

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,

SOURTHERN ZONE, CHENNAI

ORIGINAL APPLICATION No.158/2021

SUO MOTU Based on the
News item published in the New Indian Express
Newspaper, Chennai Edition , dated 18.06.2021,
Under the caption "TS:3K trees risk being axed for road
Widening project.

.. Applicant

-Vs-

1. Union of India,
Rep by its Secretary,
Ministry of Environment and Forests and climate Change,
Jorbagh Road , New Delhi- 110003.
2. Ministry Road Transport and Highways,
Rep. by its Secretary,
Room No.509, Transport Bhawan,
1, parliament, New Delhi-110001.
3. The Chief Secretary to Govt. of Telangana,
Govt . Secretariat, Tank bund,
Hyderabad , Telangana-500022.
4. The Principal Secretary to Govt. of Telangana,
Department of Environment, forests, Science&Techonology,
Govt . Secretariat, Tank bund,
Hyderabad , Telangana-500022.
5. The Chief Secretary& Spl. Chief Secretary to
Govt . of Telangana,
Deparment of revenue,
Govt . Secretariat, Tank bund,
Hyderabad , Telangana-500022.
6. Principal Chief conservator of forests(HOFF),
Telangana Forest Department,
Room No. 505, Aranya Bhavan, Saifaba,
Hyderabad , Telangana-500022.
7. The District Forest Officer ,
Nirmal District,
District Collectorate,
Nirmal-504106.

.... Respondents

R. Sobha

Principal Chief Conservator of Forests
(Head of Forest Force)
Telangana, Hyderabad.

REPLY AFFIDAVIT FILED 6TH RESPONDENT

I, Smt. R. Sobha, W/o R. Sundarvadan aged 59 years, Designation Prl. Chief Conservator of Forests (Head of Forest Force), Aranya Bhavan, Saifabad, Hyderabad do hereby solemnly and sincerely states as follows:-

1. I am the 6th respondent herein and I am filing this reply affidavit on behalf of 3rd and 4th respondent herein and I am well acquainted with the facts of the case.
2. I submit that the Kawal Tiger Reserve is notified under section 38 of Wildlife (Protection) Act, 1972 vide G.O.Ms.No.27, EFT&T (For.II) Department, 10.04.2012 and the State Gazette No.216, Dt.12.04.2012 (**Enclosed as Annexure-A**). The area proposed for diversion is not falling in the Kawal Tiger Reserve but falling in the eco-sensitive zone of the Kawal Tiger Reserve. The eco-sensitive zone of the Kawal Tiger Reserve is not notified, hence, the default distance of 10 km from the periphery of the Kawal Tiger Reserve is taken as eco-sensitive zone as per the guidelines issued by the Ministry of Environment, Forests and Climate Change in F.No.1-0/2007, WL-1(pt), 09.02.2011 and amendments issued therein.
3. I submit that the proposed road is falling in Mamda, Dimmadurthy and Maskapur Reserved Forests. The proposed road widening by Ministry of Roads Transport & Highways, Hyderabad falling in the eco-sensitive zone of Kawal Tiger Reserve, Nirmal, Telangana State, the number of trees to be cut in the forest area proposed for diversion is 2875 and number of trees to be cut outside forest area is 2366, totaling to 5241. Out of these, 131 trees inside the forest area and 99 trees outside the forest area, totaling to 230 trees are proposed for relocation. So far not a single tree has been felled.
4. I submit that 3788 trees are existing in Nirmal Division and 1453 trees are existing in Khanapur Division, including forest and non-forest land.
5. I submit that proposals does not require the Environmental Clearance under Environment (Protection) Act, 1986. As per the Environment Impact Assessment

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Telangana, Hyderabad.**

Notifications issued by Ministry of Environment, Forests and Climate Change Ministry of Environment, Forests and Climate Change, since 2006 and amendments issued in Central Gazette S.O.No.2559(E), Dt.22.08.2013 (enclosed as Annexure-B), the Expansion of National High ways greater than 100 km involving additional right of way or land acquisition greater than 40m on existing alignment and 60 m on re-alignment or bypasses require environment clearance. The present proposal is for a width of maximum 30 m.

6. I submit that the Chief Conservator of Forests/ Field Director, Project Tiger, Kawal Tiger Reserve, Nirmal has taken into consideration all the aspects and accordingly the mitigation measures are proposed to obviate the impact. The Regional Empowered Committee has considered these aspects and recommended the proposals subject to conditions and the Stage I (in - principle) approval has been accorded by Regional Officer, Hyderabad.

7. I submit that the details of the proposals are as hereunder:

i. **Details of the Proposals submitted by the National Highways**

(Enclosed as Annexure I):

- a) The Regional Officer, Ministry of Roads Transport & Highways, Hyderabad (User Agency) vide Lr.No.RW/HYD/JB-56/NH(O)/Cor, dated 08-03-2021 has submitted the proposal in F(C)Act, 1980 format for diversion of 17.498 ha of forest land (12.840 ha of Nirmal Division and 4.658 ha of Khanapur Division), duly justifying that there is no alternative road and uploaded the proposal in the Ministry's website with Unique No. FP/TG/ROAD/126851/2021.
- b) out of the 7.739 km of road passing through RF, an extent of 3.926 km is passing through the middle of the RF where diversion is required on both sides of the existing road and for remaining 3.812 km diversion is required only on one side as the other side of the road is Revenue / Government land.

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- c) The Cost-Benefit Analysis is not required as the forest area for diversion is less than 20.00 ha as per guidelines issued by the MoEF& CC GOI, New Delhi.
- d) The environmental clearance under Environment (Protection) Act, 1986 is not required.
- e) The User Agency has also enclosed necessary maps showing the forest land proposed for diversion, undertakings and certificates.
- ii. **Details of Processing of the Proposals by the State Forest Department:**
- a) The proposals have been forwarded to forest officers vide PCCF's Rc.No.816/2021/FCA-1, dated 12.03.2021 for processing under Forest (Conservation) Act,1980, Forest (Conservation) Rules,2003/2014/2017, guidelines, clarifications & amendments issued therein by MoEF & CC, GOI.
- b) the Chief Conservator of Forests / Field Director Project Tiger , Kawal Tiger Reserve, Nirmal has furnished the processed proposals vide his Rc.No. 3326/2021/D1 Dated 30.04.2021, with due recommendations in Part II and Part III alongwith the inspection notes and other mandatory enclosures. the District Forest Officer, Kumurambheem – Asifabad District, vide his Rc.No.873/2021/S4 dated 19-04-2021, has submitted the Compensatory Afforestation Scheme for 35.00 ha over Degraded Forest Land –in Kaghaznagar division of Kumurambheem – Asifabad District for raising with 10 years of maintenance.
- c) in the inspection reports, recommendations in Part II and Part III and covering letters, the Forest Divisional Officers, Nirmal & Khanapur, District Forest Officer, Nirmal; Chief Conservator of Forests/ Field Director Project Tiger, Kawal Tiger Reserve, Nirmal have reported that:

Forest Divisional Officer, Nirmal report (Enclosed as Annexure II)

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1. The length of proposed road passing in forest area is 4633.93 Meters, width is varying and is falling Mamda Reserved Forest (RF) & Dimmadurthy RF.
2. The density of vegetation is 0.5, number of trees existing in the alignment of the road inside the forest is 2106, the area proposed for diversion is not vulnerable for erosion.
3. The proposed area for diversion falls under the Eco-Sensitive zone area of Kawal Tiger Reserve. There is movement of tiger and other wildlife in the area.
4. The User Agency has not done work in Forest Areas proposed for diversion, but the User Agency has started the work in Non- Forest Area which falls under Eco Sensitive Zone. Hence, the Forest Divisional Officer, Nirmal has issued Notice to the User Agency vide Rc.No.937/2020/S5 dated 07.01.2021 & 08.02.2021 to stop the work as the area is falling eco-sensitive zone of Kawal Tiger Reserve till the clearance of Forest Area under Forest (Conservation) Act, 1980 is granted. The work was stopped by User Agency.
5. As against 12.840 ha proposed by user agency, the Forest Divisional Officer, Nirmal has restricted the area for diversion by reducing the width of the road to an extent of 9.038 ha only, with following conditions:
 - a) (05) No's of Animal passages of minimum width of 30.00 meters & 2.75 meters height as per the specifications, guidelines designs and norms for construction of under passage of specified by the MoEF& CC, Gol, New Delhi and Wildlife Institute of India (WII), Dehradun shall be formed by the User Agency for crossing of animals preventing disturbance and road kills.
 - b) The chain link fencing shall be placed on either side of the passage of both side of road to a length of 100. m in a funnel model for diverting of Wildlife towards animal pass to cross the road.
 - c) The User agency shall deposit funds for wildlife habitat improvement, monitoring and protection as per the wildlife mitigation plan for a financial outlay of Rs.174.1 Lakhs for a period of (3) years from 2021-22 to 2023-24.

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Forest Divisional Officer, Khanapur report (enclosed as Annexure III)

1. The length of proposed road passing in forest area is 3105.19 Meters, width is divided in random as required and the total extent of areas is 4.907 ha which is falling in Maskapur RF Block.
2. The density of vegetation is 0.5, the number of trees present in the proposed project at Khanapur division is 948, the area proposed for diversion is not vulnerable for erosion.
3. The said proposed area for diversion falls under the Eco-Sensitive zone area of Kawal Tiger Reserve. There is movement of tiger and other wildlife in the area.
4. No work in violation of Forest (Conservation) Act, 1980 has been carried out.
5. The total length of the road length is 3105.19 meters and the width is varying from 15.00 to 20.00 meters, on one side of road, which comes to 4.907 Ha and recommended with following mitigation measures:
 - (a) (02) No.'s of Animal passages of width minimum 30.00 m width and 2.75 m height as per the specific guidelines designs and norms for construction of under passage as specified by the MoEF & CC, Gol, New Delhi and WII, Deharadun shall be formed by the User Agency for easy crossing of animals preventing disturbance and road kills.
 - (b) The chain link fencing shall be erected on either side of the passages on both sides of road to a length of 100 meters in a funnel model for diverting the wildlife toward animal passage to cross the road.
 - (c) The User agency shall deposit funds for wildlife habitat improvement, monitoring and protection as per the wildlife mitigative plan for a financial outlay of Rs.114.521 Lakhs for a period of (3) years from 2021-22 to 2023-24.

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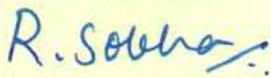
Principal Chief Conservator of Forests
(Head of Forest Force)
Telangana, Hyderabad.

8. Chief Conservator of Forests/ Field Director Project Tiger, Kawal Tiger Reserve, Nirmal Report (enclosed as Annexure IV)

The Chief Conservator of Forests / Field Director, Project Tiger, Kawal Tiger Reserve, Nirmal has agreed with the remarks of the Forest Divisional Officers, Nirmal and Khanapur and their recommendations and has also recommended the proposal for diversion of 13.945 Ha (9.038 Ha in Nirmal division and 4.907 Ha in Khanapur division) in faovur of MoRTH Hyderabad subject to following conditions:

- a) Formation of Wildlife passages as proposed by the Forest Divisional Officers, Khanapur and Nirmal as specified by the MoEF& CC and WII.
- b) All other conditions proposed by the Forest Divisional Officers, Khanapur and Nirmal.
- c) The User Agency shall camouflage the underpass with local species.
- d) The User Agency shall clear all the debris at the under pass and surroundings area immediately after the work completions and also periodically every 04 months.
- e) Animal crossing and speed limit signs of 30 KMPH in forest areas shall be erected.
- f) The speed control structures such as Rumble strips as is done in NH shall be placed at every 01 Km of road passing through Forest.
- g) Kindling of any fire in forest shall not be allowed and work of upgradation shall be done between 7AM to 4 PM only.
- h) The user Agency shall deposit funds for wildlife habitat improvement, monitoring and protection as per the wildlife Mitigation plan enclosed.
- i) The User Agency shall raise multiple row avenue plantation as per NH model on either side of the road to the extent of double the number of trees felled.

9. RoFR Act certificate: The User Agency has obtained the Recognition of forest Right certificate from the Collector and District Magistrate, Nirmal vide No.E/NH61/2021 dated 01.06.2021.


Principal Chief Conservator of Forests
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Telangana, Hyderabad.

10. Information on Compensatory Afforestation:

Under the Special provisions for the projects implemented by the Central Government granted in para-2.5(i)(f) of handbook of under F(C) Act, 1980, F(C) Rules, 2003, (amendments and clarifications), and amendments issued therein, the CA shall be raised and maintained at the cost of the User Agency on degraded forest land twice in extent of the forest area diverted. Accordingly, CA has been proposed over degraded forest land for an financial outlay of Rs. 230.710 Lakhs

11. Recommendations of the Principal Chief Conservator of Forests (Head of Forest Force) in Part IV

In view of the recommendations made by the Chief Conservator of Forests/ Field Director, Project Tiger, Kawal Tiger Reserve, Nirmal, the statutory proposal along with necessary enclosures with due recommendations in Part-IV has been submitted to the State Government and for onward transmission to the Gol, MoEF & CC, IRO, Hyderabad vide PCCF's Rc.No.816/2021/FCA1, Dt.28.05.2021

12. Recommendations of the State Government in Part V

The State Government has forwarded the proposal to the Government of India, Ministry of Environment Forests & Climate Change, Integrated Regional Office, Hyderabad vide Lr.No.1897/For.I(1)/2021, EFS&T (For.I) Dept. Dt.11.06.2021 with recommendation in Part V

13. Details of Processing of the Proposals by the Government of India:

1. The proposal has been placed before the Regional Empowered Committee (REC) meeting held through Video conference on 07-07-2021 & 09.08.2021. Regional Empowered Committee has recommended the proposal for issuing of Stage – I approval subject to the conditions applicable to such road projects (enclosed as Annexure V).
2. Accordingly, Stage I (in-principle) approval has been granted vide F.No.4-TSB186/2021-HYD/45, Dt.18.08.2021 including the following important conditions (enclosed as Annexure VI):

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- ix. wherever feasible the State Forest Department shall carryout translocation of trees instead of resorting to felling, at the cost of the User Agency;
- x. Required number of Animal Passages with appropriate specifications as per the MoEF and WII guidelines shall be constructed at the cost of the User Agency in consultation with the forest department for easy movement of wildanimals;
- xv. The User Agency shall raise multiple row Avenue Plantations as per NH model on either side of the road to the extent of double the number of trees felled as recommended by the CCF/Field Director, Project Tiger, Kawal Tiger Reserve, Nirmal.
- xvii. The chain-link fencing shall be placed on either side of passage of both side of the road to a length of 100 meters in a funnel mode for diverting of wildlife towards animal pass to cross the roads;
- xix. Animal crossing and speed limit signs of 30 KMPH in forest areas shall be erected;
- xxi. User Agency shall carry out work of up gradation between 7 AM to 5 PM only;
- xxii. Mitigation plan shall be revised to 10 years against the 3 years as proposed by the State Government and raised plan shall be submitted to IRO, Hyderabad along with the compliance report;

Therefore it is humbly prayed that this Hon'ble Tribunal may pass order or such other others as in the interest of the development of the State and asdeemed fit.

R. Sobha

Principal Chief Conservator of Forests
(Head of Forest Force)
Telangana, Hyderabad.

VERIFICATION

I, Smt. R. Sobha, W/o R. Sundarvadan, aged 59 years, Designation Prk. Chief Conservator of Forests (Head of Forest Force), Aranya Bhavan, Saifabad, Hyderabad do hereby solemnly and sincerely states that, the contents stated in the above reply affidavit are true and correct to the best of my knowledge and belief.

R. Sobha

Principal Chief Conservator of Forests
(Head of Forest Force)

Date:
Place: