

भारत सरकार
Government of India
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Ministry of Environment, Forest and Climate Change
राष्ट्रीय व्याघ्र संरक्षण प्राधिकरण
National Tiger Conservation Authority

F. No. 12-4/2020-NTCA

New Delhi, the June 30, 2023

To

The Registrar,
Hon'ble National Green Tribunal,
Southern Zone Bench Chennai.

Sub: Original Application No. 29 of 2020 (SZ) in the matter of M/s Sajimon Salim Vs. Union of India and ors, before the Hon'ble National Green Tribunal, Southern Zone, Chennai -reg.

Sir,

Reference is invited to the subject cited above. Vide judgment dated 14.09.2022 the Hon'ble Tribunal has directed the MoEFCC, Govt. of India to issue directions to the State Govt. of Kerala in case of violations in the aforesaid matter. The matter was examined and discussed in the MoEFCC in a meeting held on 14.03.2023.

2. After discussion and in pursuant to minutes of meeting, this Respondent has sent a letter dated 26.06.2023 (copy enclosed) to the Chief Secretary, Govt. of Kerala to take appropriate action at their end in accordance with the law, keeping in view of the minutes of meeting is enclosed herewith for kind perusal of this Hon'ble Tribunal.

3. In view of the above, it is requested to you kindly produce the same before the Hon'ble Tribunal.

Yours faithfully,

Encl: As Above



हेमंत सिंह / Hemant Singh
सहा० वन महानिरीक्षक (रा.व्या.सं.प्रा.) / Asst. IGF (NTCA)
Email: aig3-ntca@nic.in
Tel. (EPABX): + 91 11 24367837-39
FAX: +91 11 24367836

Copy to:

1. ADG (PT) & MS (NTCA), New Delhi.
2. IGF, NTCA (Hqrs.), New Delhi.
3. IGF, Wildlife Division, MoEFCC.
4. IGF, Regional Office, Bengaluru.



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National Tiger Conservation Authority

F. No. 12-4/2020-NTCA

New Delhi, the June 26, 2023

To

The Chief Secretary,
State Govt. of Kerala
Government Secretariat
Thiruvananthapuram – 695 001

Sub: Original Application No. 29 of 2020 (SZ) in the matter of M/s Sajimon Salim Vs. Union of India and ors, before the Hon'ble National Green Tribunal, Southern Zone, Chennai -reg.

Sir,

Reference is invited to the subject cited above. Vide judgment dated 14.09.2022 the Hon'ble Tribunal has directed the MoEFCC, Govt. of India to issue directions to the State Govt. of Kerala in case of violations in the aforesaid matter. The matter was examined and discussed in the MoEFCC in a meeting held on 14.03.2023.

2. In this context, the undersigned is directed to enclose the copy of minutes for appropriate action at your end in accordance with the law, under intimation to this office.

Yours faithfully,

Encl: As Above

O/C issued
26.06.2023



हेमंत सिंह / Hemant Singh
सहाय वन महानिरीक्षक (रा.व्या.सं.प्रा.) / Asst. IGF (NTCA)
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सहाय वन महानिरीक्षक (रा.व्या.सं.प्रा.) / Asst. IGF (NTCA)

Points for Discussion as per directions of Hon'ble Tribunal in O. A. No. 29 of 2020 titled as Sajimon Salim Vs. Union of India, before the Hon'ble NGT, Southern Zone Bench Chennai (Meeting Held on 14-03-2023 at NTCA Headquarters, New Delhi)

A) Whether it is a permissible activity and if so, whether it can be approved at the State Level and if not, what is the procedure to be followed for post-facto approval, if permissible under law.

The said playground is part and parcel of the Vanchivayal Tribal Settlement and it has been included in the Buffer Area of the Tiger Reserve in the notification of the Govt. of Kerala dated 06.04.2011. The Vanchivayal tribal settlement along with area coming within 400 meters distance from its periphery is included in the buffer zone of Periyar Tiger Reserve.

In the Gazette notification of the Buffer Zone, it has been stated that *“to promote the co- existence between wildlife and human activities with due recognition of the livelihood, developmental, social and cultural rights of local people, the area of Periyar Wildlife Sanctuary kept out of the critical Tiger Habitat is now declared as buffer area to the critical Tiger Habitat”*. This makes it abundantly clear that repair works undertaken in an already existing community gathering place was an activity relating to the traditional and cultural rights of the scheduled tribes.

No permission was required for such activities which relates to the traditional and cultural rights of the tribal communities, but the officials seem to have hurriedly issued the permissions under Forest Rights Act, 2006 in the wake of complaints and media reports.

B) Whether the act committed by the Forest Officials, including the Eco-Development Committee is proper and in accordance with the provisions of the Forest Rights Act, 2006 and Rules framed there under and the guidelines issued by the MoEF&CC.

In the Social Resources Land Use Map of the Village Microplan prepared on 17.03.2006, by the Forest Department, the location is shown as playground (Maidanam). The said ground (Maidanam) is part and parcel of the Vanchivayal Tribal Settlement and it has been included in the Buffer Area of the Tiger Reserve.

Further, Section 3(1) 1 of Forest Rights Act, 2006 states that For the purposes of this Act, the following rights, which secure individual or community tenure or both, shall be the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands, namely:-

"any other traditional right customarily enjoyed by the forest dwelling Scheduled Tribes or other traditional forest dwellers, as the case may be, which are not mentioned in clauses (a) to (k) but excluding the traditional right of hunting or trapping or extracting a part of the body of any species of wild animal"

Since this playground (Maidanam) in question is part and parcel of the Vanchivayal Tribal Colony. For any repair or levelling work, permissions are not required. The permission under Forest Rights Act would have been necessary if fresh clearance of Forest Land was required for developing new facilities. The officials have erred in giving permission for the repair works under Forest Rights Act, which was not required in this case.

C) Whether the repair and formation of the football ground can be treated as a forest right under Section 3 (2) of the Forest Rights Act, 2006.

There is no formation of a Football Ground as alleged. It is a community gathering place where the children of the tribal hamlet have been playing different games here for decades as evident from the historical Google Earth Images. The previously existing playground was levelled and repaired and in the present form, the area of the open area is 0.37 hectares. There was no fresh cutting of trees and there is no construction of any sort was done. As mentioned in Point B above, it is not an activity to be treated as something requiring permission under Forest Rights Act, 2006. The tribals have carried out an activity within their colony which is included in the Buffer Zone of Periyar Tiger Reserve.

D) Whether a football tournament inviting persons other than the tribal people of the settlement can be conducted in the Tiger Reserve area and whether it will have any impact on the wildlife.

Certain activities in Buffer Zone of tiger reserves are governed by the provisions of Wildlife (Protection) Act, 1972. In this instant case, it is the fact that the Vanchivayal Tribal Colony is situated within the boundaries of the Periyar Tiger Reserve but the colony as well as the road to the colony are located in the notified Buffer Zone. Since buffer zones are multiple use areas with an agenda to promote co-existence of wildlife and human along with protecting the traditional and cultural rights of local communities. So the activities carried out by tribes in the form of festivals or football match cannot be viewed in isolation. It has to be viewed in the context of the spirit of the

notification of the buffer zone elaborated in the publication in the Gazette which is reproduced below for convenience.

In the Gazette notification of the Buffer Zone of Periyar Tiger Reserve, it has been stated that “to promote the co-existence between wildlife and human activities with due recognition of the livelihood, developmental, social and cultural rights of local people, the area of Periyar Wildlife Sanctuary kept out of the critical Tiger Habitat is now declared as buffer area to the critical Tiger Habitat”.

E) If any permission is required for that purpose, whether such permissions have been obtained and if not, what is the further action to be taken in this regard.

Permissions are required under provisions of Forest Conservation Act 1980 and Wildlife (Protection) Act, 1972 for activities in tiger reserves. Since in instant matter the said area in question is a common gathering place which has found a mention in all the social resource maps of this tribal colony. Hence, no permission is required for repair of a traditional gathering place cum play ground of a Tribal Colony.

F) Whether the playground is falling under the buffer zone or core area of the Periyar Tiger Reserve and if it is in the core area or in the buffer zone, whether such activities are permissible and if so, what is the procedure to be followed for converting that area as a playground of formal nature by spending amount and levelling the area and whether such a procedure has been followed in this case.

This area in question is falling within the Buffer Zone of the Periyar Tiger Reserve. Moreover, it is a part and parcel of the Vanchivayal Tribal colony. There has not been any conversion of the area to a playground of formal nature. Only the undulating ground was levelled without felling any tree. There was no construction of any sort. No money was spent from the government accounts. The EDC has spent money from their EDC account generated from selling their agricultural produce.

G) If there is irregularities in the procedure followed, how this can be regularized, if it is permissible under the Forest Rights Act, 2006 and Rules framed there under.

There is an Anganwadi present in the tribal colony. It is an activity permitted under Section 3 (2) of Forest Rights Act, 2006. If needed to be fitted in the permitted activities of Forest Rights Act, 2006, it can be sanctioned as a playground for Anganwadi of Vanchivayal Tribal Colony.

H) If there is any violation of grave nature not falling under Section 10 of the Forest Rights Act, 2006, then what is the nature of disciplinary action (if any) to be taken under the department level against the officers who are involved in the same.

The officers have not committed any violation of grave nature here. The work was conducted by the tribes through EDC by spending their own money earned through selling Agricultural produce. The officers attempted to regularize the same when some elements in the society raised complaints of misleading nature. The complainants termed the gathering place of the poor tribals as a ‘Football Stadium’ and projected it as an offence of grave nature carried out in the core area of Periyar Tiger Reserve. With malafide intentions, the complainant did not even mention in his application before the Hon’ble NGT that it was a work carried out in a Tribal Colony. The Hon’ble NGT has taken a serious note of the same in the final judgement and issued a serious warning to the complainant.

The officers may be pardoned and allowed the protection given by Section 10(1) (No suit, prosecution or other legal proceeding shall lie against any officer or other employee of the Central Government or the State Government for anything which is in good faith done or intended to be done by or under this Act) and Section 10 (2) of the Forest Rights Act (No suit or other legal proceeding shall lie against the Central Government or the State Government or any of its officers or other employees for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.)

Welfare of tribal communities is a stated objective of the government and Forest Department. Eco development Committees have been constituted in the tribal settlements of Kerala with this object. Vanchivayal Tribal Settlement is one of the well managed tribal settlements of Kerala in terms of social welfare, involvement of tribal communities in forest protection and community empowerment. It has taken several years of proactive engagement with the tribal communities of Vanchivayal to reach to this stage of social development. This engagement has also maintained a harmonious and peaceful situation in the tribal settlement including the absence of any extremist or anti-social tendencies (which is reported from many other tribal settlements in the state). Heeding to a legitimate demand of the local tribal community i.e., to repair their traditional gathering place and

playground for children (wrongly referred as Football Ground) is not a charity to be bestowed on them by the Department but a moral, social and legal obligation. Hence, from a social perspective, the action taken in issuing orders under the Forest Rights Act, 2006 is justified.