

**BEFORE THE NATIONAL GREEN TRIBUNAL
ESTERN ZONE BENCH, KOLKATA**

Original Application No. 68/2019

IN THE MATTER OF:

CENTRE FOR ENVIRONMENT PROTECTION ... APPLICANT

VERSUS

UNION OF INDIA & ORS.

... RESPONDENTS

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Next date of hearing: 03.10.2024

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Place: New Delhi

Date: 27.08.2024

Anando Mukherjee

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**IN THE NATIONAL GREEN TRIBUNAL,
EASTERN ZONE BENCH
ORIGINAL APPLICATION NO. 68 OF 2019**

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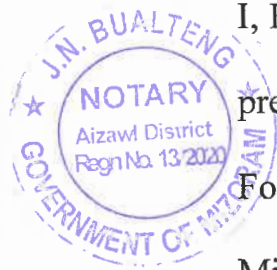
VERSUS

UNION OF INDIA & ORS ...RESPONDENTS

**COUNTER AFFIDAVIT ON BEHALF STATE OF MIZORAM TO
THE ADDITIONAL AFFIDAVIT DATED 04.03.2024 FILED BY
THE APPLICANT**

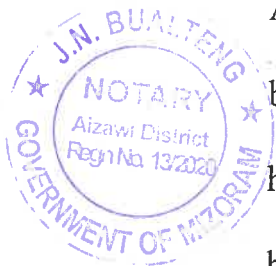
I, H. LALENGMAWIA S/o LALTHANGLIANA(L), aged about 59 years, presently holding the position of Commissioner & Secretary, Environment, Forests & Climate Change Department, having his office address at Mizoram Secretariat, New Capital Complex, do hereby solemnly affirm and state on oath as follows:-

1. That at present, I am posted and working as, Commissioner & Secretary, Environment, Forests & Climate Change Department and as such, in my official capacity, am well acquainted with the facts and circumstances of the present case.
2. That I have gone through the above mentioned Additional Affidavit dated 04.03.2024 and having gone through the same, I state that I am fully



competent to reply to the contents of the same as under. That I have been duly authorized to swear this Counter Affidavit on behalf of State of Mizoram/Answering Respondent herein, and I am filing the same with liberty to raise additional grounds, if it be necessary at all.

3. At the outset, it is categorically submitted that the Additional Affidavit filed by the Applicant so far as it pertains to the Answering Respondent herein, is devoid of any merit and each and every statement, allegation, averment, submissions made by the Applicant in the Additional Affidavit, so far as it relates to the Answering Respondents herein are being denied that is contrary to and/or inconsistent with what is stated herein. All the contentions of the Applicants are denied and nothing may be deemed to be admitted for reasons of non-traverse. Further the Answering Respondents does not admit anything which is not borne out of or are contrary to records.
4. That the deponent will traverse the allegations/contentions raised by the Respondent No. 3 under the broad headings of the issues and disputes to be settled before this Hon'ble Tribunal. The deponent will refer to the relevant paras of the Counter Affidavit under those broad headings, wherever the same may be necessary. However, non response /or



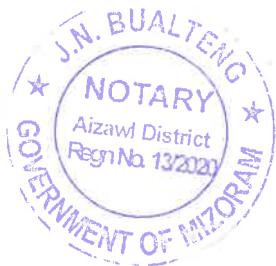


traversal of any averment would not be deemed those averments to be admitted.

5. Before averting to the issues raised by the Applicant, the Deponent would like to place the following brief background for the consideration of this Hon'ble Tribunal:-

A. BRIEF BACKGROUND OF THE CASE:

- (i) At the outset, it is stated that the Answering Respondent recognizes that the Forest is an integral part of the ecosystem and essential for the survival of human and other living organisms, and the State of Mizoram has taken active steps to preserve the forest areas. It is stated that under the Mizoram District (Forest) Act, 1955, a preliminary notification dated 16.04.1956 was published, declaring lands half a mile on either side of 16 major rivers were notified as "Riverine Reserve Forests" (RRF) and forests within half a mile on either side of Aizawl- Silchar Road via Sairang but excluding the land within 100 feet or 30 metres on both sides of the road was notified were notified as "Roadside Reserve Forests". Pursuant to the preliminary notification the final notification was published on 28.01.1965 ["**1965 notification**"] in terms of Section 14, read with Section 21 of the Mizoram District (Forest) Act, 1955.

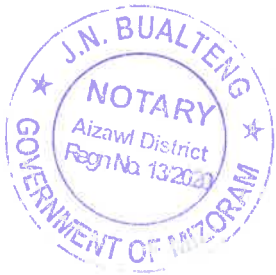




A true and correct copy of the notification dated 16.04.1956 is annexed herewith and marked as **Annexure R-1**.

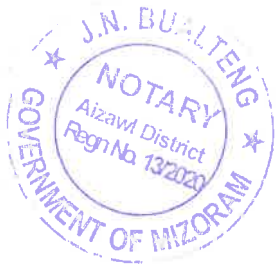
A true and correct copy of the notification dated 28.01.1965 is annexed herewith and marked as **Annexure R-2**.

- (ii) It is stated that the Forest Conservation Act, 1980 was promulgated in 1980 which provided for protection to forests by forbidding any non forest work without the prior permission of the Central Government. However, It is stated that during this period, i.e. from 1965 to 1980 many land passes were issue within the Tuirial Riverine Reserve Forest (“RRF) by the then Assistant Settlement Officer, without the prior approval of the State of Mizoram.
- (iii) It is stated that post the notification of the Forest area as per the 1965 notification, the Hon’ble Supreme Court passed its judgment in *T.N. Godavarman v. Union of India (1997) 2 SCC 267*. As per the directions of the Hon’ble Supreme Court in the said judgment, the State of Mizoram had constituted an Expert Committee vide notification dated 24.01.1997 and as such constitute an Expert Committee. It is stated that the Expert Committee prepared a report in which all areas described under the 1965 notification was included and described as “Forests” and the same was filed before the Hon’ble Supreme Court vide an affidavit dated 22.02.1997. It is relevant to mention that apart from





providing for the total forest area of the State of Mizoram, a status report had been filed by the State of Mizoram wherein the issue of the Riverine Forest had been raised before the Hon'ble Supreme Court. The said status report states that *'In "Roadside & Riverine Reserve Forests" notified in the year 1965, Land Settlement certificates to a large number of people have been issued prior to 1980 when Forest Conservation Act, 1980 was enacted. It will not be possible to displace who have occupied the land for years together. Practical solution to this would be to exclude such areas and compensate equivalent area elsewhere as per provision of the Forest Conservation Act, 1980.'*



A true and correct copy of the affidavit dated 22.02.1997 along with the Status report filed by the State of Mizoram is annexed herewith and marked as **Annexure R-3**.

- (iv) As land passes had been issued prior to 1980, without the approval of the Government, vide notification dated 05.08.2016, a decision was made to cancel all such land passes issued. Being aggrieved by the said notification, the land owners filed a writ petitions before the Hon'ble High Court of Gauhati challenging the validity and legality of the Government order dated 05.08.2016 for cancellation of LSCs. Some of these writ petitions also assailed the 1965 notification before the Hon'ble High Court of Gauhati. The Ld. Single Judge of Gauhati High



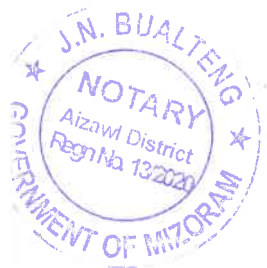
Court vide its order dated 27.01.2021 had set aside and quashed the Order dated 05.08.2016 issued by the Chief Secretary, Mizoram for cancellation of passes inside RRF an also set aside and quashed the 1965 notification.

A true and correct copy of the judgment and order dated 27.01.2021 passed in WP(C) 130 of 2013 and its connected matters is annexed herewith and marked as **Annexure R-4**.

- (v) It is stated that in light of the judgment and order dated 27.01.2021, the General Administration Department, Government of Mizoram issued a notification dated 14.04.2021, declaring the said rivers with its banks upto 800 meters from the middle of the river of both sides of the river as “Restricted Area”.

A true and correct copy of the Notification No. B 11 011/1/2021- GAD dated 14.04.2021 is annexed herewith and marked as **Annexure R-5**.

- (vi) It is stated that the Government of Mizoram filed the Writ Appeal No. 8 of 2021 for challenging the common judgment and order dated 27.01.2021 before the Hon’ble Division Bench of the Gauhati High Court. Vide its order dated 18.07.2022 the Hon’ble Division Bench of the Hon’ble High Court was pleased to stay the operation of the common judgment and order dated 27.01.2021 passed by the Ld. Single Judge of the Hon’ble High Court of Gauhati. PCCF had submitted its





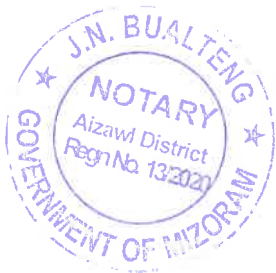
observation to the Principal Secretary to the Government of Mizoram vide Letter No. C. 18013/62/2014-LEGAL/PCCF/486 dated 12.07.2021.

(vii) Subsequently, the State of Mizoram prayed for withdrawal of Writ Civil Appeal No. 8 of 2021 and the same was allowed by the Hon'ble Guwahati High Court vide its order dated 09.11.2022.

A true and correct copy of the order dated 09.11.2022 passed by the Hon'ble High Court of Gauhati is annexed herewith and marked as **Annexure R-6.**

(viii) Thereafter, it is stated that the Applicant herein also challenged the Common judgment and order dated 27.01.2021 in Writ Appeal No. 274 of 2022 before the Hon'ble High Court of Gauhati. It is stated that the Division bench of the Hon'ble High Court stayed the operation of the impugned common judgment and order dated 27.01.2021 passed by the Ld. Single Judge, vide its order dated 17.01.2023. It is relevant to mention that the PCCF had furnished its comments vide letter no. 18013/89/2017- LEGAL/PCCF, dt 09.12.2022.

(ix) In the meanwhile, the Answering Respondent passed the Mizoram (Protection of Rivers) Act, 2023 to provide for the protection, conservation, rejuvenation and improvement of rivers and the catchment area.





A true and correct copy of the Mizoram (Protection of Rivers) Act, 2023 is annexed herewith and marked as **Annexure R-7**.

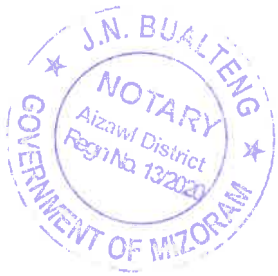
- (x) Upon the same being promulgated, the Applicant herein sought withdrawal of the Writ Appeal No. 274 of 2022 on the ground that the said act is also sought to be challenged by the Applicant and to bring the same on record before the Hon'ble High Court. The Hon'ble High Court of Gauhati was pleased to allow the Applicant to withdraw the said writ petition vide its order dated 16.10.2023.

A true and correct copy of the order dated 16.10.2023 in WPA No. 274 of 2022 passed by the Hon'ble High Court of Gauhati is annexed herewith and marked as **Annexure R-8**.

- (xi) In light of the above mentioned facts, the additional affidavit dated 14.03.2024 came to be filed before the Hon'ble Tribunal. The issues raised in the additional affidavit are being dealt hereinbelow under their respective headings:-

B. ACTION BY THE STATE OF MIZORAM AGAINST THE ORDER DATED 27.01.2021 PASSED BY THE HON'BLE HIGH COURT OF GUWAHATI

- (i) It has been alleged that the State of Mizoram/Answering Respondent has not taken any steps against the order dated 27.01.2021, and instead of challenging the judgment, solution is being sought by way of





executive and legislative action by making new acts and rules, specifically the Mizoram (Protection of Rivers) Act, 2023, causing the challenge to the said order rendered infructuous. It is stated that the Applicant withdrew its appeal bearing number WPA (C) No 274 of 2022 due to the promulgation of the above-mentioned act on the ground that it sought to file a fresh petition to challenge the said act. To the knowledge of the Answering Respondent no such challenge has been made till date to the Mizoram (Protection of Rivers) Act, 2023.



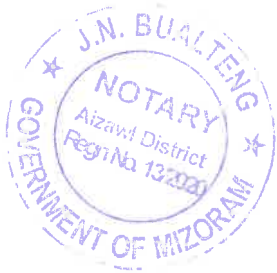
(ii) However, it is pertinent to mention that the State of Mizoram had preferred an appeal before the Hon'ble Division Bench of the Gauhati High Court, vide Writ Appeal No. 08 of 2021 against the judgment and order dated 27.01.2021 passed by the Ld. Single Judge of the Gauhati High Court. It is stated that the appeal was filed pursuant to the reasons provided by the Office of the Principal Chief Conservator of Forests vide email dated 12.07.2021, salient features of which are reproduced hereinbelow:-

- a) That pursuant to the judgment dated 12.12.1996 of the Hon'ble Supreme Court in *TN Godavarman v Union of India & Ors*, an expert committee was constituted by the State Government to identify the then forest areas. Subsequently, the said committee filed an affidavit before the Hon'ble Supreme Court mentioning the

details of the forest areas in Mizoram. Therefore, unless the affidavit is modified with the approval of the Hon'ble Supreme Court, the Riverine Reserved Forests and Road Side Reserved Forests may continue as forests and as such, it may be difficult to implement the order of 27.01.2021 of the Hon'ble High Court.

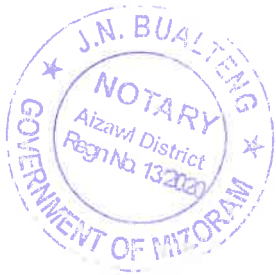
- b) Implementation of the order of the Hon'ble High Court will involve reduction in area of Notified Forest by 1929.7 sq km which is quite significant and therefore requisite permissions would be required from the Government of India for the implementation of the order of the Hon'ble Guwahati High Court dated 27.01.2021.
- c) Further, officers were of the view that the Hon'ble High Court had only quashed the final notification dated 28.01.1965, however, the preliminary notification dated 16.04.1956 still stands, therefore, the status of RRF may continue to remain as forest in view of the order dated 12.12.1996 in *T.N. Godavarman case*.

A true and correct copy of the Letter dated 12.07.2021 issued by the Office of the Principal Chief Conservator of Forests, Environment Forest & Climate Change Department is annexed herewith and marked as **Annexure R-9**.



(iii) Thereafter, the said appeal had been withdrawn from the Hon'ble High Court of Gauhati vide order dated 08.12.2021 of the Hon'ble High Court.

(iv) It is stated that thereafter the Applicant herein challenged the Ld. Single Judge's order dated 27.01.2021, vide WA No. 274 of 2022 before the Hon'ble Division Bench of the Gauhati High Court. In this regard, the Answering Respondent also issued para-wise comments in support of the said writ appeal, reiterating the contentions as mentioned in the letter dated 12.07.2021 above, in support of the appeal filed by the Applicant. The Answering Respondent further raised the following important issues in addition to the reasons mentioned above:-



a) The Ld. Single Judge of Gauhati High Court discussed only the Final Notification of the Riverine Forest, as the petitioners before it were Pass holders whose lands were in the Tuirial Forest Reserve. However, by striking down the 1965 notification in its entirety, the Ld. Single Judge has also set aside the notification's applicability on Roadside Reserved Forest.

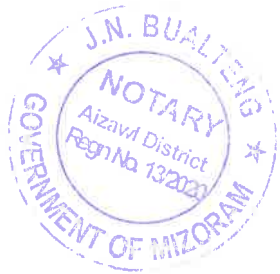
b) Further, the Hon'ble Gauhati High Court, (Principal bench) in WA No. 39 of 2019 *Lianhmingthangi & 5 Ors v. State of Mizoram & Ors.* had denied the rights of the Petitioners who were encroaching on a Roadside Reserve Forest vide order dated 24.11.2021, by

holding that *“the land is forest land and the appellants/writ petitioners do not have any right over forest land. In case appellants/writ petitioners claim rights on land on the basis of their title or possession or claim any other rights.”*

A true and correct copy of letter dated 09.12.2022 issued by the Office of the Principal Chief Conservator of Forests Environment, Forests and Climate Change Department forwarding the parawise comments is annexed herewith and marked as **Annexure R-10**.

- (v) However, it is stated that Applicant herein withdrew the said appeal by way of filing an interlocutory application bearing IA No. 3177 of 2023, allegedly on the ground that promulgation of Mizoram (Protection of Rivers) Act, 2023 has caused the said appeal to become infructuous and hence sought liberty to file a fresh appeal before the Hon’ble High Court of Gauhati challenging the vires of the said act. The Hon’ble High Court of Gauhati had allowed the withdrawal of the said appeal vide its order dated 16.10.2023, despite the same being vehemently opposed by the Counsel appearing for the State of Mizoram.

- (vi) It is stated pursuant to the withdrawal of the above mentioned appeal by the Applicant, several land owners have approached the Executing Court for execution of award in accordance with the procedure prescribed in the Land Acquisition Act, 1984 for payment of

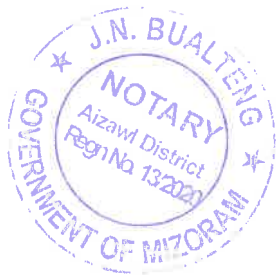


compensation in connection with Tuirial Hydro Electric Project while some land owners have filed Civil Revision Petition before the Hon'ble High Court of Gauhati. Therefore, the Council of Ministers in its meeting held on 18.06.2024 have taken a decision to challenge the order dated 27.01.2021 passed in WP(C) No. 130 of 2013 and its connected matters.

A true and correct copy of the relevant portion of the Minutes of the meeting of the Council of Ministers dated 18.06.2024 along with the agenda note is annexed herewith and marked as **Annexure R-11**.

(vii) However, irrespective of the decision above, it is respectfully submitted that the promulgation of Mizoram (Protection of Rivers) Act, 2023 does not substitute the 1965 notification or causes any reduction in the coverage of forest area in the State of Mizoram. It is stated that the said act is supplementary and in addition to the protection envisaged to Forest Areas as per the Mizoram (Forest Protection) Act, 1955 and the Forest Conservation Act, 1980. The same is elaborated further in the salient features of the of the Mizoram (Protection of Rivers) Act, 2023 which would be addressed in the heading below.

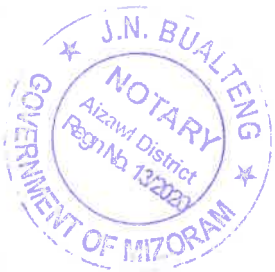
(viii) It is also pertinent to mention that one Mrs. Pi Vanramchhuangi had filed an Interlocutory Application bearing IA No. 66542, 66546 and 66548 of 2024 in WP(C) 202 of 1995 before the Hon'ble Supreme



Court, highlighting the issue that has been faced in the State of Mizoram due to the order dated 27.01.2021 passed by the Hon'ble High Court of Guwahati. It is stated that pursuant to the submission by the State of Mizoram that the effects of the judgment of the Ld. Single Judge of the High Court of Guwahati at Aizwal Bench dated 27.01.2021 has very wide ramifications in as much as the notification under Section 15 of the Mizo Forest Act, 1955, which declares half a mile as reserved forest on either side of 16 rivers would be annulled, the Hon'ble Supreme Court was pleased to stay the effect of the judgment of the High Court vide its order dated 24.07.2024. Further, it is stated that in the affidavit dated 23.07.2024 filed before the Hon'ble Supreme Court by the State of Mizoram, the decision of the Council of Ministers in the meeting dated 18.06.2024 to file an appeal against the order dated 27.01.2021 has been brought on record before the Hon'ble Supreme Court.

A true and correct copy of the order dated 24.07.2024 passed by the Hon'ble Supreme Court in WP(C) 202 of 1995 is annexed herewith and marked as **Annexure R-12**.

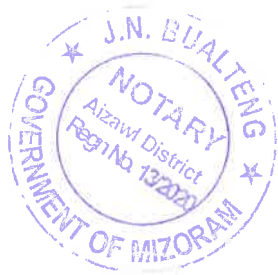
- (ix) It is relevant to mention that the matter had been listed for hearing on 21.08.2024, wherein the State was granted time to file an affidavit in response to the averments made by National Highways and



Infrastructure Development Corporation (NHIDCL) in their counter affidavit and accordingly the matter has been listed for 18.09.2024.

A true and correct copy of the order dated 21.08.2024 passed by the Hon'ble Supreme Court in WP(C) 202 of 1995 is annexed herewith and marked as **Annexure R-13**.

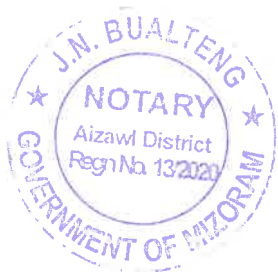
C. THE MIZORAM (PROTECTION OF RIVERS) ACT, 2023 DOES NOT SUBSTITUTE THE 1965 NOTIFICATION BUT MERELY SUPPLEMENTS IT IN LIGHT OF THE JUDGMENT DATED 27.01.2021 PASSED BY THE HON'BLE HIGH COURT OF GUWAHATI



- (i) It is stated that the Applicant has stated that the State of Mizoram has notified the Mizoram (Protection of Rivers) Act, 2023, to substitute the 1965 notification. This is particularly relevant because of the fact that while the notification dated 28.01.1965 stood quashed by the judgment and order dated 27.01.2021 of the Hon'ble High Court, it is stated that the preliminary notification dated 28.01.1956 still stands as the said notification 16.04.1965 has merely been quashed due to procedure lapse. As the notification dated 16.04.1956 stands therefore, the status lands notified as RRF would continue to remain as forest land, in light of the judgment of the Hon'ble Supreme Court dated 12.12.1996 in the *TN Godavarman* case. The said judgment has held

that the term “forest land” as mentioned in Section 2 of the Forest (Conservation) Act, 1980 not only includes “Forests” as understood in the dictionary sense, but also any area recorded as forests in the Government record irrespective of the ownership. In light of the same, it is stated that the State of Mizoram cannot bring about any legislation which could substitute the 1965 notification, as the lands notified therein are to be recognized as forest lands as per the judgment of the Hon’ble Supreme Court dated 12.12.1996.

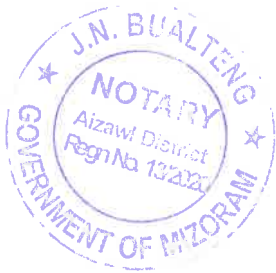
- (ii) In this regard, it is further stated that in order to cover the lacunae caused to protection of the rivers due to setting aside the notification dated 28.01.1965, the State of Mizoram has implemented the Mizoram (Protection of Rivers) Act, 2023. It is stated that Object of the said act is to provide for the protection, conservation, rejuvenation and improvement of rivers and the catchment area.
- (iii) As per the preamble of the said act, it has been recognized that there is a duty on the State and citizens under Article 48-A and Article 51-A(g) to protect, safeguard and improve the environment including forests, rivers and wildlife and on the State to provide clean drinking water to its citizens and therefore, to provide effective protection and conservation of the rivers, their tributaries and the catchment areas for





ensuring sustainable availability of clean drinking water for the State and for maintaining a balanced ecosystem.

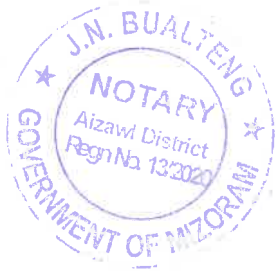
- (iv) It is stated that Section 2(f) defines encroachment, which for the purpose of act, shall mean felling or clearing of trees or any vegetation for any purpose, construction of any building or structure or carrying out any developmental activity within the river conservation zone without prior approval of the State Authority and other competent authority under the relevant laws in force. Further, Section 2(o) defines “river conservation zone” as a zone in the catchment area adjoining the protected river declared and notified as such under Section 8 of the Act.



- (v) Section 3 envisages the constitution of the Mizoram River Protection Authority (“*State Authority*”), comprising of the Chief Secretary of the State as a Chairperson, Secretaries and Heads of Departments of Environment, Forests & Climate Change, Public Health Engineering, Land Resources, Soil & Water Conservation, Irrigation & Water Resources, Fisheries, Land Revenue & Settlement, Agriculture, Horticulture, Urban Development & Poverty Alleviation, Law & Judicial, Local Administration Departments, Planning & Programme Implementation, Rural Development, Finance Department, Municipal Commissioner/ Chief Executive officer of the Urban Local body,

Chairman, Mizoram Pollution Control Board, representative of Local Council, Representative of Village Council Association, Expert in the field of environment/public health/hydrology, Representative of any one registered NGOs involved in environmental/natural resource protection and the Representative of Central Young Mizo Association as Member. It is stated that the Secretary, General administration department has been appointed as the Member Secretary as per the Act. It is stated that as per Section 4 of the Act, the function of the state authority includes advising the government on measures of protection, conservation, maintenance and exploitation of water in the protected river and river conservation zone.

- (vi) It is stated that Section 8 provides for notification in the official gazette, the whole stretch or part of any river and the adjoining catchment areas in the State as Protected River and River Conservation Zone respectively. Further, it is stated that Section 10 provides for the notification of proposal to declare protected river and river conservation zone which include calling for the claims of rights and objections within the proposed river conservation zone but outside the notified reserved forest, indicating the time frame of not less than 60 days for submission of the same and the authority i.e. the State Level Designated Officer, to whom such claim is to be submitted. The

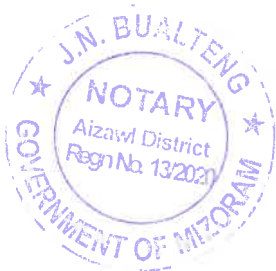


Final notification declaring the protected river and river conservation zone has been notified and declared in Section 14 of the Act.

(vii) It is stated that Section 15 lays down in restrictions in protected rivers and river conservation zone wherein it is stated that there exists restriction to construct, , or undertake any developmental activity or industrial activity or physical works of any kind including obstruction or diversion of the water course or channel, or issue or obtain land pass of any kind in the protected river or river conservation zone that may cause depletion of water or adverse effect or disturbance on the ecosystem, excepting those unavoidable activities or works for which prior approval of the State Authority and other competent authority under the relevant laws shall invariably be obtained

(viii) Further, Section 16 provides for further restriction in the catchment area beyond river conservation zone, wherein it has been stated that the State Government may prohibit (a) the breaking up or clearing of land for cultivation or any other purposes; (b) the setting on fire or clearing the vegetation;(c) extraction of ground water or surface water for commercial purpose (d) disturbance of terrestrial and aquatic life and/or pollution of habitat.

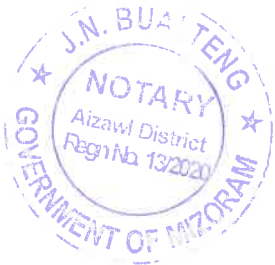
(ix) It is stated that the above mentioned provisions clearly indicate that the act is a comprehensive act with respect to protection of rivers and its



adjacent areas. Furthermore, it is stated that the act keeps in mind the requirement as laid down under the judgment and order dated 12.12.1996 by the Hon'ble Supreme Court, while laying down the compliances and restrictions for the said area. Therefore, it is evident that the said act is in furtherance of the notification of 1965 and 1956 which had notified the riverine and roadside forest areas.

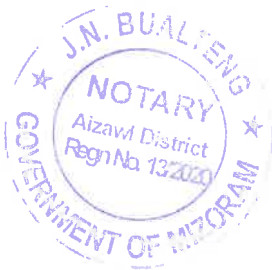
D. ISSUE OF ENCROACHMENT OF THE RIVERINE FOREST AREAS AND NOTIFICATION OF THE CONCERNED AUTHORITIES UNDER THE MIZORAM (PROTECTION OF RIVERS) ACT, 2023

- (x) It is stated that the State of Mizoram has always been looking for ways to resolve the encroachment issues while keeping in mind the preservation and conservation of the forest areas and, this eventually led to the formulation of the Mizoram (Protection of Rivers) Act, 2023. The Government of Mizoram being a welfare state always gives utmost importance to right of life as enshrined under Article 21 of the Constitution of India. It is with an intent to resolve these issues and acknowledging its importance that a meeting was held on 15.01.2024 presided over by the Chief Minister.
- (xi) It is relevant to mention that notification of the concerned nodal authority under the Mizoram (Protection of Rivers) Act, 2023 is still



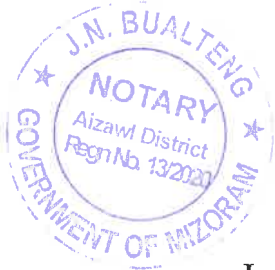
under process and subsequent to which necessary steps shall be taken to carry out the proposed joint verification regarding notified forests and deemed forests identification.

- (xii) It is further stated that the cancellation of land passes inside reserved forest areas could not be proceeded further firstly, due to the challenge to the order dated 27.01.2021 pending before the Division Bench of the Hon'ble High Court. Further with the promulgation of the Mizoram (protection of rivers) Act, 2023, necessary provisions have been provided to call upon the claims of the persons who might be within the notified area, so as to deal with their rights and claims in terms of the law. It is stated that once a consolidated record of forest areas and constitution of expert committees for the purpose of identifying forests is carried out the State of Mizoram will be able to take steps to keep a strict vigilance on the encroachment areas and issues.



6. The Deponent craves liberty of this Hon'ble Tribunal to file any further affidavit/s incase the need so arises during the course of further arguments in the present matter.

7. I state that the statements of facts mentioned herein are all true and correct to my knowledge, based on official records and nothing material has been concealed therefrom and no part of it is false.



DEPONENT

Commissioner & Secretary
EF & CC Department
Govt. of Mizoram

VERIFICATION:-

I, the Deponent above named do hereby solemnly affirm and verify that what is stated in the foregoing affidavit is true to my knowledge and belief based on the records of the case and I believe the same to be true.

VERIFIED AT AIZAWL, MIZORAM, ON THIS 27th DAY OF AUGUST, 2024

Identified by:
[Signature]
27/08/24
(ESTHER LALSIEMMAWI)
ADVOCATE
Enrolment No. - 629 of 2022

Signed before:
[Signature]
27/8/24
J. N. BUALTENG
Advocate & Notary Public
Aizawl : Mizoram

DEPONENT

Commissioner & Secretary
EF & CC Department
Govt. of Mizoram

Notarial Registration
No. 38/8
Date 27/8/24

thu neibna an la ang a, chu mi ni atang chuan
Suarhliap Village Council/Court chu a ding
leh tawh ang.

PUBLICITY NOTES.

Dated Aijal, the 19th April, 1956.

Sd/ Ch. Saprawnga,
Chief Executive Member,
District Council, Mizo District.

DEVELOPMENT,

NOTIFICATION.

Dated Aijal, the 16th April, 1956.

No. E 267/C-rr. In exercise of the powers
conferred under section 14 read with section
21 of the Mizo District (Forest) Act, 1955 (Act
No. IV of 1955), the Executive Committee of
the Mizo District Council is pleased to declare
the following forests as Council Reserved Forests
with effect from 1st March, 1956:—

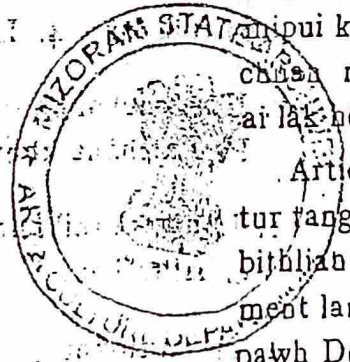
Forests within one mile on either side of
the following navigable rivers:—

- (a) Tlawng (Dhaleswari)
- (b) Tut (Gutur)
- (c) Teirei (Pakua)
- (d) Langkaih (Longai)
- (e) Chemlui
- (f) Serlui
- (g) Tuivai
- (h) Tuivawl
- (i) Tuirini
- (j) Tuirial
- (k) Tuiruang
- (l) Khawthlangtuipui [Karnaphuli]
- (m) Tuichawng
- (n) Kau
- (o) De
- (p) Phairuang.

Ch. Saprawnga,
Chief Executive Member,
District Council, Mizo District.

District Council kutah bian Sorkar-in De-
velopment tangka engemaw zat chui District
Council thawh chhuah turin a pelut thin a.
District Council chuan a tangkaa sem chhuah
emaw, hmanraw lam khawm emaw, a tul ang
angin a lo ti thin a nih Hengvha thawk tur
hian Peon te, C.A. te, Clerk-ts leh botu dang
te pawh nasa takin an tang a, bun tam tak
leh Office Stationery man tam tak a ral thin.
Chu mi awmia chu hnathawktute leh hotute
hlawh leh, senna dangte chu Zo ram chbiah
atanga pek vek ni siin, thil tul tak Develop-
ment hna chu an kep vak tihna a ni.

Hetianga Budget baka Council sum tha-
hнем fe kan lo seng thin a ni, chbiah petu tan
thil rit a tling thei a; tih dan pangngaia Sorkar
sum atanga buaipui man [supervision charge]
Rs. 100/- zela Rs. 12/8/- Council-in a hmuah hi
aipui ko zanna zawk tur a nih avangin Sorkar
chuan mia phalsak ta zawk a ni, mipui chan
ar lak nekna a ni lo ve.



Article 275 [1] (b) anga a ram hmasawwnna
tur tangka Centre atangin kum tin hnuh tur
bitlah sa siam ni phei sela chuan Develop-
ment lama hnathawktute hlawh zawag zawng
pawh Development Grant atang chuan pek tur
a ni hial zawk ang. Development hi thawktu
lovin a awm thei lo va, thawktu hlawh pawh
a tel nghal zawk thin a ni.

Tunah erawh chuan Office hrang hrang
hawwna tham Council kutah a la lut lo va, Coun-
cil bian a buaipui mai chauh a la nih avangin
[buaipui man] supervision charge roo zelah
12/8/- Council-in a dawng chauh a ni zawk.

H. K. Bawichhuaka,
Secretary to the District Council,
Mizo District.

NOTIFICATION

Dated Aijal, the 16th April, 1956

No. E 267/C-II. In exercise of the powers conferred under Section 14 read with Section 21 of the Mizo District (Forest) Act, 1955 (Act No. IV of 1955), the Executive Committee of the Mizo District Council is pleased to declared the following forests as Council Reserved Forests with effect from 1st March, 1956:


Forest within one mile on either side of the following navigable rivers:

- a) Tlawng (Dhaleswari)
- b) Tut (Gutur)
- c) Teirei (Pakua)
- d) Langkaib (Longai)
- e) Chemlui
- f) Serlui
- g) Tuivai
- h) Tuivawl
- i) Tuirini
- j) Tuirial
- k) Tuiruang
- l) Khawthlangtuipui (Karnaphuli)
- m) Tuichawng
- n) Kau
- o) De
- p) Phairuang

Cb. Saprawnga, Chief Executive Member
District Council, Mizo District

Registered No. A-12

AUTONOMOUS DISTRICT COUNCILS
SUPPLEMENT

TO
The Assam  Gazette

PUBLISHED BY AUTHORITY

No. 8 Bhillong, Wednesday, May 19, 1965, 29th Vaisakha
1907 S.E.

Separate paging is given to this Part in order that it may be filed as a separate compilation

The 8th April 1965

No. D.O. XIV-(A)-3/65.—Pursuant to Rule (10) of the United Khasi-Jaintia Hills Autonomous District (Management and Control of Forests Rates of Royalty) Rules, 1949, it is hereby notified for general information that for the year ending 31st March 1966, the royalty on all minor forest produce shall be charged as specified hereunder.

The rate is charged per quintal, a quintal is equal to 100 Kilograms or 2 mounds 27 scores in the old system of measurement.

Minor Forest produce	Rates of royalty in full	
	Rs.	P.
1. Honey (Ngap) 	52	00 per quintal.
2. Tozpatta (Sia Tyrap) 	4	50 " "
3. Wild Pepper (Solmrit Khlaw)	42	50 " "
4. Chalmugra (Solilab)	13	00 " "
5. Lac (Laha) 	6	02 " "
6. Pine Wood (Kach) 	1	00 " "
7. Cassia Bark (Sasia)	10	00 " "
8. Charcoal (Ruga) 	1	66 " "
9. Bees Wax (Bilung)	80	25 " "
10. Rauwalla Serpentina (Sarpanch) 	65	00 " "

25

Minor Forest produce	Rates of royalty in full
	Rs. P.
11. Tupchul	8.00 per quintal
12. Elephant Tusk (Unlat Hatl)	642.00 " "
13. Cinnamomum Pauciflorum Bark (Snep Latyrdop)	4.42 " "
14. Sukund Matara	6.69 " "
15. Broom Stick	0.75 per 100 bundles. Each bundle of 6 to 9 inches circumference.
16. Skin of Sambhar (Snich Sier)	1.25 Each.
17. Skin of Barking Deer (Snich Skei)	0.31 " "
18. Tiger Skin (Snich Kiba)	37.50 " "
19. Leopard Skin (Snich Labasa)	10.65 " "
20. Horn of Sambhar (Reng Sier No.1)	3.50 " "
21. " " " (Reng Sier No.2)	2.25 " "
22. " " Barking Deer (Reng Skei No.1)	1.37 " "
23. " " " " (Reng Skei No.2)	1.31 " "
24. Fodder Grass (Phlang bam jingri)	0.15 per head load — each head load to be of 6 feet in circumference.

Any other minor forest produce will be charged at such rates as will be fixed in consideration of the prevailing market rates.

B. SWER,
for Secy., Executive Committee, United
K.-J. Hills District Council,
Shillong.

The 20th January 1965

In exercise of the powers conferred by Section 14 read with Section 21 of the Mizo District (Forest) Act, 1955, the Mizo District Council is pleased to constitute the following areas at the disposal of Mizo District Council Reserved Forest with effect from the date of notification issued on 16th April 1956 and 16th September 1957.

(i) Forests within half a mile on either side of the following rivers.

- (a) Tinang, (Dulawari).
- (b) Tut, (Gutur).
- (c) Teirei, (Pakwa).
- (d) Langkiah, (Longai).
- (e) Chamlui.
- (f) Serlui.
- (g) Tuivul.
- (h) Tuivawl.
- (i) Tuirini.
- (j) Tuirial.
- (k) Tuiruang.
- (l) Khawhluangtuipul (Karuaphull).
- (m) Tutchawang.
- (n) Kau.
- (o) De.
- (p) Phairuang.

(ii) Forests within half a mile on either side of the following roads, excluding the land within 100 feet or 30 metres on both sides of government roads.

- (1) Aljal Silluar Road Via Sairang.

Chief Executive Member, Mizo
District Council.

AUTONOMOUS DISTRICT COUNCILS SUPPLEMENT

TO

The Assam Gazette

Published by Authority

 No. 8 Shillong, Wednesday, May 19, 1965, 29th Vaisakha 18877 S.E.

 Separate paging is given to this part in order that it may be filed as
a separate compilation

The 8th April, 1965

No. DC. XIV (A)-B/65 - Pursuant to Rule (18) of the United Khasi Jaintia Hills Autonomous District (Management and Control of Forests Rates of Royalty) Rules, 1949. It is hereby notified for general information that for the year ending 31st March 1966, the royalty on all minor forest produces shall be charged as specified hereunder:

The rate is charged per quintal, a quintal is equal to 100 Kilograms or 2 mounds 27 seers in the old system of measurement.

Minor Forest produces	Rates of royal in full Rs. P.	
1. Honey (Ngap)	52.00	Per quintal
2. Tezpatta (Sla Tyrpad)	04.50	-do-
3. Wild Pepper (Sohmrit Khlaw)	42.50	-do-
4. Chalmukgra (Sohlab)	13.00	-do-
5. Lac (Laha)	06.00	-do-
6. Pine Fire Wood (Kseh)	01.00	-do-

7.	Cassia Bark (Rnga)	18.00	-do-
8.	Charcoal (Rnga)	01.66	-do-
9.	Bee Wax (Bthing)	88.25	-do-
10.	Rauwalfia Serpentina (Sarpanch)	65.00	-do-
11.	Tupchini	08.00	-do-
12.	Elephant Tusk (Bmat Hati)	642.00	-do-
13.	Cinnamamum Pauciflorum Bark (Snep Latyrdop)	04.42	-do-
14.	Sukund Matara	06.69	-do-
15.	Broom Stick	0.75	per 100 bundles. Each bundle of 6 to 9 inches circumferences
16.	Skin of Sambhar (Snieh Sier)	1.25	Each
17.	Skin of Barking Deer (Snieh Skei)	0.31	“
18.	Tiger Skin (Snieh Khla)	37.50	“
19.	Leopart Skin (Snieh Labasa)	18.65	“
20.	Horn of Sambhar (Reng Sier No. 1)	3.50	“
21.	Horn of Sambhar (Reng Sier No. 2)	2.25	“
22.	Horn of Sambhar Barking Deer (Reng Sier No. 1)	1.37	“

23. Horn of Sambhar (Reng Skie No. 2)	1.31	“
24. Fodder Grass (Phlang bam jingri)	0.15	Per head load. Each head load to be of 6 ft. in circumference.

Any other minor forest produce will be charged at such rates as will be fixed in consideration of the prevailing market rates.

B. Swer,
For Secretary, Executive Committee
United K – J Hills District Council,
Shillong

THE 28th JANUARY 1965

In exercise of the powers conferred by Section 14 read with Section 21 of the Mizo District (Forest) Act, 1955, the Mizo District Council is pleased to continue the following areas at the disposal of Mizo District Council as Council Reserved Forest with effect from the date of notification issued on 16th April, 1956 and 16th September, 1957.

A.D.C. SUPPLEMENT TO THE ASSAM GAZETTE MAY 19, 1965

- i) Forest within one mile on either side of the following navigable rivers:
- a) Tlawng (Dhaleswari)
 - b) Tut (Gutur)
 - c) Teirei (Pakua)
 - d) Langkaih (Longai).
 - e) Chemlui
 - f) Serlui
 - g) Tuivai
 - h) Tuivawl
 - i) Tuirini
 - j) Tuirial
 - k) Tuiruang
 - l) Khawthlangtuipui (Karnaphuli)
 - m) Tuichawng
 - n) Kau
 - o) De
 - p) Phairuang

- ii) Forest within half a mile on either side of the following roads, but excluding the land within 100 feet or 30 meters on both sides of Government roads.
- 1) Aijal – Silchar Road via Sairang

Chief Executive Member
Mizo District Council

1794

Document filed on 22.2.1997

ANNEXURE - 3

ANNEXUR R-3

ANNEXURE - III
EF & CC DEPT.
LEGAL CELL

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Writ Petition (Civil) NO. 202 OF 1995

IN THE MATTER OF

THIRUMALKPAD

PETITIONER

VERSUS

STATE OF INDIA & OTHERS

RESPONDENTS

STATE REPORT ON BEHALF OF THE GOVERNMENT OF MIZORAM ON THE
FOLLOW UP ACTION TAKEN AS PER INTERIM DIRECTION IN ORDER
DATED 12.12.1996 OF THE HON'BLE SUPREME COURT OF INDIA IN
W.P. PETITION (CIVIL) NO. 202 OF 1995.

(PAPER-BOOK)

(For index kindly see inside)

ADVOCATE FOR THE STATE OF MIZORAM: MRS. HEMANTIKA WAHI

Attested
M. Hemantika

ENVIRONMENT & FOREST
RECEIPT NO. 2858

I N D E X

Sl. No.	Particulars of documents	Page No.
1.	Office order	1 - 2
2.	Summary of Status Report	3 - 3A
3.	Status report	4 - 12
4.	<u>ANNEXURE MZ-1</u> A copy of the Notification No. C. 18014/21/96-FST dt. 24.1.1997.	13
5.	<u>ANNEXURE MZ-2</u> A copy of the report dated 20.2.97 of the Expert Committee on Identification of Forest Area Denuded Forests and Plantation areas in Mizoram.	14 - 26
6.	<u>ANNEXURE MZ-3</u> A copy of the Notification No. C. 18014/21/96-FST dated 24.1.97	27
7.	<u>ANNEXURE MZ-4</u> A copy of the report dated 12.2.97 of the Expert Committee to assess sustainable capacity of the forests for Saw-Mills & timber- based Industry in Mizoram.	28 - 32
8.	<u>ANNEXURE MZ-5</u> A copy of Notification No. C. 18014/21/96-FST dated 24.1.97	34.

M. S. S. S.
Working Plan Officer,
Working Plan Forest Division
Mizoram ; Aizawl

SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
WRIT PETITION (CIVIL) NO. 202 OF 1995

IN THE MATTER OF:

T.N. Godavarman Thirumalkpad Petitioner
Versus
Union of India & Others. Respondents

AFFIDAVIT ON BEHALF OF STATE OF MIZORAM

I, S.R. Mehta, Secretary, Government of Mizoram, Forest & Environment Department and Principal Chief Conservator of Forests, having my office at Aizawl, Mizoram, presently at New Delhi, do hereby solemnly affirm and declare as under:-

1. That I have perused the order of this Hon'ble Court dated 12.12.1996 and relevant records pertaining to this case and being conversant with the facts of the case, am competent to swear this affidavit.

2. That a copy of the interim order was received on 30th December, 1996. To ensure compliance of the directions in the order dated 12.12.1996, a copy of order was sent to the departments concerned with necessary directives to implement the order in true spirit.

3. That two Expert-Committees constituted vide Notification No.C.18014/21/96-FST dated 24th January, 1997 and No. C.18014/21/96-FS, dated 24.1.1997 have submitted their reports under the supervision and guidance of the third Committee constituted vide Notification No. C.18014/21/96-FST, dated 24.1.1997. A copy of the status

2

report prepared on the basis of Expert Committees report with Annexures is filed herewith.

- 1.
- 2.
- 3.

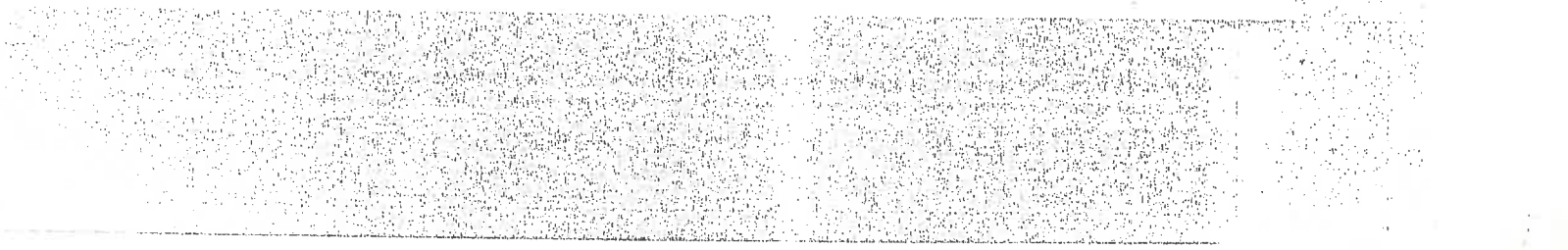
4. That the State of Mizoram is economically the most backward State among the seven North Eastern States. The State has experienced more than two decades of insurgency during which practically there was almost no economic development possible. The main system of growing food-crops is by traditional jhum cultivation which has been going on since time immemorial. Land Settlement has yet to be completed. State has its peculiar problems vis-a-vis other North Eastern States and has to be given special consideration. That the practical difficulties experienced by the State Govt. in implementation of the interim order dated 12.12.1996 are enumerated in para 6

 State
 Vol
 HAN

5. That the facts stated in paras 1 to 4 are true and correct.

Verified at New Delhi on this 22nd day of February, 1997

[Signature]
 DEPONENT
 22.2.97



SUMMARY
OF
STATUS REPORT

31

(Information based on Forest Survey of India's Report, 1991, 1992 and the State of Forest Report, 1998 by FSI and State Forestry Action Programme (Draft) of Mizoram)

1. Total No. of Saw Mills in the State of Mizoram - Nil
2. Total No. of Plywood /Veneer Mills - Nil
3. Comparative Stocking position of Timber of Mizoram Forest vis-a-vis other North-Eastern States.

State	Arunachal Pradesh	Assam	Hanipur	Meghalaya	Nagaland	Tripura	Mizoram
Vol. HaH	112.8	124.2	54.1	68.0	66.1	27.1	35.3

4. Availability of Bamboos in Mizoram

Bamboos/ Nos/Ha	Clump Forming	Non-clump Forming
	88	3383

5. Area of PLANTATIONS

FOREST DEPARTMENT	1, 5, 900 Ha.
PRIVATE / INDIVIDUALS	3, 120 Ha.
TOTAL	1, 4, 100 Ha.
%age to Geog. area	0.7

6. Status report regarding forest cover :

Sq. Km.			
Areas under recorded forest (notified)			
State R.F. including Wild Life R.F.	District Council forests	Total	%age to total Geog. area
5250	2782	8032	38%

Contd. ...2...

.....2.....

There has been increase in area of notified forest over 1985 assessment made by PSI by 885 Sq. Km. The above figure does not include the village safety Reserve, village supply Reserves and unclassified forests extent of which is 7823 Sq. Km. (app.) since fresh notifications are being issued and are not placed under the control and management of the Forest Department.

7. As per the state of Forest report, 1985, Geographical area, recorded forest area and actual forest area is given below:

State	Geog. area	Recorded forest area	Sq. Kms.			
			Ratio of recorded forest to Geog. area	Actual forest area	Ratio of Actual forest to Geog. area	Ratio of Actual to recorded forest area
Mizoram	21,081	15,835	75.58	18,578	88.1	116.59

As per the State of Forest report, 1985 published by the Forest Survey of India, in Mizoram, there has been a decrease of forest cover by 121 Sq. Km. over 1983 assessment. While 782 Sq. Km. of forest cover has changed to non-forest/ scrub mainly due to shifting cultivation, an area of 871 Sq. Km. has changed from non-forest to forest due to the regenerations coming up in the abandoned Jhum lands. While the changes from forest to non-forest is noted in South Damagri between Tuichawng river and Bazuklui river in the Survey of India map Sheet 84B, the changes in non-forest/ scrub to forest is noted along Kaladag river and both sides of road from Lunglei to Saiha in Survey of India map sheet 84B.

The Actual Forest cover by density class as assessed by Forest Survey of India, 1985 in the state of Mizoram is given below:

State	Dense forest (crown density 40% and above)	Open forest (crown density 10 to below 40%)	Sq. Kms.		
			Scrub	New Forest	Total
Mizoram	4,281	14,285	1,070	1,435	21,081

STATUS REPORT ON BEHALF OF THE GOVERNMENT OF MIZORAM ON
THE FOLLOW UP ACTION TAKEN AS PER INTERIM DIRECTION IN
ORDER DATED 12.12.1996 OF HON'BLE SUPREME COURT OF INDIA
IN WRIT PETITION (C) No. 202/1995.

In pursuance of the interim directives dated 12.12.96 of the Hon'ble Supreme Court, the State Government of Mizoram has promptly acted upon and taken following steps:

1. All on going activities which are of non-forest purposes within forests have been stopped forthwith keeping in view the provisions of the Forest Conservation Act, 1980. The concerned Departments and officers were asked to implement the directives in true spirit.
2. In compliance with the directives at para 5 of the order dated 12.12.1996 of the Hon'ble Apex Court, a committee was constituted vide Notification No.C.18014/21/96-FST dt. 24th Jan., 1997 for identifying the "forests", degraded, denuded and cleared areas as also the areas covered under plantations owned by Government and private individuals. A copy of this Notification has been placed as ANNEXURE-MZ-1. The Committee's report has been received on 20.2.1997 is placed as ANNEXURE-MZ-2.

2.1 FOREST AND PLANTATION AREA

2.1 The Expert Committee ascertained the forest area of 8012 Sq. km supported with notifications reckoning to about 38% of the total geographical area. Besides this, it identified about 83 sq. km. tree covered area which is not yet statutorily notified as forests. Committee has also reported that plantations over 1,75,980 hectares and 8126 hectares have been raised by Government and private individuals respectively in Mizoram.

AUTONOMOUS DISTRICT COUNCIL FOREST AREA

It is stated that the Forest area of 8012 sq. Km. mentioned above also includes 1176 sq. KM., 217 sq. KM 1819 sq. KM notified by three Autonomous District Councils namely, Lai Autonomous District Council, Mara Autonomous District Council and Chakma Autonomous District Councils respectively under their own forest acts.

"INNERLINE RESERVED FOREST AREA"

With regard to "Innerline Reserved Forests" notified in the year 1878, State Government have to submit that Mizoram (then known as Lushai Country) became part of British India only on 16.9.1895 i.e., 17 years after the issue of the above notification. The southern boundary of the Innerline Reserved Forests, also known as the Outer Line, has never been demarcated on the ground. The description of the Outer Line in the Notification is such that nobody, including the Survey of India, has been able to identify the places/land-marks mentioned in the notification. While some people consider that the Outer Line passes through the areas to the north of Mizoram, close to the border with Cachar District of Assam, the Govt. of Assam was treating a line much further south inside Mizoram as the Outer Line. The area quoted above which had earlier been submitted to the Govt. of India as the area of the Innerline Reserved Forests in Mizoram represents the area calculated on this basis.

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-3-

It may further be noted that the area of 570 sq. mi. being treated as the "Innerline Reserved Forests" has never been effectively protected. From 1878 when the notification was issued by the British India till the early 1950 when the Chiefdomship was abolished in Mizoram, the Mizos exercised the rights over the forests and utilised them for jhumming. Thereafter, the District Council established under the Sixth Schedule to the Constitution continued to grant Land Settlement Certificates to individuals for cultivation, garden etc. Efforts made by the Forest Department of Assam to protect and preserve the Forests were only partially successful. After Mizoram became U.T. in 1972 and a full-fledged State in 1987, the Village Councils/State Govt. continued to issue Land Settlement Certificates while Forest Deptt. continued to protect the forests.

The position as of today is, therefore, that while the State Forest Deptt. is trying to protect the forests and some forests are actually being protected, a large number of individuals are having Land Settlement Certificates which confer ownership rights to them. There are also about 10 villages in this area, some of them very big villages, which have also been enjoying their rights of jhumming.

In the circumstances stated above, it will not be practicable to treat the entire area as Innerline Reserved Forests. It will not be possible to displace

people who have occupied the land for years together. It is, therefore, suggested that as a practical solution to the problem, the Innerline Reserved Forests may be re-demarcated. It may be mentioned here that the position obtaining in the contiguous Innerline Reserved Forests of Assam is much the same as, if not worse than, in Mizoram.

"ROADSIDE & RIVERINE RESERVED FOREST AREAS"

2.4 In "Roadside & Reiverine Reserved Forests" notified in the year 1965, Land Settlement Certificates to large number of people have been issued prior to 1980 when Forest Conservation Act 1980 was enacted. It will not be possible to displace people who have occupied the land for years together. Practical solution to this problem will be to exclude such areas and compensate equivalent area elsewhere as per provisions in the Forest Conservation Act, 1980.

1. SAW MILLS, VENEER AND PLYWOOD MILLS.

1.1 In compliance with the directive at para 7 of the order dated 12.12.96 of the Hon'ble Apex Court, an expert committee was constituted to ascertain the sustainable capacity of the forests of the State inter-alia the capacity of the Saw-Mills and other timbered industries as also to report on the number of existing Saw-Mills that could be sustained in the State, besides determining the norms for optimum distance for location of the Saw-Mills. Copy of the Notification

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No. C.18014/21/96-FST dt. 24th Jan. 97 constituting above Committee is placed as ANNEXURE MZ-3. The report of the Expert Committee was received on 12th Feb., 1997 and is placed as ANNEXURE MZ-4.

3.2 The Expert Committee in its report has indicated that forests in Mizoram are understocked with a meagre tree growing stock of 35 m³ per hectare, which is comparatively very low amongst the North Eastern States. For the purposes, Committee have based their report on Forest Inventory Surveys of Mizoram done during 1991 and 1992 as well as the State of Forest Report 1995, brought out by Forest Survey of India. In view of the low productivity of forests in Mizoram, the Committee is of the view that the forests of the State have no potential for sustenance of any Saw-Mill as well as timber based industries. The position however could be reviewed in the near future when the Govt. plantations and private plantation raised over 1,75,950 ha and 8126 ha respectively attain maturity. As regards the status of Saw-Mills and the number of Saw-Mills that could be sustained in the State, the Committee has observed that there are no Saw-Mills in the State, the committee has not prescribed the norm of optimum distance for location of Saw-Mills in the State presently.

3.3 The Government of Mizoram has to report that there are no Saw-Mills, veneer and plywood mills actually operating in Mizoram.

4. In order to oversee the compliance of the order of the Hon'ble Supreme Court, Mizoram State constituted an expert committee comprising of PCCF and other Senior Officers vide Notification C.18014/21/93-FST dt. 24th Jan., 97 a copy of which is placed as ANNEXURE MZ-5.

5. SILVICULTURAL CUTTING OF TREES IN PLANTATION AND BAMBOO FOREST

The Forest Department has been raising plantations of economic species for increasing the productivity of the degraded forests. So far, the Department has raised plantations of economic species over an area of 1,75,980 ha in the State. Amongst various tree species, Champa (*Michelia champaca*), Gomari (*Gmelina arborea*), Pine (*Pinus kesiya*), Teak (*Tectona grandis*) and many others has also been planted. Few teak plantations have reached thinning stage. Thinning is a silvicultural operation involving reduction in number of trees initially planted for ensuring optimum growing space and growth condition for inducing the better growth for obtaining maximum timber volume from the trees retained after thinning. Similar silvicultural cutting of bamboos are needed in Bamboo Forest which are quite extensive and abundant in Mizoram. The State Govt. presumes that such silvicultural cuttings are not banned.

6. PRACTICAL DIFFICULTIES IN COMPLYING WITH THE DIRECTIVES OF THIS HON'BLE COURT.

5.1 DIFFICULTIES FACED BY PRIVATE TREE GROWERS:

That the ban imposed on movement of cut trees and timber outside the State as per para 4 of the directives of this Hon'ble Court has caused immense hardship to private tree growers who have a sizeable quantity of Teak-Poles lying at "Bairabi" rail head in Mizoram awaiting clearance from the Hon'ble Apex Court to various destinations outside the State. A large number

Private growers in Mizoram have planted Teak (*Tectona grandis*), Comari (*Gmelina arborea*) and Eucalyptus species during last few years. An abstract of such plantation areas is placed in Annexure MZ-2. So far, an area of 8126 ha of plantations have been raised by private individuals. Most of these plantations are in thinning stage and the private growers obtain better price by sale of poles of teak outside the State where these are marketed. The efforts of private growers in the State has to some extent reduced the pressure on natural forests for fuelwood and small timber. Such tree growing activity being an income generating venture needs to be encouraged for conserving the ecology and improving the environment. If the ban for movement of timber outside Mizoram is not lifted, the private tree growers in the State will be discouraged to take up tree growing activity in the State, which obviously will go against the cause of forest conservation.

7. PECULIAR PROBLEMS OF THE STATE

While complying with the directives of the Hon'ble Apex Court, the State of Mizoram has following submission to make before the Hon'ble Court for kind consideration.

Being a land locked territory deprived from the benefit of development since decades, the situation in Mizoram is peculiar compared to her counterparts where socio-economic development is conspicuous. Mizoram was subjected to traditional practice of shifting cultivation popularly known as "Jhum" since time immemorial for raising food grains. Immediately on joining the main stream after long period of insurgency, all out efforts have been initiated to evolve a permanent type of cultivation so as to wean away the tribal population

from jhum practice. The State Govt. has launched various programmes for settlement of jhumias permanently, under its New Land Use Policy by providing them with an alternative source of income and means of livelihood. Under the programme, tree plantations of economic species, terrace cultivation, sericulture, pisciculture, horticulture, animal husbandry, etc. are envisaged. A suitable land tenure system is yet to evolve in the State for want of proper demarcation, survey, record of rights and land settlement. Almost entire land in Mizoram is owned by the Government or by the community known as 'village Councils', where the people enjoy the privilege and rights for forest produce including the practice of shifting cultivation for raising food crops by rotation. The Govt. forests and village forests meet the domestic needs of villagers for fuelwood, fodder, small timber for house construction, agricultural implements and other non-wood forest produce as provided in the Mizoram (Forest) Act, 1953. In the absence of forest settlement and cadastral survey, there are no forest working plans or working schemes for the forests of Mizoram..

SUBMISSIONS

It is respectfully submitted:-

- i) that the ban imposed on cutting and transport of trees and timber outside the State be not made applicable to bamboos.
- ii) that the ban imposed on transport of timber derived from plantations outside the North-Eastern region be lifted.

and

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iii) that the allotments and settlements within forest reserves which have already taken place for the purpose of agriculture as pointed out by the Expert Committee, be regularised and the reserved forest areas as on today be accordingly demarcated.

M. M. M.
 Working Plan Officer,
 Working Plan Forest Division
 Mizoram ; Aizawl

S. R. Mehta
 S. R. MEHTA 22.2.97
 FOCF & SECRETARY
 FORESTS & ENVIRONMENT
 GOVERNMENT OF MIZORAM.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
WRIT PETITION (CIVIL) No. 202 of 1995

IN THE MATTER OF:

In Re: T.N. Godavarman Thirumulpad Petitioner

VERSUS

Union of India & Ors. Respondents

STATUS REPORT ON BEHALF OF THE GOVERNMENT OF MIZORAM
ON THE FOLLOW UP ACTION TAKEN AS PER INTERIM DIRECTION IN
ORDER DATED 12/12/1986 OF THE HON'BLE SUPREME COURT OF
INDIA IN WRIT PETITION (CIVIL) No. 202 of 1995

(PAPER BOOK)

For index kindly see inside

Advocate for the State of Mizoram Mrs. Hemantika Wahi

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
WRIT PETITION (CIVIL) No. 202 of 1995

IN THE MATTER OF:

N. Godavarman Thirumulpad Petitioner

VERSUS

Union of India & Ors. Respondents

AFFIDAVIT ON BEHALF OF STATE OF MIZORAM

I, S.R. Mehta, Secretary, Government of Mizoram, Forest and Environment Department and Principal Chief Conservator of Forests, having my office at Aizwal, Mizoram presently at New Delhi do hereby solemnly affirm and declare as under:

1. That I have perused the order of this Hon'ble Court dated 12/12/1996 and relevant records pertaining to this case and being conversant with the facts of the case, am competent to swear this affidavit.
2. That a copy of the interim order was received on 30/12/1996. To ensure compliance of the directions in the order dated 12/12/1996 a copy of order was sent to the departments concerned with necessary directives to implement the order in true spirit.
3. That two Expert Committees constituted vide Notification No. C. 18014/21/S FST dated 24/01/1997 and No. C. 18014/21/96 FST dated 24/01/1997 have submitted their reports under the

supervision and guidance of the third committee constituted vide notification no. C. 18014/21/96-FST dated 24/01/1997. A copy of the status report prepared on the basis of Expert Committees Report with annexures is filed herewith.

4. That the State of Mizoram is economically the most backward State among the seven North Eastern States. The State has experienced more than two decades of insurgency during which practically here was almost no economic development possible. The main system of growing food crops is by traditional jhum cultivation which has been going on since time immemorial. Land settlement has yet to be completed. State has its peculiar problems vis-à-vis other North Eastern States and has to be given special consideration. That the practical difficulties experienced by the State Government in implementation of the interim order dated 12/12/1996 are enumerated in para 6.
5. That the facts mentioned in para 1 to 4 are true and correct.

Verified at New Delhi on this 22nd day of February, 1997.

Sd/-
Deponent
22/02/1997

SUMMARY OF STATUS REPORT

Information based on Forest Survey of India's Report, 1991, 1992 and the State of Forest Report, 1993 by FSI and State Forestry Action Programme (Draft) of Mizoram

- 1) Total no. of Saw Mills in the State of Mizoram – NIL
- 2) Total no. of Plywood/Veneer Mill – NIL
- 3) Comparative Stocking Position of Timber of Mizoram Forest Vis-à-vis other North Eastern States.

State	Arunachal Pradesh	Assam	Manipur	Meghalaya	Nagaland	Tripura	Mizoram
	112.6	124.2	54.1	66.0	66.1	27.1	35.3

- 4) Availability of Bamboo in Mizoram

Bamboos/Nos.	Clump forming	Non clump forming
	88	3383

- 5) Area of plantations

Forest department	1,5,980 Ha.
Private/individual	8,128 Ha.
Total	1,4,108 Ha.
%age to Geog. Area	8.7

- 6) Status report regarding forest cover: Sq. Km.

Areas under recorded forests (notified)			
State RF including Wildlife RF	District Council forests	Total	%age of total Geog. area
5250	2782	8012	383

There has been increase in area of notified forest over 1995 assessment made by FSI by 885 Sq. Ft. The above figure does not include the village safety Reserve Village supply Reserves and unclassified forests extent of which is 7923 Sq. Km. (app.) since fresh notification are being issued and are not placed under the control and management of the forest department.

7) As per the state of Forest Report, 1995, Geographical area recorded forest area and actual forest area is given below:

State	Geog. Area	Recorded forest area	%age of recorded forest to Geog. area	Actual forest area	%age of actual forest to Geog. Area	%age of actual to recorded forest area
Mizoram	21,081	15,935	75.59	18,579	88.1	118.59

As per the State of Forest report, 1995 published by the Forest Survey of India, in Mizoram there has been a decrease of forest cover by 121 Sq. Km. over 1883 assessment, while 792 Sq. Km. of forest cover has changed to non-forest/sorub mainly due to shifting cultivation in area of 871 Sq. Km. has changed from non-forest to forest due to the regenerations coming up in the abandoned Jhum lands. While the changes from forests to non-forest is noted in South Damagri between Tuichawng River and Sazuklui river in the Survey of India map sheet 848, the changes in non-forest/sorub to forest is noted along Kaladan river and both sides of road from Lunglei to Saiha in Survey of India map sheet 848.

The actual forest report cover by density less as assessed by Forest Survey of India, 1995 in the State of Mizoram is given below:

State	Dense forest (crown density 40% and above)	Open forest (crown density 10 to below 40%)	Sorub	Non forest	Total
Mizoram	4,281	14,285	1,070	1,435	21,081

STATUS REPORT ON BEHALF OF THE GOVERNMENT OF MIZORAM
ON THE FOLLOW UP ACTION TAKEN AS PER INTERIM DIRECTION IN
ORDER DATED 12/12/1996 OF HON'BLE SUPREME COURT OF INDIA
IN WRIT PETITION (C) NO. 202 OF 1995

In pursuance of the interim directives dated 12/12/1996 of the Hon'ble Supreme Court, the State Government of Mizoram has promptly acted upon and taken following steps:

1. All on going activities which are of non-forest purposes within forests have been stopped forthwith keeping in view the provisions of the Forest Conservation Act, 1980. The concerned Departments and officers were asked to implement the directives in true spirit.
2. In compliance with the directives at para 5 of the order dated 12/12/1996 of the Hon'ble Apex Court, a committee was constituted vide Notification No. C. 18014/21/96-FST dated 24/01/1997 for identifying the "Forests" degraded, denuded and cleared areas as also the areas covered under plantations owned by Government and private individuals. A copy of this notification has been placed as Annexure MZ-1. The Committee's report has been received on 20/02/1997 is placed as Annexure MZ-2.

2.1 FOREST AND PLANTATION AREA

The Expert Committee ascertained the forest area of 8012 Sq. Km. supported with notifications reckoning to about 38% of the total geographical area. Besides this, it identified about 8.3 Sq.

Km. tree covered area which is not yet statutory notified as forests. Committee has also reported that plantations over 1,75,980 hectares and 8126 hectares have been raised by Government and private individuals respectively in Mizoram.

AUTONOMOUS DISTRICT COUNCIL FOREST AREA

It is stated that the Forest area of 8012 Sq. Kms. mentioned above also includes 1176 Sq. Km., 217 Sq. Km. 1889 sq km. notified by three Autonomous District Councils namely Lai Autonomous District Council, Mara Autonomous District Council and Chakma Autonomous District Councils respectively under their own forest acts.

INNER LINE RESERVED FOREST AREA

2.3 With regard to “Inner Line Reserved Forests” notified in the year 1878, State Government have to submit that Mizoram (then known as Lushai Country become part of the British India only on 16/09/1895 i.e. 18 years after the issues of the above notification. The Southern boundary of the Inner Line Reserved Forests, also known as the Outer Line, has never been demarcated in the ground. The description of the Outer Line in the notification is such that nobody including the Survey of India, has been able to identify the places/landmarks mentioned in the notification. While some people consider that the Outer Line passes through the areas to the North of Mizoram, close to the border with Cachar District of Assam the Government of Assam was treated a line much further south inside Mizoram as the outer line. The area quoted above which had earlier been submitted to the Government of India as the area of the Inner

line Reserved Forests in Mizoram represents the area of calculated on that basis.

It may further be noted that the area of 570 Sq. Km. is being treated as the “Inner Line Reserved Forests” has never been effectively protected. From 1878 when the notification was issued by the British India till the early 1950 when the Chieftainship was abolished in Mizoram, the Mizos exercised the rights over the forests and utilized them for jhumming. Thereafter, the District Council established under the Sixth Schedule of the Constitution continued to grant land settlement certificate to individuals for cultivation, garden etc. Efforts made by the forest department of Assam to protect and preserve the forests were only partially successful. After Mizoram became UT in 1972 and a full-fledged State in 1987 the Village Councils/State Government continued to issue land settlement certificates while Forest Department continued to protect the forests.

The position as of today is therefore, that while the State Forest Department is trying to protect the forests and some forests are actually being protected, a large number of individuals are having land settlement certificates which confer ownership rights to them. There are also about 10 villages in this area, some of them very big villages, which have also been enjoying their rights of jhumming.

In the circumstances stated above, it will not be practicable to treat the entire area as inner line reserved forests. It will not be possible to displace people who have occupied the land for years together. It is, therefore, suggested that as a practical solution to the problem, the inner line reserved forests may be demarcated. It may be mentioned

here that the position obtaining in the contiguous inner line reserved forests of Assam is much the same as, if not worse than, in Mizoram.

ROADSIDE & RIVERINE RESERVED FOREST AREAS

2.4 In “Roadside and Riverine Reserved Forests” notified in the year 1965, Land Settlement Certificates to large number of people have been issued prior to 1980 when Forest Conservation Act, 1980 was evicted. It will not be possible to displace people who have occupied the land for years together. Practical solution to this problem will be to exclude such areas and compensate equivalent area elsewhere as per provisions in the Forest Conservation Act, 1980.

SAW MILLS, VENEER AND PLYWOOD MILLS

3.1 In compliance with the directive of para 7 of the order dated 12/12/1996 of the Hon’ble Apex Court, an expert committee was constituted to ascertain the sustainable capacity of the forests of the state. Inter alia the capacity of Saw Mills and other timber xxx industries as also to report on the number of existing saw mills that could be sustained in the State, besides determining the norms for optimum distance for xxx of the saw mills. Copy of the notification no. C. 18014/21/96-FST dated 24/06/1997 constituting above committee is placed as Annexure MZ-3. The report of the expert committee was received on 12/02/1997 and is placed as Annexure MZ-4.

3.2 The Expert Committee in its report has indicated that forests in Mizoram are understocked with a meagre tree **growing** stock of 35 m³ per hectare, which is comparatively very low amongst

the North Eastern States. For the purpose committee have based their report on Forest xxx Surveys of Mizoram done during 1991 and 1992 as well as the State of Forest Report, 1995, brought out by Forest Survey of India. In view of the low productivity of forests in Mizoram, the Committee is of the view that the forests of the State have no potential for sustenance of any saw mill as well as timber based industries. The position nowhere could be reviewed in the near future when the Govt. plantations and private plantation raised over 1,75,980 ha. And 8126 ha. Respectively attain maturity. As **regards** the status of saw mills and the number of saw mills that could be sustained in the State, the committee has observed that there are no saw mills in the State, the Committee has not prescribed the norms of optimum distance for location of saw mills in the State presently.

- 3.3 The Government of Mizoram has to report that there are no saw mills, veneer and plywood mills actually operating in Mizoram.
4. In order to **oversee** the compliance of the order of the Hon'ble Supreme Court, Mizoram State constituted an expert committee comprising of PCCP and other Senior Officers vide Notification No. C.18014/21/93-FST dated 24/01/1997 a copy of which is placed as Annexure MZ-5.
5. SILVICULTURAL CUTTING OF TREES IN PLANTATION AND BAMBOO FOREST

The Forest Department has been raising plantations of economic species for increasing the productivity of the

degraded forests. So far, the department has raised plantations of economic species over an area of 1,75,980 ha in the State. Amongst various tree species, Champa (*Michelia Champaca*), Gomari (*Gmelina arborea*), Pine (*Pinus Kesiya*), Teak (*Tectons Grandis*) and many others has also been planted. Few teak plantations have reached thinning stage. Thinning a silvicultural operation involving reduction in number of trees initially planted for ensuring optimum growing space and growth condition for inducing the better growth for obtaining maximum timber volume from the trees retained after thinning. Similar silvicultural cutting of bamboos are needed in Bamboo Forest which are quite extensive and abundant in Mizoram. The State Government presumes that such silvicultural cuttings are not banned.

6. PRACTICAL DIFFICULTIES IN COMPLYING WITH THE DIRECTIVES OF THIS HON'BLE COURT

6.1 DIFFICULTIES FACED BY PRIVATE TREE GROWERS:

That the ban imposed on movement of cut trees and timber outside the State as per para 4 of the directives of this Hon'ble Court has caused immense hardship to private tree growers who have a sizable quantity of teak poles lying at "Bairabi" rail head in Mizoram awaiting clearance from the Hon'ble Apex Court to various destinations outside the State. A large number of private growers in Mizoram have planted Teak (*Tectons Grandis*), Gomari (*Gmelina arborea*) and Eucalyptus species during last few years. An abstract of such plantation areas is

placed in Annexure MZ-2. So far, an area of 8126 ha of plantations have been raised by private individuals. Most of these plantations are in thinning stage and the private growers obtain better price by sale of poles of teak outside the State where these are marketed. The effort of private growers in the State has to some extent reduced the pressure on natural forests for fuelwood and small timber. Such tree growing activity being an income generating venture needs to be encouraged for conserving the ecology and improving the environment. If the ban for movement of timber outside Mizoram is not lifted, the private tree growers in the State will be discouraged to take up tree, growing activity in the State, which obviously will go against the cause of forest conservation.

7. PECULIAR PROBLEMS OF THE STATE

While complying with the directives of the Hon'ble Apex Court, the State of Mizoram has following submission to make before the Hon'ble Court for kind consideration.

Being a land locked territory deprived from the benefit of development since decades, the situation in Mizoram is peculiar compared to her counterparts where socio-economic development is conspicuous. Mizoram was subjected to traditional practice or shifting cultivation popularly known as "Jhum" since time immemorial for raising food grains. Immediately or joining the main stream after long period of insurgency, all out efforts have been initiated to evolve a permanent type of cultivation so as to wean away the tribal

population from jhum practice. The State Govt. has launched various programmes for settlement of jhumias permanently, under the xxxx land use policy by providing them with an alternative source of income and means of livelihood. Under the programme, tree plantations of economic species, terrace cultivation, sericulture, pisciculture, xxxx animal husbandry etc. are envisaged. A suitable land tenure system is yet to evolve in the State xxx of proper demarcation, survey, record of rights and land settlement. Almost entire land in Mizoram is owned by the Government or by the community known as Village Council, where the people enjoy the privilege and rights for forest produce including the practice of shifting cultivation for raising food crops by rotation. The xxx forests and village forests meet the domestic need of villagers for fuelwood, fodder, small timber for house construction, agricultural implements and other non-wood forest produce as provided in the Mizoram (Forest) Act, 1955. In the absence of forest settlement and cadastral survey, there are no forest working plans or working schemes for the forests of Mizoram.

SUBMISSIONS

It is respectfully submitted:

- i) That the ban imposed on cutting and transport of trees and timber outside the State be not made applicable to bamboos.
- ii) That the ban imposed on transport or timber derived from plantations outside the North-Eastern region be lifted; and

- iii) That the allotments and settlements within forest reserves which have already taken place for the purpose of agriculture as pointed out by the Expert Committee be regularized and the reserved forest areas as on today be accordingly demarcated.

Sd/-
S.R. Mehta
Food & Secretary
Forest & Environment
Government of Mizoram
12/02/1997

Sd/-
Working Plan Officer
Working Plan Forest Division
Mizoram, Aizawl

ANNEXURE R-4

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ANNEXURE
EF & CC DEPTT.
LEGAL CELL

**IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM
& ARUNACHAL PRADESH)**

AIZAWL BENCH : AIZAWL**1. W.P.(C) No. 130 OF 2013**

Malsawma and 228 Ors.
Mauchar, Mizoram

-Versus-

State of Mizoram and 4 Ors.
Aizawl.

Advocate for the Petitioner : Mr. Lalfakawmqa
Advocate for the Respondent : Mr C Zoramchhana

2. WP(C) 118 OF 2015

Manglianthanga and 39 Ors
N Hlimen
Mizoram

-Versus-

State of Mizoram and 4 Ors.
Aizawl.

Advocate for the Petitioner : Mr Lalchhanliana Khiangte
Advocate for the Respondent : Mr C Zoramchhana

LEGAL CELL
 REP. & CC DEPT.
 AMBASSADE

3. **WP(C) 117 OF 2015**

Mitinpawla and 14 Ors.
 N. Serzawl
 Mizoram

-Versus-

State of Mizoram and 4 Ors.
 Aizawl

Advocate for the Petitioner : Mr Lalchhanliana Khiangte
 Advocate for the Respondent : Mr C Zoramchhana

4. **WP(C) 16 OF 2014**

Lalremkungua and 19 Ors.
 Saipum
 Mizoram

-Versus-

State of Mizoram and 5 Ors.
 Aizawl

Advocate for the Petitioner : Mr C Lalramzauva
 Advocate for the Respondent : Mr C Zoramchhana

5. **WP(C) 45 OF 2017**

Ngurthanmawia and 33 Ors.
 Khatla
 Aizawl

-Versus-

State of Mizoram and 5 Ors.
 Aizawl

Advocate for the Petitioner : Mr C Lalramzauva
 Advocate for the Respondent : Mr C Zoramchhana

6. WP(C) 132 OF 2013

Darkunga and 164 Ors
Zohmun
Mizoram

-Versus-

State of Mizoram and 4 Ors.
Aizawl

Advocate for the Petitioner : Mr. Lalfakawma
Advocate for the Respondent : Mr C Zoramchhana

7. WP(C) 131 OF 2013

Vanlalliana and 69 Ors.
Saipum Mizoram

-Versus-

State of Mizoram and 4 Ors.
Aizawl

Advocate for the Petitioner : MR LALFAKAWMA
Advocate for the Respondent : Mr C Zoramchhana

8. WP(C) 135 OF 2013

Lalthamanga and 52 Ors
Sakawrdai
Mizoram

-Versus-

State of Mizoram and 4 Ors.
Aizawl

Advocate for the Petitioner : Mr. Lalfakawma
Advocate for the Respondent : Mr C Zoramchhana

9. **WP(C) 51 OF 2017**

R Lalhminganga and 10 Ors
N Serzawl
Mizoram

-Versus-

State of Mizoram and 5 Ors.
Aizawl

Advocate for the Petitioner : Mr C Lalramzauva
Advocate for the Respondent : Mr C Zoramchhana

10. **WP(C) 116 OF 2015**

C Zarmawia and 43 Ors
N Hlimen
Mizoram

-Versus-

State of Mizoram and 4 Ors.
Aizawl

Advocate for the Petitioner : Mr Lalchhanliana Kiangte
Advocate for the Respondent : Mr C Zoramchhana

::: B E F O R E :::

THE HON'BLE MR. JUSTICE AJIT BORTHAKUR

Date of conclusion of Hearing and Judgment : **27.01.2021.**

J U D G M E N T & O R D E R (O R A L)

Since the issues involved in all the above ten (10) writ petitions are arising out of land acquisition Awards mentioned below in respect of Tuirial Hydro Electric Project, Mizoram under the Land Acquisition Act, 1894 they are taken up together and disposed of by this common Judgment and Order.

[2.] Heard Mr. A.R. Malhotra, the learned counsel appearing for the petitioners in WP(C) Nos. 45 of 2017; 51 of 2017 and 16 of 2014; Mr. Lalfakawma, the learned counsel appearing for the petitioners in WP(C) Nos. 130 of 2013; 131 of 2013; 132 of 2013 and 135 of 2013. Also heard Mr. Lalchhanliana Khiangte, the learned counsel for the petitioners in WP(C) Nos. 116 of 2015; 117 of 2015 and 118 of 2015. Further, heard Mr. C. Zoramchhana, the learned Addl. Advocate General for the respondent Nos. 1, 2 and 3; Ms. Zairemsangpuii, the learned CGC appearing for the respondent No. 4 as well as Mr. V.K. Jindal, the learned Senior Advocate assisted by Mr. Roshan Subedi, the learned counsel appearing for the respondent No. 5/NEEPCO.

[3.] The aforesaid ten writ petitions are preferred being not executed the following Awards are not executed relating to acquisition of lands of the petitioners for construction of the Tuirial Hydro Electric Project, Mizoram.

(A) Award No. 4/2002 dated 18/6/2002

[WP(C) No. 130/2013;

WP(C) No. 16/2014 &

WP(C) No. 118/2015]

(B) Award No. 5/2003 dated 16/7/2003 & Supplementary Award

No. 6/2003 dated 27.01.2006.

[WP(C) No. 132/2013;

WP(C) No. 135/2013;

WP(C) No. 116/2015]

(C) Award No. 5/2002 dated 26/8/2002

[WP(C) No.131/2013]

(D) Award No. 6/2003 & Supplementary Award No.6/2003

[WP(C) No.45/2017

WP(C) No. 51/2017

WP(C) No. 117/2015]

Now let us see the reliefs prayed by the petitioners Award wise and writ petition wise relevant thereto:

(A) AWARD No. 4/2002:

The Award No. 4 was made and published by the District Collector on 18/06/2002 for an amount of Rs. 8,04,90,627.00 towards payment of compensation to 352 awardees for trees, crops, plants etc., in respect of 9310 bighas of land to be acquired for submergence area (Phase-I). It may pertinently be mentioned that the NEEPCO in pursuance to MoU dated 12/08/2003 paid 50% of the awarded amount to the land holders, was subsequently objected by the State Government and Government of India.

The following writ petitions are related to claim for execution of the aforesaid award and for making a supplementary award.

(i) **W.P(C) No.130/2013:**

The aforesaid Writ Petition is filed by 229 number of Awardees with a common prayer to direct the Respondents to pay the balance compensation amount to the Petitioners under the above Award No. 4/2002 and also to make a Supplementary Award to the said Award No. 4 of 2002 and further to pay interest @ 6% p.a due to delay in payment.

(ii) **W.P(C) No.16/2014:**

This Writ Petition is filed by 20 number of Awardees of Award No. 4/2002 with similar prayers as made in W.P(C) No. 130/2013.

(iii) **W.P(C) No.118/2015:**

This Writ Petition is filed by 32 number of Awardees of Award No. 4/2002 with similar prayers as that of W.P(C) No. 130/2013.

(B) **AWARD NO. 5/2003:**

The Award No. 5/2003 dated 16/7/2003 was passed by the Collector for Rs. 5,58,60,928.00 for payment to 348 number of Awardees as compensation for trees, crops, plants etc., in respect of 16468.77 bighas of land acquired for submergence area Phase – II of the Tuirial Hydro Electric Project.

(i) **W.P(C) No. 132/2013:**

This Writ Petition is filed by 165 number of Awardees of Award No. 5/2003 with a prayer to direct the Respondents to pay the compensation amount to the Petitioners as per Award No. 5/2003 and also to make a Supplementary Award to the Award No. 5/2003.

(ii) **W.P (C) No. 135/2013:**

This Writ Petition is filed by 53 number of Awardees of Award No. 5/2003 with similar prayers as that of W.P(C) No.132/2013.

(iii) **W.P (C) No.116/2015:**

This Writ Petition is filed by 44 number of Awardees of Award No.5/2003 with similar prayers as that of W.P (C) No. 132/2013.

(C) AWARD NO. 5/2002:

Award No. 5/2002 dated 26/8/2002 is for Rs.68,52,716.00 for payment to 74 petitioners as compensation for standing crops, trees etc., for construction of borrow area and saddle dam area in respect of 857.84 bighas of land was passed by the Collector.

The following Writ Petition is related to the execution of the aforesaid award and for making Supplementary Award to Award No.5/2002.

(i) W.P (C) No. 131/2013:

The instant Writ Petition is filed by 70 number of Petitioners/ awardees for execution of the said award and for making a Supplementary Award to the Award No. 5.

(D) AWARD NO. 6/2003:

Award No. 6/2003 is for Rs.8,85,50,461.00 for payment to 196 petitioners who are Land Settlement Certificate holders as compensation for standing crops etc., in respect of 9189.94 bighas of land (Phase -III) was passed by the Collector.

The following Writ Petitions are related to the Execution of the aforesaid award and for making Supplementary Award to Award No.6/2003:-

(i) W.P (C) No. 117/2015:

This Writ Petition is filed by 15 number of Awardees of Award No. 6/2003 for execution of the Award No. 6/2003 and to make a Supplementary Award to Award No. 6/2003.

(ii) W.P(C) No. 51/2017 & W.P(C) No.45/2017:

Consequent upon the order dated 02.07.2012 passed in CRP No.02/2011, the Government of Mizoram issued the impugned order dated 05.08.2016 to cancel all the LSCs of the land owners and to cancel the Award No.6/2003 and supplementary award No. 6/2003. The Writ Petitioners in both the writ petitions have assailed the said impugned order of the Government of Mizoram dated 05.08.2016.

[4.] Petitioners of WP(C) Nos. 130/2013; 16/2014 and 118/2015 are the awardees of the Award No. 4/2002 dated 18.06.2002, petitioners of WP(C) No. 131/2013 are the awardees of the Award No. 5/2002 dated 22.08.2002, petitioners of WP(C) No. 132/2013, 135/2013 and 116/2015 are the awardees of the Award No. 5/2003 dated 14.07.2003 and the

petitioners of WP(C) No. 117/2015 are the awardees of the Award No. 6/2003 dated 14.07.2003.

[5.] All those awards were made by the Deputy Commissioner-cum-Collector, Aizawl. Land of those 4 (four) Awards are on either side or both of the banks of the river Tuirial and those lands were acquired under the provisions of the Land Acquisition Act, 1894 as amended for the public purpose, i.e., for construction of 60 Mega Watt - Tuirial Hydro Electric Project in Aizawl District. Description of those 4 (four) Awards are as follows:-

Award No. 4/2002

Land at Village Council area of Mauchar, Saipum and North Hlimen.

Notification dated 20.08.2001

Declaration dated 11.04.2002

Total land acquired - 9310.39 Bighas

Temporary private land holdings – 352 in nos. over 5508.00 Bighas

Government free land - 3802.39 Bighas

Award No. 5/2002

Land at Village Council area of Saipum and Mauchar

Notification dated 18.01.2002

Declaration dated 10.07.2002

Total Land measuring - 857.84 Bighas

Temporary private land holdings - 74 in nos. over 635 Bighas Government
free land - 222.84 Bighas

Award No. 5/2003

Land at Village Council area of Mauchar, Zohmun, Palsang, North Hlimen,
North Khawdungsei.

Notification dated 20.08.2001

Declaration dated 18.11.2002

Total Land measuring - 16468.77 Bighas

Temporary private land holdings - 366 in nos. over 5535.5 Bighas

Government free land - 10933.27 Bighas

Award No. 6/2003

Land at Village Council area of North Serzawl, Ratu, Sunhluchhip, North
Hlimen and Bukpui.

Notification dated 20.08.2001

Declaration dated 09.05.2003

Total Land measuring - 9189 Bighas

Temporary private land holdings - 196 in nos. over 3636.43 Bighas

Government free land - 5553.51 Bighas

[6.] WP(C) Nos. 130/2013; 131/2013; 132/2013; 135/2013; 16/2014;
116/2015; 117/2015 and 118/2015 relate to prayers for (i) payment of
balance amount / non- payment of compensation for crops and other jirats

standing over the land of the petitioners acquired for construction of Tuirial Hydro Electric Project, (ii) for payment of solatium and interest to them by making Supplementary Awards and also (iii) to pay them interest for delayed payment. Aforementioned Awards of the District Collector, Aizawl were approved vide letter dated 05.01.2006.

[7.] Be it mentioned that the land holdings of the petitioners and other persons covered by those Awards are under temporary permits like Village Council Pass, Periodic Patta etc. and the Awards were made only for standing crops, trees, WRCs, fishery etc., and as there was no claim for land value, no Awards in that regard was made.

[8.] As the awardees/LSC holders of the land involved in the Award No. 4/2002 did not receive any awarded amount of compensation, they by way of agitation did not allow the NEEPCO to start the construction work of said Tuirial Hydro Electrical Project. As such, after a joint decision of the agitators/awardees, the Pass holders, LSC holders and the Government officials, the NEEPCO, which is the requiring authority paid 50% of the awarded amount to the awardees of the said Award No. 4/2002, enabling them to construct the said Hydro Electric Project. Excepting the same, no payments towards compensation in the aforementioned Awards have been made till date. However, NEEPCO has paid the requisite amount of Rs. 24.46 Crores to the Forest Department of the State as compensatory

afforestation cost since deforestation of forest land was carried out for construction of the said project.

[9.] While the State of Mizoram as Lushai Hills District Council was a part of the State of Assam, the Government of Assam on 28.01.1965 issued an Order under Section 14 r/w Section 21 of the Mizo District (Forest) Act, 1955 notifying that the Forest within half a mile on either side of 16 (sixteen) rivers, including the river 'Tuirial' as Reserved Forest under the Mizo District Council w.e.f. the date of notifications issued on 16.04.1956 and 16.09.1957 respectively. The said Order dated 28.01.1965 of the Government of Assam was published in the Assam Gazette in its issue dated 19.05.1965. The erstwhile Lushai Hills District Council on being formed as Union Territory of India and then State of Mizoram, it adapted the said decision of the Government of Assam and accordingly, half a mile on either side of the river 'Tuirial' continued to be a Reserved Forest land. It is already noted above that the lands involved in these cases under the Award Nos. 4/2002, 5/2002, 5/2003 and 6/2003 of the Deputy Commissioner, Aizawl are located on either or both the banks of the said river Tuirial and were required for public purpose of construction of Tuirial Hydro Electric Project.

[10.] It is noticed from several communications dated 16.07.1993, 15.10.1993, 26.03.1999, 05.11.1999, 16.03.2000 between the Ministry of Environment & Forest, Government of India and the Forest Department,

Government of Mizoram, that the lands of the said Tuirial Hydro Electric Project and the submerged areas fell under the Riverine Forest Land of the river Tuirial. In spite of such knowledge, the Revenue Department of the State approved the aforesaid Awards of the Deputy Commissioner-cum-Collector, Aizawl regarding compensation for crop damages and jirats payable to its awardees/ petitioners/private individuals without ascertaining as to whether the lands occupied by them fell under the Reserve Forest Land or not.

[11.] It needs to be mentioned that awardees of Award No. 6/2003 filed Execution Case No. 13/2010 in the Court of the learned Addl. District Judge, Aizawl for execution of the said Award, including the Supplementary Award. The learned Addl. District Judge-I, Aizawl by her Order dated 10.12.2010 held *inter-alia* that the State has the legal obligation to make payment of the Awarded amount with interest by procuring the same from NEEPCO and directed to deposit the awarded amount in the Executing Court within three (3) months.

[12.] Aggrieved by the aforesaid direction of the Executing Court, the respondent NEEPCO preferred a revision petition being CRP No. 2/2011 before this Court challenging the propriety and correctness of the said Order of the learned Executing Court dated 10.12.2010. While disposing the Revision Petition vide Judgment & Order dated 02.07.2012 this Court observed in no uncertain terms that as the State Government acquired the

lands for the said project, as such, it is liable to pay compensation to the respective land owners. The Court further observed that whether the State Government should recover the amount due to the awardee petitioners from NEEPCO or whether the NEEPCO should pay the amount to the State Government is a matter which no way concerns the land owners and accordingly, the State Government is under an obligation to satisfy the Awards by depositing the same with the Executing Court. However, in view of the CBI investigation regarding the alleged illegal issuance of the Passes, LSCs, Periodic Pattas etc. over such Government forest lands and the stand taken by the Forest Department, Government of Mizoram that the lands involved in the case fall under the Reserved Forest Land, by the said Order dated 02.07.2012, passed in CRP No. 2/2011, the Court opined that the Chief Secretary of the State may look into the matter and take a conscious decision keeping in mind the involvement of public interest, observing that it is not for the Court to suggest as to what course of action should be adopted and accordingly, refrained from saying any further.

[13.] In PIL No. 15/2008, considering the fact that the land area involved in the Tuirial Hydro Electric Project being Forest Land and persons who without any right, title and interest, lodged their claims for compensation had been considered for payment of such compensation by the State Government on the basis of the Awards passed by the Collector, Aizawl and subsequently, the awarded amounts were being enhanced by

the Reference Court, a Division Bench of this Court by an Order dated 21.04.2010 directed the CBI for investigation into the matter. Accordingly, the CBI registered a case being CBI (ACB) Case No. RC6(A) 2010-IMPH and after completion of investigation, laid a charge-sheet in May, 2012 against nine (9) persons, who are not petitioners in the Writ Petitions.

[14.] Considering the Order dated 02.07.2012 passed in CRP No. 2/2011 and the report of the CBI filed in May 2012, the Chief Secretary to the Government of Mizoram by his Order dated 05.08.2016 cancelled the LSCs falling within the Riverine Forest Land of Tuirial river with regard to the petitioners/awardees of the Awards aforementioned. Therefore, the petitioners have challenged the said order of the Government by filing the Writ Petitions under consideration stating that the same is illegal *par-se*. The petitioners have also challenged the legality and validity of the order dated 28.01.1965 passed under Section 14 r/w Section 21 of the Mizo District (Forest) Act, 1955 that was earlier passed by the then Chief Executive Member, Mizo District Council notifying that the Forest area falling within half a mile on either side of the river 'Tuirial' as Reserve Forest Land.

[15.] The petitioners have contended that the Awards No. 4/2002 dated 18.06.2002, Awards No. 5/2002 dated 22.08.2002, Awards No. 5/2003 dated 14.07.2003 and Award No. 6/2003 dated 14.07.2003, passed by the Deputy Commissioner-cum-Collector, Aizawl that are approved by the

Revenue Department of the State with regard to compensation for acquisition of land for the said Tuirial Hydro Electric Project and its submerged areas are still in force and those Awards are not under challenge in any of the proceedings.

[16.] While making assessment for compensation, the Deputy Commissioner-cum- Collector, Aizawl assessed the market value of lands under possession of the petitioner LSC holders based on the following considerations.

(i) The Council of Ministers, Government of Mizoram in their meeting on 25.05.1999 decided that compensation may be paid for standing crops where the land is to be acquired not as a matter of recognizing the validity of the Passes issued by the Village Councils. Such being the case, there is no valid ground for ignoring the rightful claims of the private land owners whose lands are covered by the District Council Passes and which were found to have been allotted way back in 1950s. Moreover, most of the Passes in question were issued even before the promulgation of the Forest Conservation Act, 1980 and a number of land holdings in question are situated outside the so-called Riverine Forest Reserved, which covers only the river bank at the radius 805 meters from Tuirial river.

(ii) The Verification Reports indicate that the Environment & Forest Department has not physically looked after the said Riverine Forest and there had been every opportunity for private land owners to develop the



land in question in such a situation. Moreover, no natural vegetations like wild bamboos, trees etc., which are claimed to be of the Forest Reserve are not counted for awarding compensation. As such, the compensation assessment under the present acquisition should not be treated to have similarities with those of the Compensatory Afforestation.

(iii) With regard to payment for compensation for damages, if NEEPCO Ltd. takes the stand that they are not in a position to consider payment of compensation after they have paid substantial amount for Compensatory Afforestation to the Forest Department, the Government of Mizoram needs to decide the question as to whether or not compensation will be paid to the private land/garden owners.

[17.] The Deputy Commissioner-cum- Collector, Aizawl clearly stated that the land involved in the area is situated on both the banks/sides of the river Tuirial. But, in none of those Awards, the Deputy Commissioner-cum-District Collector, Aizawl mentioned or specified regarding the parcel of land which fall within the Riverine Forest Land of river Tuirial and which are outside of such area.

[18.] The NEEPCO took the stand that as they have already paid Compensatory Afforestation cost of Rs. 24.46 Crores to the Forest Department of the State, they would not pay any further amount towards payment of compensation against the Awards. Likewise, the Forest Department of the State also took the stand that as the land holdings



involved in the awards fall under Tuirial Riverine Reserve Forest area, any Pass, LSCs etc., issued to any person(s)/private individual(s) for any such forest land is illegal and admitted that it has already received Compensatory Afforestation cost of Rs. 24.46 Crores from the NEEPCO to do the needful in this regard.

[19.] Mr. A.R. Malhotra, learned counsel appearing for the petitioners, submits that all the above referred Awards had attained finality after the same received due approval of the State Government vide the letter dated 05.01.2006. Mr. A.R. Malhotra emphatically submits that those Awards were duly passed by the Collector, Aizawl strictly following the prescribed procedure in the Land Acquisition Act, 1894 and hearing the objections, counter objections and on the spot verification of the ownership claims of the petitioners over their respective land holdings so acquired as well. However, the respondent No. 2 having misread the observation made in the judgment and order dated 02.07.2012 passed in CRP No. 02/2011 by order dated 05.08.2016, the Chief Secretary to the Government of Mizoram has illegally come to the conclusion that the LSCs issued to the petitioners for their land holdings were all illegal as the same are within the Riverine Forest area as declared and constituted by the erstwhile Mizo District Council way back in the year 1965 without affording the petitioners any opportunity of being heard.



[20.] Mr. A.R. Malhotra, learned counsel for the petitioners contends that the Government of Mizoram including the Forest Department had supported the claims of the petitioners in all the earlier Writ Petitions, but now the aforesaid contradictory/inconsistent new illegal stand has been taken in the instant Writ Petitions. According to Mr. A.R. Malhotra, as the land was acquired by the State Government, it is liable to pay compensation as per the Awards to the petitioners, who were duly accepted to be the rightful owners of the same. Mr. A.R. Malhotra, relevantly referred to para No. 35 of the Judgment and Order, dated 08.05.2015 passed in Contempt Case No. 09/2014, wherein it was observed that by Order dated 02.07.2012, passed in the said CRP No. 2/2011, this Court neither made any specific direction to the Chief Secretary nor specified any time limit for compliance of any such direction and only made an observation which is evident from the word "may" that appears in 'para 34' of the aforesaid Order dated 02.07.2012. Therefore, Mr. A.R. Malhotra contends that the impugned Order dated 05.08.2016 declaring the LSCs, Passes etc. of the petitioners is invalid or *non-est* in law as before making the final notification as contemplated under Section 21 of the Mizo District (Forest) Act, 1955 no preliminary notification under Section 15 of the said Act was published in the ZORAM HRIATTIRNA, which was the official bulletin of the Mizo District Council.

[21.] Mr. C. Zoramchhana, the learned Addl. Advocate General appearing for the State respondents, submits that the relevant records pertaining to declaration of the riverine area of Tuirial river as forest area under the Mizo District (Forest) Act, 1955, which is now renamed as the Mizoram (Forest) Act, 1995 are not traceable to ascertain whether the requirements of Sections 15, 16, 17 & 18 of the said Act were fulfilled or not. However, Mr. C. Zoramchhana submits that the Notification dated 16.04.1956 declaring certain river areas as Council Reserved Forest is presumed to have been issued only after fulfilling the requirements of the said Act of 1955.

[22.] Mr. C. Zoramchhana further submits that the final Notification issued in the Assam Gazette dated 28.01.1965 would have not been issued had all the requirements of the said Act not been fulfilled, that is, a presumption may be taken that all claims of land holders which might have arisen with respect to the areas within Tuirial Riverine Forest were settled way back in 1950s.

[23.] Mr. C. Zoramchhana submits that since the petitioners were allotted LSCs in 1993 and 1994, after 38 years of the impugned Notification, dated 28.01.1965, they are not supposed to know whether the requirements of the said Act were fulfilled or not. Mr. C. Zoramchhana vehemently submits that the case of the petitioners in regard to issuance of LSCs in their favor were not endorsed to the Directorate of Land Revenue & Settlement Department for decision and approval in view of the Order

dated 13.05.1983 which stated that those proposed LSCs which are complicated in nature should be referred to the said Department for consideration and approval and as such, the LSCs issued by the Assistant Settlement Officer to the petitioners were void *ab-initio*.

[24.] Mr. C. Zoramchhana, learned Addl. Advocate General contends that the Government has the prerogative to cancel all LSCs of the petitioners as per the provisions of the relevant Revenue Rules and added further that as per Section 3 (a) of the Mizo District (Agricultural Land) Act, 1963, no land can be allotted under the said Act and that Section 2 of the Forest (Conservation) Act, 1980 prohibits using of the reserved forest area for any non-forest purpose without approval of the Central Government.

[25.] Mr. C. Zoramchhana further contends that when a process for acquisition of land was initiated, the Conservator of Forests, Mizoram reported vide his Letter dated 10.08.1990 that the entire proposed land area for acquisition for construction of the Tuirial Hydro Electric Project falls under the Riverine Reserved Forest. However, it is submitted that as per Section 2 of the Forest (Conservation) Act, 1980 and Section 3 (a) of the Mizo District (Agricultural Land) Act, 1963 the issue of LSCs to the petitioners during the period 1993-1994 within the Riverine Reserved Forest Area after 28 years from the date of the said Notification published in the Assam Gazette in its issue dated 19.05.1965 was illegal and as such, the LSCs issued to the petitioners were void *ab initio*.

[26]. Mr. V.K. Jindal, the learned Senior counsel appearing for the NEEPCO, submits that the writ petitions having contained the common prayer to execute the related Awards and to make Supplementary Award by awarding solatium and interest is not sustainable as there exists alternate legal remedy for execution thereof and provision for reference to the Court under Section 18 of the Land Acquisition Act, 1894 for the purpose and in case of being aggrieved by any order passed by the executing Court, there is remedy for filing Civil Revision. Mr. V.K. Jindal further submits that some of the petitioners have approached to the Reference Court and the Executing Court for award of the additional benefits and for executing the related Awards and accordingly got appropriate reliefs.

[27.] Mr. V.K. Jindal submits with reference to the Order dated 04.12.2007 passed in WP(C) No. 77/2006 filed by 34 number of awardees of Award No. 6/2003 that this Court had declined to pass any order for execution of the award and directed the land owners to approach the appropriate forum. Mr. V.K. Jindal, the learned Senior Counsel, submits that similarly by Order dated 10.12.2010 passed by the Executing Court in Execution Case No. 13/2010 filed by some of the awardees of Award No. 6/2003 and the Supplementary Award directed the State Government to make the payment after procuring the same from the NEEPCO. Thus, the aforesaid Order clearly demonstrates that some of the petitioners have already availed the alternate remedy through the Reference Court for grant

of solatium etc. and as such, the prayer to execute the Award by way of filing Writ Petitions was declined.

[28.] According to Mr. V.K. Jindal, the land in question is a reserved forest land and was converted to non-forest purpose on payment of deforestation compensation of Rs. 24.46 crores as assessed by the State Forest Department with due permission of the Central Government and as such, the land in question being a forest land no individual can acquire any right whatsoever over the same. Mr. V.K. Jindal relevantly expressed ignorance about the utilization of the said amount of Rs. 24.46 crores paid by the NEEPCO to the Government on account of deforestation compensation due to acquisition of the land for the Hydro Electric Project.

[29.] Mr. V.K. Jindal vehemently submits that the petitioners had managed to procure LSCs through the Village Panchayats and the District Administration without the knowledge and consent of the State Government and as such, the fraudulently obtained Awards being void *ab initio* cannot be put into execution, and so the said Awards are not required to be challenged by any party. Mr. V.K. Jindal, however, submits that none of the above Awards was passed against NEEPCO and therefore, it is not a necessary party to the decision in the said Writ Petitions. The question of payment of the awarded amount is an issue between the petitioners and the State Government which acquired the land.

[30.] A perusal of the impugned Order dated 05.08.2016 reveals that the Chief Secretary to the Government of Mizoram had relied on the purported direction contained in the Judgment and Order dated 02.07.2012 in CRP No. 2/2011 and the Joint Verification Reports as well while issuing the directions as under (relevant portion)-

"..... From all the facts and documents available specifically the Joint Verification Reports and as the Hon'ble Gauhati Court also recognized the fact that the concerned land hereof lies under the Riverine Reserved Forest of Tuirial River and accepts the payment made by NEEPCO to Environment & Forest Department for compensatory afforestation as correct in Judgment & Order dated 02.07.2012 in CRP No. 2/2011 thereby rendering illegal the issuance of LSCs within such Riverine Reserved Forest Area and as all the LSCs of the landowners covered by Award No. 6 of 2003/ Supplementary Award No. 6/2003 were also found to be illegally directly issued by the then Assistant Settlement Officer without approval of the Government, the Chief Secretary, Govt. of Mizoram has thereby arrived at a decision, as obligated by the said Judgment & Order of the Hon'ble Gauhati Court, that necessary action be immediately taken as follows:

- 1. Revenue Department shall formally cancel all the LSCs of the landowners concerned hereof.*

2. *The District Collector concerned shall take appropriate steps for cancellation of the Award No. 6 of 2003 and Supplementary Award No. 6 of 2003.*

3. *The Government Advocate concerned in Execution Case No. 13/2010 and Review Case No. 12 of 2015 shall also immediately take necessary action to seek the Hon'ble Court's judicious decision to vacate all the orders passed in the said Execution/ Review Case on account of this new development as each and every proceeding arising in the Court of Law based on Award No. 6/2003 or Supplementary Award No. 6/2003 i.e. LA Case No. 1 of 2004 and even the said Execution Case No. 13/2010 and Review Case No. 12/2015 is thereby rendered nugatory due to the fact that all the LSCs concerned in the said Award No. 6/2003 and Supplementary Award No. 6/2003 is found to be illegal and cancelled by the Government.*

4. *The above decision and the subsequent actions to be taken thereof shall not in any way be deemed to have any derogatory affect on the ongoing project."*

[31.] A perusal of the above Order, dated 05.08.2016, reveals that the same was issued based on the purported direction of this Court, dated 02.07.2012, passed in CRP No. 02/2011 which was, of course, as referred therein preceded by an agreement between the land holders and the

Government held on 18.04.2013 and a number of decisions of the Council of Ministers, and further, in view of dismissal of Contempt Case No. 9/2014 as well as findings after verifications to the effect that the LSCs issued to the petitioners over the Tuirial riverine reserved forest area were not issued following the relevant provisions of law in force.

~~[32.] It is noticed that in the Judgment and Order dated 02.07.2012, passed in CRP No. 02/2011, this Court, besides setting aside and modifying the Order dated 10.12.2010 of the Executing Court in Execution Case No. 13/2010, to the effect "by procuring the same from the NEEPCO, observed as herein below extracted –~~

"34. Before parting with the record, this Court would like to observe that in view of the CBI investigation as referred to above and the stand taken by Forest Department, Mizoram, the Chief Secretary to the Government of Mizoram may look into the matter and take a conscious decision keeping in view the public interest involved. However, it is not for the Court to suggest as to what course of action should be adopted. Beyond this, the Court refrains from saying any further".

[33.] With regard to the above para No. 34, this Court in Contempt Case No.09/2014 interpreted the said para in para 35 of the Judgment and Order dated 08.05.2015 as follows:-

"35. The Court while deciding the said revision petition, by its order dated 02.07.2012 passed in said CRP No. 2/2011 neither made any specific direction to the Chief Secretary of the State nor specified any time limit for compliance of any such direction and only made an observation which is evident from the word "may" that appears in 'para 34' of the said order dated 02.07.2012. Said observation of the Court dated 02.07.2012 with "may" itself is susceptible to an interpretation that as per the said order dated 02.07.2012, keeping in view the public interest involved in the case, the Chief Secretary of the Government of Mizoram was free either to look into the matter and take a conscious decision or not".

[34.] Thus, the observation made in para 34 of the Judgment and Order, dated 02.07.2012 passed in CRP No. 02/2011 was interpreted and clarified in the aforesaid subsequent Judgment and Order dated 08.05.2015 passed in Contempt Case No. 09/2014 to the effect that the same had no legally binding effect on, that is, not a mandatory direction specific to the State Government to do certain act in a certain way as misinterpreted in the Order dated 05.08.2016.

On the other hand, the Government of Mizoram also referred to the Order dated 21.04.2010 passed in PIL No. 15/2008 based on which the CBI investigation was going on into the allegedly bogus claims made by some of the awardees. Pursuant to the said order, the CBI registered a case being



CBI (ACB) Case No. RC6(A)2010-IMPH and after completion of investigation laid a charge-sheet against 9 (nine) persons, none of whom is petitioner in the above Writ Petitions.

[35.] Further, it is noticed that on 18.04.2013, the Government of Mizoram acknowledged their liability to the awardees by convening a meeting with them to bargain on the amount of awarded compensation for acquisitioning

their lands to which they agreed "*to accept payment of certain amount of compensation plus interest etc.*". However, instead of following the provisions of the Land Acquisition Act in making payment of compensation to the awardee/petitioners as per the terms of the Awards, which received the final approval of the State Government, resorted to two physical verifications in absence of all the petitioners/LSC holders and without affording them sufficient opportunity of being heard unilaterally came to the findings that "all the LSCs of the petitioners falls within the riverine reserved forest areas" and their "LSCs were directly issued by the Assistant Settlement Officer without approval of the Government and these LSCs are thereby invalid in the eye of the Government".

[36.] The Hon'ble Supreme Court in para 12 of the judgment rendered in **Suzuki Parasrampuriah Suitings Private Limited -vs- Official Liquidator Of Mahendra Petrochemicals Limited** reported in **(2018) 10 SCC 707** held as under-

"12. A litigant can take different stands at different times but cannot take contradictory stands in the same case. A party cannot be permitted to approbate and reprobate on the same facts and take inconsistent shifting stands. The untenability of an inconsistent stand in the same case was considered in *Amar Singh v. Union of India*

"50. This Court wants to make it clear that an action at law is not a game of chess. A litigant who comes to court and invokes its writ jurisdiction must come with clean hands. He cannot prevaricate and take inconsistent positions."

[37.] Thus, in the backdrop of facts, it is noticed that the Government of Mizoram most arbitrarily without due process of the provisions of the Mizoram Land Revenue Laws and the Rules made thereunder, pre-decided and directed the District Collector to cancel all the LSCs of the Landowners concerned formally and to this end to initiate appropriate steps for cancellation of the Award No. 6 of 2003 and the Supplementary Award No. 6 of 2003 as stated above.

[38.] With regard to the plea of the respondents/State Government that the acquired land falls within the riverine forest area of Tuirial river, this Court feels it apposite to extract herein below the relevant provisions of The Mizo District (Forest) Act, 1955-

"14. *Power to constitute Council Reserve Forest-* The District Council may constitute any land at the disposal of the Council as a Council Reserve Forest in the manner hereinafter provided.

15. *Notification of proposal to constitute a Council Reserve Forest-* Whenever it is proposed to constitute any land as a Council Reserve Forest, the Executive Committee shall publish a notification in the Zoram Hriattirna, (1) declaring that it is proposed to constitute such a land a reserved forest, and (2) specifying as nearly as possible the situation and limits of such land and (3) inviting claim of rights and objections.

16. *Survey of the proposed Council Reserved Forest-* The Executive Committee, as soon as a notification is issued under Section 15 shall cause the area to be surveyed and demarcated by one or more of the Council Forest Officers not below the rank of Forester, shall also enquire into any right of any person in the area and shall also submit reports the Executive Committee which report shall deal with all points including compensation involved or alteration of the area recommended.

17. *Disposal of claims and objections-* All claims of right on the land and all objections against the proposed Council Reserved Forest shall be submitted in writing to the Executive Committee within 120

days from the date of publication of the notification under section 15.

18. *Council Forest Tribunal-* The Executive Committee shall appoint a Council Forest Tribunal who shall decide all claims of right on land all objections against the proposed Reserved Forest. The orders of the Council Forest Tribunal shall be published forthwith in the Assam Gazette.

19. *Appeal-* All appeals against the decision of the Council Forest Tribunal shall be submitted to the Executive Committee within 30 days of the order issued by the Council Forest Tribunal. The Executive Committee shall review the case as it deems necessary and pass order which shall be final.

20. *Nothing contained in sections 18 and 19 of this Act shall bar the jurisdiction of a competent Civil Court.*

21. *Final Notification constituting Council Reserved Forest-* The Executive Committee shall after disposal of all appeals, publish in the Assam Gazette the final notification specifying the limit of the Council Reserved Forest incorporating therein any changes and modifications made from the preliminary notification under section 15 of this Act and declaring the same to be a Council Reserved Forest from the date fixed by such notification".

[39.] The above provisions in The Mizo District (Forest) Act, 1955 prescribed the procedure for constituting the Government reserved forest in the State of Mizoram except the areas under the jurisdiction of the Chakma, Lai and Mara District Councils.

It is seen that the above Section 14 of the said Act empowers the Government to constitute any Government land as a Government Reserve Forest and Section 15 requires to publish notification of proposal in Zoram Hriattirna (The then official bulletin of Mizo District Council) for this purpose specifying the land and thereby to invite claim of rights and objections if any, in this regard. Thereafter, Section 16 required survey of the proposed site and demarcation of the same by the Council Forest Officer(s) and followed by disposal of claims and objections and then to submit a written report in this regard to the Executive Committee within 120 days from the date of publication of the Notification under Section 15 aforementioned. Thereafter, as provided in Section 21 of the Act, the Executive Committee, after disposal of all appeals as provided under Section 19, required to publish in the Assam Gazette, the final Notification specifying the limit of the Council Reserved Forest and declare the same to be the Council Reserved Forest from the date of such final Notification.

[40.] A perusal of the Notification dated 28.01.1965 published in the Assam Gazette dated 19.05.1965 reveals that the Chief Executive Officer, Mizo District Council declared forests located within half a mile on either

side of the river Tuirial and 15 other rivers to be the Council Reserved Forest. This Notification was issued under Section 14 read with Section 21 of The Mizo District (Forest) Act, 1955. However, it is noticed that before making the final Notification under Section 21 of the said Act, no preliminary notification as required under Section 15 of the said Act, quoted above, was ever published in the official bulletin of the Council "Zoram Hriattirna". As such, the impugned Notification cannot be accepted to be a legally valid notification declaring the Tuirial riverine area as the Council Reserved Forest, where LSCs of the petitioners were issued in favour of the petitioners for no fault of them or their misrepresentation of facts. Hence, the aforesaid impugned Order dated 05.08.2016 stating that the lands of the petitioners are covered by the Riverine Reserved Forest area is not sustainable.

[41.] The grounds of delay and laches to challenge the said Gazette Notification dated 19.05.1965 cannot come on the way of the petitioners' right to seek relief of compensation under the Awards as the cause of action for challenge of the said Notification by the petitioners arose only on and from the date of the impugned Order dated 05.08.2016 as the date of knowledge. Therefore, the petitioners have good and sufficient reasons for the delayed challenge to the said Notification. Further, it follows an obvious inference that as Section 22 of The Mizo District (Forest) Act, 1955 has been adapted and continued to be in force till date, it is undoubtedly within the competence and authority of the Executive Committee of the then Mizo



District Council or the Government of Mizoram, after amendment, allotment of lands may be made to any individual or a community granting rights of any nature to such individuals of a community as the case may be and therefore, the land allotments made by issuing LSCs in favour of the petitioners cannot now be cancelled without following the procedure prescribed in the Mizoram (Land Revenue) Act, 2013 and the Rules made thereunder. Moreover, as their lands have been included in the Final Awards made under the Land Acquisition Act, 1894 the question whether those are valid or not cannot be gone into at a subsequent stage.

[42.] It is surprising to notice that the Notification dated 16.04.1956, under Section 14 read with Section 21 of The Mizo District (Forest) Act, 1955 was published by the Executive Committee of the Mizo District Council, referred to above, which the respondents claimed to be the preliminary Notification in the Zoram Hriattirna (the official Bulletin of the Council) in its issue dated 29.02.1956, that is, before the date of the Notification without any explanation and as such, both the dates could not be reconciled being contradictory. It is also surprising that the respondents have claimed that after an unexplained delay of 10 years from the aforementioned preliminary Notifications, the State Government published the so called final Notification in The Assam Gazette dated 19.05.1965 whereby, one mile riverine area was reduced to half a mile on either side of the river. The aforesaid claims of the respondents/Government were not

raised literally in course of the acquisition process of the lands of the petitioners leading to the said Awards, which have already attained finality on receiving the Government approval, the same cannot be raised at this belated stage to defeat the rights of the petitioners to compensations in terms of the awards.

[43.] The Apex Court in **Pune Municipal Corporation And Another -vs- Harakchand Misirimal Solanki & Others** reported in **(2014) 3 SCC 183** held as under-

"18. The 1894 Act being an expropriatory legislation has to be strictly followed. The procedure, mode and manner for payment of compensation are prescribed in Part V (Sections 31-34) of the 1894 Act. The Collector, with regard to the payment of compensation, can only act in the manner so provided. It is settled proposition of law (classic statement of Lord Roche in *Nazir Ahmad*) that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden."

[44.] The Hon'ble Supreme Court in **State of Karnataka & Others - vs- I.S Nirvane Gowda & Others** reported in **(2007) 15 SCC 744** held that ".....When the lands were included in the reserved forest, the entries in the Revenue records were of no consequence and further, mere *saguvali chits* did not confer any title on the suit lands.which was

the part of the reserved forest." However, it may be noted that in the fact situations in the instant proceedings the purported declaration of the land in question as council forest reserve cannot be said to have been established in accordance with the relevant provisions of law as stated above in the present writ proceedings.

[45.] In the case of **State of Jharkhand & Other -vs- K.N. Farms and Industries Private Ltd.** reported in **(2012) 5 SCC 297**, it is held as extracted hereunder-

"The said mandamus could not have been issued as it was clearly beyond the scope of writ petition No. 1546 of 2005. The respondent had not made a grievance that the agreement dated 28.02.1960 was ultra vires the provisions of the 1894 Act or that even though possession of a substantial portion of the land specified in the agreement had been handed over on 31-3-1960, the State Government was under a legal obligation to initiate the acquisition proceedings and pay compensation under the 1894 Act."

[46.] It is noticed that pursuant to the Notification published by the Collector, Aizawl under Sections 4(1) and 9(1) of the Land Acquisition Act, the petitioners have submitted their claims for compensation for acquisition of their lands for the public purpose of construction of Turrial Hydro Electric Project under NEEPCO and after due process of enquiry into the objections of the persons interested and on due approval passed the

Awards under Section 11 of the said Act and thereafter, pronounced the final Awards under Section 12 (2) of the said Act. It is seen that some of the petitioners, more particularly of WP(C) No. 130/2013; WP(C) No. 16/2014; WP(C) No. 118/2015; WP(C) No. 132/2013; WP(C) No. 135/2013 and WP(C) No. 116/2015 being aggrieved by the amount of compensation awarded approached the Civil Court for execution of the Awards. Having not got appropriate reliefs, they expected in the execution proceedings, have preferred the extra-ordinary writ jurisdiction under Article 226 of the Constitution of India instead of following the procedure prescribed in the Land Acquisition Act, 1894 for the effective protection of their interest in the lands and right to compensation for acquisition of the same for public purpose. It may be mentioned that Part-V of the Act deals with the mode of payment of compensation of the awarded amount for land acquisition. Section 31(2) of the Act requires the Collector to deposit the awarded amount in Court in case it is not received by the persons interested or there is some dispute. Under the said Act, the deposit is required only with a view to avoid liability to pay interest, but if it does not deposit the amount under Section 31, acquisition would not lapse thereby. The land owners' right to be compensated is enforceable against the State as the Awards in question are not vitiated by malafide and it is the liability of the Collector in terms of the relevant provisions of the Land Acquisition Act to pay the amount awarded together with interest in the event of the amount not being paid on time to the awardee/petitioners.



[47.] A land acquisition Award undoubtedly has the sanctity of a decree and as such, in the complicated backdrops of claims and counter-claims of the parties in the instant writ proceedings, the Awards in question cannot be executed by resorting to the extra-ordinary jurisdiction under Article 226 by way of issuing the writ of mandamus or certiorari as a short cut method to compel the Government which has not bothered to pay the compensation to the awardee petitioners, whose landed property has been acquisitioned more than eighteen (18) years ago for public purpose. The petitioners apparently have an alternate and efficacious remedy in the Land Acquisition Act, 1894 to compel the Government to pay the compensation due to them, in the present complicated nature of facts involved in their claims and counter-claims of the State Government, the writ jurisdiction cannot be the appropriate remedy to enforce their rights. It may be pointed out here that the Collector by making the Awards did not act as agent of the Government, but as a statutory authority and the same having attained finality on receipt of approval of the Government, the same do bind both the Collector and the writ petitioners. It may further be pertinently mentioned, as submitted by both sides, that the acquired land has already been handed over to the NEEPCO and the NEEPCO has already completed construction of the Hydro Electric Project.

[48.] Accordingly, directions are made as follows-



(A). The impugned Order dated 05.08.2016 issued by the Chief Secretary to the Government of Mizoram and the impugned Notification dated 28.01.1965 made under Section 14 read with Section 21 of the Mizo District (Forest) Act, 1955 are hereby set aside and quashed as prayed for in WP(C) No. 45/2017 and WP(C) No. 51/2017; and

(B). The petitioners of all the above Writ Petitions shall seek alternative remedy for execution of the Awards in accordance with the procedure prescribed in the Land Acquisition Act, 1894.

It is, however, made clear that despite having directed as above, the State Government is at liberty to pay the compensation amounts due to the writ petitioners.

Accordingly, the writ petitions are disposed of.

JUDGE

Mahruaii/Zotei

ANNEXURE R-5
No. B.11011/1/2021-GAD
GOVERNMENT OF MIZORAM
GENERAL ADMINISTRATION DEPARTMENT
MIZORAM SECRETARIAT : MIZORAM NEW CAPITAL COMPLEX (MINECO)



NOTIFICATION

Aizawl, the 14th April, 2021

WHEREAS, the Gauhati High Court, Aizawl Bench in its Judgment and Order dated 27th January, 2021 in WP (C) 45 of 2017, WP (C) 51 of 2017, WP (C) 130 of 2013, WP (C) 131 of 2013, WP (C) 132 of 2013, WP(C) 135 of 2013, WP (C) 16 of 2013, WP (C) 116 of 2013, WP (C) 117 of 2013 and WP (C) 118 of 2013 had set aside and quashed the notification dated 28.01.1965 made under Section 14 read with Section 21 of The Mizo District (Forest) Act, 1955 published in the Assam Gazette which had declared forests located within half a mile on either side of the following rivers to be a Council Reserved Forest:

- (1) Tlawng, (Doleswari)
- (2) Tut, (Gutur)
- (3) Teirei, (Pakwa)
- (4) Langkaih, (Longai)
- (5) Chemlui
- (6) Serlui
- (7) Tuivai
- (8) Tuivawl
- (9) Tuirini
- (10) Tuirial
- (11) Tuiruang
- (12) Khawthlangtuiripui (Karnaphuli)
- (13) Tuichawng
- (14) Kau
- (15) De
- (16) Phairuang

AND WHEREAS, the Government of Mizoram preferred not to file an appeal to challenge the said Judgment and Order, but considered the necessity to issue executive order for protection and preservation of the said rivers and their banks.

NOW THEREFORE, the Governor of Mizoram is pleased to declare the said rivers with its banks up to 800 meters from the middle of the river on both sides of the river as '**Restricted Area**'. All the rights within the restricted areas shall vest in the State Government and no development or activities will be allowed within the restricted areas without prior approval of the Government of Mizoram. Any actions done within the said Council Reserved



Areas in accordance with Notification dated 28.01.1965 before it was set aside by the Gauhati High Court, Aizawl Bench vide its Judgment and Order dated 27/01/2021 shall be considered valid and bonafide exercise of authority.

The Governor of Mizoram is further pleased to authorise certain competent authorities under the Government of Mizoram (Allocation of Business) Rules, 2019 to take action within the restricted areas in the following cases:

1. The Passes already issued with the approval of competent authority are allowed for renewal subject to the fulfilment of the provision of section 43 of the Mizoram (Land Revenue) Act, 2013, read with the Proviso to Rule 25 (4) of the Mizoram (Land Revenue) Rules, 2013 as amended from time to time.
2. Encroacher within the declared Restricted Areas shall be evicted in accordance with the provisions of the Mizoram (Prevention of Government Land Encroachment) Act, 2001 as amended from time to time.
3. Land occupied for dwelling and other purposes within the declared restricted area shall be verified and cancelled by the Competent Authority if it is found that the occupancy poses any threat to the preservation of the environment and rivers.
4. The land occupied for dwelling, for public purpose etc. without lawful rights/ title within the Restricted Areas shall not be considered for regularization and liable to be evicted unless it is verified the occupied area does not pose any threat to the preservation of environment and rivers.
5. All other activities and uses, residential, commercial, industrial, social and other public purposes undertaken in the interest of the public by different Departments under the Government of Mizoram for purpose of enforcement of certain acts/rules/regulations/guidelines in the said riverine restricted areas shall continue to be in force unless repealed by the Government.

This order will take effect from the date of issue in the Mizoram Gazette.

Sd/- J.C. Ramthanga
Addl. Chief Secretary to the Govt. of Mizoram
General Administration Department



Memo No. B.11011/1/2021-GAD :

Aizawl, the 14th April, 2021

Copy to :

1. Secretary to Governor of Mizoram
2. P.S to Hon'ble Chief Minister, Mizoram
3. P.S to Speaker/ Ministers/ Deputy Speaker/ Ministers of State/ Govt. Deputy Chief Whip/
Vice-Chairman, State Planning Board/all Vice-Chairman, SEDP Board.
4. Sr. P.P.S to Chief Secretary, Govt. of Mizoram
5. P.P.S to Addl. Chief Secretary, Govt. of Mizoram
6. All Principal Secretaries/ Commissioner/Secretaries, Govt. of Mizoram
7. Secretary, MLA/MPSC/ MSIC/MSCPCR/Lok Ayukta
8. All Heads of Departments, Govt. of Mizoram
9. All Deputy Commissioners, Govt. of Mizoram
10. Chief Controller of Accounts, Accounts & Treasuries, Mizoram.
11. Controller of Printing & Stationeries, Mizoram with 6(six) spare copies for publication in
Mizoram Gazette Extra Ordinary.
12. Guard File.

(S.T. LALVENSANGI)

Under Secretary to the Govt. Of Mizoram
General Administration Department

GAHC030003822021

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ANNEXURE R-6

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WA/5/2021

State of Mizoram and 3 Ors
Chief Secretary to the Government of Mizoram Aizawl

VERSUS

Sh. Darkunga and 162 Ors
Zohmun, Mizoram

Advocate for the Petitioner : Mrs. H Lalmalsawmi (GA, Mizoram)

Advocate for the Respondent :

BEFORE
HONOURABLE MR JUSTICE SONGKHUPCHUNG SERTO
HONOURABLE MR. JUSTICE P.J. SAIKIA

ORDER**09.11.2022***(S.Serto, J)*

Mrs. H. Lalmalsawmi, learned Government Advocate appearing for the State appellants prays that she may be allowed to withdraw the appeal with liberty to file a fresh, if required.

Mr. Lalfakawma, learned counsel for the respondents has no objection to the said prayer.

In view of the prayer, the appeal is disposed of as withdrawn.

Liberty as prayed for is granted.

JUDGE

JUDGE

Comparing Assistant



GAHC030003832021



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WA/6/2021

State of Mizoram and 3 Ors
Chief Secretary
to the Government of Mizoram Aizawl

VERSUS

Sh. Lalthamanga and 53 Ors
Sakawrdai, Mizoram

Advocate for the Petitioner : Mrs. H Lalmalsawmi (GA, Mizoram)

Advocate for the Respondent :

BEFORE
HONOURABLE MR JUSTICE SONGKHUPCHUNG SERTO
HONOURABLE MR. JUSTICE P.J. SAIKIA

ORDER

09.11.2022*(S.Serto, J)*

Mrs. H. Lalmalsawmi, learned Government Advocate appearing for the State appellants prays that she may be allowed to withdraw the appeal with liberty to file a fresh, if required.

Mr. Lalfakawma, learned counsel for the respondents has no objection to the said prayer.

In view of the prayer, the appeal is disposed of as withdrawn.

Liberty as prayed for is granted.

JUDGE

JUDGE

Comparing Assistant

GAHC030003842021



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WA/7/2021

State of Mizoram and 2 Ors
R/b Chief Secretary
to the Government of Mizoram, Aizawl

VERSUS

Sh. Malsawma and 229 Ors
Mauchar, Mizoram

Advocate for the Petitioner : Mrs. H Lalmalsawmi (GA, Mizoram)

Advocate for the Respondent :

BEFORE
HONOURABLE MR JUSTICE SONGKHUPCHUNG SERTO
HONOURABLE MR. JUSTICE P.J. SAIKIA

ORDER**09.11.2022***(S.Serto, J)*

Mrs. H. Lalmalsawmi, learned Government Advocate appearing for the State appellants prays that she may be allowed to withdraw the appeal with liberty to file a fresh, if required.

Mr. Lalfakawma, learned counsel for the respondents has no objection to the said prayer.

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In view of the prayer, the appeal is disposed of as withdrawn.

Liberty as prayed for is granted.

JUDGE

JUDGE

Comparing Assistant

GAHC030003862021



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WA/8/2021

State of Mizoram and 3 Ors
R/b Chief secretary
Government of Mizoram
Aizawl

VERSUS

Sh. Ngurthanmawia and 34 Ors
Khatla
Aizawl

Advocate for the Petitioner : Mrs. H Lalmalsawmi (GA, Mizoram)

Advocate for the Respondent : Mr A.R. Malhotra

BEFORE
HONOURABLE MR JUSTICE SONGKHUPCHUNG SERTO
HONOURABLE MR. JUSTICE P.J. SAIKIA

ORDER**09.11.2022***(S.Serto, J)*

Mrs. H. Lalmalsawmi, learned Government Advocate appearing for the State appellants prays that she may be allowed to withdraw the appeal with liberty to file a fresh, if required.

Mr. A.R. Malhotra, learned counsel for the respondents has no objection to the said

prayer.

In view of the prayer, the appeal is disposed of as withdrawn.

Liberty as prayed for is granted.

JUDGE

JUDGE

Comparing Assistant

GAHC030003892021



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WA/10/2021

State of Mizoram and 3 Ors
R/b Chief Secretary
Govt. of Mizoram
Aizawl

VERSUS

Sh. Vanlalliana and 70 Ors
Saipum, Mizoram

Advocate for the Petitioner : Mrs. H Lalmalsawmi (GA, Mizoram)

Advocate for the Respondent :

BEFORE
HONOURABLE MR JUSTICE SONGKHUPCHUNG SERTO
HONOURABLE MR. JUSTICE P.J. SAIKIA

ORDER**09.11.2022***(S.Serto, J)*

Mrs. H. Lalmalsawmi, learned Government Advocate appearing for the State appellants prays that she may be allowed to withdraw the appeal with liberty to file a fresh, if required.

Mr. Lalfakawma, learned counsel for the respondents has no objection to the said prayer.

~~95~~

In view of the prayer, the appeal is disposed of as withdrawn.

Liberty as prayed for is granted.

JUDGE

JUDGE

Comparing Assistant

ANNEXURE E-7

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The Mizoram Gazette

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NOTIFICATION

No. H. 12017/151/2021-LJD(PHE), the 18th September, 2023. The following Act is hereby published for general information.

**“The Mizoram (Protection of Rivers) Act, 2023”
(Act No. 10 of 2023)**

(Received the assent of the Governor of Mizoram on 8.9.2023)

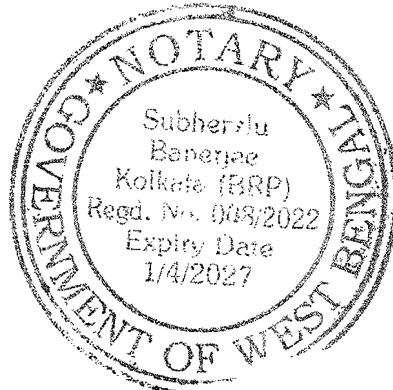
THE MIZORAM (PROTECTION OF RIVERS) ACT, 2023**AN
ACT**

to provide for the protection, conservation, rejuvenation and improvement of rivers
and the catchment areas

PREAMBLE

WHEREAS the rivers and their tributaries in the hilly areas of Mizoram are the main sources of water in the State and are the lifelines of the cities, towns and villages and the water in these rivers are the common natural resources required and utilized by human beings and animals for drinking and various other purposes, irrigation, fishing, sports and recreation having great potential for economic development of the State;

AND WHEREAS the growing human population and urbanization, unplanned construction, shifting cultivation and other forms of land use and activities in the catchment areas of the rivers are putting increasing pressure on the rivers and their tributaries in Mizoram resulting in depletion and scarcity of water and water pollution thus threatening the very source of drinking water and the pristine economic and environmental resources with irreparable damage to the detriment of the general public and the ecosystem which needs to be curbed;



Ex-501/2023

- 2 -

AND WHEREAS water is a common heritage, held in public trust, for the use of all, subject to reasonable restrictions, to protect all water and associated ecosystems; and in its natural state, such as river, stream, spring, natural surface water body, aquifer and wetland, water is a common pool resource, not amenable to ownership by the communities or persons;

AND WHEREAS water is the basic need for the survival of human beings, and the Supreme Court of India also held that right of access to clean drinking water is fundamental to life as enshrined in article 21 of the Constitution of India and there is a duty on the State and citizens under Article 48A and Article 51-A(g) to protect, safeguard and improve the environment including forests, rivers and wildlife and on the State to provide clean drinking water to its citizens*;

AND WHEREAS the Government of Mizoram is aware and satisfied that circumstances exist which render it necessary to take immediate action for the effective protection and conservation of the rivers, their tributaries and the catchment areas for ensuring sustainable availability of clean drinking* water for the State and for maintaining a balanced ecosystem;

AND WHEREAS, the Mizoram (Protection of Rivers) Ordinance, 2023 was promulgated by the Governor as per article 213(1) of the Constitution;

AND WHEREAS, article 213(2) (a) requires that an Ordinance be laid before the Legislative Assembly of the State;

NOW, THEREFORE, It is enacted by the Mizoram Legislative Assembly in the Seventy- Fourth Year of the Republic of India as follows:-

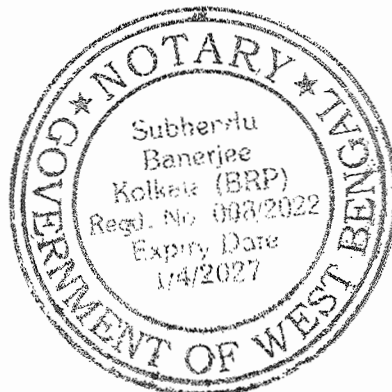
CHAPTER - I PRELIMINARY

1. Short title, extent and commencement.-

- (1) This Act may be called the Mizoram (Protection of Rivers) Act, 2023.
- (2) It extends to the whole of Mizoram except the areas under the jurisdiction of the Autonomous District Councils.
- (3) It shall come into force from the date of its publication in the Official Gazette.

2. Definitions.-

- (1) In this Act, unless the context otherwise requires,-
 - (a) "aquatic ecosystem" means a water-based environment, wherein, living organisms interact with both physical and chemical features of the environment and on which, the flora and living creatures or aquatic organisms depend, for their survival such as food, shelter, reproduction, and other essential activities;
 - (b) "Authority" means the Mizoram Rivers Protection Authority constituted at the State, District and Local level under section 3;
 - (c) "catchment area" of a river means the area of land from which water flows into the river;
 - (d) "designated officer" means an officer or any person so designated by the Government to perform the functions under this Act;
 - (e) "developmental activity" means an activity of any kind which alters the appearance, composition or functions of any land, water body, vegetation or the environment;

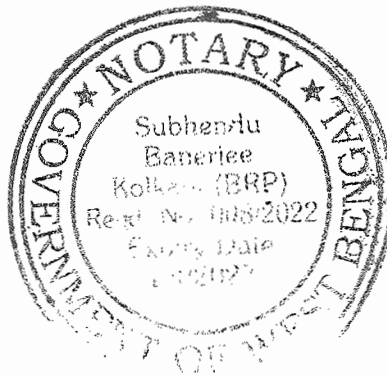


- (f) “encroachment”, for the purpose of this Act, shall mean felling or clearing of trees or any vegetation for any purpose, construction of any building or structure or carrying out any developmental activity within the river conservation zone without prior approval of the State Authority and other competent authority under the relevant laws in force;
- (g) “environment” includes water, air and land and the inter-relationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organism and property;
- (h) “government” means the Government of Mizoram;
- (i) “nodal department” means the department(s) appointed as such under section 5;
- (j) “offence” means an offence or action punishable under this Act or under any rule made thereunder;
- (k) “person” means any person or legal entity and includes an individual, firm, association, partnership, society, group, company, corporation, cooperative society, Government Department/ Agency, non-governmental organization, local body and local community;
- (l) “protected river” means river declared and notified as such under section 8.
- (m) “public servant” means any person authorized to perform duties and functions under the provision of this Act;
- (n) “river” means a natural collection of waters, arising from springs or fountains, flowing either continually or intermittently in a bed or channel of considerable width and length, on the earth’s surface, towards the sea;
- (o) “river conservation zone” is a zone in the catchment area adjoining the protected river declared and notified as such under section 8;
- (p) “State” means the State of Mizoram;
- (q) “tributary” means a freshwater stream that feeds into a larger stream or river;
- (r) “water pollution” means the contamination of water bodies, usually as a result of human activities, in such a manner that negatively affects its legitimate uses and to such extent or level as determined by the Government from time to time.
- (2) Words and expressions used in this Act, but not defined herein shall have the meanings assigned to them in the relevant Acts.

CHAPTER - II RIVER PROTECTION AUTHORITY

3. Constitution of the Mizoram River Protection Authority.-

- (1) The Government shall constitute an authority called the Mizoram River Protection Authority (MRPA) at the State level (to be known in short as State Authority) with the following composition to perform the functions stipulated under section 4.
- | | | |
|----|--|---------------|
| a) | Chief Secretary | : Chairperson |
| b) | Secretaries and Heads of Departments (Environment, Forests & Climate Change, Public Health Engineering, Land Resources, Soil & Water Conservation, Irrigation & Water Resources, Fisheries, Land Revenue & Settlement, Agriculture, Horticulture, Urban Development & Poverty Alleviation, Law & Judicial, Local Administration Departments, Planning & Programme Implementation, Rural Development, Finance Department) | : Members |
| c) | Municipal Commissioner/ Chief Executive Officer of the Urban Local Body | : Member |
| d) | Chairman, Mizoram Pollution Control Board | : Member |



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|----|---|--------------------|
| e) | Representative of Local Council | : Member |
| f) | Representative of Village Council Association | : Member |
| g) | Expert in the field of environment/public health*/hydrology
(to be appointed for three years term) | : Member |
| h) | Representative of any one of registered NGOs involved
in environment/natural resource protection (to be appointed
for three years term) | : Member |
| i) | Representative of Central Young Mizo Association | : Member |
| j) | Secretary, General Administration Department | : Member Secretary |

The State Authority may co-opt any officer(s) of the State Government and/or any person(s) as it may consider necessary.

- (2) The Government may, on the recommendation of the State Authority, constitute Working Group for the State Authority, with such composition to perform such duties and functions as may be prescribed.
- (3) The Government shall, in consultation with the State Authority, constitute District Level River Protection Authority (to be known in short as District Authority) for such districts in the State with such composition comprising of, among others, at least five non-official members such as experts in environment protection, civil societies, prominent citizens, etc and to perform such duties and functions as may be prescribed.
- (4) The Government may, on the recommendation of the District Authority, constitute Working Group for the District Authority, with such composition to perform such duties and functions as may be prescribed.
- (5) The Government shall, on the recommendation of the State Authority/District Authority, constitute Local Level River Protection Authority (to be known in short as Local Authority) for such wards or villages in the State with such composition comprising of, among others, Chairman, Local Council or President, Village Council, at least five non-official members such as local NGOs, civil societies and prominent citizens and to perform such duties and functions and in such manner as may be prescribed.
- (6) The Authority or the Working Group shall meet at least once in three months.
- (7) The non-official members of the Authority and the Working Group shall be entitled to such allowances for attending the meetings of the Authority or Working Group or for performing duties entrusted by the Authority as may be prescribed by the Government.
- (8) The State Authority may, as and when required, delegate any of their functions to the District Authority/Local Authority or to the Nodal Department or Officer of the Government for carrying out the purposes of this Act.

4. Functions of the State Authority.-

Subject to any special or general directions by the Government in this behalf, the State Authority shall perform the following functions, namely:-

- (a) to advise the Government on measures for the protection, conservation, maintenance and rejuvenation or improvement of the protected rivers, their tributaries and the river conservation zone for maintaining healthy ecosystem and to ensure sustainable availability of clean water in such rivers at all times;
- (b) to advise the Government on measures to regulate or prohibit the exploitation of water in the protected rivers and the river conservation zone so as to maintain sustainable availability of water and a balanced aquatic ecosystem in the larger interest of the society;
- (c) to advise the Government on the constitution, duties and functions of the District and Local Authorities and the designated officers under this Act;



- (d) to advise the Government on the legislative and administrative measures to be taken from time to time for the protection and conservation of the natural resources, the environment and the aquatic ecosystem in the protected rivers, their tributaries and the river conservation zone;
- (e) to liaise with stakeholder Departments, organizations, agencies and the public for promoting coordination and public participation and awareness in protection and conservation of the protected rivers, their tributaries and the river conservation zone;
- (f) to monitor the status and condition of the protected rivers and the river conservation zone including the works or activities undertaken therein through the concerned Government Departments, experts and other agencies.
- (g) to scrutinize the activities or works to be undertake within the protected rivers and the river conservation zone and give approval for such works as it may consider necessary.
- (h) to advise the Local Authority or District Authority to submit proposal for declaring any river and the catchment areas, within their jurisdiction that requires special protection for ensuring sustainable availability of clean water, as protected river and river conservation zone.

5. Appointment of Nodal Department.-

- (1) The Government shall, in consultation with the State Authority, by notification in the official gazette, appoint Nodal Department(s) to implement or carry out the provisions and purposes of this Act as well as the orders and directions of the State Authority.
- (2) The Nodal Department may, by order enlist the service and assistance of any government department, agency, authority or officials for implementing the purposes of this Act, and it shall be binding upon such government department, agency, authority or officials to provide such service and assistance as may be required.

6. Functions of the Nodal Department(s).-

Save as otherwise provided in any other law in force for the time being, the Nodal Department(s) shall have power to perform the following functions, namely:-

- (a) to advise or recommend to the State Authority and District Authority the name and designation of officers of the Nodal Department to be appointed as designated officers at the State level and District level;
- (b) to carry out survey and demarcation of the protected river and the river conservation zone notified under section 14 including fixation of permanent boundary pillars, fencing, signboards wherever required with the active participation of the local communities on the direction of the State Authority;
- (c) to take measures for the protection and conservation of the protected rivers, their tributaries and the river conservation zone;
- (d) to take measures to assess, monitor and evaluate the status and condition of each of the protected rivers, their tributaries and the river conservation zone with regard to the quantity and quality of water in various seasons and the status of flora, fauna and other aquatic life;
- (e) to take measures for rejuvenation or improvement of the protected rivers, their tributaries and the river conservation zone, such as afforestation through aided natural regeneration in degraded or open areas, soil and water conservation measures, construction of recharge pits/structures, check dams, pollution control at source, maintenance of e-flow and removal of encroachment wherever necessary with the active participation of the local communities and in accordance with the relevant laws in force;
- (f) to take any other measures for carrying out the provisions and purposes of this Act as well as the orders and directions of the State Authority.
- (g) to take measure for creating awareness among the general public about the importance of protecting and conserving the rivers and the catchment areas for ensuring sustainable availability of clean water.



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7. Appointment of Designated Officers and staff.-

- (1) The Government may, in consultation with the State Authority/District Authority, appoint or designate a senior level officer as designated officer at the State level and such other officers in the Districts as designated officers at the District level for the purposes of this Act to assist the State Authority and District Authority respectively in such manner and for such areas or District and to perform such duties and functions as may be prescribed.
- (2) The Government may, on the recommendation of the State Authority, from time to time, appoint or designate such other officers/officials or persons on contract basis or otherwise, as may be required to assist the Authority or designated officers and also to be in charge of certain stretch(es) of particular protected river(s) and/or river conservation zone in such manner and to perform such duties and functions as may be prescribed:
Provided that any person (non-official) who performs specific duties, if any, in respect of particular stretch of protected river(s) and/or river conservation zone, under this Act as assigned by the State Authority or District Authority, shall be entitled to such allowances or remuneration as approved by the Government.

CHAPTER - III**DECLARATION OF PROTECTED RIVER AND RIVER CONSERVATION ZONE****8. Power to declare Protected River and River Conservation Zone.-**

The Government shall, on the recommendation of the State Authority, from time to time declare, by notification in the official gazette, the whole stretch or part of any river and the adjoining catchment areas in the State as Protected River and River Conservation Zone respectively in the manner hereinafter provided.

9. Identification of river and the catchment areas that requires protection.-

- (1) The Local Authority may identify any river including their tributaries and the adjoining catchment areas, that requires special protection for its ecological, faunal, floral, hydrological, cultural or natural significance and for ensuring sustainable availability of clean water and submit the proposal for declaring the identified river as protected river to the District Authority.
- (2) The District Authority shall forward such proposal with comments for declaring the identified river as protected river indicating the name, situation, the approximate length or stretch(es) and the status of such river and the tributaries and the approximate area or extent and status of the catchment areas that requires protection to the State Authority.
- (3) The State Authority shall examine the proposal and submit the same with such modifications as may be required with recommendation to the Government for approval and issue of preliminary notification under section 10.
- (4) The State Authority, as it may consider necessary, may advise or direct the District Authority or Local Authority to submit proposal for declaring any river and the adjoining catchment areas, that require special protection for ensuring sustainable availability of clean water, as protected river and river conservation zone.

10. Notification of proposal to declare Protected River and River Conservation Zone.-

The Government shall, on the recommendation of the State Authority, publish a notification in the official gazette -

- (a) stating its intention to declare the identified river and the catchment areas as protected river and river conservation zone respectively with justification as may be required;



- (b) specifying the name, the situation, the approximate length or stretch(es) and condition of such river including the extent, the legal status and condition of catchment area to be declared as river conservation zone;
- (c) specifying the restriction to be imposed in such river and the river conservation zone; and
- (d) inviting claim of rights and objections within the proposed river conservation zone but outside the notified reserved forest, indicating the time frame of not less than 60 days for submission of the same and the authority i.e., State Level Designated Officer, to whom such claim is to be submitted.

A copy of the notification shall be sent to the Local Authority and Local/Village Council concerned in local vernacular language, and shall also be placed in public domain and disclosed through print or electronic media or in such manner, as may be considered necessary to give wide publicity to reach the affected people.

11. Survey of the proposed Protected River and the River Conservation Zone.-

The Government shall, on the expiry of the period fixed for submission of claims of rights and objections under clause (d) of section 10, cause the proposed protected river and the river conservation zone to be surveyed and demarcated by a team consisting of officials of the Nodal Department, other land-based Government Departments, representatives of Local/Village Council, Local Authority and civil societies concerned under the guidance of the designated officer concerned. The team shall also enquire into and/or verify on the spot, the claims of rights and objections and the existence of any right of any person or any Government Department, or land holdings already existing and/or developed with or without valid land pass or legal ownership in the area, location-wise showing the name of the location, village and district where claims of rights exist, the nature of claims or rights, the area, the distance from the proposed protected river, and shall submit detailed report indicating the condition and legal status of the proposed protected river and the river conservation zone with comments and suggestions for changes and modifications, if any, made from the preliminary notification under clause (b) of section 10 with supporting map to the State Level Designated Officer.

12. Disposal of claims and objections.-

All claims of rights on the proposed river conservation zone and all objections against the proposed declaration of protected river and the conservation zone and the report of the survey under section 11 shall be scrutinized, verified, decided and disposed of by the District Authority concerned.

Provided that such authority, while disposing claims of rights and objections, shall take into consideration, land records and the legal status of the proposed river conservation zone where rights are claimed as well as the provisions of the relevant laws in force in the State.

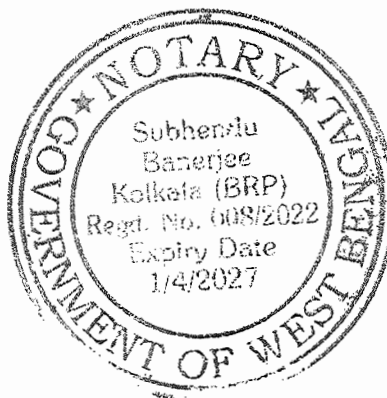
13. Appeal.-

Any person aggrieved by any decision of the authority under section 12 may file an appeal before the State Authority seeking appropriate relief within 60 days of the date of issue of the order/decision. The State Authority shall, within 60 days of filing the appeal, pass the appropriate order which shall be final.

14. Final notification declaring Protected River and the River Conservation Zone.-

The Government shall, after disposal of all appeals, publish in the official Gazette, the final notification declaring the **protected river** and the **river conservation zone**, specifying the name, situation, length or stretch(es), the extent, limit or boundary showing the geo-coordinates at suitable intervals, the condition and legal status of such protected river and the river conservation zone:

Provided that the legal status of reserved forest notified as river conservation zone, if any, shall remain unchanged.



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CHAPTER - IV

PROTECTION, REJUVENATION AND IMPROVEMENT OF PROTECTED RIVERS AND THE CATCHMENT AREAS

15. Restrictions in Protected River and River Conservation Zone.-

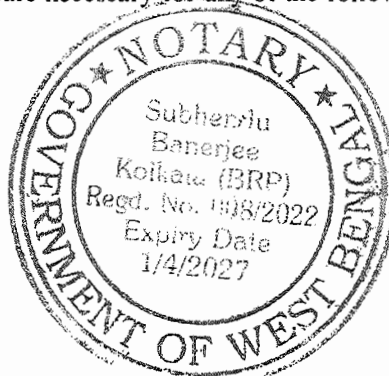
- (1) Subject to the provisions of the relevant laws in force in the State, no person shall –
- (a) construct, or undertake any developmental activity or industrial activity or physical works of any kind including obstruction or diversion of the water course or channel, or issue or obtain land pass of any kind in the protected river or river conservation zone that may cause depletion of water or adverse effect or disturbance on the ecosystem, excepting those unavoidable activities or works for which prior approval of the State Authority and other competent authority under the relevant laws shall invariably be obtained:
Provided that the restriction under clause (a) of sub-section (1) does not include any work ancillary to conservation, improvement and management of the ecosystem in the protected river and the river conservation zone, such as the construction of check-posts/duty camp, patrol paths, fire-lines, fencing, bridges and culverts, check dams, waterholes, boundary marks, pipelines or other like purposes.
 - (b) set fire or cause fire to spread; place, deposit, release or dispose, directly or indirectly, any garbage, spoils or any solid, liquid and gaseous hazardous waste or substance including poison, chemicals and noxious materials, into any protected river or their tributaries or in the river conservation zone or the catchment areas that may cause water pollution or death or disturbance to the living organisms or the ecosystem;
 - (c) quarry stone, extract sand and soil, cut, damage, injure or collect trees and other non-timber forest produce or any natural resources in the river conservation zone except with prior approval of the State Authority and other competent authority under the relevant laws in force;
 - (d) in the protected rivers or river conservation zone, carry or use poison, chemicals, noxious or hazardous materials, explosive substances, inflammables, arms and ammunitions or any other substances, electrical or mechanical devices for hunting or killing any wild animal or living organisms or for any other purposes;
 - (e) extract or divert water from the protected rivers or their tributaries or tap ground water or surface water in the river conservation zone for commercial and industrial purposes;
- (2) The Government shall have power to impose any other restrictions as it may consider necessary for the purposes of this Act.

16. Restrictions in the catchment areas beyond River Conservation Zone.-

In any land beyond the river conservation zone but within the catchment areas of the protected rivers, the State Government may, in consultation with the State Authority, by notification, regulate, restrict or prohibit -

- (a) the breaking up or clearing of land for cultivation or any other purposes;
- (b) the setting on fire or clearing of the vegetation;
- (c) extraction of ground water or surface water for commercial purpose;
- (d) disturbance of terrestrial and aquatic life and/or pollution of habitat;

when such regulation or prohibition appears necessary for any of the following purposes -



- (i) for the preservation of soil on ridges and slopes, for the prevention of landslips or of the formation of ravines and torrents, or the protection of land against erosion;
- (ii) for the maintenance of water supply in springs, streams and rivers;
- (iii) for the preservation of the public health.
- (iv) for the preservation of wildlife and for prevention of land and water pollution#.

17. Power to prevent or stop illegal activities or encroachment.-

Notwithstanding anything contained in any other law for the time being in force, the Government or the Authority or the designated officer/designated person shall have power to prevent or stop any activity prohibited under this Act.

18. Proper arrangement for sanitation.-

It shall be incumbent upon the owner of any building, structure or establishment, except a temporary or kutchra hut built by local inhabitant for agriculture purposes, within the river conservation zone or catchment areas to ensure construction of proper septic tanks and a soaking pit or an alternate arrangement, and garbage or waste disposal system acceptable to the Authority or designated officer.

**CHAPTER - V
OFFENCES, PROCEDURES AND PENALTIES**

19. Power of entry, search, seizure and inspection, etc.-

- (1) The designated officer or his duly authorized representative, if he has any reason to believe, whether from any information given to him by any person and taken down in writing or from personal knowledge or otherwise, that any action prohibited under this Act has taken place or is intended to take place and in respect of which an offence punishable under this Act appears to have been, or is likely to be committed, may inspect or enter at any reasonable time, any such premises, and search and inspect such premises whether open or closed space and seize the property, item and material prohibited under this Act, if any.
- (2) Every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 relating to search or seizure.

20. Vicarious liability.-

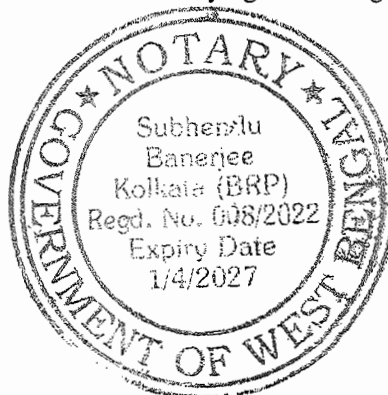
When an offence under this Act is committed by any Department/agency or its employee, then the head of the Department/agency shall be deemed to have committed the offence, unless he proves that the offence was committed without his knowledge or that he used all his efforts to prevent the commission of such an offence.

21. Indemnity.-

No suit, prosecution or legal proceedings, whatsoever, shall lie against any public servant in respect of anything which has been done, or intended to be done, in good faith, under this Act. The officers or any person authorized under the provision of this Act to perform a certain act in a certain manner shall be deemed to be public servants within the meaning of the Indian Penal Code.

22. Penalties.-

- (1) Whoever contravenes any of the provisions of this Act or obstructs any public servant in the discharge of duties under this Act or violates any rule or order made under this Act, shall be punishable with fine which shall not be less than one thousand rupees, but which may extend to ten thousand rupees in addition to the cost of remedying the damage caused, if any:



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Provided that the person responsible for abetment of such offence or connivance shall also be liable and punished accordingly.

- (2) Whoever without any lawful authority undertakes any developmental activities or industrial activities or works of any kind which cause water pollution or any other activities which cause death or disturbance to the wild animals or living organism in any manner in the protected river and river conservation zone or set fire to any vegetation or obstruct or divert the water course or channel in the river conservation zone or encroaches upon the river conservation zone, shall be punishable with imprisonment for a term which shall not be less than one month but which may extend to six months or with fine which shall not be less than ten thousand rupees but which may extend to one lakh rupees or with both in addition to the cost of remedying the damage caused, if any:

Provided that the person responsible for abetment of such offence or connivance shall also be liable and punished accordingly.

- (3) Whoever without any lawful authority cuts or injures a tree or clears any vegetation or quarries stones, extract sand or other non-timber forest produce in the protected river and river conservation zone shall be punishable with a fine which shall not be less than two times of the value of such forest produce damaged or collected but which may extend to five times of such value in addition to other penalty that may be imposed:

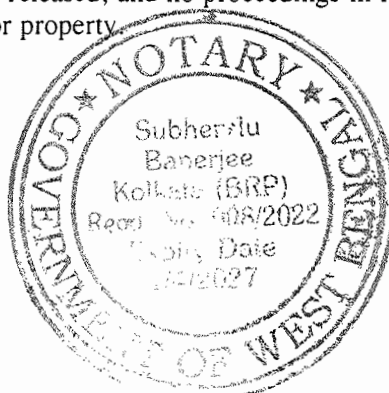
Provided that the person responsible for abetment of such offence or connivance shall also be liable and punished accordingly.

- (4) In the case of a second or subsequent offence, the offender shall be punished with twice the amount of fine prescribed for such offence under sub-section (1) or sub-section (2) or sub-section (3), as the case may be.
- (5) In the case of continuing contravention, an additional fine which may extend up to five thousand rupees may be imposed for every day during which such contravention continues:

Provided that no such penalty shall be imposed without giving the person concerned an opportunity of being heard in the matter.

23. Power to compound offences.-

- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Government may, by notification, empower any officer of the Nodal Department -
- (a) to accept from any person who committed or who is reasonably suspected of having committed an offence punishable under this Act other than the offences punishable under sub-section (2) of section 22 of this Act, a sum of money by way of compensation for the offence which such person is suspected to have committed, and
- (b) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.
- (2) On payment of such sum of money, or such value, or both, as the case may be, to such officer, the suspected person, if in custody in connection with the offence, shall be discharged, the property, if any, seized shall be released, and no proceedings in respect of the offence shall be taken against such person or property.



**CHAPTER - VI
MISCELLANEOUS**

24. Reward for detection of offence/apprehension of offenders. -

- (1) When the court imposes a sentence of fine under section 22, it may, when passing judgement, order that the reward be paid to a whistle-blower or person who renders assistance in the detection of the offence or the apprehension of the offenders, if any, out of the proceeds of fine not exceeding twenty per cent of such fine.
- (2) When an offence is compounded under section 23, the officer compounding the case may order reward to be paid to a whistle-blower or person who renders assistance in the detection of the offence or the apprehension of the offenders, if any, out of the sum of money accepted by way of composition not exceeding twenty per cent of such money.
- (3) The Government may prescribe the procedure for payment of reward under sub-section (1) and sub-section (2).

25. Creation of the Mizoram River Protection Authority Fund.-

The State Government shall create a separate fund to be called "The Mizoram River Protection Authority Fund", to which shall be credited all receipt towards fee, fine, penalty, surcharge, etc levied and collected under this Act including donation and grants received by the Authority in such manner as may be prescribed.

26. Utilization of fund.-

All funds/money received by the Authority shall be set aside and utilised for -

- a) payment of quarterly sitting allowances to non-official members of the Authority or Working Group;
- b) payment of reward to whistle-blowers or persons who render assistance in detection of offence or apprehension of offenders;
- c) payment of allowances or remuneration or wages to non-officials/persons for performing duties under this Act as assigned by the Government or the Authority;
- d) any other activities related to the protection, conservation and rehabilitation of the protected rivers, river conservation zones or the catchment areas:

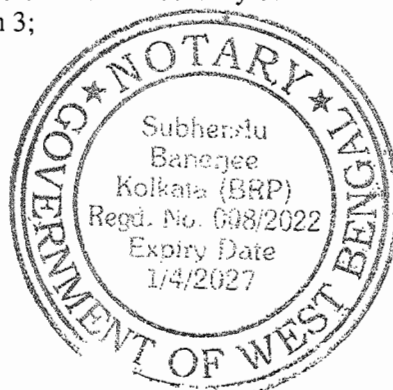
Provided that the Government shall prescribe the manner and procedure for utilization and maintenance of the accounts of the funds received under section 25.

27. Act to have effect in addition to other Acts.-

The provisions of this Act shall be in addition to, and not in derogation of, the provisions in any other law, for the time being in force.

28. Power to make rules.-

- (1) The State Government may, by a notification, make rules consistent with the provisions of this Act for carrying out all or any of the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for or prescribe -
 - (a) the composition, duties and functions of -
 - (i) the Working Group for the State Authority and for the District Authority constituted under sub-section (2) and sub-section (4) of section 3;
 - (ii) the District Authority and the Local Authority constituted under sub-section (3) and sub-section (5) of section 3;



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- (b) the procedure for payment of allowances to non-officials for attending meetings of the Authority/Working Group or for performing duties entrusted by the Authority under sub-section 7 of section 3;
- (c) the duties and functions of the designated officer(s) at the State level and District level appointed under sub-section (1) of section 7;
- (d) the procedure for appointment of officials or persons on contract basis or otherwise to assist the Authority or designated officers as well as the duties and functions of such officials or persons as may be required under sub-section (2) of section 7;
- (e) the manner and procedure for creation and utilization of the Mizoram River Protection Authority Fund including maintenance of the accounts of such fund under section 25 and section 26;
- (f) the procedure for dealing with offences under this Act;
- (g) any other matter as may be required for the purpose of carrying out any of the purposes of this Act.

29. Power to remove difficulties.—

If any difficulty arises in giving effect to any of the provisions of this Act, the Government may, by order, make such provisions or give such directions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removing such difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this Act.



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682:NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT CORPORATION LTD.
(MINISTRY OF ROAD TRANSPORT AND HIGHWAY GOVT. OF INDIA)
REPRESENTED BY ITS MANAGING DIRECTOR
AT 3rd FLOOR, PTI BUILDING, 4
PARLIAMENT STREET, NEW DELHI-110001.

683:THE EXECUTIVE DIRECTOR (P), NHIDCL
NATIONAL HIGHWAYS AND INFRASTRUCTURE DEVELOPMENT CORPORATION LTD, REGIONAL OFFICE- AIZAWL
MIZORAM, 3rd FLOOR, T-86, TUIKHUAHTLANG
AIZAWL, MIZORAM, PIN-796001.

For the Applicant/Appellant : Ms. P. Banerjee, Advocate (through Video Conferencing).
Ms. S. Das, Advocate.

For the Respondent(s) : Mr. A. Kalita, Additional Advocate General, Mizoram.
: Mr. H.K. Sarma, Advocate for respondent No.5.
: Mr. P.D. Nair and Mr. H. Rohman, Advocates for respondent Nos.7, 8, 11, 12, 24, 28, 29, 31, 33, 38 and 510 to 562.
: Mr. R. Boro, Advocate on behalf of Mr. C. Baruah, Advocate for respondent Nos.682 and 683.

BEFORE
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE KARDAK ETE

16.10.2023

Learned counsel for the applicant/appellant has moved the Interlocutory Application, I.A.(Civil) No.3177/2023 with a prayer to allow withdrawal of the

writ appeal, being WA No.274/2022 and to file a fresh one citing the reason that there are omissions in the statement of facts and other inadvertent mistakes of technical nature, which may ultimately prejudice the cause of the applicant/appellant..

It is submitted by Ms. P. Banerjee, learned counsel for the applicant/appellant that during pendency of the writ appeal, Mizoram (Protection of Rivers) Ordinance, 2023 has been approved by the Council of Ministers of Mizoram and subsequently, the Mizoram (Protection of Rivers) Bill, 2023 was published vide in Mizoram Gazette on 19.09.2023. The applicant/appellant would like to bring the said Notification on record and to challenge the same.

Mr. A. Kalita, learned Additional Advocate General, Mizoram has opposed the prayer for withdrawal of the writ appeal.

However, we are of the opinion that as the applicant/appellant's counsel has cited justifiable grounds seeking withdrawal of WA No.274/2022 with liberty to file fresh writ appeal, the instant Interlocutory Application stands allowed.

The *ad interim stay* order passed earlier by this Court in WA No.274/2022 shall stand vacated.

Hence, the connected writ appeal, WA No.274/2022 is disposed of as withdrawn with the liberty to the applicant/appellant to file a fresh writ appeal, if so required.

JUDGE

CHIEF JUSTICE

Comparing Assistant

Ravi Mishra
//TRUE COPY//

GOVERNMENT OF MIZORAM
OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS
ENVIRONMENT, FOREST & CLIMATE CHANGE
MIZORAM: AIZAWL

No.C.18013/62/2014-Legal/PCCF/4186

Dated Aizawl the 12th July 2021

To

The Principal Secretary to the Government of Mizoram
Environment, Forest & Climate Change Department
Mizoram, Aizawl

Sub: Minutes of the meeting of Senior Forest Officers held on dated 22.06.2021 on the Hon'ble Gauhati High Court's Order dated 27-01-2021 concerned with Riverine Reserved Forest & Roadside Reserved Forests (Aijal to Silchar via Sairang)

Ref: Memo No.C.18013/62/2014-Legal/PCCF dated Aizawl the 7th July 2021

Sir,

In continuation of this office letters (1).No.C.18013/62/2014-LEGAL/PCCF/404dt.12-02-2021,(2).No.C.18013/62/2014-LEGAL/PCCF/453dt.17-03-2021, (3).No.B.19012/7/2015-FC/PCCF dt.22-03-2021,(4).No.C.18013/62/2014-LEGAL/PCCF/455dt.04-05-2021, copy of minutes of meeting vides Memo No.C.18013/62/2014-LEGAL/PCCF dt. 07-07-2021 is hereby enclosed for kind perusal and necessary action.

The views/recommendations of the meeting are reproduced below for further action;

1. Useful directions were given by Hon'ble Supreme Court on the important issue of Forest Conservation in their judgement dated 12.12.1996 passed in WP(C) no. 202/1995 in the matter of T.N. Godavarman Thirumulkpad versus Union of India and others with WP(C) No. 171/1996 Environmental Awareness Forum versus State of Jammu & Kashmir and others. Hon'ble Supreme Court directed that provisions of Forest Conservation Act, 1980 must apply to all forest irrespective of the nature of ownership or classification thereof. It was a landmark judgement passed by the Hon'ble Supreme Court aimed at strict and effective implementation of the Forest Conservation Act, 1980. The judgement provided a definite direction for defining the forest and the forest land for the purpose of deciding the applicability of the Forest Conservation Act, 1980 and its subsequent amendment made from time to time.

The Hon'ble Supreme Court directed that the word "Forests" must be understood according to its dictionary meaning. This description covers all statutorily recognized forests, whether designated as reserved, protected or otherwise for the purpose of section-2 of the Forest Conservation Act. The term "Forests land", occurring in Section 2 will not only include "Forests" as understood in the dictionary sense, but also any area recorded as forests in the Government record irrespective of the ownership.

So, first of all, it was attempted to list out all documents (Government Records) where Riverine Reserved Forests and Road Side Reserved Forests (Aijal to Silchar via Sairang) have been mentioned as forests. The followings are the key relevant documents available in our office. The copies are enclosed.

- A. 1956 notification of RRF (Annexure-2)
 B. 1965 RRF & Roadside Notification (Annexure-3)
 C. Affidavit filed in the Hon'ble Supreme Court (Annexure-4).
2. In pursuance of Hon'ble Supreme Court Order in WP(C) No. 202 of 1995 in the matter of T.N. GodavarmanThirumulkpadversus Union of India and others, an expert committee was constituted by the State Government of Mizoram to identify the then Forest Areas. Subsequently, an affidavit was filed by the State Government in the Hon'ble Supreme Court mentioning the details of forest areas in Mizoram. The affidavit is a Government record. In that report i.e. affidavit, the Riverine Reserved Forests and Road Side Reserved Forests (Aijal to Silchar via Sairang) has been shown as Forests. So, in view of the order of Hon'ble Supreme Court, Riverine Reserved Forests and Road Side Reserved Forests (Aijal to Silchar via Sairang) may continue to be as Forests unless any change is made in the affidavit in concurrence with Hon'ble Supreme Court. So long as the affidavit prevails, the Riverine Reserved Forests and Road Side Reserved Forests (Aijal to Silchar via Sairang) may continue to remain as Forests.
- Unless and until the affidavit is modified with approval of Hon'ble Supreme Court, the Riverine Reserved Forests and Road Side Reserved Forests (Aijal to Silchar via Sairang) may continue as Forests and as such, it may be difficult to implement the order of 27/01/2021 of Hon'ble Gauhati High Court.
- The matter may be conveyed to theState Government with a request to take a proper view on the facts stated above in consultation with EF&CC Department, Law & Judicial Department, Land Revenue & Settlement Department and General Administration Department.
3. The extent of area covered under notified forests in the State of Mizoram is as given below:

Sl.No.	Name of Reserved Forests	Area in sq.km
1	Inner-line Reserved Forests	570.00
2	Riverine reserved Forests	1832.50
3	Roadside Reserved Forests	97.20
4	Compensatory Afforestation areas declared as Reserved Forests	125.87
5	Other Reserved Forests	1873.65
6	Wildlife Protected Areas	1997.75
7	Village Supply and Safety Reserve	Not surveyed.
8	Reserved Forests under District Councils	2562.00
9	Non Notified Forests	833.00
	Total	9891.97

Implementation of order of Hon'ble High Court will involve reduction in area of Notified Forests by 1929.7 sq.km which is quite significant. As significant change in area in Notified Forests is involved, and as Forests is a concurrent subject, views of Government of India (Ministry of Environment, Forests & Climate Change) may also be taken by the State Government on implementation of the order of Hon'ble Gauhati High Court dated 27.01.2021 and Hon'ble Supreme Court order dated 12.12.1996.

4. Filing of appeal against the Order of Hon'ble Gauhati High Court may be expedited.

5. The Order of the Hon'ble Supreme Court dated 12.12.1996, Order of Hon'ble Gauhati High Court dated 27.01.2021, status of appeal against the order of Hon'ble Gauhati High Court may also be placed by the State Government through Government of India (MoEF&CC), before the Hon'ble National Green Tribunal in O.A. 68/2019.
6. Officers were of the view that notification dated 28.01.1965 has been quashed by the Hon'ble High Court. However, in the order, it has not been explicitly stated that the notification dated 16.4.1956 has also been quashed. So one view is that the notification dated 16.4.1956 still stands and notification dated 28.01.1965 has been quashed on the grounds of procedural lapses.

As the notification dated 16.4.1956 stands and as the status of RRF has been mentioned as forest in the notification and as it is a Government record, therefore the status of RRF may continue to remain as forest in view of the order of Hon'ble Supreme Court dated 12.12.1996. As per the order of Hon'ble Supreme Court, the term "Forests land", occurring in Section 2 will not only include "Forests" as understood in the dictionary sense, but also any area recorded as forests in the Government record irrespective of the ownership.

The matter may be conveyed to the State Government with a request to take a proper view on the facts stated above in consultation with EF&CC Department, Law & Judicial Department, Land Revenue & Settlement Department and General Administration Department.

This is for information and further necessary action.

Enclosed: As above;

Yours Faithfully


(LIANDAWLA)

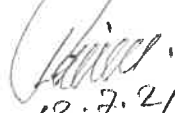
Principal Chief Conservator of Forests
Mizoram

Memo No.C.18013/62/2014-Legal/PCCF

Dated Aizawl the 12th July 2021

Copy to:

1. PS to Hon'ble Minister, EF&CC Department, Mizoram for kind information of the Hon'ble Minister.s
2. The Deputy Director General of Forests, IRO, MoEF&CC, Govt. of India, Shillong for information
3. The Secretary, Law & Judicial Department, Mizoram for information
4. The Secretary, Land Revenue & Settlement Department, Mizoram for information
5. The Secretary, General Administration Department, Mizoram for information


12.7.21
(K.KIRE)

APCCF & Nodal Officer (FC)



ANNEXURE R-10

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No.C.18013/89/2017-LEGAL/PCCF/
GOVERNMENT OF MIZORAM
OFFICE OF THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS
ENVIRONMENT, FORESTS & CLIMATE CHANGE DEPARTMENT

Dated Aizawl, the 9 December, 2022

To,

The Principal Secretary to the Govt. of Mizoram,
Environment, Forests & Climate Change Department,
Aizawl, Mizoram.

**Subj.: WA No. 1 of 2022 Aa/o WP(C) No. 45 of 2015 in the matter of Centre for
Environment Protection vs State of Mizoram & 680 Ors.**

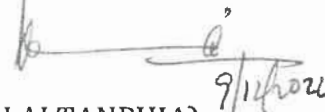
Ref.: No.C.18014/347/2022-FST dt. 01.07.2022

Sir,

With reference to the letter No. and subject cited above, I am directed to send
herewith comments for taking further necessary action please.

Encl: As above.

Yours faithfully,



(PC LALTANPUIA)

Deputy Conservator of Forest (Hqrs)
Environment, Forests & Climate Change Department

d/c

226
9.12.2022
R

COMMENTS ON W.A No. 1 of 2022 Aa/o WP(C) No. 45 of 2015 IN THE MATTER OF CENTRE FOR ENVIRONMENT PROTECTION vs. STATE OF MIZORAM & 680 Ors.

1. Directions were given by Hon'ble Supreme Court on the important issue of Forest Conservation in their judgement dated 12.12.1996 passed in W(C) No. 202/1995 in the matter of T.N. Godavarman Thirumulpad versus Union of India and others with WP(C) No. 171/1996 Environmental Awareness Forum versus State of Jammu & Kashmir and others.

Hon'ble Supreme Court directed that provisions of Forest (Conservation) Act, 1980 must apply to all forests irrespective of the nature of ownership or classification thereof. It was a landmark judgement passed by the Hon'ble Supreme Court aimed at strict and effective implementation of The Forest (Conservation) Act, 1980. The judgement provided a definite direction for defining the forest and the forest land for the purpose of deciding the applicability of The Forest (Conservation) Act, 1980 and its subsequent amendment made from time to time.

The Hon'ble Supreme Court directed that the word "Forests" must be understood according to its dictionary meaning. This description covers all statutorily recognized forests, whether designated as reserved, protected or otherwise for the purpose of Section-2 of the Forest Conservation Act. The term "Forests land", occurring in Section 2 will not only include "Forests" as understood in the dictionary sense, but also any area recorded as forests in the Government record irrespective of the ownership.

So, following documents (Government Records) where Riverine Reserved Forests and Road Side Reserved Forests (Aizawl to Silchar via Sairang) have been mentioned as forests are listed below:-

- A. 1956 notification of RRF (Annexure-1)
- B. 1965 RRF & Roadside Notification (Annexure-2)
- C. Affidavit filed in the Hon'ble Supreme Court (Annexure-3).

2. In pursuance of Hon'ble Supreme Court Order in WP(C) No. 202 of 1995 in the matter of T.N. Godavarman Thirumulpad versus Union of India and others, an expert committee was constituted by the State Government of Mizoram to identify the then Forest Areas.

Subsequently, an affidavit was filed by the State Government in the Hon'ble Supreme Court mentioning the details of forest areas in Mizoram. The affidavit is a Government record. In that report i.e. affidavit, the Riverine Reserved Forests and Road Side Reserved Forests (Aizawl to Silchar via Sairang) have been shown as Forests. So, in view of the order of Hon'ble Supreme Court, Riverine Reserved Forests and Roadside Reserved Forests (Aizawl to Silchar via Sairang) shall continue to be as Forests unless any change is made in the affidavit in concurrence with Hon'ble Supreme Court. So long as the affidavit prevails, the Riverine Reserved Forests and Roadside Reserved Forests (Aizawl to Silchar via Sairang) may continue to remain as Forests. Therefore, it may be difficult to implement the order of 27/01/2021 of Hon'ble Gauhati High Court. (Annexure-3).

3. The extent of area covered under notified forests in the State of Mizoram is as given below:

Sl.No.	Name of Reserved Forests	Area in sq.km
1	Inner-line Reserved Forests	570.00
2	Riverine Reserved Forests	1832.50
3	Roadside Reserved Forests	97.20
4	Compensatory Afforestation areas declared as Reserved Forests	125.87
5	Other Reserved Forests	1873.65
6	Wildlife Protected Areas	1997.75
7	Village Supply and Safety Reserve	Not surveyed.
8	Reserved Forests under District Councils	2562.00
9	Non Notified Forests	833.00
	Total	9891.97

Implementation of order of Hon'ble High Court will involve reduction in area of Notified Forests by 1929.7 sq.km which is quite significant. As significant change in area in Notified Forests is involved, and as Forests is a concurrent subject, views of Government of India (Ministry of Environment, Forests & Climate Change) may also be taken by the State Government on implementation of the order of Hon'ble Gauhati High Court dated 27.01.2021 and Hon'ble Supreme Court order dated 12.12.1996.

4. The Hon'ble Supreme Court of India ordered on 13.11.2000 in I.A No. 2 in W.P No. 337/1995 reiterated by the Supreme Court on 09.09.2004 in I.A No. 16 that "proceeding further orders in de-reservation of forest/sanctuaries/national park be affected" the Hon'ble Gauhati High Court, Single bench therefore was not to give any order violating the order of Hon'ble Supreme Court as quashing RRF Notification amounts to de-reservation of a reserve forest.

5. The Hon'ble Gauhati High Court (Single) Bench in its order dt. 27.01.2021 in the WP (C) Civil No. 130 of 2013 has mainly based its judgement for quashing the Notification of 1965 on the ground that the Preliminary Notification is dt. 16.04.1956 whereas it was published in the Zoram Hriattirna on dt. 29.02.1956 which is prior to the date of Notification. From the various Notifications published together in Zoram Hriattirna, it appears that during those days the issues were not published on the due dates and various Notifications were compiled and published together in fortnightly Zoram Hriattirna the time of publication mentioning in due date of its publication therein (back dated). Copies of such Notification and publication are enclosed herewith as Annexure I. Hence basing it as the only ground to do away with large tract of Riverine Reserve Forest as well as Roadside Reserve Forest which was in existence since more than 50yrs without consulting any records and without any enquiry into the circumstances setting aside of RRF Notification is not proper.

6. The decision of the Hon'ble Gauhati High Court is based on presumption only and no records were taken as evidence. Thus, the order of the Hon'ble Court is bad in law.

7. The Hon'ble Court has discussed only the Preliminary Notification of the Riverine Reserve Forest and nowhere has made any mention of Roadside Reserve Forest. The Preliminary Notification for these two were issued on different dates though the Final Notification is in one order only. Therefore, no decision on Roadside Reserve Forest was to be taken by the Hon'ble Court and if at all it had to take any decision in the matter, it should have been limited to Riverine Reserve forest only.

8. In Bhopal Gas Peedith Mahila Udyog Sangathan & Ors. vs UOI & Ors. WP(C) No. 50 of 1988, the Supreme Court in para 38 of its order stated that "Keeping in view the provisions and scheme of the National Green Tribunal Act, 2010 (for short the NGT) particularly Section 14, 29,30 & 38 (5), it can safely be concluded that the environmental issues and matters covered under the NGT Act, Schedule 1 should be instituted and litigated before the National Green Tribunal. Such approach may be necessary to avoid likelihood of conflict of orders between the High Courts and the NGT. Thus, in unambiguous terms, we direct that all the matters instituted after coming into force of the NGT Act and which are covered under the provisions of the NGT Act and/or in Schedule 1 of the NGT Act shall stand transferred and can be instituted only before the NGT. This will help in rendering expeditious and specialized justice in the field of environment to all concerned. (Copy of Hon'ble Supreme Court's order enclosed as **Annexure-6**).

9. Further the Hon'ble Gauhati High Court (Principal Bench) vide its order dt. 24.11.2021 in the matter of encroachment in Roadside Reserve Forest (Aizawl-Silchar via Sairang) Case No. WA/39/2019 (Lianhmingthangi & 5 Ors. vs. State of Mizoram & 3 Ors.) concluded that "the land is forest land and the appellants/writ petitioners do not have any right over forest land. In case appellants/writ petitioners claim rights on land on the basis of their title or possession or claim any other rights, they may pursue their remedy before a Civil Court, as the matter then would be largely a matter of factual dispute. (Copy of Hon'ble High Court's order 24.11.2021, enclosed as **Annexure-7**)

10. The Hon'ble Supreme Court in its order dt. 29.11.2021 in the matter of WP (C) No. 202/1995 have considered the affidavit in respect of forest areas and plantations filed in the Hon'ble Supreme Court during 1997 in pursuance to the order of the Hon'ble Supreme Court dt. 12.12.1996 and directed the user agency DMRC (i.e Delhi Metro Rail Corporation Ltd.) to apply for Forest Clearance in respect of forest area mentioned in the affidavit. (Copy of Hon'ble Supreme Court's order dt 24.11.2021 enclosed as **Annexure -8**)

In view of the facts stated above, the Environment, Forests & Climate Change Department, Govt. of Mizoram suggests to take opinion of Law & Judicial department and the MOEF&CC, Govt. of India also in this matter.

MINUTES OF THE MEETING OF THE COUNCIL OF MINISTERS
HELD IN THE CABINET ROOM OF CHIEF MINISTER'S OFFICE
on 18th June, 2024 at 10:00 AM

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Members present:

1. Pu Lalduhoma, Chief Minister
2. Pu K. Sapdanga, Cabinet Minister
3. Pu Vanlalhlana, Cabinet Minister
4. Pu C. Lalsawivunga, Cabinet Minister
5. Pu Lalthansanga, Cabinet Minister
6. Dr Vanlalhlana, Cabinet Minister
7. Pu PC Vanlalruata, Cabinet Minister
8. Pi Lalrinpuui, Cabinet Minister
9. Pu F. Rodingliana, Minister of State
10. Pu B. Lalchhanzova, Minister of State
11. Prof. Lalnilawma, Minister of State
12. Pu Lalnghinglova Hmar, Minister of State
13. Dr Renu Sharma, Chief Secretary to the Govt. of Mizoram

On the request of the Chief Minister, Pu F.Rodingliana, Minister of State offered prayer.

2. Riverine Reserved Forest and Roadside Reserve Forest in the State of Mizoram

EF&CC

Decision :

Approved.

Action be taken by SWTA&WCD for promulgation of Ordinance for adoption of the Scheduled Tribes & Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 approved by the Council of Ministers in its meeting held on 06.06.2024.

3. A proposal to withdraw Civil Appeal No(s). 3758-3759/2022 (State of Mizoram & Ors.-Vrs-UoI & Ors.) filed in the Supreme Court against the Order of the NGT passed in Original Application No. 145/2017/EZ titled - 'Centre for Environment Protection (CEP)-Vrs- Union of India & Ors

EF&CC

Decision :

Not approved.

GOVERNEMENT OF MIZORAM
ENVIRONMENT, FORESTS & CLIMATE CHANGE DEPARTMENT
MIZORAM : AIZAWL

Memorandum for Consideration of Council of Ministers in
its meeting to be held on _____.

Agenda Item No. _____

**Subject : Riverine Reserved Forest and Roadside Reserve Forest in
the State of Mizoram.**

1. Forest is an integral part of the ecosystem and provides a sustainable environment for the survival of human, animals, plants & living organisms. Riverine forests are unique and highly significant ecosystems that are important for diverse and threatened avian species. Apart from being a cradle of life, it also serves as a gene pool that harbours a variety of flora and fauna species.
2. In exercise of the power conferred under section 14 read with section 21 of the Mizoram District (Forest) Act 1955, half a mile on either side of 16 major rivers were notified as "Riverine Reserve Forests" (RRF), and forests within half a mile on either side of Aizawl – Silchar road via Sairang but excluding the land within 100 feet or 30 metres on both sides of the road was notified as "Roadside Reserve Forests" in the year 1965 vide Notification dt.28.01.1965.
(Copy of the Notification dt.28.01.1965 published in the Assam Gazette is attached hereto as Annexure-I.)
3. Many land passes were issued from within Tuirial Riverine Reserve Forest (RRF) by the then Assistant Settlement Officer.

As the Tuirial Hydro Project affected land within Tuirial RRF, NEEPCO had paid Rs. 7.94 crores towards Compensatory Afforestation to EF&CC Department and many landowners within Tuirial RRF were not paid compensation.

5. The Chief Secretary, Govt. of Mizoram issued an order for cancellation of all LSCs within the Riverine Reserve Area on 05.08.2016 as the LSCs were illegally issued directly by the then Assistant Settlement Officer without approval of the Government.

(Copy of the Order dt.05.08.2016 is attached hereto as Annexure-II.)

6. The landowners then filed a writ petition challenging the validity and legality of the Government Order for cancellation of LSCs. Since the issues involved in ten (10) writ petitions are arising out of land acquisition Awards in respect of Tuirial Hydro Electric Project under the Land Acquisition Act, 1894 they were taken up together and disposed of by a common Judgment and Order.

7. The Gauhati High Court (Single Bench) in common Judgement & Order dt.27.01.2021 had set aside and quashed the Order dated 05.08.2016 issued by the Chief Secretary, Mizoram for cancellation of passes inside RRF and also set aside and quashed the Notification dated 28.01.1965 for declaration of Riverine Reserved Forests and Roadside Reserved Forests.

(Copy of the Judgement & Order dt.27.01.2021 of the Gauhati High Court is attached hereto as Annexure - III.)

8. In light of the Judgement & Order dt.27.01.2021 of Gauhati High Court, the General Administration Department, Govt. of Mizoram issued a Notification declaring the said rivers with its banks up to 800 meters from the middle of the river of both sides of the river as '**Restricted Area**'.

(Copy of Notification No.B.11011/1/2021-GAD dt.14.04.2021 is attached hereto as Annexure-IV.)

9. The Govt. of Mizoram filed Writ Civil Appeal No.5/2021 to No.13/2021 for challenging the common Judgement & Order dated 27.01.2021 and the Division Bench of Gauhati High Court suspended the common Judgement & Order dated 27.01.2021 in its Order dated 18.07.2022 and 21.07.2022.

(Copy of the the Gauhati High Court Order dt.21.07.2022 and 18.07.2022 are attached hereto as Annexure-V and Annexure-VA respectively.)

10. Subsequently, the Govt. of Mizoram prayed for withdrawal of Writ Civil Appeal No.6/2021 to No.13/2021 as per instruction of the then Chief Minister, Mizoram. The Gauhati High Court in its order dated 09.11.2022 and 11.11.2022 allowed to withdraw the appeal with liberty to file afresh.

(Copy of the Gauhati High Court Order dt.09.11.2022 and 11.11.2022 are attached hereto as Annexure-VI and Annexure -VIA respectively.)

11. An NGO by the name of Center for Environment Protection (CEP) challenged the common Judgement & Order dated 27.01.2021 in Writ Appeal No.274 of 2022. The Division Bench of Gauhati High Court in its Order dated 17.01.2023 stayed the operation of common Judgement & Order dated 27.01.2021 and directed that status quo as regard to the condition of the Forest qua the Notification dated 21.01.1965 which has been set aside, shall be maintained.

(Copy of the Order dated 17.01.2023 is attached hereto as Annexure-VII.)

12. Subsequently, Center for Environment Protection (CEP) prayed for withdrawal of Writ Appeal No.274 of 2022 via Interlocutory Application, which was granted by the Gauhati High Court vide order dt. 16.10.2023.

(Copy of the Gauhati High Court Order dt. 16.10.2023 is attached hereto as Annexure-VIII.)

13. The Mizoram (Protection of Rivers) Act, 2023 was published in the Mizoram Gazette by PHE Department on dt.19.09.2023 to ensure effective protection and conservation of the rivers, their tributaries and the catchment areas. This Act was framed with a view to cover 21 major rivers of the State including the 16 rivers under RRF.

[Copy of the Mizoram (Protection of Rivers) Act, 2023 is attached hereto as Annexure-IX.]

14. Meeting No-2 of the Council of Ministers held on dt.20.12.2023 in the Cabinet Room of Chief Minister's Office decided that since the Notifications for Riverine Reserve Forest and Roadside Reserve Forest are set aside by the Gauhati High Court, it would no longer be required to obtain Forest Clearance for those projects which fall under these areas.

(Copy of the Minutes of the Meeting dated 21.12.2023 is attached hereto as Annexure-X.)

15. In the 14th meeting of the Empowered Committee held on dt.26.02.2024, it was decided that development works may be resumed by NHIDCL without the need to acquire Forest Clearance with regard to Package 3 & 4, 5 & 6 of Vairengte to Sairang Road under NH-306 & 06 since the Cabinet has taken the decision that no Forest Clearance is required for the development of works inside Riverine Reserve Forest and Roadside Reserve Forest.

(Copy of relevant portion of the Minutes of the Meeting dated 04.03.2024 is attached hereto as Annexure-XI.)

16. Pi Vanramchhuangi and her associates have brought the issue before the Supreme Court In Re: Vanramchhuangi & Ors in T.N Godavarman Thirumulpad vs. UOI & Ors., WP (C) No. 202/ 1995 via Interlocutory Application and the Supreme Court in its order dt. 24.04.2024 directed to implead the necessary parties and to issue notice. The applicants have requested to call for the records from the State of Mizoram regarding steps taken in filing of fresh appeal, to set aside and stay the operation of the Judgement & Order dated 27.01.2021 and to stay the implementation of decision taken in the 14th meeting of the Empowered Committee held on 26.02.2024. The next date of hearing is on 24.07.2024.

(Copy of relevant portions of the Supreme Court Record of Proceedings dt.24.04.2024 and Interlocutory Application is attached hereto as Annexure-XII & XIII respectively.)

17. In the meantime, several landowners have approached the Executing Court for execution of award in accordance with the procedure prescribed in the Land Acquisition Act, 1984 for payment of compensation in connection with Tuirial Hydro Electric Project while some land owners have filed Civil Revision Petition in the Gauhati High Court.

18. In light of the above facts and circumstances, it has become necessary to decide whether to appeal the Judgment & Order of the Hon'ble Gauhati High Court dated 27.01.2021.

19. The proposal has the approval of the Hon'ble Minister, Environment, Forests & Climate Change Department vide notesheet page attached hereto as Annexure - XIV.

20. The proposal has been vetted by Law & Judicial Department vide their I.D. No. LJD 8/2024/87 dt. 27.05.2024.


(Copy attached at Annexure-XV.)

21. The Justification Statement is *attached hereto as Annexure – XVI.*

22. Financial Memorandum is *attached hereto as Annexure - XVII.*

23. Therefore, the matter is submitted herewith for the decision of the Council of Ministers, Government of Mizoram on whether to file another appeal before the Gauhati High Court for challenging the Judgement & Order dated 27.01.2021.

Dated Aizawl,
the 30th May, 2024


(H. LALENGMAWDA)
Commissioner & Secretary to the Govt. of Mizoram,
Environment, Forests & Climate Change Department.

ANNEXURE R-12

ITEM NO.12+13

COURT NO.3

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 202/1995

IN RE : T.N. GODAVARMAN THIRUMULPAD

Petitioner(s)

VERSUS

UNION OF INDIA AND ORS. & ORS.

Respondent(s)

(INTERLOCUTORY APPLICATION FOR 24.07.2024 (THROUGH SUPPLEMENTARY LIST) "ONLY" [1] I.A. NO. 98622 OF 2024 (CEC REPORT NO. 4 OF 2024- Report Of The CEC On Violation of Orders Of The Hon'ble Supreme Court in I.A. No. 191635 Of 2022 In W.P.(C)No. 202 of 1995) WITH I.A. NO. 117204 OF 2024 (CEC REPORT NO. 5 OF 2024-Status Report in Delhi Ridge) IN I.A. NO. 191635 OF 2022 (CEC REPORT NO. 31 OF 2022 - Report Of CEC in Appln. No. 1559/2022 Filed Before It By Ministry Of Finance) IN RE : MINISTRY OF FINANCE IN RE : DELHI RIDGE AND [2] I. A. NOS. 1408, 1457, 1462 OF 2005, 1787 OF 2007, 1863-1864 OF 2007, 3453 OF 2012 WITH I. A. NO. 178808 OF 2023 (Application For Extension Of Time) AND I. A. NO. 192984 OF 2023 (Application Seeking Permission To File Additional Documents) AND I. A. NO. 212703 OF 2023 (Application For Directions In I.A. No. 1462/2005) AND I. A. NO. 10936 OF 2024 (Application For Intervention In I.A. No. 1462/2005) AND I. A. NO. 10949 OF 2024 (Application For Directions In I.A. No. 1462/2005) IN RE : CARDAMOM CULTIVATION IN KERALA AND [3] I. A. NOS. 79569 AND 79576 OF 2019 [Applications For Intervention And Directions] WITH I. A. NOS. 159670 AND 159677 OF 2019 [Application For Exemption From Filing Official Translation] WITH I. A. D. NOS. 14261 AND 14262 OF 2021 [Applications For Urgent Listing Of I.A. Nos. 79569 And 79576/2019 And Exemption From Filing Duly Attested Affidavit] AND I. A. NOS. 40599 AND 40624 OF 2023 [Applications For Intervention And Modification Of Court's Order Dated 12.05.2022] AND I. A. NO. 220675 OF 2023 [Application For Direction In I.A. No. 79576/2019] IN RE : SHRMIK RICKSHAW CHALAK-MALAK SEVASANSTHA AND [4] I.A. NOS. 36847 & 36852 OF 2024 [Applications For Impleadment As Co-Petitioner And Directions Filed By Mr. Gaurav Kumar Bansal] IN RE : MR. GAURAV KUMAR BANSAL (APPLICANT-IN-PERSON) AND [5] I.A. NOS. 66542, 66546, 66548 OF 2024 [Applications For Impleadment As Party Respondents , Directions And Stay Filed By Ms. Rani Mishra, Advocate] IN RE : VANRAMCHHUANGI & ORS. AND [6] I.A. NOS. 99457 AND 99462 OF 2024 [Application For Intervention And Clarification] IN RE : SUMITRA NEGI AND ORS. AND [7] I.A. NO. 263809 /2023 [APPLICATIONS FOR INTERVENTION] WITH I.A. NOS. 263810, 263811 AND 263812/2023 [APPLICATIONS SEEKING PERMISSION TO FILE APPLICATION FOR DIRECTIONS, DIRECTIONS AND EXEMPTION FROM FILING O.T.] AND I.A. NO. 92980/2024 [APPLICATIONS FOR PLACING ON RECORD ADDITIONAL DOCUMENTS IN I.A. NO. 263809/2023 FILED BY DR. SURENDER SINGH

HOODA, ADVOCATE FOR THE APPLICANT] AND I.A. NO. 141598/2024 [APPLICATIONS FOR PLACING ON RECORD ADDITIONAL DOCUMENTS IN I.A. NO. 263809/2023 FILED BY MR. DINESH C. PANDEY, ADVOCATE FOR THE APPLICANT NO. 2] IN RE : ANUJ KAUSHAN & ANR. IN RE : SUKHNA LAKE AND [8] I.A. NO. 5891 OF 2019 [Application For Directions] IN RE : COMPENSATORY AFFORESTATION MANAGEMENT AND PLANNING AUTHORITY (CAMPA) FUNDS ALONGWITH IN RE: STATUS OF FUNDS AND [9] I.A.NO. 42944 OF 2019 [Application For Directions] IN RE : ILLEGAL/UNAUTHORIZED MINING IN KAZIRANGA NATIONAL PARK, ASSAM WITH I.A. NOS. 146755 AND 146756 OF 2021 [Applications For Intervention And Stay] AND I.A. NOS. 158973, 158975 AND 159054 OF 2021 [Applications For Intervention, Exemption From Filing O.T. And Stay] AND I.A.NOS. 28731, 28732 AND 28905 OF 2022 [Applications For Intervention, Exemption From Filing O.T. And Modification Of Court's Order Dated 12.04.2019] AND I.A. NOS. 41069 AND 41070 OF 2022 [Applications For Intervention And Exemption From Filing O.T.] AND I.A. NO. 51917/2022 [Applications For Interim Stay Of Demolition In The Animal Corridors In Kaziranga National Park During The Pendency Of The Application Directions - I.A. No. 42944/2022] IN RE : BHAB BARGOHAI & ORS. AND [10] I.A. NO. 108587 OF 2024 [Applications For Impleadment Filed By Mr. Sudarsh Menon, Advocate] WITH INTERLOCUTORY APPLICATION NO. 108243 OF 2024 [Applications For Directions Filed By Mr. Sudarsh Menon, Advocate] IN RE : KANAK FOUNDATION AND [11] I.A. NO. 58031 OF 2024 [Application For Intervention In W.P.(C)No. 202/1995 Filed By Ms. Parul Gupta, Advocate] AND I.A. NO. 58032 OF 2024 [Application For Directions In W.P.(C)No. 202/1995 Filed By Ms. Parul Gupta, Advocate] AND I.A. NO. 156701 OF 2024 [Application For Impleadment filed by Mr. Shrey Kapoor, Advocate] AND I.A. NO. 156707 & 156710 OF 2024 [Application For Directions and Exemption from filing O.T. filed by Mr. Shrey Kapoor, Advocate] IN RE : PAVAN SINGHAND AND [11 (a)] CIVIL APPEAL DIARY NO. 12516 OF 2019 AND [12] SPECIAL LEAVE PETITION(C) No. 25047 OF 2018 AND [13] [i] I.A. NO. 19010 OF 2019 [Application For Directions] WITH [ii] I.A. NO. 75982 OF 2019 [Application For Exemption From Filing O.T] WITH [iii] I.A. NO. 86706 OF 2019 [Application For Directions] WITH [iv] I.A. NO. 90640 OF 2019 [Application For Permission To File Additional Documents] WITH [v] I.A. NO. 122128 AND 122130 OF 2019 [Application For Extension Of Time And Exemption From Filing O.T.] Filed By Mr. Nishant R. Katneshwarkar, Advocate WITH [vi] I.A. NO. 129260 AND 129264 OF 2019 [Application For Impleadment And Directions Filed By Mr. Ravindra Keshavrao Adsure, Advocate] AND [vii] I.A. NO. 129279 OF 2019 [Application For Directions Filed By Mr. Gopal Balwant Sathe, Advocate AND [viii] I.A. NOS. 150901 AND 150915 OF 2019 (Applications For Intervention And Directions Filed By Ms. Mayuri Raghuvanshi, Advocate) IN RE : CONSERVATION ACTION TRUST, MAHARASHTRA AND [14] SUO-MOTU WRIT PETITION (C) NO. 1 OF 2023 IN RE : SARISKA TIGER RESERVE AND [15] I. A. NOS. 153500 & 153501 OF 2024 [Applications For Directions and Exemption from filing O.T. filed by Ms. Shibani Ghosh, Advocate] WITH I. A. NO. 153501 OF 2024 [Applications For Intervention filed by Ms. Shibani Ghosh, Advocate] IN RE : DR. DAYA SHANKAR SRIVASTAVA IN WRIT PETITION (CIVIL) NO. 202/1995 "ONLY" ARE LISTED IN W.P.(C) No. 202/1995

"ONLY" ON 24.07.2024 AND THE NAMES OF "ONLY" THE FOLLOWING ADVOCATES MAY BE TREATED TO HAVE BEEN SHOWN AGAINST THESE I.As. MR. HARISH N. SALVE, SR. ADV. [A.C.], MR. A.D.N. RAO, SR. ADVOCATE [A.C.], MS. APARAJITA SINGH, SR. ADVOCATE [A.C.], MR. SIDDHARTHA CHOWDHURY, ADVOCATE [A.C.] MR. K. PARAMESHWAR, ADVOCATE [A.C.] MR. K. PARAMESHWAR, ADVOCATE [A.C.] MR. G.S. MAKKER FOR S.NO. [1] MR. K. PARAMESHWAR (A.C.) FOR S.NO. [2] MR. K. R. SASIPRABHU, MR. HIMINDER LAL, MR. M. K. MICHAEL, MS. USHA NANDINI V., MR. G. PRAKASH (FOR STATE OF KERALA), MR. NISHE RAJEN SHONKER FOR S.NO. [3] MR. RAO RANJIT, MR. MILIND KUMAR (STATE OF RAJASTHAN) FOR S.NO. [4] MR. GAURAV KUMAR BANSAL (APPLICANT-IN-PERSON) FOR S.NO. [5] MS. RANI MISHRA, ADVOCATE FOR S. NO. [6] MR. K. PARAMESHWAR (A.C.) MS. SHALINI KAUL FOR S. NO. [7] Mr. K. Parameshwar (A.C.) Mr. Dinesh C. Pandey Dr. Surender Singh Hooda FOR S. NO. [8] MR. K. PARAMESHWAR (A.C.) FOR S. NO. [10] MR. K. PARAMESHWAR (A.C.) MR. SHUVODEEP ROY (FOR STATE OF ASSAM), MR. KAUSHIK CHOUDHURY (FOR KAAC) MR. SUNIL KR. SHARMA (INTERVENOR), MR. RAJNISH KUMAR JHA (INTERVENOR) FOR S. NO. [9] MR. K. PARAMESHWAR (A.C.) MR. SUDARSH MENON FOR S. NO. [11] MR. K. PARAMESHWAR (A.C.) MS. PARUL SHUKLA MR. MILIND KUMAR Mr. Shrey Kapoor FOR S. NO. [11 (a)] MR. SHYAM D. NANDAN FOR S. NO. [12] MR. KUNAL CHATTERJI, MS. ASTHA SHARMA, MR. NARESH KUMAR, MR. G.S. MAKKER, MR. ANANDO MUKHERJEE, MS. POOJA DHAR, MR. S.N. TERDAL, MR. MOHIT D. RAM FOR S. NO. [13] MR. K. PARAMESHWAR (A.C.) MS.VANSHAJA SHUKLA MR. NISHANT R. KATNESHWARKAR, MR. GOPAL BALWANT SATHE, MR. RAVINDRA KESHAVRAO ADSURE, MS. MAYURI RAGHUVANSHI, MS. MRIDULA RAY BHARDWAJ FOR S.NO. [13] MR. K. PARAMESHWAR (A.C.) FOR S.NO. [14] MR. K. PARAMESHWAR (A.C.) FOR S.NO. [15] MR. K. PARAMESHWAR (A.C.), MS. SHIBANI GHOSH)

WITH

SLP(C) No. 25047/2018 (XVI)

([TO BE TAKEN UP ALONG WITH W.P.(C) No. 202/1995].)

Diary No(s). 12516/2019 (XVII)

SMW(C) No. 1/2023

Date : 24-07-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA
HON'BLE MR. JUSTICE K.V. VISWANATHAN

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Mr. Yaudhinder Lal, Adv.
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Mr. Amrish Kumar, AOR

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Ms. Preet S. Phanse, Adv.
Mr. Adarsh Dubey, Adv.
Ms. Yamini Singh, Adv.

Mr. Mayank Aggarwal, AOR
Mr. Sanjeev Kumar, AOR

Mr. Rajeev Kumar Dubey, Adv.
Mr. Ashiwan Mishra, Adv.
Mr. Kamendra Mishra, AOR

Mr. Somesh Chandra Jha, AOR

Mr. Siddhartha Jha, AOR
Mr. Puneet Bholā, Adv.
Mr. Harpreet Singh, Adv.
Mr. Mool Chnd Parewa, Adv.

M/S. V. Maheshwari & Co., AOR
Mr. Rajeev Singh, AOR

Ms. Parul Shukla, AOR
Ms. Shubhangi Pandey, Adv.
Mr. Saday Mondol, Adv.

Ms. Pooja Dhar, AOR

Mr. P. C Sen, Sr. Adv.
Mr. Shivanshu Singh, Adv.
Mr. P. S. Sudheer, AOR
Mr. Rishi Maheshwari, Adv.
Ms. Anne Mathew, Adv.

Mr. Bharat Sood, Adv.
Mr. Paul P. Abraham, Adv.
Ms. Miranda Solaman, Adv.
Ms. Rukmani Bobde, Adv.
Ms. Nivedita Sudheer, Adv.

Mr. Sunny Choudhary, AOR
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Mr. Rajiv Kumar Choudhry, AOR
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Mr. K. M. Nataraj, A.S.G.
Mr. Mrinal Elkar Mazumdar, Adv.
Mr. Mukesh Kumar Verma, Adv.
Mr. Neeraj Kumar Sharma, Adv.
Ms. Indira Bhakar, Adv.
Mr. Harish Pandey, Adv.
Mr. Shashwat Parihar, Adv.
Mr. Vinayak Sharma, Adv.
Mr. Anuj Srinivas Udupa, Adv.
Mr. Piyush Beriwal, Adv.
Mr. Shreekant Neelappa Terdal, AOR

Dr. Monika Gusain, AOR
Mr. P. K. Manohar, AOR
Mr. S. Gowthaman, AOR
Mr. A. Karthik, AOR
Mr. Siddharth Sharma, AOR

Mr. Mohit D. Ram, AOR

Ms. Abhimanyu Tewari, AOR
Ms. Eliza Bar, Adv.

UPON hearing the counsel the Court made the following
O R D E R

I.A. No. 98622 OF 2024 (CEC REPORT NO. 4 OF 2024)

1. This court, in the present proceedings, has been monitoring the issue with regard to grant of permission to allot plots in the larger public interest in the area which is not yet notified as a protected area in the Delhi Ridge.
2. The Bench presided over by one of us (B.R.Gavai, J.) had

passed an order on 08th February, 2023 directing the Delhi Development Authority (DDA) not to allot the plots in the areas that were not yet been notified as protected areas. It appears that in violation of the orders passed by this Court, the DDA had allotted the land for expansion of the road and also permitted felling of the trees on the said land. Finding that the action was contemptuous in nature, we passed the following order on 24.04.2024:

“1. *Prima facie*, we find that the action of the Delhi Development Authority in felling the trees and constructing the road is in contempt of the orders passed by this Court dated 8th February, 2023 in W.P.(C) No. 202 of 1995 and so also the order dated 4th March, 2024 in W.P.(C) No. 4677 of 1985.

2. Issue notice to the Vice-Chairman, Delhi Development Authority, Vikas Sadan, INA, New Delhi-110002 returnable on 08th May, 2024, calling upon to show cause as to why an action 16 for committing the contempt of the orders passed by this Court dated 8th February, 2023 in W.P.(C) No. 202 of 1995 and 4th March, 2024 in W.P.(C) No. 4677 of 1985 not be taken against him.

3. The Registrar (Judl.) shall ensure that the notice be served upon the Vice Chairman, Delhi Development Authority.”

3. It appears that in the parallel proceedings in W.P.(C) No. 4677 of 1985, the DDA had moved an application before the Bench presided over by Hon'ble Mr. Justice Abhay S. Oka for seeking permission to fell the trees on the said land. The application filed by the DDA was rejected on 04th March, 2024.

4. The Bench presided over by Hon'ble Mr. Justice Abhay S. Oka also initiated contempt proceedings vide order dated 09th May, 2024.

5. As such, a situation has arisen wherein for the same cause of action, two contempt proceedings are pending. One on the basis of the notice issued, on 24th April, 2024 by the Bench presided over by one of us (B.R. Gavai, J.), and the other on the basis of the order dated 09th May, 2024, which was passed by the Bench presided over by Hon'ble Mr. Justice Abhay S. Oka.

6. Mr. K. Parameshwar, learned Amicus Curiae, informs us that the contempt proceedings initiated by the Bench presided over by Hon'ble Mr. Justice Abhay S. Oka have substantially traveled and various orders have been passed by the said Bench.

7. We are of the considered view that the continuation of two contempt proceedings for the same cause of action would not be in consonance with the judicial propriety and interest of justice. We, therefore, direct that the contempt proceedings initiated by the Bench presided over by one of us (B.R.Gavai, J.), vide order dated 24th April, 2024, are kept in abeyance.

8. Mr. Vikas Singh, learned senior counsel appearing for the DDA, on instructions, states that the Central Armed Police Forces Institute of Medical Sciences (for short 'CAPFIMC") has been established on a piece of land which was allotted as per the order(s) passed by this Court. The CAPFIMC has been established to provide medical facilities to the employees of paramilitary forces at par with the facilities provided to the Armed Forces. He submits that an amount of Rs.2200 crores has

already been spent on the said project. It is further submitted that the area also has various residential colonies for the employes of CBI, paramilitary forces, and the SAARC University which have been again established on the land after the permission was granted by this Court/CEC. He submits that on account of non-availability of 24 meter road, there is almost a bottleneck for the entire area. He further submits that there is also a proposal to establish medical college at CAPFIMC. However, on account of non-availability of the road, the CAPFIMC cannot be made functional. He, therefore, requested this Bench to permit an access to the CAPFIMC in the larger public interest.

9. We find that various proceedings pertaining to Delhi Ridge area are pending before two Benches of this Court.

10. We are of the considered view that, in order to avoid the possibility of conflicting order(s) being passed by two different Benches, it will be appropriate that all the matters pertaining to the Delhi Ridge Area are heard by one Bench.

11. The Registrar(Judl.) is, therefore, directed to place the matter before Hon'ble the Chief Justice of India seeking appropriate order.

IA No. 191635 of 2022

1. Vide order dated 08th February, 2023, the Ministry of Environment, Forest and Climate Change (MoEF&CC) was directed

to appoint a Committee to identify the areas outside the Delhi Ridge having similar morphological features to that of the notified ridge area. The Committee was appointed and has made substantial progress, as has been noted by this Court in orders dated 15.03.2023 and 12.07.2023.

2. In the order dated 24th July, 2024 passed by the Court, we have recorded the minutes of the meeting which was held on 28th November, 2023.

3. In pursuance of the said order, Ms. Aishwarya Bhati, learned Additional Solicitor General has informed us that the Department of Forest and Wildlife, GNCTD, vide order dated 24th July, 2024 has informed that they do not have technical expertise and as such assistance of Water and Power Consultancy Services (WAPCOS) and National Afforestation and Economic Development Board (NAEB) is required.

4. Learned Additional Solicitor General, further states that the Survey of India, New Delhi as well as Geological Survey of India were also approached to understand the technical requirements of exercise of LiDAR mounted drone survey and finalize the tender specifications. Learned Additional Solicitor General further submits that the GNCTD has also informed that various sensitive installations/establishments are located in the national capital region and, therefore, various permissions would be required before employing the

services for the survey. The learned Additional Solicitor General, therefore, submits that the time is also sought on the ground that on account of monsoon season, there will be difficulty in carrying out the drone survey.

5. We, therefore, grant six months' time to the High Powered Technical Committee to submit its report.

6. List this application after six months.

IA No. 117204 of 2024 (CEC Report No.5)

1. Vide order dated 09th May, 2024, this Court has noted that the report of the Central Empowered Committee depicts a very shocking state of affairs. Though notifications dated 24th May, 1994 and 19th March, 1996 had shown the total reserve forest area would be 7784 hectares, the final notification issued covers an area of 103.48 hectares only.

2. It was further noticed that 5 per cent area is under encroachment and the rate of diversion of ridge land for non-forestry purposes was also on the rise.

3. We, therefore, had directed the Union of India, GNCTD and DDA to submit their responses to the said report.

4. Ms. Aishwarya Bhati, learned Additional Solicitor General and Ms. Manika Tripathy, learned counsel seek four weeks' time to file responses.

5. List this application on 21.08.2024.

I. A. NOS. 1408, 1457, 1462 OF 2005, 1787 OF 2007, 1863-1864 OF 2007, 3453 OF 2012 WITH I. A. NO. 178808 OF 2023 AND I. A. NO. 192984 OF 2023, 212703/2023 WITH IA NOS. 10936 & 10949 OF 2024

1. Taking into consideration the conflicting stands taken in the different affidavits filed by the State of Kerala, this Court had passed an order on 15th April 2024 directing the State of Kerala to come with a specific stand so as to iron out the discrepancies in varying document(s)/affidavit(s) filed in collateral proceedings.

2. Shri P.V. Dinesh, learned senior counsel appearing for the State of Kerala submits that on account of elections and vast record, the State could not move in the matter and seeks four months' time to file its affidavit.

3. We are not inclined to grant such a long period. We find that two months period would be sufficient for collecting the data and taking a firm decision with regard to the exact area for the Cardamon Hill Reserve.

4. In the meantime, CEC is also conducting an enquiry in order to assist the Court. Vide communication dated 18th July 2024, the Secretary of CEC had requested the State of Kerala to give a true copy of the file No. REV-R2/36/2023-REV.

5. Two communications dated 22nd July, 2024, one by Dr. A. Kowsigan, IAS, Commissioner Land Revenue (representing Principal Secretary, Government of Kerala) and the other by Shri T.R. Jayapal, Additional Secretary, Government of Kerala

were addressed to the Member secretary, CEC communicating therein Government's inability to furnish a true copy of the aforesaid file as the said file is under consideration of the Government. The CEC, originally constituted under the order of this Court, has now received a statutory recognition vide notification dated 05th September, 2023. The said statutory status was also granted in pursuance to the directions issued by this Court. The CEC is, therefore, discharging its duties in order to assist the Court in hearing the matters assigned to the Bench hearing T.N. Godavarman Thirumulpad matter. Every authority is, therefore, bound to assist the CEC when the CEC conducts an enquiry. An attempt to withhold an important file, in our view, undermines the authority of this Court. It prevents the CEC in discharging its duties of assisting the Court.

6. We, therefore, issue notice to Dr. A. Kowsigan, IAS, Commissioner Land Revenue and Shri T.R. Jayapal, Additional Secretary, Government of Kerala and direct them to remain present in this Court on 21st August, 2024 and show cause as to why an action for committing contempt of the Court may not be initiated against them by this Court.

7. List on 21.08.2024.

I.A. NOS. 79569 AND 79576 OF 2019 WITH I. A. NOS. 159670 AND 159677 OF 2019 WITH I.A. D.NOS. 14261 AND 14262 OF 2021 AND I.A.NOS. 40599 AND 40624 OF 2023 AND I. A. NO. 220675 OF 2023

1. Vide order dated 10th January, 2024, we had clarified that the e-rickshaws could only be provided to the present cart pullers in order to compensate them on account of their loss of employment.

2. We had also directed that there should be restriction on the number of e-rickshaws vide order dated 15th April, 2024, we had restricted the number of e-rickshaws limited to 20. We have further clarified that the e-rickshaws should be permitted only if they are allotted to the earlier handcart pullers.

3. The State has filed an affidavit stating therein the rickshaws are allotted to the original licence handcart pullers.

4. However, the applicant(s), in the application filed by the Sthanik Ashwapal Sangathana and others, submits that e-rickshaws are not allotted to the original handcart pullers but to the hotel owners etc..

5. Ms. Nina Nariman, learned counsel appearing on behalf of the said applicant(s) said that the applicant No.4 (Ms. Maria Vaz) has filed her reply giving details as to whom the e-rickshaws are allotted. She further submits that in the affidavit filed by applicant (Ms. Asha Ashok Kadam), the

details have been given.

6. We find that in view of this disputed position, it will be appropriate that the learned Principal District Judge, Raigad, through a Judicial Officer conducts an enquiry into this disputed position and submit a report.

7. We request the learned Principal District Judge, Raigad to call this enquiry and submit a report within a period of four weeks from today.

8. Needless to state that in the enquiry, the officer deputed by the learned District Judge would give a hearing to the local administration as well as the representatives of Sthanik Ashwapal Sangathana and the representatives of the hand cart pullers.

9. The Collector, Raigad shall make necessary arrangements for conducting such an enquiry at Matheran.

10. Insofar as the report with regard to the proposal with regard to use of paver blocks, which the Government proposes to use in consultation with the IIT Mumbai is concerned, the same would be considered in the month of October, 2024, i.e. after monsoon.

11. We further direct the Monitoring Committee to file an affidavit with regard to the paver blocks as well as the streets/roads on which plying of e-rickshaws would be permitted.

12. List on 23.10.2024.

I.A. NOS. 36847 & 36852 OF 2024

1. Ms. Aishwarya Bhati, learned Additional Solicitor General appearing for the MoEF&CC seeks four weeks' time to file response.
2. Ms. Monika Gusain, learned counsel appearing for the State of Haryana also seeks time to file additional affidavit.
3. List these applications on 21.08.2024.
4. In the meanwhile, response/additional affidavit(s), if any, be filed.

I.A. NOS. 66542, 66546, 66548 OF 2024

1. Ms. Geeta Luthra, learned senior counsel appearing for the National Highways and Infrastructure Development Corporation Ltd. (NHIDCL) seeks eight weeks' time to file reply affidavit.
2. Mr. Bishwajit Deb, learned Advocate General appearing for the State of Mizoram submits that the effect of the judgment of the Single Judge of the High Court of Guwahati at Aizwal Bench dated 27th January, 2021 has very wide ramifications inasmuch as the preliminary notification under Section 15 of the Mizo Forest Act, 1955, which declares half a mile as reserved forest on either side of 16 rivers would be annulled.
3. The learned Advocate General join the applicant in

praying for stay of the effect of the judgment of the High Court dated 27th January, 2021.

4. Taking into consideration the wider ramifications that the said judgment will have on the ecology of the State of Mizoram, we stay the operation of the judgment and order dated 27th January, 2021.

5. List on 21.08.2024.

I.A. NOS. 99457 AND 99462 OF 2024 AND I.A. NO. 263809 /2023 WITH I.A. NOS. 263810, 263811 AND 263812/2023 AND I.A. NO. 92980/2024 AND I.A. NO. 141598/2024

1. Mr. K. Parameshwar, learned Amicus Curiae has pointed out the order passed by the Division Bench of the High Court dated 02nd March, 2020, vide which the MoEF&CC was directed to notify at least one kilometer area from the boundary of Sukhna Lake Wildlife Sanctuary as Eco-Sensitive Zone falling in the areas of States of Punjab and Haryana.

2. Though this order is not appealed against, Mr. Gurminder Singh, the learned Advocate General appearing for the State of Punjab, states that the State has filed a review seeking review of the said judgment and order. In any case, the learned Advocate General fairly states that the proposal wherein ESZ was restricted only to 100 meters would not be in tune with the environmental and ecological concerns, he submits that the matter is being actively reconsidered by the State Government for providing larger ESZ areas.

3. We do hope that the State Government would act with the right earnest in such a sensitive matter.

4. List on 18.09.2024.

IA Nos. 156703, 156707 and 156710 of 2024

1. Issue notice, returnable on 21.08.2024.

2. Ms. Aishwarya Bhati, learned Additional Solicitor General appearing for the State of Rajasthan accept and waive notice.

IA Nos. 108587, 108243 of 2024, SMW(C) No. 1/2023, IA Nos. 153500-02 of 2023 and IA No. 5891 of 2019

List on 07.08.2024.

Rest of the application/matters

List on 21.08.2024.

(DEEPAK SINGH)
ASTT. REGISTRAR-cum-PS

(ANJU KAPOOR)
COURT MASTER (NSH)

ITEM NO.9

COURT NO.3

SECTION PIL-W

150

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 202/1995

IN RE : T.N. GODAVARMAN THIRUMULPAD

Petitioner(s)

VERSUS

UNION OF INDIA AND ORS.

Respondent(s)

(INTERLOCUTORY APPLICATION FOR 21.08.2024 "ONLY" [1] CONTEMPT PETITION (CIVIL) NO. 938/2021 IN CIVIL APPEAL NOS. 12234-12235 OF 2018 AND [2] I. A. NOS. 149950 AND 149951 OF 2024 [Applications For Impleadment and Directions] IN RE : DELHI METRO RAIL CORPORATION LTD. AND [3] I. A. NOS. 157777 AND 157782 OF 2023 [Applications For Impleadment And Directions] IN RE : PRADEEP IN RE : MINING WITHIN 10 KMS WETLAND AND [4] I. A. NOS. 1408, 1457, 1462 OF 2005, 1787 OF 2007, 1863-1864 OF 2007, 3453 OF 2012 WITH I. A. NO. 178808 OF 2023 (Application For Extension Of Time) AND I. A. NO. 192984 OF 2023 (Application Seeking Permission To File Additional Documents) AND I. A. NO. 212703 OF 2023 (Application For Directions In I.A. No. 1462/2005) AND I. A. NO. 10936 OF 2024 (Application For Intervention In I.A. No. 1462/2005) AND I. A. NO. 10949 OF 2024 (Application For Directions In I.A. No. 1462/2005) IN RE : CARDAMOM CULTIVATION IN KERALA AND [5] I.A. NOS. 36847 & 36852 OF 2024 [Applications For Impleadment As Co-Petitioner And Directions Filed By Mr. Gaurav Kumar Bansal] IN RE : MR. GAURAV KUMAR BANSAL (APPLICANT-IN-PERSON) AND [6] I.A. NOS. 66542, 66546, 66548 OF 2024 [Applications For Impleadment As Party Respondents , Directions And Stay Filed By Ms. Rani Mishra, Advocate] IN RE : VANRAMCHHUANGI & ORS. AND [7] I.A. NO. 58031 OF 2024 [Application For Intervention In W.P.(C)No. 202/1995 Filed By Ms. Parul Gupta, Advocate] AND I.A. NO. 58032 OF 2024 [Application For Directions In W.P.(C)No. 202/1995 Filed By Ms. Parul Gupta, Advocate] AND I.A. NO. 156703 OF 2024 [Application For Impleadment filed by Mr. Shrey Kapoor, Advocate] AND I.A. NO. 156707 & 156710 OF 2024 [Application For Directions and Exemption from filing O.T. filed by Mr. Shrey Kapoor, Advocate] IN RE : PAVAN SINGH IN RE : CHAND KANWAR AND [7 (a)] CIVIL APPEAL DIARY NO. 12516 OF 2019 AND [8] SPECIAL LEAVE PETITION(C) No. 25047 OF 2018 AND [9] I.A.NO. 42944 OF 2019 [Application For Directions] IN RE : ILLEGAL/UNAUTHORIZED MINING IN KAZIRANGA NATIONAL PARK, ASSAM WITH I.A. NOS. 146755 AND 146756 OF 2021 [Applications For Intervention And Stay] AND I.A. NOS. 158973, 158975 AND 159054 OF 2021 [Applications For Intervention, Exemption From Filing O.T. And Stay] AND I.A.NOS. 28731, 28732 AND 28905 OF 2022 [Applications For Intervention, Exemption From Filing O.T. And Modification Of Court's Order Dated 12.04.2019] AND I.A. NOS. 41069 AND 41070 OF 2022 [Applications For Intervention And Exemption From Filing O.T.] AND I.A. NO. 51917/2022 [Applications For Interim Stay Of

Demolition In The Animal Corridors In Kaziranga National Park During The Pendency Of The Application Directions - I.A. No. 42944/2022] IN RE : BHAB BARGOHAI & ORS. AND [10] [i] I.A. NO. 19010 OF 2019 [Application For Directions] WITH [ii] I.A. NO. 75982 OF 2019 [Application For Exemption From Filing O.T] WITH [iii] I.A. NO. 86706 OF 2019 [Application For Directions] WITH [iv] I.A. NO. 90640 OF 2019 [Application For Permission To File Additional Documents] WITH [v] I.A. NO. 122128 AND 122130 OF 2019 [Application For Extension Of Time And Exemption From Filing O.T.] Filed By Mr. Nishant R. Katneshwarkar, Advocate WITH [vi] I.A. NO. 129260 AND 129264 OF 2019 [Application For Impleadment And Directions Filed By Mr. Ravindra Keshavrao Adsure, Advocate] AND [vii] I.A. NO. 129279 OF 2019 [Application For Directions Filed By Mr. Gopal Balwant Sathe, Advocate AND [viii] I.A. NOS. 150901 AND 150915 OF 2019 (Applications For Intervention And Directions Filed By Ms. Mayuri Raghuvanshi, Advocate) IN RE : CONSERVATION ACTION TRUST, MAHARASHTRA AND [11] I.A. NO. 5891 OF 2019 [Application For Directions] IN RE : COMPENSATORY AFFORESTATION MANAGEMENT AND PLANNING AUTHORITY (CAMPA) FUNDS ALONGWITH IN RE: STATUS OF FUNDS AND [12] I.A. NOS. 172422, 172425, 172427, 172429 OF 2024 [Applications for Impleadment as party Co-petitioner, Directions, Exemption from filing O.T., Seeking permission to Appear & Argue-in-person] WITH I.A. NO. 179359 OF 2024 [Applications for Ex Parte Ad-Interim Stay in I.A. No. 172422/2024] IN RE : MR. GAURAV KUMAR BANSAL (APPLICANT-IN-PERSON) AND [13] I.A. NO. 117204 OF 2024 (CEC REPORT NO. 5 OF 2024-Status Report in Delhi Ridge) IN RE : MINISTRY OF FINANCE IN RE : DELHI RIDGE IN WRIT PETITION (CIVIL) NO. 202/1995 "ONLY" ARE LISTED IN W.P.(C) No. 202/1995 "ONLY" ON 21.08.2024 AND THE NAMES OF "ONLY" THE FOLLOWING ADVOCATES MAY BE TREATED TO HAVE BEEN SHOWN AGAINST THESE I.As. MR. HARISH N. SALVE, SR. ADV. [A.C.], MR. A.D.N. RAO, SR. ADVOCATE [A.C.], MS. APARAJITA SINGH, SR. ADVOCATE [A.C.], MR. SIDDHARTHA CHOWDHURY, ADVOCATE [A.C.] MR. K. PARAMESHWAR, ADVOCATE [A.C.] MR. K. PARAMESHWAR, ADVOCATE [A.C.] MR. G.S. MAKKER, MR. S.N. TERDAL FOR S. NO. [1] MR. K. PARAMESHWAR (A.C.) FOR S. NOS. [2] MR. K. PARAMESHWAR (A.C.), MR. TARUN JOHRI FOR S.NO. [3] MR. K. PARAMESHWAR (A.C.), MR. MAYANK AGGARWAL FOR S.NO. [4] MR. K. R. SASIPRABHU, MR. HIMINDER LAL, MR. M. K. MICHAEL, MS. USHA NANDINI V., MR. G. PRAKASH (FOR STATE OF KERALA), MR. NISHE RAJEN SHONKER FOR S.NO. [5] MR. GAURAV KUMAR BANSAL (APPLICANT-IN-PERSON) FOR S.NO. [6] MS. RANI MISHRA, ANANDO MUKHERJEE, SAURABH RAJPAL FOR S. NO. [7] MR. K. PARAMESHWAR (A.C.), MS. PARUL SHUKLA, MR. MILIND KUMAR, MR. SHREY KAPOOR FOR S. NO. [7 (a)] MR. SHYAM D. NANDAN FOR S. NO. [8] MR. KUNAL CHATTERJI, MS. ASTHA SHARMA, MR. NARESH KUMAR, MR. G.S. MAKKER, MR. ANANDO MUKHERJEE, MS. POOJA DHAR, MR. S.N. TERDAL, MR. MOHIT D. RAM FOR S. NO. [9] MR. K. PARAMESHWAR (A.C.), MR. SHUVODEEP ROY (FOR STATE OF ASSAM), MR. KAUSHIK CHOUDHURY (FOR KAAC) MR. SUNIL KR. SHARMA (INTERVENOR), MR. RAJNISH KUMAR JHA (INTERVENOR) FOR S. NO. [10] MR. K. PARAMESHWAR (A.C.), MS.VANSHAJA SHUKLA, MR. NISHANT R. KATNESHWARKAR, MR. GOPAL BALWANT SATHE, MR. RAVINDRA KESHAVRAO ADSURE, MS. MAYURI RAGHUVANSHI, MS. MRIDULA RAY BHARDWAJ FOR S. NO. [11] MR. K. PARAMESHWAR (A.C.), MR. G.S. MAKKER FOR S.NO. [12] MR. K. PARAMESHWAR (A.C.), MR.

GAURAV KUMAR BANSAL FOR S.NO. [13] MR. K. PARAMESHWAR (A.C.))

WITH

CONMT.PET.(C) No. 938/2021 in C.A. No. 12234-12235/2018 (XVII)
(IA No. 115589/2024 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

Diary No(s). 12516/2019 (XVII)

SLP(C) No. 25047/2018 (XVI)

Date : 21-08-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA
HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Petitioner(s)

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Mr. Chinmay Kalgaonkar, Adv.

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UPON hearing the counsel the Court made the following
O R D E R

[1] CONTEMPT PETITION (CIVIL) NO. 938/2021
IN CIVIL APPEAL NOS. 12234-12235 OF 2018

1. An affidavit dated 19.08.2024 has been filed by the State of

Goa.

2. In the affidavit it has been stated that Goa Tamnar Transmission Project Limited (GTTPL) has handed over Survey No.21/1, 22/1 and 24/1-A of Sangod Village of Dharbandora Taluk (17.23 Ha) for Compensatory Afforestation to the Goa Forest Department. It is further stated that an amount of Rs.22,44,80,268/- has also been deposited with the Goa Forest Department for carrying out Compensatory Afforestation.

3. It is further stated in the affidavit that the Goa Forest Department had commenced the afforestation measures from the month of June, 2024 by planting saplings of good endurance, consisting of twenty different forestry species suitable to the site conditions, details thereof have also been given.

4. It has been stated in the affidavit that the plantation activity on the subject land was completed on 27.04.2024 and that the entire area is fenced by using protective chain link fencing fixed in concrete poles. It has further been stated that regular maintenance of this plantation for a period of ten years will be carried out by the Goa Forest Department, as per the Compensatory Afforestation Scheme.

5. Insofar as the Compensatory Afforestation activities which were to be carried out in area admeasuring 12.5 hectares in the villages Collem-Sangod, Keri-Surla, Navelim, Ponda-Usgao and Codar, Panaji-Colvale village is concerned, the same has been disputed in the affidavit dated 14.05.2024 filed by the Goa Foundation.

6. We are informed that the CAMPA Executive Committee of the concerned states are required to monitor the afforestation

activities under Section 19 of the Compensatory Afforestation Act, 2016.

6. We find that it will be appropriate that the CAMPA Executive Committee for the State of Goa, after surveying the area in question submits its report with regard to the afforestation activities in the aforesaid villages as well as the afforestation activities in Sangod village of Dharbandora Taluka on an area of about 17.23 hectares as mentioned above.

7. The said report shall be submitted on or before 22.10.2024.

8. List the matter on 23.10.2024.

[2] I. A. NOS. 149950 AND 149951 OF 2024

List on 18.09.2024.

[3] I. A. NOS. 157777 AND 157782 OF 2023

1. Vide order dated 14th February, 2024, we had directed Union of India to hold discussions with various stakeholders, including States/Union Territories and recommend suggestions, as to whether mining activities should be prohibited within a radius of one kilometer of the conservation reserves and community reserves.

2. In response to the aforesaid order, an affidavit dated 06th August, 2024 has been filed on behalf of the Union of India.

3. The affidavit has been filed after taking into

consideration the suggestions given by various State Governments/Union Territories in the meeting conveyed by Ministry of Environment, Forest and Climate Change (in short "MoEF&CC") on 07th March, 2024.

4. All the States/Union Territories seem to be unanimous in agreeing that imposing any further restrictions on the conservation reserves and community reserves would be detrimental to the growth in the number of such reserves.

5. Ms. Aishwarya Bhati, learned Additional Solicitor General appearing for the Union of India states that National Parks/Wild Life Sanctuaries cannot be equated with conservation reserves and community reserves. She submits that the bare perusal of Section 36(A) of the Wild Life (Protection) Act, 1972 (for short "the said Act") would reveal that the State Government has been empowered to declare any area owned by the Government, which are adjacent to the National Parks/Wild Life Sanctuaries as conservation reserve, only after having consultation with the local communities. Insofar as Section 36C of the said Act is concerned, she submits that an area can be declared as community reserve only when a community or individual has volunteered to conserve wild life and its habitat.

6. As already observed by us in our order dated 14th February, 2024, the concept of conservation reserves and

community reserves appears to provide a corridor between two National Parks/Wild Life Sanctuaries.

7. We are in agreement with learned Additional Solicitor General that any further restriction of prohibiting mining within a radius of one kilometer from conservation reserves and community reserves would be detrimental to the growth in the number of community reserves and community reserves. If any such restriction is imposed, the local community would oppose the declaration of any Government area as conservation reserve. Likewise if such restriction is imposed, no community or individual will be willing to declare it/his land as a community reserve.

8. However, since the basic idea of having conservation reserves and community reserves is to provide corridor for the free movement of wild life from one Tiger Reserve/National Park/Wild Life Sanctuary to another, we request the Union of India to consider as to whether, at least, in the areas which are declared as a conservation reserves and community reserves, the mining activities could be prohibited or not.

9. Insofar as the other restriction and regulation that need to be imposed on conservation reserves and community reserves are concerned, the Additional Solicitor General assures that the provisions of the Act, Rules framed thereunder and the policies of the State would take care of the same.

10. List these applications on 23.10.2024.

[4] I. A. NOS. 1408, 1457, 1462 OF 2005, 1787 OF 2007, 1863-1864 OF 2007, 3453 OF 2012 WITH I. A. NO. 178808 OF 2023 AND I. A. NO. 192984 OF 2023 AND I. A. NO. 212703 OF 2023 AND I. A. NO. 10936 OF 2024 AND I. A. NO. 10949 OF 2024

1. In response to the order of this Court dated 24.07.2024, Dr. A. Kowsigan, IAS, Commissioner Land Revenue and Shri T.R. Jayapal, Additional Secretary, Government of Kerala, are personally present in the Court today.

2. Dr. A. Kowsigan, and Shri T.R. Jayapal have filed their respective affidavits, tendering unconditional apology.

3. Shri Jaideep Gupta, learned senior counsel appearing for the State of Kerala states that there was no intention to withhold the files from the CEC. However, the said files were sent to the State Secretariat in order to prepare the affidavit which was directed to be filed vide order of this Court dated 15.04.2024. Thus, the same could not be furnished.

4. It is further submitted that the files have already been handed over to the office of the CEC.

5. In that view of the matter, we do not wish to proceed further with the contempt notice. The contempt notices issued to Dr. A. Kowsigan, IAS, Commissioner, Land Revenue and Shri T.R. Jayapal, Additional Secretary, Government of Kerala, shall stand discharged.

6. List these applications on 23.10.2024.

7. In the meantime, State to file affidavit in terms of order dated 24th July, 2024.

[5] I.A. NOS. 36847 & 36852 OF 2024

1. Mr. Gaurav Kumar Bansal, applicant-in-person prays for and is granted three week's time to file rejoinder.
2. List on 18.09.2024.

[6] I.A. NOS. 66542, 66546, 66548 OF 2024

1. Mr. Biswajit Deb, learned Advocate General appearing for the State submits that the counter affidavit filed by the National Highways and Infrastructure Development Corporation Ltd. (NHIDCL) has been received only last night. He, therefore, seeks' time to file affidavit so as to meet the averments made in the counter of NHIDCL.
2. The affidavit shall be filed within a period of three weeks from today.
3. List this matter on 18.09.2024.

[7] I.A. No. 58031 OF 2024, I.A. No. 58032 OF 2024, I.A. No. 156703 OF 2024, I.A. No. 156707 & 156710 OF 2024

I.A. No. 58031 OF 2024, I.A. No. 58032 OF 2024

1. Vide order dated 15th May, 2024, we had directed the State of Rajasthan to forthwith prohibit mining activities within a radius of one kilometer from the boundaries of the Critical Tiger Habitat (CTH) of Sariska Tiger Reserve.
2. It was a stand of the State Government that ban on mining imposed within a radius of one kilometer by this Court was

only applicable to National Parks/Wild Life Sanctuaries and not CTH of Sariska Tiger Reserve. However we have specifically rejected the said contention. In compliance to the directions issued by this Court, an affidavit has been filed by the State of Rajasthan.

3. Paragraph 18 of the said affidavit reads thus:

"It is thus stated that in compliance of order dated 15.05.2024 passed by this Hon'ble Court, mining activities and mineral extraction were stopped/restricted in 57(53+4) operational mining leases falling within 1 Km. Of the Critical Tiger Habitat of Sariska Tiger Reserve. Further, mining activities in 43 non-operational mining leases falling within 1 Km. of the Critical Tiger Habitat of Sariska Tiger Reserve that have also been restricted."

4. It is thus clear that the mining activities and mineral extraction in case of 57 operational mines which are falling within one kilometer of CTH of Sariska Tiger Reserve has now been stopped. Further, the mining activities in 43 non-operational mining leases falling within one kilometer of CTH of Sariska Tiger Reserve have also been prohibited.

5. In that view of the matter, no further orders are necessary to be passed in these applications.

6. The applications are, accordingly, disposed of.

I.A. No. 156703 OF 2024, I.A. No. 156707 & 156710 OF 2024

1. As requested by Mr. A.N.S. Nadkarni, learned senior counsel, two weeks' time is granted to file rejoinder

affidavit as last chance.

2. List these applications on 18.09.2024.

[7 (a)] CIVIL APPEAL DIARY NO. 12516 OF 2019

As prayed, list this matter on 18.09.2024.

[8] SLP(C) No. 25047 OF 2018

As prayed, list this matter on 20.11.2024.

[9] I.A.NO. 42944 OF 2019 WITH I.A. NOS. 146755 AND 146756 OF 2021 AND I.A. NOS. 158973, 158975 AND 159054 OF 2021 AND I.A.NOS. 28731, 28732 AND 28905 OF 2022 AND I.A. NOS. 41069 AND 41070 OF 2022 AND I.A. NO. 51917/2022

As prayed, list these applications on 18.09.2024.

[10] [i] I.A. NO. 19010 OF 2019 WITH I.A. NO. 75982 OF 2019 WITH [iii] I.A. NO. 86706 OF 2019 WITH [iv] I.A. NO. 90640 OF 2019 WITH [v] I.A. NO. 122128 AND 122130 OF 2019 WITH [vi] I.A. NO. 129260 AND 129264 OF 2019 AND [vii] I.A. NO. 129279 OF 2019 AND [viii] I.A. NOS. 150901 AND 150915 OF 2019

1. As requested by learned counsel appearing for the State, four weeks' time is granted to file counter affidavit.

2. List these applications on 18.09.2024.

[11] I.A. NO. 5891 OF 2019

1. Vide order dated 07th August, 2024, we had directed the Chief Secretaries of all the States/Union Territories to file their affidavits on following aspects:

"i) As to how much amount has been spent by the respective State Governments/Union Territories on afforestation and allied activities.

- ii) The reasons as to why the balance CAMPA funds has not been utilized.
- iii) The purposes for which the said fund has been utilized.
- iv) As to whether the Steering Committee, as contemplated under Section 11 and 18 of the Compensatory Afforestation Fund Act, 2016 have been constituted and what functions they have discharged in the last five years.
- v) The affidavit shall also as to how much amount in the current financial year has been utilized for the afforestation and allied activities and details thereof."

2. Mr. K. Parameshwar, learned senior counsel (A.C.) states that pursuant to the order dated 07th August, 2024, the States of Bihar, Haryana, Tamil Nadu, Jharkhand, Kerala, Karnataka, Tamil Nadu, Chhattisgarh, Punjab, West Bengal, Uttar Pradesh, Odisha, Assam, Tripura, Himachal Pradesh, Rajasthan, Arunachal Pradesh, Sikkim, Madhya Pradesh, Maharashtra and Uttarakhand and Union Territory of Puducherry, Chandigarh, Jammu & Kashmir, Delhi and Andaman & Nicobar have filed their responses. However, the other States/Union Territories have not yet filed affidavit(s).

3. Mr. Parameshwar submits that perusal of the affidavits would reveal that in most of the States/Union Territories, the CAMPA fund is not being utilized to the full capacity.

4. It is further submitted that from the affidavit it is not clear as to within how much period after deforestation, the afforestation activities have taken place.

5. It is submitted that the very purpose of compensatory

afforestation is to restore the green cover which was lost on account of deforestation. Further, the very concept of CAMPA fund is for utilization for the restoration of the green cover which was lost on account of deforestation while carrying out various developmental activities.

7. The CAMPA fund is not supposed to be utilized for other purposes.

8. As suggested by Mr. Parameshwar, the afforestation activities should also take place either simultaneously or immediately after deforestation.

9. Ms. Aishwarya Bhati, learned Additional Solicitor General submits that the afforestation does not only mean planting of saplings but also maintenance of the trees planted. She, therefore, submits that it is also necessary to get information with regard to the survival percentage of the trees planted.

10. It is informed that every State has a Chief Executive Officer (CEO) for CAMPA fund.

11. It will, therefore, be appropriate that the Central Empowered Committee (CEC) circulates a questionnaire to the CEOs of all the States/Union Territories CAMPA Fund as well as the CEO of the National CAMPA Fund and direct them to submit the information as per the said questionnaire. In addition to the other Standard Operating Procedures, CEC shall also seek

information with regard to the success rate of the plantation.

12. The CEC would also consider holding online discussions with the CEOs.

13. After receipt of the responses of the CEOs of the various States/Union Territories and National CAMPA Fund and after holding the discussion with them, the CEC shall collate the information and submit the report to this Court. The CEC shall also recommend as to in what manner full utilization of the CAMPA funds can be done for the purposes for which it is assigned.

14. List these applications on 11.12.2024.

[12] I.A. NOS. 172422, 172425, 172427, 172429 OF 2024 WITH I.A. NO. 179359 OF 2024

As requested by Mr. Nachiketa Joshi, learned Senior Counsel (Additional Advocate General) appearing for the State, list these applications on 18.09.2024.

[13] I.A. No. 117204 OF 2024

As prayed, list this application on 18.09.2024.

[14] IA Nos. 2079 of 2008, 2301-02/2008, 3044-3045/2011, 111725 and 154041/2018, 2771-72/2009, 39711/2024, 9108/2024 and W.P. No. 301/2008

List on 28.08.2024.

(NARENDRA PRASAD)
DY. REGISTRAR

(DEEPAK SINGH)
ASTT. REGISTRAR-cum-PS

(ANJU KAPOOR)
COURT MASTER (NSH)



Service of Counter Affidavit by State of Mizoram to Additional Affidavit filed by Applicant in OA No. 58 of 2019 CEP v. Union of India & Ors.

1 message

ANANDO MUKHERJEE <anandomukherjee.law@gmail.com>

Tue, Aug 27, 2024 at 6:54 PM

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Anando Mukherjee

Advocate On Record

Supreme Court of India

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