in the above said lands in Sy.No.1036/1 and Sy.No.1 of Mallela and Udavagandla Villages. In this regard, I have instructed the Forest Range Officer, Muddanur to inspect the above said area and called for detailed report.

Accordingly the Forest Range Officer, Muddanur has submitted a report in the reference cited stating that he had inspected the proposed area on 09/03/2015 and submitted that the Sy.No.1036/1 and Sy.No.1 of Mallela and Udavagandla Villages are not falling in Reserve Forest or Wildlife Sanctuaries, National Parks and other important sites. But the proposed wind mill machine location (15<sup>th</sup> point) is located at 56 Mts distance from the nearest Mallela South Reserve Forest. In this regard there is no objection from Forest Department.

This is for information and necessary action.

Yours faithfully

Encl:-Location Map.

12/3/15  
Divisional Forest Officer  
Proddatur Wildlife Division

Copy to the Forest Range Officer, Muddanur for information.

E-15



IN THE HIGH COURT OF JUDICATURE AT HYDERABAD FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

WP. (PIL). No. 14 OF 2016

Between: Mr. Devi Reddy Manohar Reddy, S/o. Chalama Reddy, Age: 33 years, Govt. Agriculturist & Social Worker, R/o. of Door No. 1-10, Buchpalle Village, Thonduru Mandal, YSR Kadapa District. A.P.

Petitioner

AND:

The Union Of India, Environment & Forests Department Rep. by its Secretary, New Delhi. & Others.

Respondents

COUNTER AFFIDAVIT FILED BY THE RESPONDENT No. 8

I, L.V. Prasad, S/o. L.V.Chalapathi, aged about 54 years. Occ: Working as Tahsildar, Thondur, Kadapa District, do hereby solemnly and sincerely affirm and state as follows:

I submit that I am working as Tahsildar, Thondur, Kadapa District, and the 8th Respondent herein and as such I am well acquainted with the facts of the case. I have gone through the affidavit filed in support of the writ petition and deny all the averments made there in except those that are specifically admitted hereunder.

History going into the merits of the case. The Brief History of the case is as follows:

It is submitted that Mallela and Udavagandla Revenue villages of Thondur mandal are adjacent villages. There was huge extent of Government lands on the northern side of these villages. From these Government lands, the Government selected two portions of lands that were having Forest like

ATTESTOR  
DEPUTY TAHSILDAR  
Thondur - YSR District

DEPONENT  
TAHSILDAR  
THONDUR MANDAL  
Y.S.R. DISTRICT. A.P.

quantities and notified them under Forest Conservation Act as Mallela North Reserve Forest and Mallela South Reserve Forest. The rest of the land measuring about 2163 acres covered with barren hilly waste land, which was then decided as unfit for inclusion in Reserve Forest, eventually became normal Government lands vesting under the control of the Revenue Department. Out of this 2163 acres of land, 1568 acres of land was included in Mallela Revenue village as Sy. No. 1036/1 and the remaining 595 acres of land was included in Udavagandla Revenue village as Sy.No.1. Even though the entire land of 2163 acres is having similar physical and geological features, the land included in Mallela Revenue village is classified as "Forest Reserve" and the land included in Udavagandla village is classified as "Hill". Thus, the same land with the same physiological and geological features is differently and irrationally classified in the above two revenue villages. This type of irrational classification leads to attract the provisions of Section 2 of the Forest Conservation Act, 1980. It gives raise to a doubt that the lands included in Mallela Revenue village may attract the provisions of the Forest (Conservation) Act, 1980 by virtue of being recorded as "Forest Reserve" in its classification. But no such doubt is arising for the similar type of lands included in Udavagandla Revenue village as they are classified as "Hill poramboke" land.

Between the Mallela North Reserve Forest lands and Mallela South Reserve Forest lands, there are some Private patta lands and DKT lands existing. The Government lands included in Mallela and Udavagandla Revenue villages lie to the south of these lands. The Reserve Forest lands and the

  
**ATTESTOR**  
 DEPUTY TAHSILDAR  
 Thondur - Y.S.R. District

  
**DEPONENT**  
 TAHSILDAR  
 THONDUR MANDAL  
 Y.S.R. DISTRICT A.P.

Government lands encircle the Private patta lands and DKT lands. Had the Government lands were also included in the Reserve Forests, then these lands would have got land locked and passage to the pattadars would have been blocked. This might be one of the factors for non inclusion of the present government lands in Reserve Forests.

4. As the above Government lands included in Mallela and Udavagandla Revenue villages are covered by hills, they offer prospects for generating wind energy. A scientific study was conducted by installing a devise called Wind master and the lands were found to be suitable for setting up of wind mills for generating electricity. In the meanwhile, the Govt of A.P. in its wind policy as specified in G.O. Ms. No. 9 ENERGY INFRASTRUCTURE & INVESTMENT (PRII) DEPARTMENT dated 13-2-2015 designated the New Renewable energy Development Corporation of A.P. (NREDCAP) as the Nodal Agency for developing wind energy. Since there are prospects for setting up of wind mills in the above lands, the NREDCAP roped in M/S Esteem Energy Private Limited, Hyderabad, as developer and jointly applied to the District Collector, Kadapa for lease of 30-00 acres of land in Mallela Revenue village and for 10-00 acres of land in Udavagandla village at the rate of 2-50 acres of land for each of the 12 wind mills proposed in Mallela and for the 4 wind mills proposed in Udavagandla village. The installed capacity was mentioned as 25.92 MW of electricity.

5. The NREDCAP requested to allot the land in terms of G.O. Ms. No. 571 dated 14-9-2012 jointly in the name of NREDCAP and the developer,

  
 ATTESTOR  
 DEPUTY TAHSILDAR  
 Thondur - YSR District.

  
 DEPONENT  
 TAHSILDAR  
 THONDUR MANA.

M/s. Estrem Energy (P) Ltd, Hyderabad. The corporation also requested to handover approach roads to the wind mill through the non leased waste land clearly undertaking that the roads if any laid would become public roads and no claim would be laid on the roads by the developer. It is pertinent here to mention that Para 3 (Category of wind power projects) of G.O. Ms. No. 9 ENERGY INFRASTRUCTURE & INVESTMENT (PRII) DEPARTMENT dated 13-2-2015 clearly specifies that "To facilitate faster execution of wind power projects, the District Collector shall handover advance possession of land including pathways to NREDCAP and the land shall be allotted in the joint name of NREDCAP and the Developer".

6. The Assistant Director of Mines and Geology, Yerragunda reported that there are no economically viable minerals in the land and the DFO, Proddatur reported that the lands are not included in the Reserve Forest. Since there were no objections, the 8<sup>th</sup> respondent herein i.e., the Tahsildar, Thondur, initiated lease proposals and eventually the 40-00 acres of land was lease out at the rate of Rs. 6,00,000/- per annum. After receiving the advanced lease amount of Rs. 6,00,000/-, 30 acres of land in Mallala village and 10 acres of land in Lihvagandla village were given advance possession on 25-6-2015 to the District Manager, NREDCAP, Kadapa as per the orders of the District Collector, Kadapa issued in Ref. No. E1/134/2015 dated 21-6-2015. The NREDCAP then permitted the developer to take up works relating to setting up of wind mills. Thereafter, the developer began laying roads and also began work for laying foundations for the wind fans. It pertinent here to mention that

  
ATTESTOR  
DEPUTY TAHSILDAR  
Thondur, YSS District

  
DEPONENT  
TAHSILDAR  
THONDUR MANDAL

:5:

the land required for pathways was not specifically handed over at the time of handing over of the leased land since there was already a provision in G.O. Ms. No. 9 ENERGY INFRASTRUCTURE & INVESTMENT (PRI) DEPARTMENT dated 13-2-2015.

7. While the matter stood there, one Sri A. Sreenivasulu Reddy S/o Pedda Eswar Reddy of Thondur village of Thondur mandal along with two others had filed a PIL bearing No. 273/2015 in the Hon'ble High Court of AP alleging that Forest Land is granted for lease which was resulting in damage to eco system. However, for the reasons best known to him, he withdrew the PIL. There after, he once again put in an application under RTI Act to the 8<sup>th</sup> respondent i.e., the Tahsildar, Thondur, requesting to inform him the survey No. and extent for which permission is given to M/s. Esteem Energy (P) Ltd, Hyderabad for laying approach road to the wind mill fans and also requested to issue a copy of permission orders. As there was no specific permission for laying approach road, a reply was given to him by the 8<sup>th</sup> respondent herein in his office Ref. No. RTI/13/2015 dated 5-1-2016 informing him the fact. However, as M/s Esteem Energy (P) Ltd did not inform anything in advance about starting work for laying roads, the 8<sup>th</sup> respondent issued a notice in his office Ref. No. Roc. A/52/2014 dated 18-1-2016 to M/s Esteem Energy (P) Ltd, Hyderabad directing them to explain the reasons for laying roads without obtaining any prior permission from the Revenue Authorities and also directed to immediately stop laying roads.



ATTESTOR  
TAKSILDAR  
THONDUR MAHALAKSHMI  
Y.S.R. DISTRICT



DEPONENT  
TAHSILDAR  
THONDUR MAHALAKSHMI  
Y.S.R. DISTRICT

8. In response to the notice, M/s. Esteem Energy (P) Ltd, Hyderabad had submitted their explanation on 29-1-2016 stating that the NREDCAP in its original application itself had requested for handing over the leased land along with pathways in terms of G.O. Ms. No. 9 dated 13-2-2015 and also as per Govt. Memo No. 12643/Asst. V(1)2013-1 dated 7-5-2015 and when the leased land was handed over to NREDCAP, they presumed that they could start work and hence began laying roads for transportation of material and fans. It is a fact that the NREDCAP Ltd. had mentioned the issue of pathways in their application letter and the 8<sup>th</sup> respondent herein also confirms that he received that letter in his office.

Obtaining the information from the respondent, Sri A. Sreenivasulu Reddy in PIL No. 273/2015, the present PIL petitioner, Sri Devirajdy Manohar Reddy filed this PIL in the Hon'ble High Court of A.P.

9. At the outset, I deny all the averments made in the PIL except those that are specifically admitted and the petitioner shall be put to strict proof of all the allegations made therein.

10. In Reply to Para 2 & 3 of the affidavit, it is respectfully submitted that the PIL petitioner until some time back was working as a press reporter and he was removed from the press reporter post due to serious allegations like blackmailing the public as well as officials. He never under took any active social activities as he narrated in the PIL petition. He is neither a social worker nor an environmentalist as claimed by him. He is a resident of Buchipalle

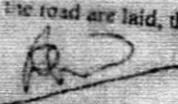
  
ATTESTOR

  
DEPONENT  
TAHSILDAR  
THONDUR MANDAL  
Y.S.R. DISTRICT. A.P.

:7:

village, which is located at a long distance from the lease land in Mallela and Udavagandla Revenue villages and there is no physical contact with these lands. The PIL petitioner is claiming that public interests are being get damaged by laying road. But the land where the road is laid is a barren, hilly, rocky, unfertile and waste land. No trees are grown in these lands except some spiny bushes. The lands where the wind mills are going to be set up and the roads are laid are classified as "Forest Reserve Poramboke" as per RSR of Mallela village and as "Hill poramboke" as per RSR of Udavagandla village. These lands vests under the control of the Revenue Department and the people are not allowed to conduct any activities in these Government lands. If no public activities are involved in these lands, then how can the PIL petitioner claim that public interests are involved in these lands? There are no residential areas in the lands even there are no adjoining residential areas to these lands given on lease. Nobody is affected by the lease of government land in a remote area. Actually, no public interests are involved in these lands. There is no opposition from the general public of Mallela and Udavagandla villages for either for setting up of wind mills or for laying the roads. In fact, the general feeling among the public of Mallela village and Udavagandla villages is that at least some developmental activities are going to take place in their villages if the wind mills are installed.

11. Even both the Mallela Grama and the Udavagandla gramapanchayat have passed through their resolution for setting up of wind mills. Further, if the road are laid, they would provide immense benefit to the scores of poor

  
ATTESTOR  
DEPUTY TAHSILDAR  
Thondur - YSR District.

  
DEPONENT  
TAHSILDAR  
THONDUR MANDAL  
Y.S.R. DISTRICT, A.P.

whose private lands and DKT lands are situated above the hillocks. The PIL petitioner had not taken any social activities in Mallala and Udavagandla villages. Without doing any thing good to the people, the PIL petitioner is claiming to be representing the people of Mallala and Udavagandla villages. This clearly shows that the PIL petitioner is trying to justify filing of this PIL in the name of public and public interest just to divert attention on his personal interest in stopping developmental activities. As such, it is respectfully submitted that all the averments in this para are baseless and unfounded and self serving to the interests of PIL petitioner.

12 In Reply to Para 4 of the affidavit, it is respectfully submitted that an extent of 30-00 acres of land (Sy. No. 1036/1) Classified as "Forest Reserve" in Mallala village and 10-00 acres of land (Sy. No. 1) classified as "Hill Poramboke" in Udavagandla village had been officially granted on lease to NREDCAP and to the Developer, M/s Esteem Energy Pvt. Ltd, Hyderabad for setting up of wind mills for generating wind energy. The developer laid a katcha road covering a distance of 10-00 Kms. in the existing pathways to transport heavy machinery and material. Both these lands are pure government and vesting under the control of the Revenue Department. They were never notified as Forest lands under the Forest Conservation Act, 1980. The NREDCAP is a Government Corporation and it is also declared as nodal agency in terms of G.O. Ms. No. 9 ENERGY INFRASTRUCTURE & INVESTMENT (PRII) DEPARTMENT dated 12-2-2015 for developing wind energy.

  
ATTESTOR  
THONOUR - YSR DISTRICT

  
DEPONENT  
TAHSILDAR  
THONOUR DISTRICT  
Y.S.R. DISTRICT

13. It is pertinent here to mention that Para 3 (Category of wind power projects) of G.O. Ms. No. 9 ENERGY INFRASTRUCTURE & INVESTMENT (PRII) DEPARTMENT dated 13-2-2015 clearly specifies that "To facilitate faster execution of wind power projects, the District Collector shall handover advance possession of land including pathways to NREDCAP and the land shall be allotted in the joint name of NREDCAP and the Developer". This clearly shows that the NREDCAP and the developer are legally entitled for pathways in the land for transporting huge machinery and material required for the wind mills. As such, there is nothing called illegal activity in this case as claimed by the PIL petitioner. As such, even though the PIL petitioner represented to stop laying of road particularly to the 8<sup>th</sup> respondent herein, but the 9<sup>th</sup> Respondent has completed the laying of mud road by the end of the December 2015 in accordance with G.O. MS. No. 9 and also as the roads laid would become public roads as per undertaking of the developer. The PIL petitioner is raising all these unfounded allegations only to substantiate his beleaguered reasons for filing the PIL.

14. It is respectfully submitted that the PIL petitioner is wrongly claiming that the developer is illegally laying road by cutting trees and indulging in deforestation and causing ecological imbalance. The physical features of the alleged Forest are that it is a hilly, barren, rocky and waste land where no trees are grown except spiny bushes. There are no trees at all in the land to cut them. When there are no trees at all, the question of cutting the trees does not arise.



ATTESTOR  
DEPUTY TAHSILDAR  
THONDUR TALUK  
YS.R. DISTRICT.



DEPONENT  
TAHSILDAR  
THONDUR TALUK  
YS.R. DISTRICT.

It is submitted that there is no ecological balance being effected just by laying a kucera mud road in a barren waste land. When no vegetation is being destroyed, the animals and birds will not be affected. No culverts have been constructed in the barren land by any department and hence there is no question of any digging and destroying them. The PIL petitioner is trying to project the barren waste land as a reserve forest by misleading this Hon'ble Court. He is virtually lying before the Hon'ble court and intentionally giving alarming picture with ulterior motive of stopping the developmental activities.

5. The PIL petitioner is wrongly claiming that both the leased lands in Mallala and Udavagandla villages are classified as Forest lands in Revenue records. Only the survey No. 1036/1, in which, 50 acres of land is granted on lease in Mallala village is classified as "Forest Reserve" and the Sy. No. 1 in which 10 acres of land granted on lease in Udavagandla village is classified as Hill poramboke.

16. It is respectfully admitted that as mentioned by the PIL petitioner, one Sri Atla Sreenivasulu Reddy, sought information under RTI Act from the 8<sup>th</sup> respondent herein regarding the orders issued if any for laying road by the developer. On the petition, the 8<sup>th</sup> respondents admits that he gave a reply to Sri Atla Sreenivasulu Reddy in his Reference RTI/13/2015 dated 5-1-2016 stating that no such orders were issued to any one. But non issue of specific orders to lay roads does not make the developer ineligible to lay roads since such provision is granted under law in G.O. Ms. No. 9 ENERGY

INFRASTRUCTURE & INVESTMENT (PRII) DEPARTMENT

  
ATTESTOR  
TAHSILDAR  
TANDUR, YSR District.

  
DEPONENT  
TAHSILDAR  
TANDUR, YSR DISTRICT

: 11:

dated 13-2-2015. It is pertinent here to mention that Sri Atla Sreenivasulu Reddy is the same person, who earlier filed PIL No. 273/2015 on the status of the same land in this Hon'ble court. But later on, he withdrew the PIL. Interestingly, in the present PIL, the petitioner is mentioning the information obtained by Sri Atla Sreenivasulu Reddy as evidence. This clearly establishes the nexus between the PIL petitioner and Sri Atla Sreenivasulu Reddy. They both are acting as hand in glove and are filing repeated PILs on one plea or other in order to just harass the developers and to stop development.

17. It is also further submitted that the 8<sup>th</sup> respondent i.e., the Tahsildar, Thandur, had indeed issued a notice to the 9<sup>th</sup> respondent asking as to why a road is being laid without permission and to stop the same immediately. . . The intention of the notice is that as being the primary officer having control over the Government land, the developer ought to have informed the 8<sup>th</sup> respondent well in advance about starting of work for laying roads. The 9<sup>th</sup> respondent submitted his explanation to the 8<sup>th</sup> respondent stating that as per G.O. Ms. No. 9, advance possession of the leased land including pathways has to be handed over to the developer and since the lease land was given advance possession, they presumed that they can start work for installation of wind mills and laid katcha road to transport material for setting up of wind mills.

18. It is further respectfully submitted that the PIL petitioner also claims that as per Section 2 of the Forest Conversation Act, 1980, forest land cannot be granted in favour of private persons, any authority, corporation, agency or any other organization not owned managed or controlled by Government.

  
ATTESTOR  
DEPUTY TAHSILDAR  
THANDUR

  
DEPONENT  
TAHSILDAR  
THANDUR

In this case, the land is allotted jointly in the name the NREDCAP and the developer. It is pertinent here to mention that the NREDCAP is a Government entity owned and controlled by the Government of A.P. The NREDCAP is also declared a nodal agency in terms of G.O. Ms. No. 9 ENERGY INFRASTRUCTURE & INVESTMENT (PEII) DEPARTMENT dated 13-2-2015 for developing wind energy. As such, the provisions of Sec. 2(iii) of Forest (Conservation) Act, 1980 would not apply in this case.

19. It is further respectfully submitted that the Forest (Conservation) Act, 1980 was enacted with a view to check further deforestation, which ultimately results in ecological imbalance. The main intention here is to protect the forest vegetation already existing in a particular land mentioned as Forest. But it does not mean that every land that is mistakenly classified as Forest Reserve having no Forest qualities could be treated as Forest land. In other words, even if a land is classified as Forest, the actual physiological features of the land are important rather than its nomenclature. The Hon'ble Apex Court of India in S. Sandhu Vs. Govt. Of India and Others of India in its orders issued in Civil Appeals Nos. 4682-4683 of 2005 clearly reiterated the above rule position. The land in which the roads are laid is not having any qualities of forest land. Further, the lands leased in Mallela and Udavagandla are contiguous with the same physical features. They are part of one and the same piece of land extending in two villages. It is pertinent here to mention that the waste land included in Mallela village is classified as Forest Reserve Poramboke land under the control of Revenue Department, while the waste land included in

  
ATTESTOR  
DEPUTY TAHSILDAR  
Y.S.R. DISTRICT

  
DEPONENT  
TAHSILDAR  
THONDUR MANJAL  
Y.S.R. DISTRICT, A.P.

Udavagandla village is classified as Hill poramboke land which also under the control of the Revenue Department. Thus, the same land with same geological features is differently and irrationally classified in two villages. The PIL petitioner is raising provisions of the Forest Conservation Act just to mislead the Hon'ble court. The contents made in this para are self explanatory and baseless.

20. In Reply to Para 6 to 11 of the affidavit, it is respectfully submitted that the roads are laid in hilly, barren, rocky and waste land where no trees are grown except spiny bushes. There is no destruction of forest. Laying a katcha mud road in a barren waste land can never be termed as prejudice to environment. No people are living in the locality. As there is no thick vegetation, there is no danger to animals and other creatures as claimed by the petitioner. The PIL petitioner is raising all these unfounded and baseless issues just to create hurdles to developmental activities. To prevent ecological imbalance and environmental pollution, the Government is encouraging alternative sources of energy in a big way. Setting up of wind mills is an excellent alternative to other sources of energies like thermal, oil etc. which protects ecological balance and environmental issues. The PIL petitioner is raising all these unfounded issues just to create troubles to developmental activities.

21. Finally, it is respectfully submitted that all the averments made by the PIL petitioner while filing this PIL are self-serving and unfounded. There is no cutting of trees and no destruction of environment is occurred which is leading to ecological imbalance as alleged by the petitioner.

  
ATTESTOR  
DEPUTY TAHSILDAR  
Thondur - YSR District.

  
DEPONENT  
TAHSILDAR  
THONDUR MANDAL  
V.R. DISTRICT. A.P.

The Katona mud roads are laid in a barren waste land and when the laying of roads is completed, they would become public roads for public utility. The petitioners in the present PIL is obstructing the developmental activity in the same way like the petitioner in PIL No. 273 of 2015, which was dismissed by this Hon'ble court as having withdrawn. This clearly confirms both the petitioners are trying in tandem to sabotage the developmental activities with ulterior motive and hidden agenda for their personal gains.

22. It is further respectfully submitted that this Hon'ble court while granting two weeks time directed to stop laying road if the land is a Forest Land. In this connection, it is humbly submitted that the land as afore said is a Government land vested under the control of the Revenue Department and so far it is not notified as Forest land under the Forest Conservation Act, 1980. This Hon'ble Court also directed to clarify whether any permission for laying the road is granted to the respondents 9 or not and if granted directed to produce the permission orders before this Hon'ble Court. For this, it is respectfully submitted that even though 40-00 acres of land was given advance possession to the NREDCAP, no separate orders were given for laying road since as per G.O. Ms. No. 9 dated 13-2-2015 and also as per Govt. Memo No. 12640/Asstt. VI/2015-1 dated 7-5-2015, the Govt. of A.P. stipulated to give advance possession of land including pathways to the developers. As such, by virtue of the above of the above GOMS .No. 9 dated: 13-02-2015 the 9<sup>th</sup> Respondent is entitled for the pathways in the lands and the 9<sup>th</sup> Respondent completed the laying of mud roads by the end of December 2015.

  
ATTESTOR  
DEPUTY TAHSILDAR  
YSR DISTRICT

  
DEPONENT  
TAHSILDA  
THANDUR TAHSIL  
YSR DISTRICT

: 15 :

23 It is respectfully brought to the kind notice of this Hon'ble court that the PIL petitioner consequent on the interim orders issued from this Hon'ble Court, submitted three representations to the 8<sup>th</sup> respondent herein stating that the Hon'ble High Court had issued orders to stop construction of road and also directed to stop plying of vehicles on the roads already constructed and also demanded not to allow the developer's vehicles to move on the roads. It is humbly submitted that this Hon'ble Court never ordered to stop plying of vehicles on the roads. This type of tendency clearly shows that how much ill motivated this PIL petitioner.

24 In the light of the above facts, there are no merits in the PIL, it is humbly prayed that all the averments made by the PIL petitioner in this PIL are unfounded, self serving, far from the truth. Hence this PIL may kindly be dismissed with costs.

Hence for all the above stated reasons, it is humbly prayed that this Hon'ble Court may be pleased to vacate the interim orders passed in WP( PIL ) No. 14 of 2016 dated: 22-02-2016 and dismiss the Public Interest Litigation Petition and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Solemnly and sincerely affirm  
This the            day of March 2016  
and signed his name in my presence.

  
DEPONENT  
TAHSILDAR  
THONDUR - YSR DISTRICT

  
Attestor  
DEPUTY TAHSILDAR  
Thondur - YSR District.

**VERIFICATION**

I, L.V. Prasad, S/o. L.V.Chalapathy, aged about 54 years, Occ:  
Working as Tahsildar, Thondur, Kadapa District, do hereby solemnly affirm  
and sincerely declare that the contents in above Paras are true and correct to the  
best of my knowledge and the information available on records.

Hence verified on this 13<sup>th</sup> day of March, 2016.

  
DEPONENT  
TAHSILDAR,  
THONDUR MANDAL,  
Y.S.R. DISTRICT, P.T.

Govt. Pleader for Rev. Assignment

4590  
13-11-15

P.A.V. UDAYA BHASKAR, I.F.S  
Addl. Pri. Chief Conservator of Forests  
(FCA)



O/o Pri. Chief Conservator of Forests (HoFF)  
Aranya Bhavan, Saifabad, A.P. Hyderabad-04  
Ph: (O) 040-2323 1491 (R) 040-2323 4444  
Fax : 040-2323 1605 Mobile: 94408 10027  
e-mail : fca1980ap@gmail.com

D.O.No.17347/2015/FCA-3, dt. 31.10.2015



Dear Sri Murthy,

Sub:- PIL No.273/2015 filed by Sri A.Srinivasulu Reddy, Kadapa and two others in the Hon'ble High Court, Hyderabad for not granting lease for establishing windmills by suspending the proceedings issued by the Tahsildar, Thondur (M), Kadapa District - Report called for - Reg.

TO

- Ref :- 1. PIL No. 273/2015 filed in Hon'ble A.P.High Court, Hyd., on 18.9.2015.  
2. Hon'ble High Court Orders in PIL No.273/2015, dt.28.9.2015.

\*\*\*\*\*

Copies of the references cited are enclosed herewith.

You are requested to go through the PIL No.273/2015 filed by Sri A.Srinivasulu Reddy, Kadapa and examine the letter of Tahsildar, Thonduru (M), YSR Kadapa District stated in affidavit and status of land for which permission for establishing wind mill was reportedly granted. If the status of land i.e. Sy.No.1036/1 of Mallela (V) is classified as "Forest Reserve" land, then the proceedings issued by the Tahsildar is null and void.

In this regard, you are requested to address the District Collector, Kadapa to withdraw the orders of the Tahsildar, Thonduru (M) duly informing the procedure of F(C) Act, 1980 and also to take action against the Tahsildar. You are also requested to advise the user agency to follow the procedure laid down under the F(C) Act, 1980 and see that no violation takes place in the forest areas.

You are requested to issue necessary instructions of the Divisional Forest Officer, Kadapa to prepare and file counter affidavit in this case duly consulting the Govt.Pleader for Forests, A.P.High Court and submit the copy of the same to this office within (5) days positively.

With good wishes,

Yours sincerely,

Encl.:- As above.

(P.A.V.Udaya Bhaskar)

To  
Sri J.S.N.Murthy, I.F.S.,  
Chief Conservator of Forests,  
Kurnool.

*Handwritten notes and signatures:*  
J.S.N. Murthy  
Pl. examine & put up  
[Signature]

C.No. 3811  
21/11/15GOVERNMENT OF ANDHRA PRADESH  
FOREST DEPARTMENTFROM  
Sri J.S.N.Murthy, IFS.,  
Chief Conservator of Forests,  
Kurnool Circle, Kurnool.TO  
The Collector & District Magistrate,  
KADAPA.**Rc.No.4590/2015-TO, Dated:-16.11.2015**

Sir,

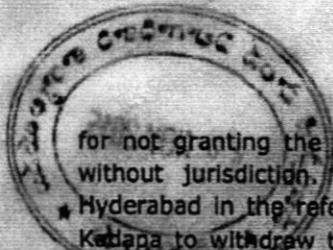
Sub:- PIL No.273/2015 filed by Sri A.Srinivasulu Reddy, Thondur (V) & (M), Kadapa District and two others in the Hon'ble High Court, Hyderabad for not granting lease for establishing wind mills by responding the proceedings issued by the Tahsildar, Thondur (M), Kadapa District - Reg.

Ref:- PCCF, AP, Hyderabad D.O.Rc.No.17347/2015/FCA-3, Dt.31.10.2015.

\*\*\*

It is to inform that the Pri.Chief Conservator of Forests, Andhra Pradesh, Hyderabad in the reference cited has communicated the PIL No.273/2015 filed by Sri A.Srinivasulu Reddy, Thondur (V) & (M) in Hon'ble High Court, Hyderabad in which the petitioner has stated that M/s Esteem Energy Private Limited, Vengal Rao Nagar, Hyderabad has applied for granting lease for establishing 16 wind mills in an extent of 30.00 Acres in old Sy.No.1036/1 in Mallela (V) and an extent of 10.00 Acres in old Sy.No.1 of Udavagandla (V) of Thondur (M). Basing on the recommendation of the Tahsildar, Thondur (M), the Revenue Divisional Officer, Jammalamadugu in his proceeding Ref No.(A)/269/15, Dt.24.07.2015 has submitted the report to the District Collector, Kadapa for granting lease for establishing the wind mills. Further the petitioner has stated that the Revenue Divisional Officer, Jammalamadugu in his report stated that the land applied in Mallela (V) i.e., Sy.No.1036/1 is classified as "Forest Reserve" land and the land was sub-divided into fresh Sy.Nos.1174 to 1185 each admeasuring 2.50 Acres for 12 pieces of land. Similarly the Sy.No.1 of Udavagandla (V) was sub divided into fresh Sy.Nos.506 to 509 each admeasuring 2.50 Acres for 4 pieces of land. It is further stated that even though the land in Mallela (V) is classified as a "Forest Reserve", it is not a reserve forest under the control of the Forest Department, it is purely Revenue land and the land in Udavagandla (V) is a hill land which is vested in Revenue Department. It is stated that as such both the lands are Government lands and no permission or consent of any other Department is required and further as this is a case of only leasing, no change of classification is warranted. Since the Tahsildar, Thondur (M) has violated the provisions of the Forest (Conservation) Act, 1980, the petitioner has filed a PIL No.273/2015 in Hon'ble High Court, Hyderabad

Pg  
Discuss  
21/11/15



Onipenta	
Muddanu	
Portmain	
Badvel	
Proddatu	
<b>TOTAL</b>	

for not granting the lease for establishing wind mills as it is a illegal, arbitrary without jurisdiction. The Pri.Chief Conservator of Forests, Andhra Pradesh, Hyderabad in the reference cited has requested to address the District Collector, Kadapa to withdraw the orders of the Tahsildar, Thondur (M) and to take action against the Tahsildar, Thondur (M).

In this connection, it is informed that as per the Forest (Conservation) Act, 1980 the term "Forest land" mentioned in Section-2 of the Act refers to Reserved forests, protected forests or any area recorded as "forest" in Government records. Lands which are notified u/s 4 of Indian Forest Act would also come within the purview of the Act (Supreme Court's Judgement in A.P.C's case). It would also include "Forest" as understood in the dictionary sense. (Supreme Court Order Dt.12.12.1996 in W.P No.202/95, Annexure-I). All proposals for diversion of such areas to any non forest purpose, irrespective of its ownership, would require the prior approval of the Central Government. Hence as per the Forest (Conservation) Act, 1980, the Central Government, approval is required for granting lease for establishing wind mills in "Forest Reserve" lands.

In view of the above, I request that the orders of the Tahsildar, Thondur (M) recommending for grant of lease in forest reserve lands for establishing wind mills may be cancelled, as it is violation to Forest (Conservation) Act, 1980. It is also requested to take action against the Tahsildar, Thondur (M) for violating the provisions of the Forest (Conservation) Act, 1980. The user agency may be advised to follow the procedure laid down under Forest (Conservation) Act, 1980 in this regard.

Yours faithfully,  
Sd/-J.S.N.Murthy,  
Chief Conservator of Forests,  
Kurnool Circle, Kurnool.

Copy to the Divisional Forest Officer, Proddatur (WL) for information and necessary action.

//t.c.b.o//

  
Technical Officer

E-6

**GOVERNMENT OF ANDHRA PRADESH**  
**FOREST DEPARTMENT**

From Sri S. Ravi Shankar, SFS,  
Divisional Forest Officer,  
Proddatur (WL) Division.

To The Revenue Divisional Officer,  
Jammalamadugu,  
YSR Kadapa District.

**Rc. No. 563 / 2015 - P9, Dated : 12/01/2016**

Sir,

Sub:- PIL No.273/2015 filed by Sri A. Srenivasulu Reddy, Thondur (V) & (M) Kadapa District and two others in the Hon'ble High Court, Hyderabad not to grant lease for establishing wind mills without permission from Central Government as per Forest Conservation Act 1980 - Reply Requested - Regarding.

- Ref :-
- 1) Representation of D.Lakshmi Sudha Rani, Sarpanch Udavagandla G.P, Thondur (M), Y.S.R.Kadapa Dt: 08.01.2016.
  - 2) Representation of Devi Reddy Manohar Reddy, S/o. Venkata Chalma Reddy, Buchipalli (V), Thondur (M), YSR Kadapa Dt :09-01-2016.

\*\*\*

I wish to inform that Mr. D. Manohar Reddy, S/o. D. Venkata Chalama Reddy, R/o. Buchipalli Village represented in the reference 2<sup>nd</sup> cited requested District Collector to protect the Government Forest area and forest lands and similarly Smt. D. Lakshmi Sudha Rani, Sarpanch, Udavagandla G.P, Thondur (M), Y.S.R. Kadapa District in the reference 1<sup>st</sup> cited represented the same to the Divisional Forest Officer, Proddatur WL Division.

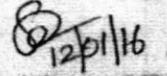
In this connection it is bring to your notice that "as per Forest Conservation Act 1980 any land which is classified as 'Forest' in records under the control of the any department is not to be given for non-Forestry purpose <sup>that</sup> attracts Forest Conservation Act provisions. The Section -2 of the Act clearly prohibits assignment of the forest land of any portion there of by way of lease or other wise, except with prior approval of the Central Government".

Thus as mentioned by the petitioners in their representations the M/s. Esteem Energy Private Limited, Ground Floor, 17B, Vengal Rao Nagar, Hyderabad violated the Forest Conservation Act in the mentioned survey numbers by laying roads and destroying the present habitat. On verification from the 1B Form (ROR) and Adangal/ Pahani copy of the land mentioned by the petitioner it is classified as Forest / Forest Reserve. This shows that the said land is classified as Forest and attracts the Forest Conservation Act 1980.

Moreover in Chief Conservator of Forests, Kurnool Rc. No. 4590/2015-TO, Dated : 16/11/2015 addressed to the respected District Collector / District Magistrate, Kadapa, clearly requested to cancel any permission in leasing out the said land in the said survey numbers (as mentioned in the representation) for establishing windmills by M/s. Esteem Energy Private Limited. Therefore I request you to kindly cancel any leases given to M/s. Esteem Energy Private Limited for establishing 16 windmills and also to take action as deemed fit as per WALTA Act. The Mandal Revenue Officer is Chairman at Mandal level in implementing the WALTA Act.

Also it is requested to inform the user agency to follow the procedure laid down under the Forest Conservation Act 1980 in this regard and submit the report on cancellation of leases if any given for the said lands to this office for further action.

Yours faithfully

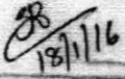
 12/11/16

Divisional Forest Officer  
Proddatur (WL) Division

Copy submitted to the District Collector, YSR District, Kadapa for favour of information.

Copy to the Tahsildar, Thondur for information and necessary action.

DISPATCHED

 13/11/16

C.No. 4/111  
28/12/15

## REVENUE DEPARTMENT

From  
Sri K.V.Ramana, I.A.S.,  
District Collector,  
YSR District, Kadapa.

To  
(1) The Revenue Divisional Officer,  
Jammalamadugu.  
(2) Divisional Forest Officer,  
Proddatur.



**Ref.No.E1/134/2015, dated:-22.12.2015**

Sir,

Sub:- Lease of LAND - Y.S.R. District - Thondur Mandal - M/s Esteem Energy Ltd., has requested for allotment of land to an extent of Ac.30.00 cents in Sy.No.1036 of Mallela village and to an extent of Ac.10.00 cents in Sy.No.1 of Udavagandla village of Thondur Mandal on lease basis for setting up of Wind power project - Handed over the advance possession of the land to District Manager, NREDCAP, Kadapa - Lease Proposals submitted to the CCLA - Enquiry report called for by the office of the Deputy CM, A.P., Hyderabad - PIL filed - Draft counter - Joint inspection of Forest & Revenue Dept called for - Regarding.

Ref:- (1) This office Ref.No.E1/134/2015 Dt:-10.09.2015.  
(2) PIL.No. Nil Dt.16.09.2015 filed by A.Srinivasulu Reddy, and two others of Thondur Mandal.  
(3) Instructions of Assistant Secretary (Assignment) O/o CCLA, Hyderabad Dt:-31.10.2015.  
(5) CCLA's D.O. Lr.No.Assn.II(1) /267 / 2015 Dt:-05.12.2015.

-000-

*P8*  
*See page 2*  
I invite your attention to the references cited. In the reference 1<sup>st</sup> cited, the lease proposals were submitted to the Chief Commissioner of Land Administration, A.P., Hyderabad in duplicate for the lands to an extent of Ac.30.00 cents in Sy.No.1036 of Mallela village and an extent of Ac.10.00 cents in Sy.No.1 of Udavagandla village total Ac.40.00 cents of Thondur Mandal for establishment of wind power Project on payment of lease rent @10% of market value based by the M/s Esteem Energy Private Ltd., Hyderabad with a request to place the lease proposals before the APLMA for approval.

In the reference 2<sup>nd</sup> cited, one Sri. A.Srinivasulu Reddy, and two others of Thondur Mandal have filed PIL before the Hon'ble High Court, A.P, Hyderabad praying to direct the respondents not to grant lease in favour of M/s Esteem Energy Pvt., Ltd., Hyderabad as the land belongs to the Forest Department.

Further, in the reference 3<sup>rd</sup> cited, the Assistant Secretary (Assignment), O/o CCLA, Hyderabad has instructed to submit the joint inspection report of Forest & Revenue Department for taking further necessary action in this matter. But so far report was not yet received.

In the reference 4<sup>th</sup> cited, the Chief Commissioner of Land Administration, A.P., Hyderabad has reminded through a D.O. Letter to submit Joint inspection report of Forest & Revenue Departments for lease of land in favour of M/s Esteem Energy Pvt. Ltd for establishment of Wind Power Project.

I therefore request you to inspect the lands along with Divisional Forest Officer, Proddatur, to an extent of Ac.30.00 cents in Sy.No.1036 of Mallela village and an extent of Ac.10.00 cents in Sy.No.1 of Udavagandla village total Ac.40.00 cents of Thondur Mandal for establishment of wind power Project and submit joint inspection report whether the said land belong to Forest or Revenue for onward submission to the Chief Commissioner of Land Administration, A.P., Hyderabad within 3 days.

Yours Faithfully,  
Sd/- S.Sulochana  
For Collector.

||t.c.b.o||

Subintendent

23/12/15

Copy to the Tahsildar, Thondur for necessary action.

For reply  
to report  
23/12/15

**GOVERNMENT OF ANDHRA PRADESH  
FOREST DEPARTMENT**

From

Sri S. Ravi Shankar, SFS,  
Divisional Forest Officer,  
Proddatur (WL) Division.

To

The Revenue Divisional Officer,  
Jammalamadugu,  
YSR Kadapa District.

**Rc. No. 563 / 2015 - P9, Dated : 12/01/2016**

Sir,

Sub:- PIL No.273/2015 filed by Sri A. Srenivasulu Reddy, Thondur (V) & (M) Kadapa District and two others in the Hon'ble High Court, Hyderabad not to grant lease for establishing wind mills without permission from Central Government as per Forest Conservation Act 1980 - Reply Requested - Regarding.

- Ref :- 1) Representation of D.Lakshmi Sudha Rani, Sarpanch Udavagandla G.P, Thondur (M), Y.S.R.Kadapa Dt: 08.01.2016.
- 2) Representation of Devi Reddy Manohar Reddy, S/o. Venkata Chalma Reddy, Buchipalli (V), Thondur (M), YSR Kadapa Dt :09-01-2016.

\* \* \*

I wish to inform that Mr. D. Manohar Reddy, S/o. D. Venkata Chalama Reddy, R/o. Buchipalli Village represented in the reference 2<sup>nd</sup> cited requested District Collector to protect the Government Forest area and forest lands and similarly Smt. D. Lakshmi Sudha Rani, Sarpanch, Udavagandla G.P, Thondur (M), Y.S.R. Kadapa District in the reference 1<sup>st</sup> cited represented the same to the Divisional Forest Officer, Proddatur WL Division.

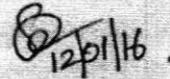
In this connection it is bring to your notice that "as per Forest Conservation Act 1980 any land which is classified as 'Forest' in records under the control of the any department is not to be given for non-Forestry purpose <sup>that</sup> attracts Forest Conservation Act provisions. The Section -2 of the Act clearly prohibits assignment of the forest land of any portion there of by way of lease or other wise, except with prior approval of the Central Government".

Thus as mentioned by the petitioners in their representations the M/s. Esteem Energy Private Limited, Ground Floor, 17B, Vengal Rao Nagar, Hyderabad violated the Forest Conservation Act in the mentioned survey numbers by laying roads and destroying the present habitat. On verification from the 1B Form (ROR) and Adangal/ Pahani copy of the land mentioned by the petitioner it is classified as Forest / Forest Reserve. This shows that the said land is classified as Forest and attracts the Forest Conservation Act 1980.

Moreover in Chief Conservator of Forests, Kurnool Rc. No. 4590/2015-TO, Dated : 16/11/2015 addressed to the respected District Collector / District Magistrate, Kadapa, clearly requested to cancel any permission in leasing out the said land in the said survey numbers (as mentioned in the representation) for establishing windmills by M/s. Esteem Energy Private Limited. Therefore I request you to kindly cancel any leases given to M/s. Esteem Energy Private Limited for establishing 16 windmills and also to take action as deemed fit as per WALTA Act. The Mandal Revenue Officer is Chairman at Mandal level in implementing the WALTA Act.

Also it is requested to inform the user agency to follow the procedure laid down under the Forest Conservation Act 1980 in this regard and submit the report on cancellation of leases if any given for the said lands to this office for further action.

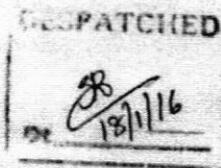
Yours faithfully

 12/11/16

Divisional Forest Officer  
Proddatur (WL) Division

Copy submitted to the District Collector, YSR District, Kadapa for favour of information.

Copy to the Tahsildar, Thondur for information and necessary action.



**JOINT INSPECTION REPORT OF THE REVENUE DIVISIONAL OFFICER,  
JAMMALAMADUGU AND DIVISIONAL FOREST OFFICER, WILD LIFE,  
PRODDATUR ON THE LANDS LEASED IN FAVOUR OF ESTEEM ENERGY  
PRIVATE LIMITED FOR ERECTION OF WIND MILLS IN MALLELA  
REVENUE VILLAGE OF THONDUR MANDAL ON DATED: 18.02.2016.**

- 1). In pursuance of the directions issued by the District collector, Kadapa Revenue Divisional Officer, Jammalamadugu, Divisional Forest Officer, Wild Life, Proddatur, Tahsildar Thondur, Forest Range Officer, Muddanur, Mandal Surveyor, Thondur and Forest Beat Officers have conducted the joint inspection on the leased lands granted in favour of M/s Esteem Energy Private Limited, Hyderabad on dated, 18.02.2016.
- 2). The land in Sy.No. 1036/1 Total Extent 1567.52 acre of land is classified as forest Reserve lands vested with Revenue Department as per the RSR of Mallela Revenue Village of Thondur Mandal. (Divisional Forest Officer, Wild Life, Proddatur and Revenue Divisional Officer, Jammalamadugu)
- 3). The Tahsildar, Thondur has submitted the proposals for grant of lease for erection of Wind Mills to an extent of 30.00 acres in Mallela Revenue Village of Thondur Mandal, out of total extent of 1567.52 acres of land in favor of M/s. Esteem Energy Private Limited, Hyderabad. Accordingly he has submitted the proposals along with sub division records with prior approval of Assistant Director Survey and Land Records, Kadapa. The details of proposed lands and sub divisions are as follows. (Revenue Divisional Officer, Jammalamadugu)

Sl.No.	Village	Old Sy.No	New Created Sy.No	Extent in Acres	Classification
1	Mallela	10361/1	1174	2.50	Reserve Land (Forest Reserve)
2			1175	2.50	Reserve Land (Forest Reserve)
3			1176	2.50	Reserve Land (Forest Reserve)
4			1177	2.50	Reserve Land (Forest Reserve)
5			1178	2.50	Reserve Land (Forest Reserve)
6			1179	2.50	Reserve Land (Forest Reserve)
7			1180	2.50	Reserve Land (Forest Reserve)
8			1181	2.50	Reserve Land (Forest Reserve)
9			1182	2.50	Reserve Land (Forest Reserve)
10			1183	2.50	Reserve Land (Forest Reserve)
11			1184	2.50	Reserve Land (Forest Reserve)
12			1185	2.50	Reserve Land (Forest Reserve)
<b>Total</b>			<b>30.00</b>		

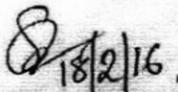
(Contd..... Page No. 2)

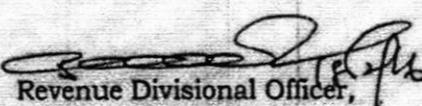
- 4.) The Tahsildar, Thondur has published A1 notice in Mallela Revenue Village and all the specified places of Thondur Mandal. No objections have been received for the local public of Mallela Gram Panchayat. The mallela Gram panchayat has been Gram Panchayat Resolution for grant of no objection for lease of lands in favour of M/s Esteem Energy Private Limited, Hyderabad, resolution dated: 13.02.2015. (Revenue Divisional Officer, Jammalamadugu)
- 5) During our inspection the land in Sy.No. 1036/1 Extent 1567.52 acres of land Mallela village. There are trees like Gotika, Kalivi, Sundari, Buddatumma, Regu, Nendra & Boda grasses in the land, including spiny bushes here and there. The entire land is covered with boulders and the lesser quantity of soil on top in the said land. There are no permanent structures, wells, tombs existing in the proposed land. (Divisional Forest Officer, Wild Life, Proddatur and Revenue Divisional Officer, Jammalamadugu)
- 6) The Physical feature of the land in Sy.No. 1036/1 Extent 1567.52 acres in hilly area at around 1410 feet height from the base land of Mallela Village. The entire land is not fit for Agriculture purpose; no encroachments were booked as per Revenue records and also reported during our joint inspection. (Divisional Forest Officer, Wild Life, Proddatur and Revenue Divisional Officer, Jammalamadugu)
- 7) As per the orders of the District Collector, Kadapa vide Ref.No. E1/134/2015 Dated: 21.06.2015 the above lands were already handed over to the District Manager NREDCAP, Kadapa on 25.06.2015. During our joint inspection, it is revealed that the agency has taken up the work of laying of gravel road from Mallela village to the lands allotted to them. While laying roads no great damage except few bushes & small trees removal took place. (Revenue Divisional Officer, Jammalamadugu)
- 8) The leased lands except at a corner at the highest elevation Lat Lon: **14.56726** Longitude: **78.33224** are away from the existing Reserve Forest Lands. The Agency did not cause any damage to the Reserve Forest land limits. They have taken up their work only in the leased lands. (Divisional Forest Officer, Wild Life Proddatur)
- 9) The lease holders has taken only 30 acres of land for erecting of 12 Wind Mills to generate wind energy but they have utilized road to an extent of 23.17 acres of land for laying of roads without any prior permission from the Government. As per the Government Memo. No. 12640/Assn V(1) 2015-1 Dated 07.05.2015 that reads AP Wind Power Policy 2015. (Revenue Divisional Officer, Jammalamadugu)

- 10) As per the request made by the irrigation Department an extent of 905.00 acres of land in Sy.No. 1036/1 was identified and proposed for Compensatory Afforestation vide this office Rc.No. A/1134/2015 Dated 10.10.2015 out of the total extent 1567.52 acres in lieu of Compensatory Afforestation for GNSS Project Phase-II after conducting joint inspection by Revenue Divisional Officer, Jammalamadugu and Divisional Forest Officer, Wild Life Proddatur. The proposal is pending for allotment of land to the Forest Department. (Divisional Forest Officer, Wild Life, Proddatur and Revenue Divisional Officer, Jammalamadugu).

The A.P. Wind Power Policy 2015 stipulated that, to facilitate faster execution of Projects, the District Collectors shall handover advance possession of the land including pathways to NREDCAP and the land shall be allotted in the Joint name of NREDCAP and the developer. The concerned District Collector after taking into account all the necessary undertakings of land proposal shall permit the developer to start the construction. NREDCAP shall withdraw its rights from the land once the project gets commissioned. (Revenue Divisional Officer, Jammalamadugu)

Our joint inspection report reveals that M/s. Esteem Energy Private Limited has been laying the roads from the Mallela Village and in their leased lands without prior permission from the Government, but the agency has utilized nearly 30.00 more acres of land in Sy.No. 1036/1 for laying roads for transportation of wind Mills material and other purpose without prior permission for the Government. The lease holders caused least damage to trees & bushes in their leased lands. They have removed spiny bushes and small trees while forming the road. They did not enter the notified Reserve Forest lands. We have prepared a detailed survey Records and sketch and submitted herewith for kind perusal.

  
18/2/16  
Divisional Forest Officer  
Proddatur WL Division

  
Revenue Divisional Officer,  
Jammalamadugu

Government of Andhra Pradesh

Forest Department

From

Sri S. Ravi Shankar, SFS  
Divisional Forest Officer,  
Proddatur Wildlife Division,

To

The Tahsildar,  
Thondur Mandal  
YSR District.

Rc. No. 563 / 2015 - P9, Dt. : 31-01-2016

Sir,

Sub:- Lease of Land - YSR District - Thondur Mandal - Mallela and  
Udavagandla villages - Sy. No. 1036/1 Ext. of Mallela village  
and Sy. No. 1 of Udavagandla village - M/s. Esteem Energy  
Private Limited, Hyderabad applied for lease of 40 Acres of land  
setting up of wind mills - Clarification regarding objection if any  
- Regarding.

Ref :- This office Rc. No. 561 / 2015 - P9, Dt. : 12/03/2015.

\*\*\*\*

It is to draw your attention that the No Objection from the Forest  
Department in the reference cited may be treated as **Cancelled**.

This is for information and necessary action.

Yours faithfully

*S. Ravi Shankar*  
31/1/16

Divisional Forest Officer  
Proddatur Wildlife Division

*NAH*  
31/1/16

Copy to the Revenue Divisional Officer, Jammalamadugu for favour of  
information and necessary action.

Copy to the Forest Range Officer, Muddanur for information.



E-9

**GOVERNMENT OF ANDHRA PRADESH  
FOREST DEPARTMENT**

From

Sri S. Ravi Shankar, SFS,  
Divisional Forest Officer,  
Proddatur (WL) Division.

To

The Revenue Divisional Officer,  
Jammalamadugu,  
YSR Kadapa District.

**Rc. No. 563 / 2015 - P9, Dated : 03/02/2016**

Sir,

Sub:- PIL No.273/2015 filed by Sri A. Srenivasulu Reddy, Thondur (V) & (M) Kadapa District and two others in the Hon'ble High Court, Hyderabad not to grant lease for establishing wind mills without permission from Central Government as per Forest Conservation Act 1980 - Reply Requested - Regarding.

Ref :- This office Rc. No. 563 / 2015 - P9, Dt. 12-01-2016 & 30/01/2016

\*\*\*

I invite your kind attention to the reference cited, wherein it was requested to furnish report on cancellation of leases given if any to M/s Esteem Energy Private Limited, Ground Floor, 17B, Vengal Rao Nagar, Hyderabad in Udavagandla GP of Thondur Mandal as per the representations submitted by Sri D. Manohar Reddy, S/o. D. Venkata Chalama Reddy, R/o. Buchipalli Village and also Smt. D. Lakshmi Sudha Rani, Sarpanch Udavagandla G.P, Thondur (M), Y.S.R. Kadapa District. But there is no response from you in the matter. Hence it is requested that, the action taken in the matter may please be intimated to this office for taking further action.

Yours faithfully

  
Divisional Forest Officer  
Proddatur (WL) Division



Annexure - XI  
E-14

**REVENUE DEPARTMENT**



From  
Sri K.V.Satyanarayana, I.A.S.,  
District Collector,  
YSR District, Kadapa.

To  
The Principal Chief Conservator of Forests,  
Aranya Bhavan, Sankurathri Residency,  
Agathavarappadu,  
Mahatma Gandhi inner Ring Road,  
Peda Kakani Mandal, Guntur,  
Andhra Pradesh-522509.

**Ref.No.E6/2847/2016, dated:11.04.2017**

Sir,

Sub:- Lease of Government lands for wind mills - Y.S.R. Kadapa District - Thondur Mandal - Mallela and Udavagandla Revenue villages - 30.00 acres of land granted on lease to wind mills in Sy.No.1036/1 of Mallela Revenue village and 10.00 acres of land granted on lease to wind mills in Sy.No.1 of Udavagandla Revenue village - NOC issued by Forest Department and later cancelled - Request to stop the wind mill project - Reply to objections - Regarding.

- Ref:-
1. The Divisional Forest Officer, Proddatur Rc.No.561/2015-P9, dated:12/03/2015.
  2. The Divisional Forest Officer, Proddatur Rc.No.563/2015 - P9, dated:31/01/2016.
  3. Chief Conservator of Forests, Kurnool Rc. No. 4590/2015-TO, Dt. 16/11/2015, 29/02/2016 and 02/09/2016.
  4. Counter submitted by the Divisional Forest Officer, Proddatur, in Application 9 of 2017SZ in the National Green Tribunal, South Chennai.
  5. Revenue Divisional Officer, Jammalamadugu Ref.No. A/269/2015, dated: -3-2017.
  6. Report of the Tahsildar, Thondur dated 30-3-2017.
  7. Chief Commissioner of Land Administration, A.P., Hyderabad Ref.No.Assn.III(1)/790/2015, dated:01.07.2016.

ఉత్తర

I invite attention to the references 1<sup>st</sup> to 7<sup>th</sup> cited. In the reference 5<sup>th</sup> cited, the Revenue Divisional Officer, Jammalamadugu, has reported that he has deputed the Tahsildar, Pulivendula to National Green Tribunal, South Zone, Chennai, in connection with a case filed in the reference 4<sup>th</sup> cited to meet the Standing Counsel and discuss the matter. Accordingly, the Tahsildar visited the Green Tribunal and contacted the Standing Counsel for the Government of Andhra Pradesh and discussed the matter. The Tahsildar, Pulivendula reported that the Standing Counsel informed him that the Forest Department and the Revenue Departments are taking contrasting views in the case and further informed to give a reply to the Forest Department in the matter. Accordingly, the Revenue Divisional Officer, Jammalamadugu, in his letter 5<sup>th</sup> cited requested to take further action.

విభాగం

In this context, it is submitted that, the case relates to leasing of Government land for setting of wind mills in Thondur Mandal of YSR District. In this case, the NREDCAP, a Government Corporation designated as the nodal agency for development of wind Energy, applied for grant of lease of 30.00 acres of land in Sy.No.1036/1 of Mallela Revenue village and 10.00 acres of land in Sy.No.1 of Udavagandla Revenue village of Thondur Mandal for setting up of wind mills. Both the above lands are contiguous and bears the same physical features. The land Sy.No.1036/1 of Mallela Revenue village is classified as "Forest Reserve" Poramboke in the Revenue Records and the land in Sy.No.1 of Udavagandla Revenue village is classified as "Hill" Poramboke. Both these lands are purely Government lands vesting with the Revenue Department. The lands have rock sheets underneath and soil is eroded and hence virtually no trees grow in the area except only some spiny bushes here and there. It is a pure barren, eroded and rocky area with semi desert like features. There are no rare/endangered/unique species of flora and fauna found in the area. No protected archaeological/heritage site/defence establishment or any other important monument is located in the area.

On receipt of the application from the NREDC of Andhra Pradesh, the Tahsildar, Thondur sought NOC from the Forest Department. The Forest Range Officer, Muddanur inspected the land proposed for lease along with the Tahsildar and his staff and submitted his report to the Divisional Forest Officer, Proddatur and later the Divisional Forest Officer, Proddatur issued an NOC vide reference 1<sup>st</sup> cited. Basing on the NOC, the land was proposed for lease by the Tahsildar, Thondur and later advance possession was also given jointly in the name of NREDC of Andhra Pradesh and the developer approved by the NREDC as laid down in the Wind Energy policy of the Government of Andhra Pradesh. The developer proceeded for laying roads and installation of wind mills. At this juncture, some vested interested persons who want to sabotage the installation of wind mills for personal gains filed writ petitions and PILs in the Hon'ble High Court of Andhra Pradesh requesting to stop laying of roads and declare the wind mill project as illegal and void. But no final orders have been passed for stoppage of the windmills project.

In this case, in the reference 4<sup>th</sup> cited, the Divisional Forest Officer, Proddatur, filed a counter in the Green Tribunal stating that he cancelled the NOC issued in connection with the installation of wind mills and to ask the developer company to seek permission from the Central Government as the land is a Forest Land. In the counter, he also mentioned that even the Chief Conservator of Forests, Kurnool addressed the District Collector & Magistrate, Kadapa vide Rc.No.4590/2015-TO, Dated:16/11/2015, 29/02/2016 and 02/09/2016 requesting to cancel the recommendation orders of the Tahsildar, Thondur, in leasing out of Forest Reserve lands as the lands are Forest lands under the Forest Conservation Act, 1980. As could be seen from the counter of the Forest Department, the Department is taking the following stand in the case.

1. That under the Forest Conservation Act, 1980, all Forest lands notified u/s 4 of Indian Forest Act would be Forest lands. As per Supreme court judgment in ATPC's case, not only the notified forest lands but also any land classified as Forest in any Government records, irrespective of its ownership, would become a Forest land. Thus, the Revenue land in Sy.No.1036/1 Extent 1568.00 acres of Mallela Revenue village of Thondur Mandal, which is classified as "Forest Reserve" Poramboke in the Revenue Records would also become a Forest land. Here the status of the land proposed on lease is questioned.
2. That Section 2 (iii) of the Forest Conservation Act clearly prohibits assignment of the Forest lands or any portion thereof by way of lease or otherwise, except with prior approval of the Central Government. Thus, the lease granted in the name of Esteem Energy in the Forest land in Sy.No.1036/1 of Mallela village of Thondur Mandal is violating the provisions of Forest Conservation Act 1980. As such, the wind mill company will have to take permission from the Central Government. Here the point is the necessity to take permission from the Central Government.
3. That since the Wind mill Company laid roads and cleared area for installation of wind mills in the area leased in the Forest land, the matter should be examined for taking action under the WALTA Act for which the Tahsildar is the Chairman. Here, the point is to take action under the WALTA Act.
4. That since, the NOC issued by the Forest Department for the lease of the land is cancelled, the lease given should also be cancelled. Here, the point is

cancellation of the NOC already granted by the Forest Department and its non applicability for the lease of the land.

5. That since the Tahsildar, Thondur, recommended for grant of lease to a land, which comes under the Forest Conservation Act, action is to be initiated against him for contravening the provisions of the Forest Conservation Act. Here the main point is contravening the provisions of the Act by the Tahsildar, Thondur, while recommending for the lease.

For the above points, the following reply is given:

1. Status of the land :-

As could be seen from the letters of the Divisional Forest Officer, Proddatur and the Chief Conservator of Forests, Kurnool, the Forest Department is treating the 'Forest Reserve, land under the Revenue Department basing on the judgment of the Hon'ble Apex Court dated:12-12-1996 issued in the case of T.N. Godavarman Tirumulpad V. Union of India & others. In the order, the Hon'ble Apex Court had clearly defined the two core issues i.e., 1. *The motive behind enactment of the Forest Conservation Act* and 2. *The exact meaning of the words "Forest" and Forest land*". The extract of the relevant portion of the judgment is given below:-

"The Forest conservation Act 1980, was enacted with a view to check further deforestation which ultimately results in ecological imbalance and therefore, the provisions made therein for the conservation of forest and for matters connected therewith, must apply to all forests irrespective of the nature of ownership or classification thereof. The word "Forest" must be understood according to its dictionary meaning. This description covers all the statutorily recognized forests, whether designated as reserved, protected or otherwise for the purpose of Section 2 (i) of the Forest Conservation Act. The term "forest land" occurring in Section 2, will not only include "Forest" as understood in the dictionary sense, but also any area recorded as forest in the Government records irrespective of the ownership. This is how it has to be understood for the purpose of Section 2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests and the matters connected therewith must

apply clearly to all forest so understood irrespective of the ownership or classification thereof".

Thus, as per the above judgment, even though, the 'Forest Reserve' land in Mallela village in Sy.No.1036/1 is not a notified Forest land under Sec 2 (i) of the Forest Conservation Act 1980, by virtue of the above judgment, there is possibility of the land being treated as "Forest" as it is having the Word 'Forest' in its classification in Government Records. However a keen observation of the core issues discussed in the above judgment shows that the land cannot be treated as "Forest". There are four main points in the judgment. 1. Why the Forest Conservation Act, 1980 was enacted?. 2. What is a "Forest"?. 3. Which is a "Forest land"?. and 4. Application of the Act to all those lands, which have forest in them and Which are classified as Forest in Government records irrespective of its ownership.

① In the judgment, the Hon'ble Apex Court clearly defined the motive of enacting the Forest Conservation Act, 1980. The Apex court clarified that *"the Forest Conservation Act, 1980, was enacted with a view to check further deforestation"*. That means the land which is already having natural thick growth of trees in it should be protected along with its thick growth of trees from further deforestation. This is one of the prerequisites to decide whether a land is a forest land or not under the Forest Conservation Act, 1980. There is no problem with this prerequisite with the notified lands and as they would be Forest lands whether having forest in them or not?. However, when dealing with those lands that are not notified but having Forest in their classification on Government Records, this prerequisite becomes essential. If there are no naturally grown trees in a particular land then the question of deforestation would not arise as per the above definition of the Supreme Court and hence the non notified lands without a "forest" cannot be termed as Forest lands. The land in Mallela village, which is an eroded, barren and rocky area devoid of trees could not pose a danger to further deforestation. The Forest Department has also admitted the fact of non existence of trees in the land in various counters filed in the Hon'ble High Court. Hence, as defined by the Hon'ble Apex Court, the Revenue "Forest Reserve" land in Mallela village having no trees in it and no forest in it could

never pose the danger of further deforestation of the already existing vegetation. Hence the land would never attract the provisions of Forest conservation Act, even though, it is classified as "Forest Reserve" in Government records.

2. The second point is the meaning of Forest. "The apex court clearly defined the term Forest, which should be understood according to its dictionary meaning. The dictionary meaning of a Forest is thick growth of naturally grown trees". So if any land has to be treated as Forest under the Forest Conservation Act, it must have thick growth of naturally grown trees. Sparsely existing thorn bushes can never be termed as Forest according to the dictionary meaning. The Forest Reserve land in Mallela village is having only sparsely existing thorn bushes here and there in it as already admitted by the Forest Department in various counter filed in courts. Hence, as defined by the Hon'ble Apex Court itself in the above judgment, the Revenue "Forest Reserve" land in Mallela village could never be termed as a 'Forest' according to dictionary meaning under the provisions of Forest conservation Act. Hence, the Forest Conservation Act would not apply to this land even though it is having the word 'Forest' in its classification.

The third point is Forest land. The general meaning of a Forest land is a land having forest in it. As per the above judgment, there are two types of forest lands that would attract the provisions of the Forest Conservation Act. One type of land are notified Forest lands under the control of the Forest Department. The other type of Forest lands are not notified lands but having forest in them and classified as 'Forest' in the Government records and rests with the other departments. Actual Forest exists in both these two types of lands and as such they are undoubtedly forest lands. But the Revenue 'Forest Reserve' land in Mallela village is an eroded, barren and rocky land devoid of trees and with only spiny bushes. Thus as defined by the Hon'ble Apex Court itself in the above judgment, the land is not having any forest in it and hence it can never be termed as a Forest Land under Forest conservation Act even though the word forest exists in its classification.

Further, consequent to the pronouncement of the above judgment by the Hon'ble Apex court, the Forest Department to ward off any ambiguity should have

Maddur Range R.F. area category.

57/No.

taken steps to examine the status of the non notified lands which are classified as Forest in Government records and should have decided whether the lands are having 'Forest' as defined by the Apex Court in them or not?. If there are forests in the lands, then the Forest Department will have to have issue a notice calling for objections if any and after taking into consideration the objections if any, should have to decide the status of the lands. This is the standard procedure to be adopted in the cases relating to non notified lands under the control of others. But the Forest department without following any of the above procedures and without caring for the specific guidelines of the Hon'ble Supreme Court, is simply claiming that the lands are forest lands under the Act. It never examined the applicability of the definitions given to the "purpose of enacting the FC Act", the meaning of "Forest" and "Forest lands" by the Hon'ble Supreme Court to the lands in Mallela village. Thus without providing a chance to raise objections to the Revenue Department, the Forest Department unilaterally declaring the huge extents of erode, barren and waste lands Revenue lands as Forests. This is totally against the standard procedure to be adopted while dealing with the lands under the control of others. As such, the claim of the Forest Department is totally against rules and not sustainable under law.

It is further informed that no act itself will become an order. The competent authority should decide, whether that act applies to a particular case or not and will have to pass an order under the Act deciding its status. Further, if anything is claimed as per the Judgment given by the Apex court, the concerned authority should carefully examine whether that judgment applies to it or not. The meaning of a judgment should not be taken in fragments according to our necessity but it should be taken in its entirety. In this case, the Forest Department is mentioning only that portion of the judgment where it is ordered that every land having the word 'Forest' in Government records should be treated as Forest. But the Forest Department failed to appreciate the explanations given in the judgment to the core issues regarding the motive of enactment of the FC Act, the meanings given to the words "Forest" and "Forest lands". As such, here the Forest Department is taking a view totally against

the spirit of the judgment by reading only a fraction of the judgment and neglecting the vital points of the judgment.

It is very important to note that the Forest Conservation Act is not an act enacted with an aim to acquire lands in the name of Forest. It is an Act enacted to protect those lands, which are already having Forest growth and having "Forest" in them as understood in the dictionary meaning and to arrest further deforestation of that already existing Forest Growth. It never automatically applies particularly to the lands, which are under the control of other departments and private persons. As such, under the Forest Conservation Act, a land having no Forest in it could be ever be treated as Forest land. It is very important to note that In the Forest Conservation Act, there is no provision for treating a barren, eroded, rocky and waste land devoid of trees as a Forest. Even the Hon'ble Supreme Court never said that even eroded, barren and waste lands devoid of any trees and not having forest qualities could also be treated as Forest land basing only on their classification as Forest in Government records.

The Hon'ble Apex Court of India in its judgment issued in B.S.Sandhu Vs Government of India in civil appeals Nos. 4682-4683 of 2006, while discussing in detail the above judgment in T.N. Godavarman case, clearly said that if a land is to be treated as Forest land then it should have forest meaning qualities as per dictionary meaning. In this case, basing on the explanation given to the Core issues i.e., the motive of enactment of the Forest Conservation Act, the word Forest and Forest land, the Hon'ble Apex Court set aside the orders of the high Court issued confirming a certain piece of land as notified Forest land under PLP Act. The case of the land in Mallela village classified as "Forest Reserve" in Government records fits exactly into the same facts and circumstances of the above case. Hence, it can never be termed as Forest under any circumstances under any act or under any judgment even though it is classified as Forest Reserve.

It is pertinent here to mention another important case, which is very similar to the case of the proposed lease lands in Mallela village is that of A.Narendraraja Vs Government of Andhra Pradesh and others reported in AIR 2008, AP 220:2008

AJHC(NOC) 928 AP. Where in a quarry lease was cancelled as lease land is classified as "Adavi Poramboke" and was under the control of the Revenue Department. The Hon'ble court held that the land was far away from Reserve Forest and there was no Tree growth and the land was full of rocks and boulders. Such land cannot be termed as 'Forest' and there is no possibility of any "Forest" being grown and developed in future. Therefore cancellation of the lease on the ground that land come into purview of Forest conservation Act is improper. In this case the Hon'ble court has taken the word "Forest" as core issue and decided that the Forest Conservation Act would not apply since there is no Forest in the land. As such, since there is no 'Forest' in the lands of Mallela village, the Forest Conservation Act would not apply to them as per the judgment. Hence the proposed lease land in Mallela village cannot be treated as Forest even though it is classified as Forest Reserve in Government records.

2. Regarding status of the lease, it is pertinent here to mention the provisions under Sec. 2 (iii) of the FC Act.

"Notwithstanding anything contained in any other law for the time being in force in a state, no state Government or other authority shall make, except with the prior approval of the Central Government, any order directing (iii) that any forest land or any portion thereof may assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organization not owned, managed or controlled by Government;"

Under this provision of the Act, the Chief Conservator of Forests, Kurnool opined that permission from Central Government is required for setting up wind mills. But a careful reading of the above sub-section shows that lease to private persons or to any authority, corporation, agency or any other organization not owned, managed or controlled by Government requires Central Government's prior permission. But no such restriction is levied on the Government controlled corporations or agencies. As such, this sub-section applies only to those cases where a lease is proposed for a private person or to a private entity and not for the Government entities. In this case, the lease is proposed jointly in the name of the New Renewable Energy Development Corporation of Andhra Pradesh and a developer as per Government wind power

Govt. / but Area / policy. The NREDCAP is the nodal agency for wind power development in the A.P. State. It is a pure Government corporation owned and controlled by the Government of Andhra Pradesh. As such, the restriction levied under this sub-section would not apply to the lease and hence there is no need to take prior Central Government permission as there is exemption in the Act itself for the lease.

Further, the above sub-section applies only to the Forest lands where there is apprehension of further deforestation. It would not apply to those lands where there is no forest in them. Since, the land in Mallela village is a barren, eroded and waste land and having no forest in it, it cannot result in any deforestation. As such, giving lease in a waste non forest land and non declared Forest land requires no permission from the Government of India as per rules.

3. Regarding taking action under WALTA Act, it is informed that the Tahsildar, Thondur reported that there are no trees in the land and no trees have been cut down while executing the project. There are no constructions resulting in damage to water course. As such, there is no possibility of taking any action against the investor under the WALTA Act.

4. Regarding issue of NOC by the Divisional Forest Officer, it is informed that the Divisional Forest Officer, Proddatur issued an NOC vide Rc.No.561/2015-P9 dated:12/03/2015 after receiving inspection report from the Forest Range Officer, Muddanur. In the NOC, it is clearly mentioned that "the proposed lands are not falling in Reserve Forest or wild life sanctuary, National Parks and other important sites. The Forest Range Officer never mentioned that there exists a 'Forest' in the proposed lease lands and tree growth would affect if lease is granted and there is danger of any deforestation. Since it is barren, eroded and rocky area he did not apprehend any deforestation".

Basing on the NOC of the Divisional Forest Officer, Proddatur, after clearly satisfying himself that no Forest matters are involved in the case, the Tahsildar, Thondur, proposed the lease and advance possession was given to the NREDC and to

the developer jointly. The developer invested about 175 Crores or so and installed the wind mills. But after 11 months, the Divisional Forest Officer, Proddatur wrote a letter to the Tahsildar vide Rc.No.563/2015-P9 dated:31/01/2016 informing that the "No Objection from the Forest Department vide the Divisional Forest Officer, Proddatur Rc.No.561/2015-P9, dated:12.03.2015 may be treated as cancelled". The letter is not a specific order and moreover it is ambiguous. No officer is competent enough to cancel his own orders; only higher authorities can do that. It is a clear will full violation of the rules and regulations. //

The Divisional Forest Officer, Proddatur never properly examined the Supreme Court judgment in its entirety and hastily came to a conclusion basing on a fraction of the judgment. It seems that the Divisional Forest Officer, Proddatur had never apprised the facts of the case properly to the higher authorities of Forest Department and might have actually misled them. Moreover, he had filed a counter in the Hon'ble National Green Tribunal without properly appraising the facts of the case as per the Hon'ble Supreme Court judgment. In the counter, he tried to throw the blame on others and escape. His counter is supporting the application filed against the interests of the Government and the petitioner in the Hon'ble National Green Tribunal is also taking support of his counter and trying to stall the wind mill project. Some vested interested persons in the district are trying to extract ransom from the industrialists by implicating them into legal litigations. In these circumstances, the counter filed by the Divisional Forest Officer, Proddatur leads to a doubt whether the Divisional Forest Officer is hands in glove with the petitioner and trying to sabotage the wind mill project and damaging the reputation of the District as investment friendly region. Finally, it is submitted that the issue of NOC by the Divisional Forest Officer and improper cancellation of it by himself and filing a counter in support of the petitioner are the root causes of all these problems and legal litigations.

5. Regarding taking action against the Tahsildar for the alleged contravening the provisions of the Forest Conservation Act, it is informed the Tahsildar, Thondur, explained the facts as follows:-

He said that after receipt of proposals for the lease, he sought clarification on the objections if any from the Divisional Forest Officer, Proddatur. The local Forest Range Officer inspected the land along with the Tahsildar and Mandal surveyor and then sent a report to the Divisional Forest Officer, Proddatur. After that, the Divisional Forest Officer, Proddatur issued an NOC vide Rc.No.561/2015-P9 dated:12/03/2015, stating that the proposed lands are not falling in Reserve Forest or wild life sanctuary, National Parks and other important sites. As the Forest Officials themselves issued NOC after proper verification, he thought that there is no violation of Forest rules and hence submitted lease proposals to the Higher Authorities. The land was given on advance possession immediately as per the Government policy and the developer began to lay roads and began to install the wind mills. While the installation was almost over, the Divisional Forest Officer, Proddatur wrote a letter to him vide Rc.No.563/2015-P9 dated:31/01/2016 informing to treat the NOC as cancelled. He further says that the Divisional Forest Officer took 11 months to inform about the cancellation and by that time much of the work was completed. This resulted in danger of hanging over the huge investments made by the developer. He also informed that no officer is competent to voluntarily cancel his own orders unless authorized under any special rule. As such, the Divisional Forest Officer cannot cancel his own order. Only his higher authorized authority is competent to cancel his order and hence the Divisional Forest Officer cancellation order is not valid. He further reported that if the Forest Officials had raised the same objections, which they are now raising, before submission of lease proposals, he would not have recommended the lease and would have sought clarifications as per rules and then only the lease proposals may be submitted as per rules. He also replied that he is not at fault in the matter.

He reiterated the judgments of the Apex court as mentioned in the previous paragraphs and claimed that the land cannot be treated as Forest. Since the lease is proposed in the name of a Government owned and controlled corporation, the lease proposals are in accordance with the provisions of Sec 2 (iii) of the FC Act and hence no Central Government permission is required. Since the land is never declared as

Green with Energy

only  
cancel  
NOC

Forest, the land is still a Revenue land and hence there is no violation of FC Act. He further informed that keeping silent on the issue pertaining to NOC, the Forest Officials are one-sidedly requesting to take action against him as though he alone violated the provisions. The Forest Department is under the wrong presumption that the land is a Forest land. He finally informed that he has not done anything wrong in submitting lease proposals and never violated the provisions of the Forest Conservation Act.

Further, it is submitted that, in the reference 7<sup>th</sup> cited, based on the NOC issued from the Forest Department in Rc.No.561/2015-P9, dated:12.03.2015 by the Divisional Forest Officer, Proddutur and Joint Inspection report of both Revenue and Forest Departments with location map the Chief Commissioner of Land Administration, Andhra Pradesh, Hyderabad has requested to the District Collector, YSR Kadapa District to take necessary action as per the provisions BSO 15 (Disposal of land) part-II, Section-I(1) to (3), duly converting the classification of the land Forest Reserve to A.W.D., if the provisions of the Forest (conservation) Act 1980 does not attract.

Finally, it is submitted that as per the judgment of the Apex court, as explained in the foregone paras, the Revenue Forest Reserve land in Mallela village is not a Forest land that attracts the provisions of the Forest Conservation Act; that the land is given lease in the name of a Government owned and managed corporation and hence there is no violation sub-section 2 (iii) of the FC Act; that there is no possibility of taking action against the investor under WALTA act as no trees were cut down and no water courses are damaged as reported by the Tahsildar, Thondur in his report in the reference 6<sup>th</sup> cited and that as the Revenue Forest Reserve land in Mallela village cannot be termed as a Forest land either as per the FA Act or as per the judgment of Hon'ble, supreme court.

In the circumstances explained above, it is requested to go through all the facts hitherto mentioned and to issue suitable instructions in this regard to take further action in the proposals of lease to NREDCAP and its developer jointly as, requested by the Chief Commissioner of Land Administration, A.P., Hyderabad vide

reference 7<sup>th</sup> cited in order to encourage, develop and promote wind power generation in the State with a view to meet the growing demand for power in an environmentally and economically sustainable manner.

It is also requested to initiate action against the Divisional Forest Officer, Proddatur for issuing an NOC, then arbitrarily cancelling it, further, filing a counter without properly examining the Forest Conservation Act and the judgment of the Hon'ble Supreme Court.

Yours faithfully,  
Sd /- K.V. Satyanarayana,  
District Collector,  
Y.S.R. Kadapa District.

//t.c.b.o//

*S. S. S. S.*  
Superintendent 12/1/16

*S. S. S. S.*  
12/1/16

Copy submitted to the Principal Secretary to Government, Environment, Forest, Science & Technology, 4<sup>th</sup> Block, Ground Floor, Room No.187, A.P.Secretariat, Velagapudi, Guntur District for favour of kind information.

Copy to the Chief Conservator of Forests, Kurnool for information.

✓ Copy to the Divisional Forest Officer, Proddatur for information. *OR-R.P.*

Copy to the Revenue Divisional Officer, Jammalamadugu for information.

Copy to the Tahsildar, Thondur, for information.

625

PETITIONER:  
T.N. GODAVARMAN THIRUMULKPAD

Vs.

RESPONDENT:  
UNION OF INDIA & ORS.

DATE OF JUDGMENT: 12/12/1996

BENCH:  
J.S. VERMA, B.N. KIRPAL

ACT:

HEADNOTE:

JUDGMENT:

(With W.P. (Civil) No. 171/96)

O R D E R

In view of the great significance of the points involved in these matters, relating to the protection and conservation of the forests throughout the country, it was considered necessary that the Central Government as well as the Governments of all the States are heard. Accordingly, notice was issued to all of them. We have heard the learned Attorney General for the Union of India, learned counsel appearing for the States and the parties/applicants and, in addition, the learned Amicus Curiae, Shri H.N. Salve, assisted by Sarvashri U. U. Lalit, Mahender Das and P.K. Manohar. After hearing all the learned counsel, who have rendered very able assistance to the court, we have formed the opinion that the matters require a further indepth hearing to examine all the aspects relating to the National Forest Policy. For this purpose, several points which emerged during the course of the hearing require further study by the learned counsel and, therefore, we defer the continuation of this hearing for some time to enable the learned counsel to further study these points.

However, we are of the opinion that certain interim directions are necessary at this stage in respect of some aspects. We have heard the learned Attorney General and the other learned counsel on these aspects.

It has emerged at the hearing, that there is a misconception in certain quarters about the true scope of the Forest Conservation Act, 1980 (for short the 'Act') and the meaning of the word "forest" used therein. There is also a resulting misconception about the need of prior approval of the Central Government, as required by Section 2 of the Act, in respect of certain activities in the forest area which are more often of a commercial nature. It is necessary to clarify that position.

The Forest Conservation Act, 1980 was enacted with a view to check further deforestation which ultimately results in ecological imbalance; and therefore, the provisions made therein for the conservation of forests and fore matters connected therewith, must apply to all forests irrespective of the nature of ownership or classification thereof. The

word "forest: must be understood according to its dictionary meaning. This description cover all statutorily recognised forests, whether designated as reserved, protected or otherwise for the purpose of Section 2(i) of the Forest Conservation Act. The term "forest land", occurring in Section 2, will not only include "forest" as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership. This is how it has to be understood for the purpose of Section 2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof. This aspect has been made abundantly clear in the decisions of this Court in *Ambica Quarry Works and ors. versus State of Gujarat and ors.* (1987 (1) SCC 213), *Rura' Litigation and Entitlement Kendra versus State of U.P.* (1989 Suppl. (1) SCC 504), and recently in the order dated 29th November, 1996 in *W.P.(C) No.749/95 (Supreme Court Monitoring Committee vs. Mussorie Dehradun Development Authority and ors.)*. The earlier decision of this Court in *State of Bihar Vs. BanshiRam Modi and ors.* (1985 (3) SCC 643) has, therefore, to be understood in the light of these subsequent decisions. We consider it necessary to reiterate this settled position emerging from the decisions of this court to dispel the doubt, if any, in the perception of any State Government or authority. This has become necessary also because of the stand taken on behalf of the State of Rajasthan, even at this late stage, relating to permissions granted for mining in such area which is clearly contrary to the decisions of this court. It is reasonable to assume that any State Government which has failed to appreciate the correct position in law so far, will forthwith correct its stance and take the necessary remedial measures without any further delay.

We further direct as under:-

I. General:

1. In view of the meaning of the word "forest" in the Act, it is obvious that prior approval of the Central Government is required for any non-forest activity within the area of any "forest". In accordance with Section 2 of the Act, all on-going activity within any forest in any State throughout the country, without the prior approval of the Central Government, must cease forthwith. It is, therefore, clear that the running of saw mills of any kind including veneer or ply-wood mills, and mining of any mineral are non-forest purposes and are, therefore, not permissible without prior approval of the Central Government. Accordingly, any such activity is prima facie violation of the provisions of the Forest Conservation Act, 1980. Every State Government must promptly ensure total cessation of all such activities forthwith.

2. In addition to the above, in the tropical wet ever-green forests of Tirap and Changlang in the State of Arunachal Pradesh, there would be a complete ban on felling of any kind of trees therein because of their particular significance to maintain ecological balance needed to preserve bio-diversity. All saw mills, veneer mills and ply-wood mills in Tirap and Changlang in Arunachal Pradesh and within a distance of 100 Kms. from its border, in Assam, should also be closed immediately. The State Governments of Arunachal Pradesh and Assam must ensure compliance of this direction.

3. The felling of trees in all forests is to remain suspended except in accordance with the Working Plans of the

-627-

State Governments, as approved by the Central Government. In the absence of any Working Plan in any particular State, such as Arunachal Pradesh, where the permit system exists, the felling under the permits can be done only by the Forest Department of the State Government or the State Forest Corporation.

4. There shall be a complete ban on the movement of cut trees and timber from any of the seven North-Eastern States to any other State of the country either by rail, road or water-ways. The Indian Railways and the State Governments are directed to take all measures necessary to ensure strict compliance of this direction. This ban will not apply to the movement of certified timber required for defence or other Government purpose. This ban will also not affect felling in any private plantation comprising of trees planted in any area which is not a forest.

5. Each State Government should constitute within one month an Expert Committee to:

- (i) Identify areas which are "forests", irrespective of whether they are so notified, recognised or classified under any law, and irrespective of the ownership of the land of such forest;
- (ii) identify areas which were earlier forests but stand degraded, denuded or cleared; and
- (iii) identify areas covered by plantation trees belonging to the Government and those belonging to private persons.

6. Each State Government should within two months, file a report regarding:-

- (i) the number of saw mills, veneer and plywood mills actually operating within the State, with particulars of their real ownership;
- (ii) the licensed and actual capacity of these mills for stock and sawing;
- (iii) their proximity to the nearest forest;
- (iv) their source of timber.

7. Each State Government should constitute within one month, an Expert Committee to assess:

- (i) the sustainable capacity of the forests of the State qua saw mills and timber based industry;
- (ii) the number of existing saw mills which can safely be sustained in the State;
- (iii) the optimum distance from the forest, qua that State, at which the saw mill should be located.

8. The Expert Committees so constituted should be requested to give its report within one month of being constituted.

9. Each State Government would constitute a Committee comprising of the Principal Chief Conservator of Forests and another Senior Officer to oversee the compliance of this order and file status reports.

II. FOR THE STATE OF JAMMU & KASHMIR:

1. There will be no felling of trees permitted in any

"forest", public or private. This ban will not affect felling in any private plantations comprising of trees planted by private persons or the Social Forestry Department of the State of Jammu & Kashmir and in such plantations, felling will be strictly in accordance with law.

2. In 'forests', the State Government may either departmentally or through the State Forest Corporation remove fallen trees or fell and remove diseased or dry standing timber, and that only from areas other than those notified under the Jammu & Kashmir Wild Life Protection Act, 1978 or any other law banning such felling or removal of trees.

3. For this purpose, the State Government will constitute an Expert Committee comprising of a representative being an IFS Officer posted in the State of Jammu & Kashmir, a representative of the State Government, and two private experts of eminence and the Managing Director of the State Forest Corporation (as Member Secretary) who will fix the qualitative and quantitative norms for the felling of fallen trees, diseased and dry standing trees. The State shall ensure that the trees so felled and removed by it are strictly in accordance with these norms.

4. Any felling of trees in forest or otherwise or any clearance of land for execution of projects, shall be in strict compliance with the Jammu & Kashmir Forest Conservation Act, 1990 and any other laws applying thereto. However, any trees so felled, and the disposal of such trees shall be done exclusively by the State Forest Corporation and no private agency will be permitted to deal with this aspect. This direction will also cover the submerged areas of the THEIN Dam.

5. All timber obtained, as aforesaid or otherwise, shall be utilised within the State, preferably to meet the timber and fuel wood requirements of the local people, the Government and other local institutions.

6. The movement of trees or timber (sawn or otherwise) from the State shall, for the present, stand suspended, except for the use of DGS & D, Railways and Defence. Any such movement for such use will -

- a) be effected after due certification, consignment-wise made by the Managing Director of the State Corporation which will include certification that the timber has come from State Forest Corporation sources; and
- b) be undertaken by either the Corporation itself, the Jammu & Kashmir Forest Department or the receiving agency.

7. The State of Jammu & Kashmir will file, preferably within one month from today, a detailed affidavit specifying the quantity of timber held by private persons purchased from State Forest Corporation Depots for transport outside the State (other than for consumption by the DGS & D, Railways and Defence). Further directions in this regard may be considered after the affidavit is filed.

8. No saw mill, veneer or plywood mill would be permitted to operate in this State at a distance of less than 8 Kms. from the boundary of any demarcated forest areas. Any existing mill falling in this belt should be relocated forthwith.

III. FOR THE STATE OF HIMACHAL PRADESH AND THE HILL REGIONS OF THE STATES OF UTTAR PRADESH AND WEST BENGAL:

1. There will be no felling of trees permitted in any

forest, public or private. This ban will not affect felling in any private plantation comprising of trees planted in any area which is not a 'forest'; and which has not been converted from an earlier "forest". This ban will not apply to permits granted to the right holders for their bonafide personal use in Himachal Pradesh.

2. In a 'forest', the State Government may either departmentally or through the State Forest Corporation remove fallen trees or fell and remove diseased or dry standing timber from areas other than those notified under Section 18 or Section 35 of the Wild Life Protection Act, 1972 or any other Act banning such felling or removal of trees.

3. For this purpose, the State Government is to constitute an expert Committee comprising a representative from MOEF, a representative of the State Government, two private experts of eminence and the MD of the State Forest Corporation (as Member Secretary), who will fix the qualitative and quantitative norms for the felling of fallen trees and diseased and standing timber. The State shall ensure that the trees so felled and removed are in accordance with these norms.

4. Felling of trees in any forest or any clearance of forest land in execution of projects shall be in strict conformity with the Forest Conservation Act, 1980 and any other laws applying thereto. Moreover, any trees so felled, and the disposal of such trees shall be done exclusively by the State Forest Corporation and no private agency is to be involved in any aspect thereof.

IV. FOR THE STATE OF TAMIL NADU:

1. There will be a complete ban on felling of trees in all forest areas'. This will however not apply to:-

- (a) trees which have been planted and grown, and are not of spontaneous growth, and
- (b) are in areas which were not forests earlier, but were cleared for any reason.

2. The State Government, within four weeks from today, is to constitute a committee for identifying all "forests".

3. Those tribals who are part of the social forestry programme in respect of patta lands, other than forests, may continue to grow and cut according to the Government Scheme provided that they grow and cut trees in accordance with the law applicable.

4. In so far as the plantations (tea, coffee, cardamom etc.) are concerned, it is directed as under:

a) The felling of shade trees in these plantations will be -

- i) limited to trees which have been planted, and not those which have grown spontaneously;
- ii) limited to the species identified in the TANTEA report;
- iii) in accordance with the recommendations of (including to the extent recommended by) TANTEA; and
- iv) under the supervision of the statutory committee constituted by the State Government.

b) In so far as the fuel trees planted by the plantations for fuel wood outside the forest area are concerned, the State Government is directed to obtain within four weeks, a report from TANTEA as was done in the case of Shade trees,

and the further action for felling them will be as per that report. Meanwhile, eucalyptus and wattle trees in such area may be felled by them for their own use as permitted by the statutory committee.

c) the State Government is directed to ascertain and identify those areas of the plantation which are a "forest" and are not in active use as a plantation. No felling of any trees is however to be permitted in these areas, and sub-para (b) and (c) above will not apply to such areas.

d) There will be no further expansion of the plantations in a manner so as to involve encroachment upon (by way of clearing or otherwise) of "forests".

5. As far as the trees already cut, prior to the interim order of this court dated December 11, 1995 are concerned, the same may be permitted to be removed provided they were not so felled from Janmam land. The State Government would verify these trees and mark them suitably to ensure that this order is duly complied with. For the present, this is being permitted as a one time measure.

6. Insofar as felling of any trees in Janmam lands is concerned (whether in plantations or otherwise), the ban on felling will operate subject to any order made in the Civil Appeal Nos. 367 to 375 of 1977 in C.A. Nos. 1344-45 of 1976. After the order is made in those Civil Appeals on the I.As. pending therein, if necessary, this aspect may be re-examined.

7. This order is to operate and to be implemented, notwithstanding any order at variance, made or which may be made by any Government or any authority, tribunal or court, including the High Court.

The earlier orders made in these matters shall be read, modified wherever necessary to this extent. This order is to continue, until further orders. This order will operate and be complied with by all concerned, notwithstanding any order at variance, made or which may be made hereafter, by any authority, including the Central or any State Government or any court (including High Court) or Tribunal.

We also direct that notwithstanding the closure of any saw mills or other wood-based industry pursuant to this order, the workers employed in such units will continue to be paid their full emoluments due and shall not be retrenched or removed from service for this reason.

We are informed that the Railway authorities are still using wooden sleepers for laying tracks. The Ministry of Railways will file an affidavit giving full particulars in this regard including the extent of wood consumed by them, the source of supply of wood, and the steps taken by them to find alternatives to the use of wood.

I.A. Nos. 7,9,10,11,12,13 and 14 in Writ Petition (Civil) No. 202 of 1995 and I.A. Nos. 1,3,4,5,6,7,8 & 10 in Writ Petition (Civil) No. 171 of 1996 are disposed of, accordingly.

List the matter on February 25, 1997 as part-heard for further hearing.