

Sl. NO. 19

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA
[Under Section 18(1) read with Section 16(g) of the
National Green Tribunal Act, 2010]
Appeal No. 14 of 2024/EZ

In the matter of:

STP LIMITED

.... Appellant

-Versus-

**MINISTRY OF ENVIRONMENT FORESTS AND CLIMATE CHANGE &
OTHERS**

... Respondents

I N D E X

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Through:

Aditya Sarkar

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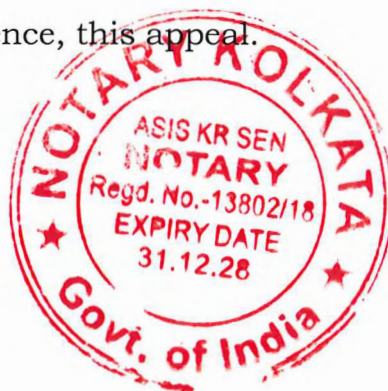
Date: 21st November 2024

Place: Kolkata



SYNOPSIS

The instant proceeding has been filed pursuant to liberty granted by the Hon'ble High Court of Jharkhand at Ranchi by its order dated September 25, 2024 passed in W.P.(C) No. 7340 of 2012 [STP Ltd. vs Union of India & Ors.]. The appellant's grievance arises out of an order/ notice dated October 10, 2012 issued by the Forest Range Officer, Dalma Range, Dalma Wild Life Sanctuary, Jamshedpur, whereby the issuing authority sought to enforce a notification dated March 29, 2012 in relation to the appellant's factory at Dimna Road, Mirzadih, Jamshedpur-831018. The appellant submits that the notification dated March 29, 2012 besides being unreasonable, whimsical, arbitrary, unjust and unfair is also inapplicable so far as the appellant's factory at Dimna Road, Mirzadih, Jamshedpur is concerned, and as such, the order/notice dated October 10, 2012 is illegal, unlawful, unreasonable, arbitrary and has been issued without jurisdiction and *ultra vires* the powers of the issuing authority. The said notification dated March 29, 2012 is inapplicable and not binding on the appellant and the order dated October 10, 2012 is in gross violation of the Environment (Protection) Act, 1986 as also the Forest (Conservation) Act, 1980. Hence, this appeal.



LIST OF DATES

Date	Description
29.03.2012:	Notification issued by MoEF & CC whereby the area up to 5 KMs from the boundary of the protected area of the Dalma Wildlife Sanctuary in the State of Jharkhand was described as an eco-sensitive zone
10.10.2012:	Notice was issued by Forest Range Officer, Dalma Wildlife Sanctuary, Jamshedpur whereby the appellant has been illegally prohibited from carrying out its activities and operations in its factory located at Dimna Road, Mirzadih, Jamshedpur.
08.07.2013:	In W.P.(C) No. 7340 of 2012, it was directed that no coercive steps would be taken against the appellant. Interim order was granted on 25.09.2024 till 20.11.2024.
16.09.2014:	Challenging the applicability of the self-same notification dated March 29, 2012 diverse writ petitions were filed before the Hon'ble High Court of Jharkhand at Ranchi, which were disposed of by common order.
16.11.2016:	Hon'ble Division Bench High Court of Jharkhand at Ranchi by a common order held that the cases of the appellants therein were required to be decided by the National Green Tribunal
25.09.2024:	Interim order of protection granted by the Jharkhand High Court
20.11.2024:	Interim order expires on this date.



BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA

[Under Section 18(1) read with Section 16 of the
National Green Tribunal Act, 2010]

Appeal No. of 2024/EZ

MEMO OF PARTIES

In the matter of:

STP LTD, a company registered under the Companies Act, 1956 having its registered office at 129, Park Street, Kolkata- 700017, West Bengal, through its Deputy Manager and Authorised Signatory, Amit Kumar Shaw. E-mail: info@stpltd.com

.... Appellant

-Versus-

1. MINISTRY OF ENVIRONMENT FORESTS AND CLIMATE CHANGE, through its Secretary, Indira Parayavaran Bhawan, Jorbagh, Lodi Road, New Delhi- 110003; E-mail: secy-moef@nic.in
2. THE STATE OF JHARKHAND, through the Secretary, Department of Forest, Environment and Climate Change, Government of Jharkhand, Nepal House, Doranda, Ranchi- 834002, Jharkhand; E-mail: cf-wpranchi@gov.in
3. THE FOREST RANGE OFFICER, Dalma Range, Dalma Wildlife Sanctuary, NH33, Jamshedpur- 832401, Jharkhand. Email: info@dalmawildlife.in/dfo-dirpe@gov.in
- THE DIVISIONAL FOREST OFFICER, Saraikela Forest Division, office of the Divisional Forest Officer, Saraikela Division, Jharkhand State Highway-5, Jharkhand- 833219. E-mail: dfo-saraikela@gov.in

.... Respondents



MOST RESPECTFULLY SHEWETH:

PARTICULARS OF APPELLANTS:

The address of the appellant is given above for service of notice of this appeal.

PARTICULARS OF RESPONDENTS:

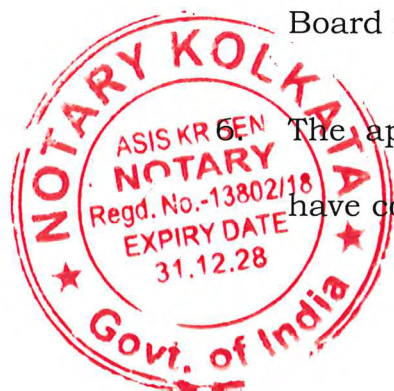
The addresses of the respondents are given above for service of notices of this appeal.

FACTS IN BRIEF:

1. The instant appeal is being filed under Section 18(1) read with Section 16(g) of the National Green Tribunal Act, 2010 [hereinafter referred to as 'the NGT Act'].
2. The instant appeal has arisen out of an order/notice dated October 10, 2012 issued by the Forest Range Officer, Dalma Range, Dalma Wildlife Sanctuary, Jamshedpur pursuant to misinterpretation of a notification dated March 29, 2012 issued by the Ministry of Environment, Forest and Climate Change [hereinafter referred to as "MoEF & CC"] whereby the appellant has been illegally prohibited from carrying out its activities and operations in its factory located at Dirma Road, Mirzadih, Jamshedpur.



3. The appellant has been a pioneer in manufacturing construction chemicals, bitumen and coal tar products in India for over 85 years. Its product line includes diverse fields of operation, such as, water proofing road surfacing, flooring, manufacture of primers, admixtures, grouts, protective/anti-corrosion coatings, coal tar products etc. The Jamshedpur factory of the appellant was established in the year 1986 and has been operational since then.
4. The appellant's factory at Jamshedpur was established after obtaining requisite permissions/licences/approvals/no objections from the concerned government authorities. The factory, inter alia, has licence issued by the Factory Inspection Department, Department of Labour and Employment, Government of Jharkhand under the Factories Act, 1948 and the Jharkhand Factories Rules, 1950.
5. The said factory has obtained 'Consents to Operate' under section 25/26 of the Water (Prevention and Control of Pollution) Act, 1974 and under section 21 of the Air (Prevention and Control of Pollution) Act, 1981 from the Jharkhand State Pollution Control Board from time to time.



The appellant's Jamshedpur factory has also been certified to have confirmed to the Quality Management System Standard: ISO

9001:2009 for manufacture of pipe protection material and coal tar pitch. Copies of certificates granted by Det Norse Veritas Management System are annexed hereto and marked as Annexure “A-1” (Collectively).

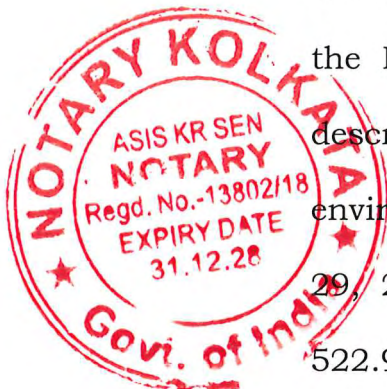
7. The appellant has all along been complying with pollution standards and has consciously made the following efforts in order to reduce adverse environmental impacts and create a sustainable environment in its manufacturing processes:

- a. There is no discharge of untreated or industrial effluents by the factory into any water body or land.
- b. The solid waste of the factory is also not disposed of in the eco-sensitive zone and the biodegradable materials are recycled.
- c. The factory has a fully operational Effluent Treatment Plant [ETP].
- d. The factory does not create any noise or air pollution.
- e. The appellant plants 50 (fifty) trees every year and the vicinity of the factory is fully green.
- f. The factory does not extract ground water. In fact, the water used in the factory is recycled, reprocessed and reused.



- g. There is no inhabitation around the factory and no wild animal visits the area around the factory, which implies that the factory does not pose any threat to wild lives.
- h. The factory does not use plastic carry bags and disposal of plastic articles, if any, is not done within the eco-sensitive zone.

8. All of a sudden, the Jamshedpur factory of the appellant received a notice/order dated October 10, 2012 from the Forest Range Officer, Dalma Range, Dalma Wildlife Sanctuary, Jamshedpur, whereby the appellant was directed to close down its industrial unit/factory at Dimna Road, Mirzadih, Jamshedpur, which was alleged to be within 0-5 Kms of the Dalma Wildlife Sanctuary. The said order/notice was allegedly issued pursuant to a notification dated March 29, 2012 issued by MoEF & CC whereby, inter alia, the area up to 5 KMs from the boundary of the protected area of the Dalma Wildlife Sanctuary in the State of Jharkhand was described as an eco-sensitive zone from ecological and environmental point of view. The said notification dated March 29, 2012 declared the eco sensitive zone to cover an area of 522.98 Square Kilometers in Jharkhand [377.89 Sq.Km in East Singbhum and 145.09 Sq.Km in Saraikela – Kharsawan District]. Copies of the notification dated March 29, 2012 and the notice/order dated October 10, 2012 are annexed hereto and



marked as Annexure “A-2” (Collectively).

9. Clause-3 of the said notification dated March 29, 2012 provided for regulation of activities in the eco sensitive zone. The relevant provisions, for the purposes of the instant appeal, read as follows:-

“3. Prohibited, regulated and permitted activities in Eco-sensitive Zone- *Subject to the provisions of this paragraph, the activities in the Eco-sensitive Zone shall be regulated in accordance with Annexure 3 to this notification.*

(1) *Industrial Units:*

- (a) *On or after the publication of this notification in the Official Gazette, no new polluting industries shall be allowed to be setup within the Eco-sensitive Zone;*
- (b) *any non-polluting, non-hazardous, small-scale and service industry, agriculture, floriculture, horticulture or agro-based industry producing products from indigenous goods from the Eco-sensitive Zone, and which do not cause any adverse impact on environment, may be permitted in the Eco-sensitive Zone;*
- (c) *no establishment of new wood based industry shall*



be permitted within the limits of Eco-sensitive Zone.

(2) *Quarrying and Mining:*

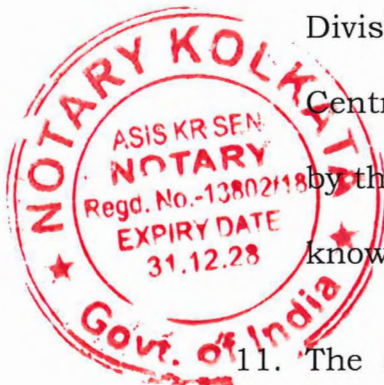
(a) *No mining activity except for bona-fide domestic use of the local residents shall be allowed within the of Eco- sensitive Zone.*

(b) *No crushing activity shall be allowed within the Eco-sensitive Zone.*

(3) *Construction Activities:*

No new construction of any kind shall be allowed in the area falling within a distance of three hundred meters from the boundary of the Dalma Wildlife Sanctuary.”

10. The said notification, inter alia, directed preparation of a Zonal Master Plan for Dalma Eco Sensitive Zone by the Government of Jharkhand in terms of the appropriate provisions of Wildlife (Protection) Act, 1972, the law relating to Town and Country Planning in force during the relevant period in Jharkhand, the Divisional Working Plans and the Guidelines issued by the Central Government. The Zonal Master Plan was to be approved by the Central Government in the MoEF & CC. To the appellant's knowledge, no such Zonal Master Plan has yet been prepared.

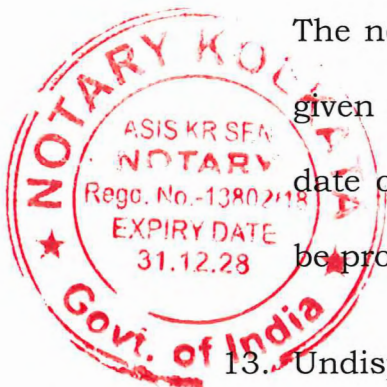


11. The appellant submits that the declaration of an area of five

kilometres from the boundary of the protected area of the Dalma Wildlife Sanctuary as an eco-sensitive zone by the subject notification is devoid of any foundation or logical platform. Moreover, the gazette containing the draft notification under sub-section (1) read with Clause (v) and Clause (xiv) of sub-section (2) of Section 3 of the Environment Protection Act was also not made available to the public, thereby enabling the public to offer their objections and/or suggestions to the draft notification. As such, the notification itself is baseless, misleading and there was complete non-application of mind at the time of issuance thereof.

12. The appellant submits that the said notification dated March 29, 2012 unambiguously prohibits setting up of only new polluting industry. Pending preparation of the Zonal Master Plan and its approval by the Central Government, only new activities could be allowed after the proposals were scrutinized and approved by the Monitoring Committee. The intention of the framers of the notification was thus clear to the extent that the notification, by no stretch of imagination, could be given any retrospective effect.

The notification does not make a mention that the same is to be given retrospective effect, and hence its effect will be from the date of its issuance. Therefore, the subject notification can only be prospectively effective.



13. Undisputedly, the appellant's factory at Jamshedpur has been

operational since the year 1986. Hence, the appellant was running its Unit from much before coming into force of the subject notification and there being no prohibition contained in the notification for Units already in existence, the order/notice dated October 10, 2012 directing closure of the appellant's factory could not have been passed. In other words, by virtue of the clear and unambiguous language of the said notification dated March 29, 2012, there was no occasion for prohibiting the appellant from running its factory unit in the subject area [even if it is assumed that the same falls within the eco-sensitive zone declared by the notification dated March 29, 2012].

14. The notice/order dated October 10, 2012 allegedly issued pursuant to the notification dated March 29, 2012 does not mention the recipients thereof. The said order/notice is without jurisdiction and ultra vires the powers of the issuing authority. The same has been issued in completely breach of the principles of natural justice, particularly, that of audi alterem partem. The said order/notice is in terrorem. No grounds have been stated in the said order/notice in support of the direction to close the appellant's factory unit save and except the notification dated March 29, 2012. The said notification does not by itself or ipso facto enable or empower the issuing authority, that is, the Forest Range Officer to act in such a draconian fashion. Moreover, the



said notification also does not provide for or mandate the closure of any unit which has been in existence from before the date of issuance of the notification. The notification dated March 29, 2012 clearly does not apply in respect of the appellant's factory at Dimna Road, Mirzadih, Jamshedpur and accordingly is not binding on or enforceable against the appellant and the very foundation of the notice/order dated October 10, 2012 is absolutely illegal and is liable to be quashed forthwith.

15. In any event, there is no allegation whatsoever against the appellant that it has caused any hazard which has affected the Dalma Wildlife.

16. Several local people are earning their livelihood from the said factory unit of the appellant. The said factory employs few thousand workmen, staffs and other employees. The aforesaid persons along with their family members numbering thousands depend upon the appellant's factory for their livelihood. In the event, the appellant's factory is put in jeopardy, thousands of people will be jobless and will be reduced to a hand to mouth existence.

17. In view of the aforesaid, the appellant filed an application under Article 226 of the Constitution of India being W.P.(C) No. 7340 of 2012 before the Hon'ble High Court of Jharkhand at Ranchi, inter



alia, praying for the following reliefs:

"It is, therefore, prayed that Your Lordships may graciously be pleased to admit this appeal, issue Rule NISI calling upon the Respondents to show cause as to why a writ in the Nature of Certiorari for quashing the order dated 10.10.2012 issued by the Forest Range Officer, Dalma Range, Dalma Wild Life Sanctuary, Jamshedpur

AND/OR

For the issuance of an appropriate writ/writs, order/orders, direction/directions, directing that during the pendency of the instant writ appeal, the respondents be prevented from taking any coercive action on the basis of the order dated 10.10.12;

AND

Upon return of the Rule and after hearing the parties, be further pleased to invoke the Rule absolute against the Respondents and allow this writ appeal in terms as prayed for hereinabove.

AND

Pending the final hearing of this appeal be further



pleased to stay operation of the impugned order dated 10.10.2012 as contained in Annexure-4 to this writ appeal.

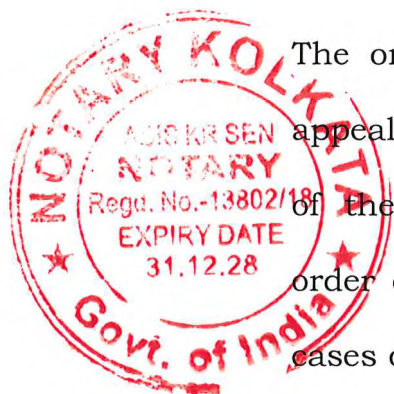
AND/OR

Pass such other further order or orders, as Your Lordships may deem fit and proper, in the facts and circumstances of this case.”

The appellant also filed an interim application in connection with the aforesaid writ petition. The appellant craves leave to refer to the writ petition and the interim application at the time of hearing.

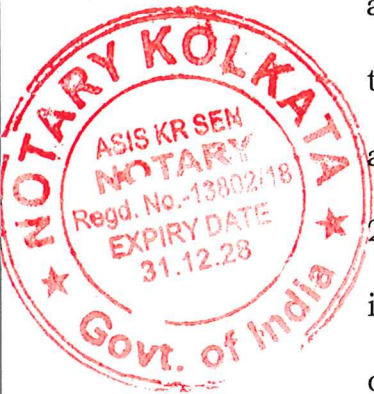
18. Challenging the applicability of the selfsame notification dated March 29, 2012 and various orders prohibiting several other units from operating, diverse writ petitions were filed before the Hon'ble High Court of Jharkhand at Ranchi. Such writ petitions were disposed of by a common order dated September 16, 2014.

The order dated September 16, 2014 was challenged and the appeal proceedings were disposed by the Hon'ble Division Bench of the Hon'ble High Court of Jharkhand at Ranchi by a common order dated November 16, 2016 whereby it was held that the cases of the appellants therein were required to be decided by the National Green Tribunal and hence liberty was given to the said



appellants to move the National Green Tribunal which in turn should not be persuaded by the orders passed by the Hon'ble High Court. The interim order that was passed in favour of the appellants therein, whereby the State was directed not to demolish the Units of such appellants, was extended for a period of four weeks within which the said appellants were given the liberty to move the National Green Tribunal. A copy of the said order dated November 16, 2016 passed by the Division Bench of the Hon'ble High Court of Jharkhand at Ranchi is annexed hereto and marked as Annexure "A-3" (Collectively).

19. An interim order in favour of the appellant was passed on July 8, 2013 in W.P.(C) No. 7340 of 2012, whereby it was directed that no coercive steps would be taken against the appellant. The said interim order was extended from time to time, and finally, an order dated September 25, 2024 was passed by the Hon'ble High Court of Jharkhand at Ranchi whereby on the strength of the aforesaid order dated November 16, 2016, liberty was also given to the appellant herein to approach the National Green Tribunal and the interim protection granted to the appellant on July 8, 2013 was extended for a further period of eight weeks. The said interim order shall expire on November 20, 2024. Copies of the orders passed in W.P.(C) No. 7340 of 2012 are annexed hereto and marked as Annexure "A-4" (Collectively).



20. The instant proceeding is being filed before this Hon'ble Forum pursuant to the liberty granted by the Hon'ble High Court of Jharkhand at Ranchi by its order dated September 25, 2024 passed in W.P.(C) No. 7340 of 2012.

21. The appellant submits that the said notification dated March 29, 2012 does not apply in respect of the appellant's factory at Dimna Road, Mirzadih, Jamshedpur and accordingly is not binding on or enforceable against the appellant and the notice/order dated October 10, 2012 is grossly illegal, arbitrary, baseless, null and void, ab initio, unenforceable, not binding on the appellant and are liable to be quashed and/or set aside forthwith for reasons more fully and particularly in the preceding paragraphs.

G R O U N D S

I. FOR THAT the notification dated March 29, 2012 does not apply in respect of the appellant's factory at Dimna Road, Mirzadih, Jamshedpur and accordingly is not binding on or enforceable against the appellant and further the notice/order dated October 10, 2012 is grossly illegal, arbitrary, baseless, null and void, ab initio, unenforceable, not binding on the appellant and are violative of the Environment (Protection) Act, 1986 and the Forest



(Conservation) Act, 1980 and the rules framed thereunder.

- II. FOR THAT no Zonal Master Plan in terms of the notification dated March 29, 2012 has yet been prepared.
- III. FOR THAT the declaration of an area of five kilometres from the boundary of the protected area of the Dalma Wildlife Sanctuary as an eco-sensitive zone by the subject notification is devoid of any foundation or logical platform.
- IV. FOR THAT the gazette containing the draft notification under sub-section (1) read with Clause (v) and Clause (xiv) of sub-section (2) of section 3 of the Environment Protection Act was also not made available to the public, thereby enabling the public to offer their objections and/or suggestions to the draft notification. As such, the notification itself is baseless, misleading and there was complete non-appeal of mind at the time of issuance thereof.
- V. FOR THAT the said notification dated March 29, 2012 unambiguously prohibits setting up of any new polluting industry. Pending preparation of the Zonal Master Plan and its approval by the Central Government, only new activities could be allowed after the proposals were scrutinized and approved by the Monitoring Committee. The intention of the



framers of the notification was thus clear to the extent that the notification, by no stretch of imagination, could be given any retrospective effect.

VI. FOR THAT the notification does not make a mention that the same is to be given retrospective effect, and hence its effect will be from the date of its issuance. Therefore, the subject notification can only be prospectively effective.

VII. FOR THAT the appellant's factory at Jamshedpur has been operational since the year 1986. Hence, the appellant was running its Unit from much before coming into force of the subject notification and there being no prohibition contained in the notification for Units already in existence, the order/notice dated October 10, 2012 directing closure of the appellant's factory could not have been passed.

VIII. FOR THAT by virtue of the clear and unambiguous language of the said notification dated March 29, 2012, there was no occasion for prohibiting the appellant from running its factory unit in the subject area [even if it is assumed that the same falls within the eco-sensitive zone declared by the notification dated March 29, 2012].

IX. FOR THAT the notice/order dated October 10, 2012 allegedly issued pursuant to the notification dated March



29, 2012 does not mention the recipients thereof. The said order/notice is without jurisdiction and ultra vires the powers of the issuing authority.

X. FOR THAT the same has been issued in completely breach of principles of natural justice, particularly, that of audi alterem partem.

XI. FOR THAT the said order/notice is in terrorem.

XII. FOR THAT no grounds have been stated in the said order/notice in support of the direction to close the appellant's factory unit save and except the notification dated March 29, 2012. The said notification does not by itself or ipso facto enable or empower the issuing authority, that is, the Forest Range Officer to act in such a draconian fashion.

XIII. FOR THAT the said notification also does not provide for or mandate the closure of any unit which has been in existence from before the date of issuance of the notification.

XIV. FOR THAT the very foundation of the notice/order dated October 10, 2012 is absolutely illegal and is liable to be quashed forthwith.



XV. FOR THAT there is no allegation whatsoever against the appellant that it has caused any hazard which has affected the Dalma Wildlife.

XVI. FOR THAT several local people are earning their livelihood from the said factory unit of the appellant. The said factory employs few thousand workmen, staffs and other employees. The aforesaid persons along with their family members numbering thousands depend upon the appellant's factory for their livelihood. In the event, the appellant's factory is put in jeopardy, thousands of people will be jobless and will be reduced to a hand to mouth existence.

XVII. FOR THAT the issuance of the aforesaid notification and the notice/order issued by the respondent authorities are in blatant defiance of the relevant provisions of the Environment Protection Act, 1986 and the Forest Conservation Act, 1980 and the rules framed thereunder.

LIMITATION

The instant appeal is being filed pursuant to a leave granted by the Hon'ble High Court of Jharkhand at Ranchi by its order dated September 25, 2024 in W.P.(C) No. 7340 of 2012. Challenging the applicability of the notification dated March 29, 2012 to the



appellant's factory and the notice/order dated October 10, 2012, the appellant filed W.P.(C) No. 7340 of 2012 before the Hon'ble High Court of Jharkhand at Ranchi. The same was disposed off by the Hon'ble Court by its order dated September 25, 2024. The present appeal is being filed within 8 weeks from the date of such order. However the appellant submits that the appellant has been prosecuting with due diligence and in good faith the writ proceeding which relates to the same matter in issue before the Hon'ble High Court of Jharkhand which has expressed its inability to entertain the same. The appellant is thus entitled to exclusion of the period that it has spent in prosecuting the writ proceeding from the limitation prescribed in section 16 of the National Green Tribunal Act, 2010. The appellant, for abundant caution prays for condonation of delay, if any, in filing the present proceeding.

INTERIM PRAYER

Pending final disposal of the instant appeal, the appellant seeks issuance of the following interim orders:

- a) Stay of operation of the notice/order dated October 10, 2012, being Annexure "A-2" (Collectively) hereto;
- b) An interim order be passed restraining the respondents from giving any effect and/or further effect to and/or taking any coercive action against the appellant on the basis of the



notice/order dated October 10, 2012 issued by the Forest Range Officer, Dalma Range, Dalma Wildlife Sanctuary, Jamshedpur, being Annexure "A-2" (Collectively) hereto, in any manner whatsoever;

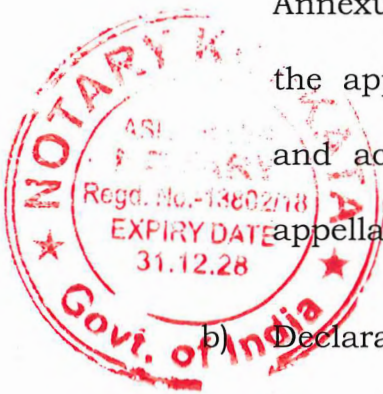
- c) An interim order be passed restraining the respondents from giving any effect and/or further effect to the notification dated March 29, 2012 issued by MoEF & CC being Annexure "A-2" (Collectively) hereto in any manner whatsoever so far as the appellant's factory at Dimna Road, Mirzadih, Jamshedpur, is concerned;
- d) Ad-interim orders in terms of prayers above;

PRAYERS

In view of the facts mentioned hereinabove, the appellant prays for the following reliefs:

- a) Declaration that the notification dated March 29, 2012, being Annexure "A-2" (Collectively) hereto, does not apply in respect of the appellant's factory at Dimna Road, Mirzadih, Jamshedpur and accordingly is not binding on or enforceable against the appellant;

- b) Declaration that the notification dated March 29, 2012 does not have retrospective effect and has no applicability so far as the



appellant's factory unit at Dimna Road, Mirzadih, Jamshedpur [being an existing unit] is concerned;

- c) Declaration that the notice/order dated October 10, 2012 being Annexure "A-2" (Collectively) is illegal, null and void, ab initio, unenforceable, not binding on the appellant and is liable to be delivered up and cancelled;
- d) Mandatory order do issue commanding the respondent authorities to withdraw/rescind, recall, revoke or set aside the notice/order dated October 10, 2012, being Annexure "A-2" (Collectively) hereto;
- e) Prohibitory order do issue prohibiting the respondent authorities from giving any effect to and/or further effect to the notification dated March 29, 2012, being Annexure "A-2" (Collectively) hereto in so far as the appellant is concerned;
- f) Prohibitory order do issue prohibiting the respondent authorities from giving any effect to and/or further effect to the notice/order dated October 10, 2012, being Annexure "A-2" (Collectively) hereto;
- g) Perpetual injunction restraining the respondents from giving effect to or acting in furtherance of or on the basis of the notification dated March 29, 2012 being Annexures "A-2"



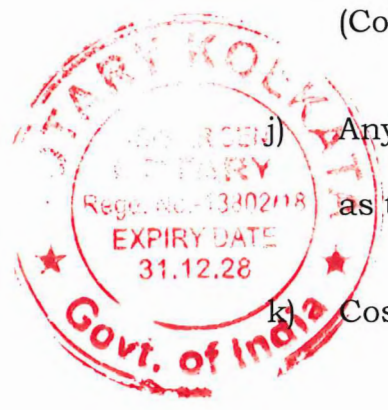
(Collectively) in so far as the appellants are concerned;

h) Perpetual injunction restraining the respondents from giving effect to or acting in furtherance of or on the basis of the notice/order dated October 10, 2012 being Annexures "A-2" (Collectively) hereto;

i) Mandatory order do issue commanding the respondents and each one of them and their men, agents, assigns and subordinates to certify and transmit to this Hon'ble Tribunal all records forming the basis of the issuance of the notification dated March 29, 2012 issued by the MoEF & CC, and the notice/order dated October 10, 2012 issued by the Forest Range Officer, Dalma Range, Dalma Wildlife Sanctuary, Jamshedpur, being Annexure "A-2" (Collectively) hereto;

j) Any other appropriate direction/directions and/or order/orders as this Hon'ble Tribunal may deem fit and proper;

k) Costs of and/or incidental to this appeal;



For S T F Limited
Amit Kumar
Authorised Signatory
APPELLANT

Date: 21st November 2024

Place: Kolkata

VERIFICATION

I, Amit Kumar Shaw, son of Prakash Chandra Shaw, aged about 44 years, by faith Hindu, by occupation service and working for gain at 129, Park Street, Kolkata- 700017, West Bengal, India being the Authorised Signatory of the Appellant company herein do hereby verify and state that the statements contained in paragraphs 1 to 5 are true to my own knowledge and the statements made in paragraph 6, 7, 9, 10, 19 to 21 are based on information received which I believe to be correct and/or are matters of record and the rest are my respectful submissions before this Hon'ble Court.

For S T P Limited
Amit Kumar Shaw
Authorised Signatory
Appellant

Date: 21st November 2024

Place: Kolkata



BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA

In the matter of:

STP LIMITED

.... Appellant

-Versus-

**MINISTRY OF ENVIRONMENT FORESTS AND CLIMATE CHANGE
& OTHERS.**

... Respondents

AFFIDAVIT

I, Amit Kumar Shaw, son of Prakash Chandra Shaw, aged about 44 years, by faith Hindu, by occupation service and working for gain at 129, Park Street, Kolkata- 700017, West Bengal, India, do hereby solemnly affirm and state as follows:-

1. I am the Authorised Signatory of the Appellant company herein.

By the Board Resolutions both dated 24 January 2024, I have been duly authorized by the Appellant company to make and sign this Appeal and affirm this affidavit on behalf of the Appellant company herein and I am competent to affirm this affidavit on it's behalf.

2. The statements contained in paragraphs 1 to 5 are true to my own knowledge and the statements made in paragraph 6, 7, 9, 10, 19 to 21 are based on information received which I believe to be correct and/or are matters of record and the rest are my respectful submissions before this Hon'ble Court.

Identified by me

Fishe Gupta

Advocate

F/127/1396/2024

Amit Kumar Shaw

Deponent is known to me

Before Me

Notary



21 NOV 2024

Solemnly affirm and declare before me on identification
Asis Mr. Sen
ASIS KUMAR SEN
City Civil Court, Kolkata
Notary
No - 13802/18

Annexure "A-1"

Annexure -



- 2

DET NORSKE VERITAS MANAGEMENT SYSTEM CERTIFICATE

Certificate No. 29372-2008-AQ-IND-RvA Rev. 02

This is to certify that

STP LIMITED

at

Dimna Road, P.O.: MGM Medical College, Mizadih, Jamshedpur - 831 018, Jharkhand, INDIA

has been found to conform to the Quality Management System Standard:

ISO 9001:2008

This certificate is valid for the following scope:

MANUFACTURE OF PIPE PROTECTION MATERIAL AND COAL TAR PITCH

Initial Certification date:
26 March 1996

Place and date of issue:
Chennai, 23 February 2011

This Certificate is valid until:
26 March 2014

for the Accredited Unit:
DET NORSKE VERITAS CERTIFICATION B.V.,
THE NETHERLANDS

The audit has been performed under the supervision of:

Debanjan Das Gupta
Lead Auditor



Bhupalam Ajit
Management Representative

Lack of fulfillment of conditions as set out in the Certification Agreement or the annexure to this certificate may render this Certificate invalid.

DET NORSKE VERITAS CERTIFICATION B.V., Zandvoortweg 1, 2091 LB Barendrecht, The Netherlands, TEL: +31 (0)2022 158 - 9900, dnv.com / www.dnv.com
ISSUED BY: DET NORSKE VERITAS AS, FERDEN TILGÅBBERG, 10, CS.T., N-4015 STAVANGER (E), NORWAY - 400 000, INDIA: www.dnv.com / www.dnvindia.com





27
- 237 -

DET NORSKE VERITAS MANAGEMENT SYSTEM CERTIFICATE

Certificate No. 00319-2006-AE-IND-RvA Rev. 02

This is to certify that

STP LIMITED

at

Dimna Road, P.O.: MGM Medical College, Mirzadih;
Jamshedpur - 831 018, INDIA

has been found to conform to the Environmental Management System Standard:

ISO 14001:2004

This certificate is valid for the following scope:

MANUFACTURE OF PIPE PROTECTION MATERIAL AND COAL TAR PITCH.

Initial Certification date:
13 May 2003

This Certificate is valid until:
12 May 2015

Place and date of issue:
Chennai, 16 March 2012

for the Accredited Unit:
DET NORSKE VERITAS CERTIFICATION B.V.,
THE NETHERLANDS



The audit has been performed under the supervision of:

Anupam Dasgupta
Lead Auditor

Bhupalam Ajit
Management Representative

Lack of fulfillment of conditions as set out in the Certification Agreement or the failure to do so may render this Certificate invalid.

DET NORSKE VERITAS CERTIFICATION B.V., Zoeterweg 1, 2004 LB Breda, The Netherlands. TEL: +31 10 2922 689. www.dnv.com
ISSUED BY: DET NORSKE VERITAS AS, FRODEN CLAMMEN, P.O. BOX 121, 4030 AA ROTTERDAM, THE NETHERLANDS. TEL: +31 10 2922 689. www.dnv.com



Annexure "A-2" (Colly)

29

MINISTRY OF ENVIRONMENT AND FORESTS

NOTIFICATION

New Delhi, the 29th March, 2012

S.O. 680(E).—Whereas, the Dalma Wildlife Sanctuary, Jamshedpur lies between Latitudes 22° 46' 30" and 22° 57' N and Longitudes 86° 3' 15" and 86° 26' 30" E in the East Singhbhum and Sariakele-Kharsawan districts of Jharkhand and extends over an area of 193.5077 square kilometers;

AND WHEREAS, the Asian Elephant is the species of vital importance in Dalma Wildlife Sanctuary, besides, some of the most endangered species like Ratel, Wild Dog, Mouse Deer, Indian Giant Squirrel, Python, Pangolin, Serpent Eagle, etc., are also found in this Sanctuary;

AND WHEREAS, the forests of this Sanctuary intercept rainfall and help recharge ground water aquifer and protect rivers and streams against siltation by minimizing soil erosion and the Sanctuary has a well knit network of 159 streams spreading throughout the Sanctuary, out of which 82 are perennial or semi perennial and the rest 77 streams are of seasonal nature. Subarnarekha River, Subarnarekha Canal and Dimna Lake are fed by these streams;

AND WHEREAS, it is necessary to conserve and protect the area around the protected area of Dalma Wildlife Sanctuary as Eco-sensitive Zone from ecological and environmental point of view;

AND WHEREAS, a draft notification under sub-section (1) read with clause (v) and clause (xiv) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) was published in the Gazette of India, Extraordinary, vide notification of the Government of India in the Ministry of Environment and Forests number S.O. 691(E), dated the 5th April, 2011, as required under sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, inviting objections and suggestions from all persons likely to be affected thereby within a period of sixty days from the date on which copies of the Gazette containing the said notification were made available to the public;

AND WHEREAS, copies of the Gazette containing the said notification were made available to the public on the 5th April, 2011;

AND WHEREAS, all objections and suggestions received in response to the draft notification have been duly considered by the Central Government;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) read with clause (v) and clause (xiv) of sub-section (2) of section 3 of the Environment



(Protection) Act, 1986 (29 of 1986) and sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby notifies the area up to five kilometers from the boundary of the protected area of the Dalma Wildlife Sanctuary enclosed within the boundary described below in the State of Jharkhand as the Eco-sensitive Zone (herein after called as the Eco-sensitive Zone).

1. Boundaries of Dalma Wildlife Sanctuary Eco-sensitive Zone. – (1) Dalma Wildlife Sanctuary is bounded by the forests of Dhalbhum and Saraikela Forest Division of Jharkhand and Kansabati Forest Division of West Bengal, Jamshedpur township and Chandil sub divisional town are merely 0 -5 kilometers from the boundary of Dalma Wildlife Sanctuary.

(2) The said Eco-sensitive Zone covers an area of 522.98 square kilometer in Jharkhand, consisting of the followings, namely:-

(i) enclave villages:

Total number of villages - 85

Area to be included in the Eco-sensitive zone:

Non-forest area - 200.28 square kilometers

Forest area- 198.30 square kilometers

Total- = 398.58 square kilometers;

(ii) villages situated outside the boundary of Protected Area:

The Total number of villages - 51

Area to be included in the Eco-sensitive zone:

Non-forest area - 80.45 square kilometers

Forest area - 43.95 square kilometers

Total = 124.40 square kilometers;

(iii) development blocks:

Patamda, Jamshedpur and Golmuri blocks of East Singhbhum district and Chandil and Nimdih blocks of Saraikela- Kharsawan district;

(iv) District wise area:

Name of District	Area of eco-sensitive zone
East Singhbhum	377.89 square kilometers
Saraikela- Kharsawan	145.09 square kilometers
Total	522.98 square kilometers

(3) The map of the Eco-sensitive Zone is appended to this notification as **Annexure 1** and the list of the villages falling within the Dalma Eco-sensitive Zone is annexed as **Annexure 2**.

2. Zonal Master Plan for the Dalma Eco-sensitive Zone. – (1) A Zonal Master Plan for the Dalma Eco-sensitive Zone shall be prepared by the State Government, in such manner as are specified under the Wild Life (Protection) Act, 1972 (53 of 1972), the law relating to town and country planning for the time being in force in the State, the divisional



working plans and the guidelines issued by Central Government, within a period of one year from the date of this notification and approved by the Central Government in the Ministry of Environment and Forests.

(2) The Zonal Master Plan shall be prepared in consultation with all concerned State Departments like Department of Environment and Forests, Urban Development, Tourism, Municipal, Revenue and the Jharkhand State Pollution Control Board with a view to include various aspects of the environment and ecology.

(3) The Zonal Master Plan shall provide for restoration of denuded areas, conservation of existing water bodies, management of catchment areas, watershed management, groundwater management, soil and moisture conservation, needs of local community and such other aspects of the ecology and environment that need attention.

(4) The Zonal Master Plan shall demarcate all the existing worshipping places, village settlements, types and kinds of forests, agricultural areas, fertile lands, green areas, horticultural areas, orchards, lakes and other water bodies.

(5) No change of land use from green uses such as tea gardens, horticulture areas, agriculture parks, etc., to non green uses shall be permitted, provided that with a view to meet the residential needs of the local residents and the natural growth of the local populations existing on the date of this notification, the conversion of agricultural land for personal residential purposes may be allowed, subject to the restriction that no concrete construction shall be allowed within 300 meters from the boundary of the Dalma Wildlife Sanctuary.

(6) Pending the preparation of the Zonal Master Plan for Eco-sensitive Zone and approval thereof by the Central Government, all new activities (specified in Annexure 3) shall be allowed only after the proposals are scrutinised and approved by the Monitoring Committee referred to in paragraph 4.

(7) There shall be no consequential reduction in forest area, green area and agricultural area and the unused or unproductive agricultural areas may be converted into forest areas.

(8) The Zonal Master Plan shall be a reference document for the Monitoring Committee of the Eco-sensitive Zone for any decision to be taken by them including consideration for relaxation.

(9) The Central Government and the State Government may specify other measures, if it considers necessary, in giving effect to the provisions of this notification.

3. Prohibited, regulated and permitted activities in Eco-sensitive Zone.- Subject to the provisions of this paragraph, the activities in the Eco-sensitive Zone shall be regulated in accordance with Annexure 3 to this notification.



(1) Industrial Units:

- (a) On or after the publication of this notification in the Official Gazette, no new polluting industries shall be allowed to be setup within the Eco-sensitive Zone;
- (b) any non-polluting, non-hazardous, small-scale and service industry, agriculture, floriculture, horticulture or agro-based industry producing products from indigenous goods from the Eco-sensitive Zone, and which do not cause any adverse impact on environment, may be permitted in the Eco-sensitive Zone;
- (c) no establishment of new wood based industry shall be permitted within the limits of Eco-sensitive Zone.

(2) Quarrying and Mining:

- (a) No mining activity except for bona-fide domestic use of the local residents shall be allowed within the of Eco- sensitive Zone.
- (b) No crushing activity shall be allowed within the Eco-sensitive Zone.

(3) Construction Activities:

No new construction of any kind shall be allowed in the area falling within a distance of three hundred meters from the boundary of the Dalma Wildlife Sanctuary.

(4) Trees:

There shall be no felling of trees either on forest, Government, revenue or private lands, without the prior permission of the State Government in case of forest land, and the respective District Collector in case of Government, revenue and private land, granted in such manner as may be laid down by the State Government.

(5) Tourism:

Tourism activities shall be allowed in accordance with the Tourism Master Plan, with emphasis on eco-tourism, eco-education and eco-development, to be prepared by the Department of Tourism of the State Government in consultation with the Department of Environment and Forests which shall also form a part of the Zonal Master Plan.

(6) Natural Heritage Sites:

- (a) The sites of valuable natural heritage in the Eco-sensitive Zone shall be identified, particularly rock formations, waterfalls, pools, springs, gorges, groves, caves, points, walks, rides, etc., and plans for their conservation in their natural setting shall be incorporated in the Zonal Master Plan.
- (b) The development or construction activities at or around the heritage sites shall be regulated in accordance with the Model Regulations for Conservation of Natural and Man-made Heritage Sites formulated by the Central Government in the Ministry of Environment and Forests which shall form part of the Zonal Master Plan and Sub-zonal Master Plan.

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- (7) **Man-made heritage sites:**
- (a) Buildings, structures, artifacts, areas and precincts of historical, architectural, aesthetic, and cultural significance shall be identified in the Eco-sensitive Zone and plans for their conservation, particularly their exteriors including, their interiors wherever deemed appropriate, shall be prepared and incorporated in the Zonal and Sub-zonal Master Plan.
- (b) The development or construction activities at or around the heritage sites shall be regulated in accordance with the Model Regulations for Conservation of Natural and Manmade Heritage Sites referred in clause (b) of sub-paragraph (6).
- (8) **Ground Water:**
- (a) Extraction of ground water for bona-fide agricultural and domestic consumption of the occupier of land shall be allowed.
- (b) Extraction of ground water for industrial, commercial use shall require prior written permission, including the amount that can be extracted, from the State Ground Water Board and the Monitoring Committee.
- (c) No sale of ground water shall be permitted except with the prior approval of the Monitoring Committee constituted under paragraph 4.
- (d) The conservation of water and its distribution, from existing facilities within the Eco-sensitive Zone, other than sanctuary and forest areas, shall be regulated in accordance to the provisions of the Forest (Conservation) Act, 1980 (69 of 1980).
- (e) Appropriate steps shall be taken to prevent contamination or pollution of water, including from agriculture activities.
- (9) **Protection of Hill Slopes:**
- (a) The Zonal Master Plan shall indicate areas on hill slopes where no construction shall be permitted.
- (b) No construction on existing steep hill slopes or slopes with a high degree of erosion shall be permitted.
- (10) **Road:**
Widening and strengthening of existing roads and construction of new roads may be allowed in the Eco-sensitive Zone.
- (11) **Use of Plastics:**
No person shall use plastic carry bags within the Eco-sensitive Zone area and the disposal of plastic articles shall be prohibited.
- (12) **Noise pollution:**
The Environment Department or the Forest Department of the State Government shall be the authority to frame and issue guidelines and regulations for the control of noise in the Eco-sensitive Zone.



(13) Discharge of effluents:

No untreated or industrial effluent shall be permitted to be discharged into any water body or land within the Eco-sensitive Zone and the treated effluent shall meet the provisions of the Water (Prevention and Control of Pollution) Act, 1974.

(14) Solid Wastes:

(a) The solid waste shall not be disposed off in the Eco-sensitive Zone:

Provided that the Monitoring Committee shall identify a site for disposal of such solid wastes in accordance with the provisions of the Municipal Solid Waste (Management and Handling) Rules, 2000 notified by the Central Government in the Ministry of Environment and Forests vide notification number S.O. 908 (E), dated the 25th September, 2000, as amended from time to time;

- (b) (i) the local authorities shall prepare plans for the segregation of solid wastes into biodegradable and non-biodegradable components;
- (ii) the biodegradable material may be recycled preferably through composting or vermi culture;
- (iii) the inorganic material may be disposed in an environmentally acceptable manner at site identified outside the Eco-sensitive Zone; and
- (iv) no burning or incineration of solid wastes shall be permitted in the Eco-sensitive Zone.

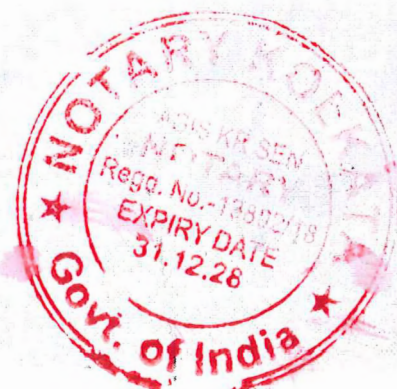
(15) Natural Springs:

The catchment area of all springs shall be identified and plans for their conservation and rejuvenation of those that have run dry, in their natural setting, shall be incorporated in the Zonal Master Plan and the State Government shall issue guidelines to prohibit the activities at or near these areas.

4. Monitoring Committee (1) In exercise of the powers conferred by sub-section (3) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government hereby constitutes a Committee to be called the Dalma Eco-sensitive Zone Monitoring Committee to monitor the compliance of this notification.

(2) The Monitoring Committee referred to in sub-paragraph (1), shall consist of the following members, namely:-

- (a) the Commissioner of Kolhan Revenue Division – Chairman;
- (b) a representative of the Ministry of Environment and Forests, Government of India Member;
- (c) a representative of the Central Pollution Control Board, constituted under sub-section 1 of section 3 of the Water (Prevention and Control of Pollution) Act, 1974 (16 of 1974) – Member;
- (d) a representative of the Department of Forests and Environment, Government of Jharkhand - Member;
- (e) a representative of the Department of Mines, Government of Jharkhand – Member;



- (f) a representative of the Department of Industries, Government of Jharkhand – Member;
 - (g) a representative of the Department of Revenue, Government of Jharkhand – Member;
 - (h) a representative of the Department of Irrigation, Government of Jharkhand – Member;
 - (i) a representative of the Department of Public Works, Government of Jharkhand – Member;
 - (j) a representative of Non-governmental Organizations working in the field of environment (including heritage conservation) to be nominated by the Ministry of Environment and Forests, Government of India – Member;
 - (k) the Regional Officer, Jharkhand State Pollution Control Board, Ranchi – Member;
 - (l) the Senior Town Planner, Government of Jharkhand – Member;
 - (m) one expert in the area of ecology and environment to be nominated by the Ministry of Environment and Forests, Government of India – Member;
 - (n) the Divisional Forest Officer, Incharge of the Dalma Wildlife Sanctuary – Convener.
- (3) The powers and functions of the Monitoring Committee shall be restricted to the compliance and monitoring of the provisions of this notification.
- (4) In case of activities requiring prior permission, under the provisions of the notification of the Government of India in the Ministry of Environment and Forests number S.O. 1533 (E), dated the 14th September, 2006 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), the Monitoring Committee shall refer all such matters to the Central Government in the Ministry of Environment and Forests for prior clearances under the provisions of the said notification.
- (5) The Monitoring Committee may invite representatives or experts from concerned Departments or associations to assist in its deliberations depending on the requirements on issue to issue basis.
- (6) The Chairman or the Convener of the Monitoring Committee shall be competent to file complaints under section 19 of the Environment (Protection) Act, 1986 (29 of 1986) against any person who contravenes the provisions of this notification.
- (7) The Monitoring Committee shall submit the annual action taken report of its activities by the 31st March of every year to the Central Government in the Ministry of Environment and Forests.
- (8) The Central Government in the Ministry of Environment and Forests shall give such directions, from time to time, to the Monitoring Committee as it may consider necessary for effective discharge of the functions of the Monitoring Committee.



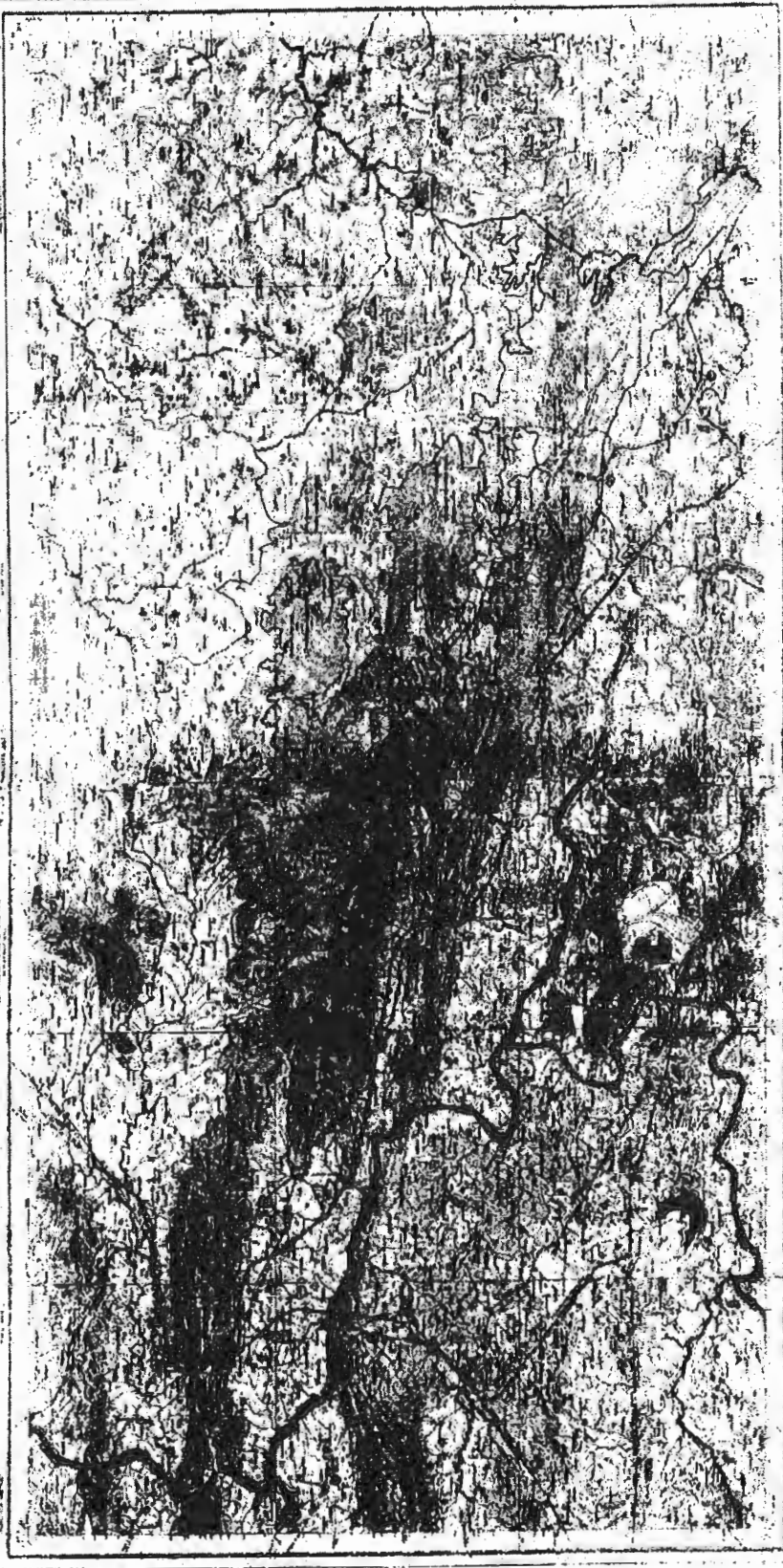
Annexure I
[See paragraph 1(3)]

Map of Dalma Eco-sensitive Zone.

DALMA WILDLIFE SANCTUARY, JAMSHEDPUR

पश्चिम बंगाल राज्य
BIMAR, WEST BENGAL

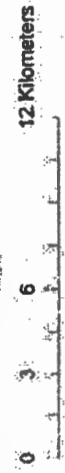
पश्चिम बंगाल राज्य
BIMAR, WEST BENGAL



Legend

- SANCTUARY BOUNDARY
- ECO FRAZIL ZONE
- SWAMPAN REKHA CANAL

1:50,000



12 Kilometers



Annexure 2
[See paragraph 1(3)]

List of villages falling within the areas of Dalma Eco-sensitive Zone.

Part I-Enclave Villages

S. No.	Name of Village	Administrative Block	Thana No.	Area of Village (in Ha)	Forest Area (in Ha)	No. of Houses	Population
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	Bonta	Patmda	119/14	1371.32	798.20	249	1286
2	Kutimakul	Patmda	120/15	180.62	65.13	40	232
3	Bhadudih	Patmda	121/16	205.69	54.97	21	136
4	Saldoha	Patmda	122/17	196.29	87.12	19	118
5	Haludbani	Patmda	123/18	320.88	232.37	108	504
6	Patipani	Patmda	124/19	425.68	366.28	56	246
7	Mirzadih	Patmda	137/20	577.70	315.80	205	991
8	Geruwa	Patmda	138/21	484.31	350.29	129	561
9	Brajpur	Patmda	139/22	155.91	76.23	24	115
10	Punsa	Patmda	140/23	302.71	138.45	116	604
11	Nutandih	Patmda	141/24	808.44	437.87	215	1014
12	Bataluka	Patmda	142/25	544.31	394.32	104	527
13	Amdaphar	Patmda	143/15	368.56	249.33	67	284
14	Apo	Patmda	144/15	859.59	428.66	219	1086
15	Sari	Patmda	145/26	774.78	475.68	218	1114
16	Laylam	Patmda	146/27	1057.63	550.97	273	1510
17	Pagda	Patmda	164/45	349.92	170.23	174	883
18	Kumari	Patmda	166/47	286.56	152.72	132	596
19	Chimti	Patmda	167/48	336.55	226.97	104	459
20	Kukru	Patmda	400/15	248.52	120.91	86	440
21	Ghoraban	Patmda	401/15	617.99	331.19	113	565
22	Jamdih	Patmda	402/15	615.45	509.22	130	708
23	Jhunihka	Patmda	405/16	1183.49	751.07	252	1219
24	Khokoro	Patmda	524/10	914.55	766.36	98	450
25	Baghra	Patmda	117/12	290.51	54.97	223	1204
26	Koyani	Patmda	118/13	947.56	664.74	443	2546
27	Goburghu	Patmda	147/28	1042.51	683.92	291	1361
28	Kundruko	Patmda	148/29	150.17	35.52	45	195
29	Bamni	Patmda	149/30	534.80	166.70	213	1019
30	Gagiburu	Patmda	154/35	225.02	10.15	130	690
31	Beldih	Patmda	161/42	947.75	281.51	359	1865
32	Buridih	Patmda	162/92	73.00	65.14	2	22
33	Dhusra	Patmda	163/44	430.83	181.90	186	920
34	Rapcha	Patmda	165/46	222.16	82.14	81	430
35	Andharjho	Patmda	168/49	772.66	346.79	296	1701



36	Dangdung	Patmda	169/50	755.01	353.68	226	1222
37	Dhobni	Patmda	170/51	572.70	325.06	129	801
38	Tungburu	Patmda	404/16	287.94	33.49	119	600
39	Jorisa	Patmda	406/16	450.57	175.44	118	515
40	Dangardih	Patmda	523/09	247.76	72.63	143	685
41	Kaira	Patmda	525/11	1170.59	723.11	203	1062
42	Somadih	Patmda	526/06	290.45	30.60	131	665
43	Bachkamk	Nimdih	254	199.85	93.85	81	426
44	Tankocha	Nimdih	274	341.00	212.77	78	393
45	Ugdih	Nimdih	243	72.84	14.85	168	776
46	Bumdungr	Nimdih	244	92.40	13.81	311	1426
47	Tengadih	Nimdih	275	878.16	386.38	252	1149
48	Jharridih	Nimdih	276	323.81	17.23	42	217
49	Tetla	Nimdih	278	323.81	114.63	271	1024
50	Lupungdih	Nimdih	279	342.21	55.44	403	1877
51	Pitki	Nimdih	280	189.11	33.83	152	768
52	Chelema	Nimdih	310	764.81	210.59	569	2686
53	Bandhdih	Nimdih	312	863.78	586.08	31	159
54	Dahubera	Nimdih	314	258.69	72.70	110	499
55	Makulako	Chandil	Ch268	344.35	238.28	70	347
56	Kadamdih	Chandil	Ch247	72.30	14.25	101	544
57	Shaharber	Chandil	Ch252	190.83	23.53	251	446
58	Sikli	Chandil	Ch253	80.84	37.53	50	249
59	Baralakha	Chandil	Ch255	179.75	30.79	73	391
60	Pata	Chandil	Ch256	350.65	129.88	242	1241
61	Chilgo	Chandil	Ch265	216.99	56.94	341	1788
62	Chakulia	Chandil	Ch266	186.61	48.80	135	657
63	Sharharber	Chandil	Ch267	531.68	312.02	253	1253
64	Tulin	Chandil	Ch269	264.12	151.81	30	135
65	Katjhor	Chandil	Ch270	446.85	153.03	275	1373
66	Hamsda	Chandil	Ch 271	423.83	213.39	143	701
68	Humid	Chandil	Ch273	95.41	23.70	209	923
69	Kadamjho	Chandil	Ch311	479.12	378.42	62	250
70	Asanbani	Chandil	Ch325	1532.27	780.09	275	1467
71	Ramgarh	Chandil	Ch326	696.38	373.99	153	702
72	Kanderber	Chandil	Ch327	662.05	315.00	256	1223
73	Suklahra	Golmuri	Gh	482.75	208.27	131	650
74	Dalapani	Golmuri	Gh	477.79	284.24	68	378
75	Jhantipaha	Golmuri	Gh134	98.91	98.86	24	131
76	Kudlung	Golmuri	Gh	321.15	142.04	105	569
77	Beko	Golmuri	Gh	518.64	185.08	231	1070
78	Kalajhor	Golmuri	Gh138	399.38	164.76	147	708
79	Chhotoban	Golmuri	Gh	422.04	185.65	158	759



80	Palasbani	Jamshedpur	Gh	938.26	318.93	334	2006
81	Bhelaipah	Jamshedpur	Gh146	567.96	236.07	243	1287
82	Deoghar	Jamshedpur	Gh147	506.21	181.86	271	1453
83	Baliguma	Jamshedpur	Gh150	216.36	140.12	1958	8898
84	Pardih	Jamshedpur	Gh	324.65	137.26	5878	29388
85	Dimna	Jamshedpur	Gh	450.75	60.94	6004	29974
			Total	39858.22	38585.	40336	198974

Part II- Villages situated outside the boundaries of Protected Area.

S. No.	Name of Village	Administrative Block	Thana No.	Area of Village (in Ha)	Forest Area (in Ha)	No. of Houses	Population
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	Baghra	Patmda	117/12	290.51	54.97	223	1204
2	Dangdung	Patmda	169/50	755.01	353.68	226	1222
3	Dhobni	Patmda	170/51	572.70	325.06	129	801
4	Dangardih	Patmda	523/09	247.76	72.63	143	685
5	Barudih	Patmda	-	248.00	91.60	120	628
6	Barubera	Patmda	-	131.00	29.14	101	510
7	Bankucha	Patmda	-	774.00	70.24	400	1993
8	Loadih	Patmda	-	192.00	30.73	162	856
9	Paharpur	Patmda	-	355.00	55.02	198	1186
10	Raherdih	Patmda	-	123.00	4.05	103	503
11	Chamdih	Patmda	-	142.00	5.37	87	493
12	Rakhdi	Patmda	-	171.00	61.62	78	397
13	Rupsham	Patmda	-	249.00	15.98	159	874
14	Muchidhi	Patmda	-	178.00	18.31	127	671
15	Champir	Patmda	-	71.00	20.36	44	237
16	Jilingdung	Patmda	-	55.00	21.86	30	148
17	Jawa	Patmda	-	204.00	76.39	109	478
18	Lekro	Patmda	-	210.00	19.81	67	352
19	Kherwa	Patmda	-	816.00	336.26	373	1942
20	Gordih	Patmda	-	164.00	48.63	167	917
21	Jharbani	Patmda	-	93.00	1205.0	69	339
22	Naingjuri	Patmda	-	113.00	13.15	46	217
23	Sishda	Patmda	-	252.00	72.85	175	403
24	Sarjumli	Patmda	-	89.00	11.23	37	193
25	Lachhipur	Patmda	-	260.00	8.34	217	1016
26	Bantoraya	Patmda	-	39.00	8.12	151	709
27	Bansgarh	Patmda	-	262.00	0.47	149	725
28	Poklabera	Patmda	-	373.00	19.53	278	1388
29	Patamda	Patmda	-	398.00	172.98	376	2187
30	Amjhor	Patmda	-	397.78	-	-	128
31	Sunderpur	Patmda	-	380.42	-	-	68
32	Bandih	Patmda	-	90.41	-	-	107
33	Murugdih	Patmda	-	325.00	50.99	176	1020



34	Barhadih	Golmuri-cum-Jugsalia	-	197.20	318.17	80	106
35	Parasdungri	Golmuri-cum-Jugsalia	-	246.15	264.72	100	38
36	Ugdih	Nimdih	-	71.00	3.70	168	776
37	Janta	Nimdih	-	250.00	9.87	226	1101
38	Kamadula	Nimdih	-	49.00	8.80	39	206
39	Bagri	Nimdih	-	205.00	10.57	134	732
40	Burudih	Nimdih	-	174.00	82.26	55	281
41	Atasimal	Nimdih	-	64.00	7.13	32	171
42	Murugdih	Nimdih	-	325.00	50.99	176	1020
43	Rupadhi	Nimdih	-	59.00	9.99	38	198
44	Kishundih	Nimdih	-	168.00	5.65	120	637
45	Pathardih	Nimdih	-	88.00	6.98	91	424
46	Phaeranga	Nimdih	-	86.00	4.11	111	489
47	Bankada	Nimdih	-	214.68	-	-	73
48	Singati	Chandil		190.00	45.00	227	1148
49	Kashidih	Chandil	-	210.00	47.00	102	552
50	Khuchidih	Chandil	-	562.00	225.32	234	1197
51	Karnidih	Chandil	-	259.00	20.00	247	1305
Total				12439.62	4394.6	6800	35051

Annexure 3

[See paragraph 3]

**Activities to be prohibited, regulated or permitted within the
Eco-Sensitive Zone around Dalma Wildlife Sanctuary**

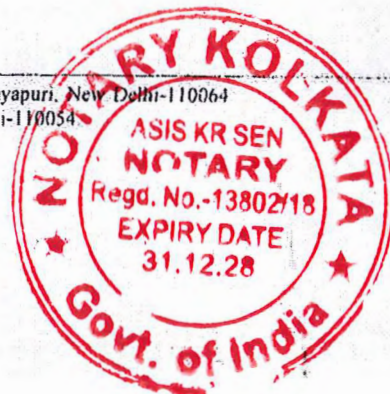
Sl. No.	Activity	Prohibited	Regulated	Permitted
(1)	(2)	(3)	(4)	(5)
1.	Commercial Mining	Yes		
2.	Felling of trees		Yes	
3.	Setting of saw mills	Yes		
4.	Setting of industries causing pollution (Water, Air, Soil, Noise, etc.)	Yes		
5.	Establishment of hotels and resorts		Yes	
6.	Commercial use of firewood	Yes		
7.	Drastic change of agriculture systems		Yes	
8.	Commercial water resources including ground water harvesting		Yes	



9.	Establishment of major hydroelectric projects	Yes		
10.	Erection of electrical cables		Yes	
11.	Ongoing agriculture and horticulture practices by local communities			Yes
12.	Rain Water harvesting			Yes
13.	Fencing of premises of hotels and lodge		Yes	
14.	Organic farming			Yes
15.	Use of polythene bags by shopkeepers		Yes	
16.	Use of renewable energy source			Yes
17.	Widening of roads		Yes	
18.	Movement of vehicular traffic at night		Yes	
19.	Introduction of exotic species		Yes	
20. ✓	Use or production of any hazardous substances	Yes		
21.	Undertaking activities related to tourism like over-flying the National Park area by any aircraft, hot-air balloons	Yes		
22.	Protection of hill slopes and river banks		Yes	
23.	Discharge of effluents and solid waste in natural water bodies or terrestrial area	Yes		
24.	Air and vehicular pollution		Yes	
25.	Sign boards & hoardings		Yes	
26.	Adoption of green technology for all activities			Yes

[F. No. Jharkhand/1/2011-ESZ]

DR. G. V. SUBRAHMANYAM, Scientist 'G'



कार्यालय : वन परिसर पदाधिकारी
दलमा परिसर
(दलमा वन्य प्राणी आश्रयणी)

पत्रांक :

0

दिनांक

10.10.12

सेवा में,

विषय : दलमा वन्य प्राणी आश्रयणी सीमा के 0-5 किमी की दूरी तक में औद्योगिक इकाई, क्रेसर, ईटा भट्टा को तत्काल प्रभाव से बंद करने के संबंध में।

महाशय,

उपरोक्त विषय के संबंध में सादर सूचित करना है Ministry of Environment and Forest Notification, New Delhi the 29th March 2012 के अनुसार दलमा वन्य प्राणी आश्रयणी क्षेत्र जमशेदपुर को इको सेंसेटिव जोन घोषित किया गया है। अधिसूचना के अनुसार दलमा वन्य प्राणी आश्रयणी सीमा के 0-5 कि०मी० की दूरी पर किसी भी प्रकार का औद्योगिक इकाई, क्रेसर, ईटा भट्टा का परिचालन नहीं किया जाना है।

अतः आपको आदेश दिया जाता है कि आप उपरोक्त परिचालन अविलंब बंद कर दें, अन्यथा आपके विरुद्ध वन्य जीव (संरक्षण) अधिनियम एवं घोषित अधिसूचना के आलोक में जप्त कर कानूनी कार्रवाई किया जायेगा।

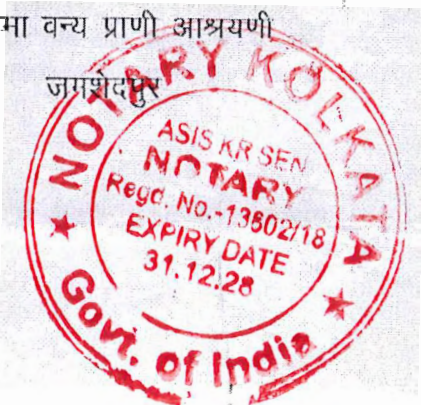
अनुलग्नक : अधिसूचना की छायाप्रति।

10.10.12
वन परिसर पदाधिकारी

दलमा परिसर

दलमा वन्य प्राणी आश्रयणी

जमशेदपुर



Office Forest Premises Officer

दलमा प्रेमिस

(Dalga Wildlife Sanctuary)

letter

Date

10.10.12

Subject: Regarding closure of industrial units, lasers, brick kilns with immediate effect within 0-5 km distance of Singa Wildlife Sanctuary in Talma.

monsieur,

In the context of the above subject, it is to be informed that according to the Ministry of Environment and Forest Notification, New Delhi the 29th March 2012, Dalam: Wildlife Sanctuary, Jamshadpur has been declared as Eco Sensitive Jog. According to the notification Namanni Asrani limits 0-5 लगी की. No industrial unit of any kind shall be operated at a distance.

WHEREFORE, YOU ARE HEREBY ORDERED TO DISCONTINUE THE ABOVE OPERATIONS IMMEDIATELY OTHERWISE YOUR VIROOT WILL BE CONFUSED IN LIGHT OF THE WILDLIFE (CONSERVATION), INCORPORATION AND APPLICABLE NOTIFICATION.

Action will be taken.

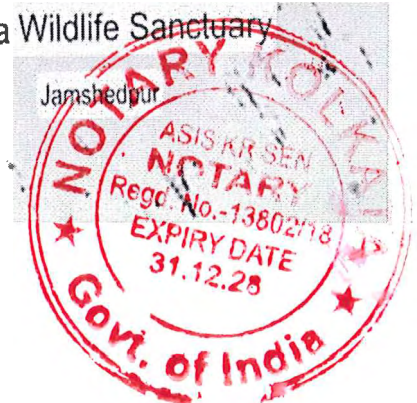
Photocopy of attached notification.

8. Precinct officer

Dalma premises

Ilma Wildlife Sanctuary

Jamshedpur



IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P(C) No. 2761 of 2014

M/s R.D.S. Bricks through its proprietor Sunil Kumar Singh
..... Petitioner

Versus

The State of Jharkhand & Ors. Respondents

with

W.P(C) No. 2740 of 2014

M/s Dinkar Bricks through its proprietor Sunil Kumar Singh
..... Petitioner

Versus

The State of Jharkhand & Ors. Respondents

with

W.P(C) No. 2742 of 2014

Amitava Sen Petitioner

Versus.

The State of Jharkhand & Ors. Respondents

with

W.P(C) No. 2744 of 2014

Arun Kumar Petitioner

Versus.

The State of Jharkhand & Ors. Respondents

with

W.P(C) No. 2746 of 2014

Shri Narayan Singh Petitioner

Versus.

The State of Jharkhand & Ors. Respondents

with

W.P(C) No. 2750 of 2014

M/s Sona Bricks through its proprietor Bipendra Singh

..... Petitioner

Versus.

The State of Jharkhand & Ors. Respondents

with

W.P(C) No. 2751 of 2014

M/s G.S. Enterprises through its partner Sunit Ghosh
..... Petitioner



Versus.
The State of Jharkhand & Ors. Respondents

with
W.P(C) No. 2752 of 2014

Shan Bricks through its proprietor Ram Bijay Singh
..... Petitioner

Versus.
The State of Jharkhand & Ors. Respondents

with
W. P (C) No. 2758 of 2014

Pawan Kumar Singh Petitioner

Versus
The State of Jharkhand & Ors. Respondent

For the Petitioners : Mr. V.P. Singh, Sr. Advocate
: Mr. S. L. Agarwal, Advocate
For the Respondents : Mr. Ajit Kumar, A.A.G.
: Mr. Md. Shamim Akhtar, S.C. (Mines)
: Mr. Saket Upadhyay, J. C. to A.A.G.
: Ms. Sunita Kumari, J.C. to Sr. S.C.-I

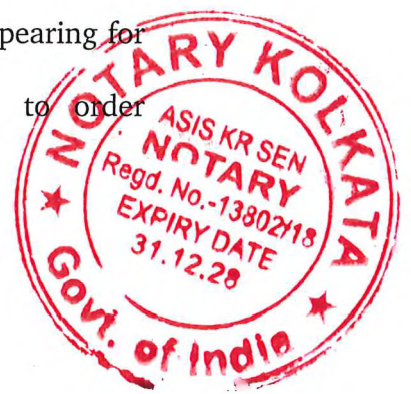
CORAM : HON'BLE MR. JUSTICE SHREE CHANDRASHEKHAR

Order No. 06

Dated: 16.09.2014

It is agreed by the counsel for the petitioner (s) and the counsel appearing for the respondent-State of Jharkhand that the common issue involved in all the writ petitions is, "whether in view of the notification dated 29.03.2012 issued under Section 3 (2) (v) of the Environment (Protection) Act,1986, the respondent-State of Jharkhand has power to order closure of the petitioners' unit operating prior to 29.03.2012."

2. Mr. V. P. Singh, the learned Senior counsel appearing for the petitioner in W.P(C) No. 2761 of 2014 refers to order



dated 23.07.2014 passed by this Court wherein it is stated thus:

“In all these cases common question which is involved is as to whether notification issued by the Central Government on 29.03.2012 by virtue of the provision as contained in Section 3 (2) (v) of the Environment (Protection) Act which does stipulate that no new industry would be established within 0-5 k.m. from the outer limit of the area of Dalma Wildlife Sanctuary, would be applicable in the case of old industry/brick kiln established before 29.3.2012 ? Further question would arise as to whether there has been any Zonal/Master Plan as contemplated in paragraph 2 of the said notification to decide the fate of the industry, factory etc ? ”

3. Considering the above submission of the counsel appearing for the parties, all the writ petitions are being disposed of by this common order.

FACTS:

W. P (C) No. 2761 of 2014 - M/s R.D.S. Bricks through its proprietor Sunil Kumar Singh

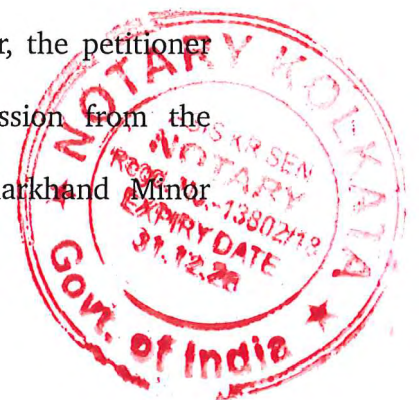
4. The petitioner M/s R.D.S. Bricks is engaged in the business of manufacturing bricks in the District of East Singhbhum since 2000. Prior to 1999 mobile chimneys were installed for manufacturing bricks however, vide notification dated 05.10.1999, the Central Government prohibited mobile chimneys. Thereafter, the petitioner installed fixed chimney, after taking permission from the Department of Mines under Rule 31 of the Jharkhand Minor Mineral Concession Rule, 2004 and invested more than



Rs. 10 lacs for constructing fixed chimney. The petitioner's unit was granted consent to operate by the Jharkhand State Pollution Control Board under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981. After the Central Government issued notification dated 29.03.2012, the Forester, Bhadudih, Jamshedpur issued closure notice dated 05.11.2012 directing the petitioner to close down the brick kiln failing which action would be taken under the Wild Life (Protection) Act, 1972. The letter dated 05.11.2012 has been challenged by the petitioner in W.P.(C) No. 7657 of 2012. While W.P.(C) No. 7657 of 2012 remained pending in this Court, vide letter dated 20.02.2014 the Deputy Forest Conservator and Zonal Inspector, Elephant Project, Jamshedpur-cum-Coordinator, Monitoring Committee, Eco-sensitive Zone, Jamshedpur directed the petitioner to close down the brick kiln. Letter dated 20.02.2014 is said to have been issued in view of the decision of the Monitoring Committee, in its meeting dated 12.11.2013.

W.P.(C) No. 2740 of 2014 - M/s Dinkar Bricks through its proprietor Sunil Kumar Singh

5. The petitioner M/s Dinkar Bricks is engaged in the business of manufacturing bricks in the District of East Singhbhum. Prior to 1999 mobile chimneys were installed for manufacturing bricks however, vide notification dated 05.10.1999, the Central Government prohibited mobile chimney. Thereafter, the petitioner installed fixed chimneys after taking permission from the Department of Mines under Rule 31 of the Jharkhand Minor



Mineral Concession Rule, 2004 and invested more than Rs. 10 lacs for constructing fixed chimney. The petitioner's unit was granted consent to operate by the Jharkhand State Pollution Control Board under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981. After the Central Government issued notification dated 29.03.2012, the Forester, Bhadudih, Jamshedpur issued closure notice dated 05.11.2012 directing the petitioner to close down the brick kiln failing which action would be taken under the Wild Life (Protection) Act, 1972. The letter dated 05.11.2012 has been challenged by the petitioner in W.P.(C) No. 7729 of 2012. While W.P.(C) No. 7729 of 2012 remained pending in this Court, vide letter dated 20.02.2014 the Deputy Forest Conservator and Zonal Inspector, Elephant Project, Jamshedpur-cum-Coordinator, Monitoring Committee, Eco-sensitive Zone, Jamshedpur directed the petitioner to close down the brick kiln. Letter dated 20.02.2014 is said to have been issued in view of the decision of the Monitoring Committee, in its meeting dated 12.11.2013.

W.P.(C) No. 2742 of 2014 - Amitava Sen

6. The petitioner Amitava Sen is engaged in the business of manufacturing bricks in the District of East Singhbhum. Prior to 1999 mobile chimneys were installed for manufacturing bricks however, vide notification dated 05.10.1999, the Central Government prohibited mobile chimney. Thereafter, the petitioner installed fixed chimneys after taking permission from the



Department of Mines under Rule 31 of the Jharkhand Minor Mineral Concession Rule, 2004 and invested more than Rs. 10 lacs for constructing fixed chimney. The petitioner's unit was granted consent to operate by the Jharkhand State Pollution Control Board under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981. After the Central Government issued notification dated 29.03.2012, the respondents orally directed the petitioner to close down the brick kiln failing which action would be taken under the Wild Life (Protection) Act, 1972. The said action of the respondents has been challenged by the petitioner in W.P.(C) No. 7913 of 2012. While W.P.(C) No. 7913 of 2012 remained pending in this Court, vide letter dated 20.02.2014 the Deputy Forest Conservator and Zonal Inspector, Elephant Project, Jamshedpur-cum-Coordinator, Monitoring Committee, Eco-sensitive Zone, Jamshedpur directed the petitioner to close down the brick kiln. Letter dated 20.02.2014 is said to have been issued in view of the decision of the Monitoring Committee, in its meeting dated 12.11.2013.

W.P.(C) No. 2744 of 2014 - Arun Kumar

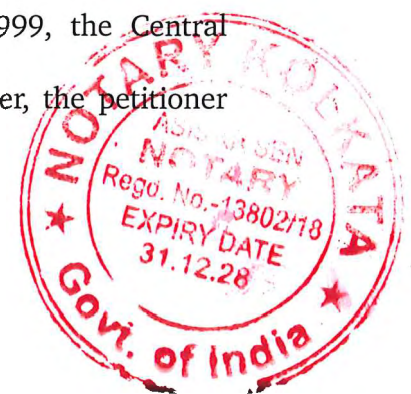
7. The petitioner Arun Kumar is engaged in the business of manufacturing bricks in the District of East Singhbhum. Prior to 1999 mobile chimneys were installed for manufacturing bricks however, vide notification dated 05.10.1999, the Central Government prohibited mobile chimney. Thereafter, the petitioner installed fixed chimney after taking permission from the



Department of Mines under Rule 31 of the Jharkhand Minor Mineral Concession Rules, 2004 and invested more than Rs. 10 lacs for constructing fixed chimneys. The petitioner's unit was granted consent to operate by the Jharkhand State Pollution Control Board under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981. After the Central Government issued notification dated 29.03.2012, the respondents orally directed the petitioner to close down the brick kiln failing which action would be taken under the Wild Life (Protection) Act, 1972. The said action of the respondents has been challenged by the petitioner in W.P.(C) No. 7715 of 2012. While W.P.(C) No. 7715 of 2012 remained pending in this Court, vide letter dated 20.02.2014 the Deputy Forest Conservator and Zonal Inspector, Elephant Project, Jamshedpur-cum-Coordinator, Monitoring Committee, Eco-sensitive Zone, Jamshedpur directed the petitioner to close down the brick kiln. Letter dated 20.02.2014 is said to have been issued in view of the decision of the Monitoring Committee, in its meeting dated 12.11.2013.

W.P.(C) No. 2746 of 2014 - Shri Narayan Singh

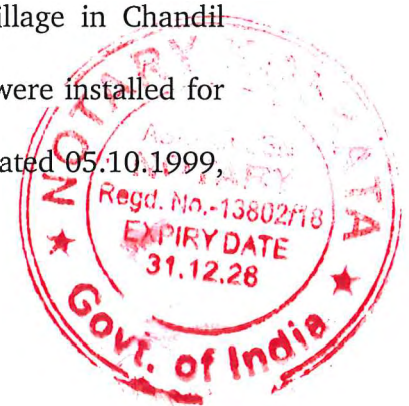
8. The petitioner Shri Narayan Singh is engaged in the business of manufacturing bricks in the District of East Singhbhum. Prior to 1999 mobile chimneys were installed for manufacturing bricks however, vide notification dated 05.10.1999, the Central Government prohibited mobile chimney. Thereafter, the petitioner



installed fixed chimneys after taking permission from the Department of Mines under Rule 31 of the Jharkhand Minor Mineral Concession Rules, 2004 and invested more than Rs. 10 lacs for constructing fixed chimney. The petitioner's unit was granted consent to operate by the Jharkhand State Pollution Control Board under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981. After the Central Government issued notification dated 29.03.2012, the respondents orally directed the petitioner to close down the brick kiln failing which action would be taken under the Wild Life (Protection) Act, 1972. The said action of the respondents has been challenged by the petitioner in W.P.(C) No. 7801 of 2012. While W.P.(C) No. 7801 of 2012 remained pending in this Court, vide letter dated 20.02.2014 the Deputy Forest Conservator and Zonal Inspector, Elephant Project, Jamshedpur-cum-Coordinator, Monitoring Committee, Eco-sensitive Zone, Jamshedpur directed the petitioner to close down the brick kiln. Letter dated 20.02.2014 is said to have been issued in view of the decision of the Monitoring Committee, in its meeting dated 12.11.2013.

WP(C) No. 2750 of 2014 - M/s Sona Bricks through its proprietor Bipendra Singh

9. The petitioner M/s Sona Bricks is engaged in the business of manufacturing bricks at Nutandih Village in Chandil since 1999-2000. Prior to 1999 mobile chimneys were installed for manufacturing bricks however, vide notification dated 05.10.1999,



the Central Government prohibited mobile chimney. Thereafter, the petitioner installed fixed chimneys after taking permission from the Department of Mines under Rule 31 of the Jharkhand Minor Mineral Concession Rules, 2004 and invested more than Rs. 10 lacs for constructing fixed chimney. The petitioner's unit was granted consent to operate by the Jharkhand State Pollution Control Board under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981. After the Central Government issued notification dated 29.03.2012, the Forester, Bhadudih, Jamshedpur issued closure notice dated 27.10.2012 directing the petitioner to close down the brick kiln failing which action would be taken under the Wild Life (Protection) Act, 1972. The letter dated 27.10.2012 has been challenged by the petitioner in W.P.(C) No. 7721 of 2012. While W.P.(C) No. 7721 of 2012 remained pending in this Court, vide letter dated 20.02.2014 the Deputy Forest Conservator and Zonal Inspector, Elephant Project, Jamshedpur-cum-Coordinator, Monitoring Committee, Eco-sensitive Zone, Jamshedpur directed the petitioner to close down the brick kiln. Letter dated 20.02.2014 is said to have been issued in view of the decision of the Monitoring Committee, in its meeting dated 12.11.2013.

W.P.(C) No. 2751 of 2014 - M/s G.S. Enterprises through its partner Sunit Ghosh

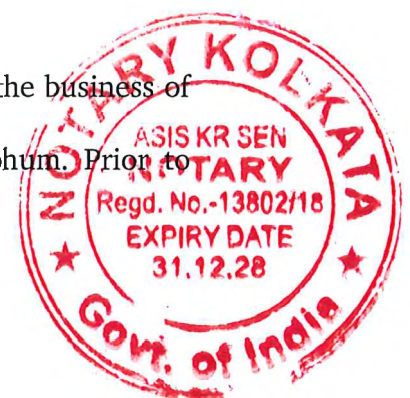
10. The petitioner M/s G.S. Enterprises is engaged in the business of manufacturing bricks in the District of East Singhbhum since 2005-2006. Prior to 1999 mobile chimneys were installed for



manufacturing bricks however, vide notification dated 05.10.1999, the Central Government prohibited mobile chimney. Thereafter, the petitioner installed fixed chimneys after taking permission from the Department of Mines under Rule 31 of the Jharkhand Minor Mineral Concession Rules, 2004 and invested more than Rs. 10 lacs for constructing fixed chimney. The petitioner's unit was granted consent to operate by the Jharkhand State Pollution Control Board under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981. After the Central Government issued notification dated 29.03.2012, the Forester, Bhadudih, Jamshedpur issued closure notice dated 05.11.2012 directing the petitioner to close down the brick kiln failing which action would be taken under the Wild Life (Protection) Act, 1972. The letter dated 05.11.2012 has been challenged by the petitioner in W.P.(C) No. 7668 of 2012. While W.P.(C) No. 7668 of 2012 remained pending in this Court, vide letter dated 20.02.2014 the Deputy Forest Conservator and Zonal Inspector, Elephant Project, Jamshedpur-cum-Coordinator, Monitoring Committee, Eco-sensitive Zone, Jamshedpur directed the petitioner to close down the brick kiln. Letter dated 20.02.2014 is said to have been issued in view of the decision of the Monitoring Committee, in its meeting dated 12.11.2013.

W.P.(C) No. 2752 of 2014 - Shan Bricks through its proprietor Ram Bijay Singh

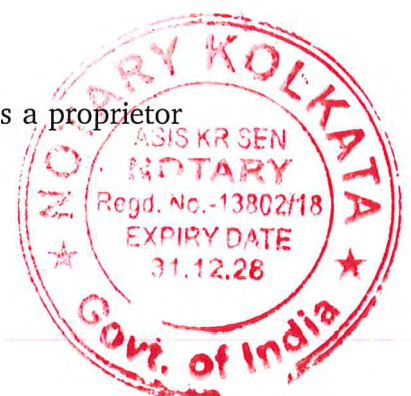
11. The petitioner Shan Bricks is engaged in the business of manufacturing bricks in the District of East Singhbhum. Prior to



1999 mobile chimneys were installed for manufacturing bricks however, vide notification dated 05.10.1999, the Central Government prohibited mobile chimney. Thereafter, the petitioner installed fixed chimneys after taking permission from the Department of Mines under Rule 31 of the Jharkhand Minor Mineral Concession Rules, 2004 and invested more than Rs. 10 lacs for constructing fixed chimney. The petitioner's unit was granted consent to operate by the Jharkhand State Pollution Control Board under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981. After the Central Government issued notification dated 29.03.2012, the respondents orally directed the petitioner to close down the brick kiln failing which action would be taken under the Wild Life (Protection) Act, 1972. The said action of the respondents has been challenged by the petitioner in W.P.(C) No. 7730 of 2012. While W.P.(C) No. 7730 of 2012 remained pending in this Court, vide letter dated 20.02.2014 the Deputy Forest Conservator and Zonal Inspector, Elephant Project, Jamshedpur-cum-Coordinator, Monitoring Committee, Eco-sensitive Zone, Jamshedpur directed the petitioner to close down the brick kiln. Letter dated 20.02.2014 is said to have been issued in view of the decision of the Monitoring Committee, in its meeting dated 12.11.2013.

W.P.(C) No. 2758 of 2014 - Pawan Kumar Singh

12. The petitioner Pawan Kumar Singh, who is a proprietor



of M/s Kanak Bricks, is engaged in the business of manufacturing bricks in the District of East Singhbhum. Prior to 1999 mobile chimneys were installed for manufacturing bricks however, vide notification dated 05.10.1999, the Central Government prohibited mobile chimney. Thereafter, the petitioner installed fixed chimneys after taking permission from the Department of Mines under Rule 31 of the Jharkhand Minor Mineral Concession Rules, 2004 and invested more than Rs. 10 lacs for constructing fixed chimney. The petitioner's unit was granted consent to operate by the Jharkhand State Pollution Control Board under Section 21 of the Air (Prevention & Control of Pollution) Act, 1981. After the Central Government issued notification dated 29.03.2012, the respondents orally directed the petitioner to close down the brick kiln failing which action would be taken under the Wild Life (Protection) Act, 1972. The said action of the respondents has been challenged by the petitioner in W.P.(C) No. 7700 of 2012. While W.P.(C) No. 7700 of 2012 remained pending in this Court, vide letter dated 21.02.2014 the Deputy Forest Conservator and Zonal Inspector, Elephant Project, Jamshedpur-cum-Coordinator, Monitoring Committee, Eco-sensitive Zone, Jamshedpur directed the petitioner to close down the brick kiln. Letter dated 21.02.2014 is said to have been issued in view of the decision of the Monitoring Committee, in its meeting dated 12.11.2013.



SUBMISSIONS :

13. Mr. V. P. Singh, the learned senior counsel advanced argument on behalf of the petitioner in W.P.(C) no. 2761 of 2014 and the same has been adopted by the counsel appearing for the petitioner(s) in other writ petitions. It is submitted that the notification dated 29.03.2012 issued by the Ministry of Environment and Forest, Government of India prohibits activities in the area within 5 k.m. from the boundary of the protected area of the Dalma Wildlife Sanctuary after 29.03.2012 however, it does not expressly prohibits operation of industries running prior to 29.03.2012 and therefore, the State of Jharkhand cannot implement the notification dated 29.03.2012 from a retrospective date. It is further submitted that it is abundantly clear from the notification dated 29.03.2012 that after the publication of the said notification in the official gazette, even new industry can be allowed to be set-up within Eco-sensitive Zone and nowhere it is indicated in notification dated 29.03.2012 that the industries running for years prior to 29.03.2012 shall be closed down. The letter dated 20.02.2014 issued by the Deputy Forest Conservator and Zonal Inspector, Elephant Project, Jamshedpur-cum-Coordinator, Monitoring Committee, Eco-sensitive Zone, Jamshedpur has been assailed on the ground that it is in teeth of notification dated 29.03.2012 issued by the Ministry of Environment and Forest, Government of India and the said letter is



without jurisdiction and therefore, liable to be quashed. It is further submitted that the composition of Monitoring Committee as provided in the notification dated 29.03.2012 indicates that the Monitoring Committee shall consist of as many as 14 members whereas, the decision dated 12.11.2013 taken by the Monitoring Committee has been signed by 3 members only and therefore, it has no sanctity or binding effect. It is thus submitted that the letter dated 20.02.2014 allegedly issued on the recommendation of the Monitoring Committee is therefore, liable to be quashed.

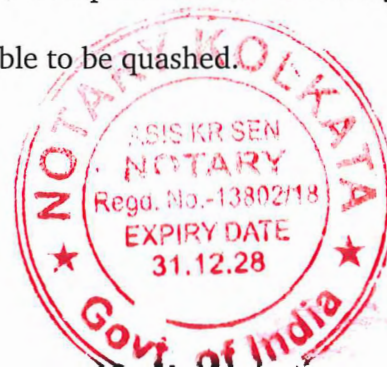
14. Per contra, Mr. Ajit Kumar, the learned Additional Advocate General has submitted that the notification dated 29.03.2012 itself provides that the activities within the Eco-sensitive Zone around the Dalma Wildlife Sanctuary have to be examined in the light of prohibition contained in Annexure-3 to the said notification. Since, earthen soil is required for manufacturing bricks, the activity carried on by the petitioner(s) falls under commercial mining which is a “prohibited activity” in Annexure-3 and therefore, it can neither be permitted nor regulated in terms of notification dated 29.03.2012. It is further submitted that only non-polluting, non-hazardous small scale industries, agriculture, floriculture, horticulture and agro-based industries producing product from indigenous goods from the Eco-sensitive Zone and which do not have adverse impact on environment may be permitted in the Eco-sensitive Zone. However, with respect to crushing and mining



activities it has abundantly been made clear in notification dated 29.03.2012 that no mining activity except for bonafide domestic use of local residents or crushing activity shall be allowed within the Eco-sensitive Zone.

15. Taking objection to the maintainability of the writ petition, Mr. Ajit Kumar, the learned A.A.G. has submitted that the writ petition is not maintainable and the petitioner (s) should have approached the Green Tribunal. Referring to the judgment of the Hon'ble Supreme Court in "*Bhopal Gas Peedith Mahila Udyog Sangathan Vs. Union of India*" reported in (2012)8 SCC 326, the learned counsel has submitted that it has been categorically held by the Hon'ble Supreme Court that all the matters instituted after coming into force of NGT Act, and which are covered under the provision of the NGT Act and/or Schedule (1) shall stand transferred to NGT and can be instituted only before the NGT.

16. In reply, the learned Senior counsel for the petitioner submitted that no Zonal plan has been prepared by the respondents and in the counter-affidavit, it has been admitted that new activity can be permitted after the proposals are scrutinized and approved by the Monitoring Committee. It is thus submitted that once it is admitted that new activity can be permitted, there is no reason why the existing units cannot be permitted/regulated by the respondents. The action by the respondents are definitely arbitrary and illegal and therefore, liable to be quashed.



17. The learned Senior counsel has referred a decision of the Hon'ble Supreme Court in “*M/s Aphali Pharmaceuticals Ltd. Vs. State of Maharashtra and Others*” reported in (1989) 4 SCC 378 to contend that the schedule would not control the main provision of the Act/Rule/Notification and in case of any inconsistency or ambiguity the provision in the notification dated 29.03.2012 has to be given effect to. It is submitted that since the notification dated 29.03.2012 provides that approval for new units can be granted however, Annexure-3 of the notification is inconsistent with the main provision of the notification dated 29.03.2012 therefore, Annexure-3 cannot be given effect.

Discussion

18. It is an admitted position that the notification dated 29.03.2012 issued by the Ministry of Environment and Forest, Government of India is not under challenge. The importance of Dalma Wildlife Sanctuary has been noticed in the notification dated 29.03.2012 thus:

“AND WHEREAS, the Asian Elephant is the species of vital importance in Dalma Wildlife Sanctuary, besides, some of the most endangered species like Ratel, Wild Dog, Mouse Deer, Indian Giant Squirrel, Python, Pangolin, Serpent Eagle, etc; are also found in this Sanctuary;

AND WHEREAS, the forests of this Sanctuary intercept rainfall and help recharge ground water aquifer and protect rivers and streams against siltation by minimizing soil erosion and the Sanctuary has a well knit network of 159 streams spreading throughout the Sanctuary, out of which 82 are perennial or serai perennial and the rest 77 streams are of seasonal nature. Subranarekha River, Subarnarekha Canal and Dimna Lake are are fed by these

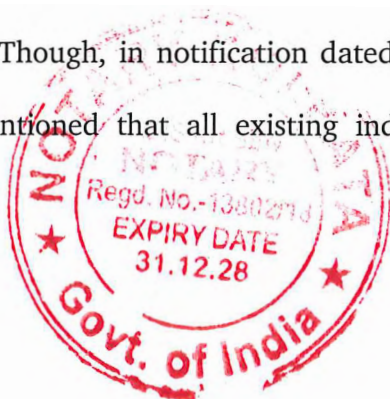


stream;

AND WHEREAS, it is necessary to conserve and protect the area around the protected area of Dalma Wildlife Sanctuary as Eco-sensitive Zone from ecological and environmental point of view”

19. It appears that a draft notification was published in the Gazette of India on 05.04.2011 inviting objections and suggestions from all persons likely to be affected thereby. After considering the objections/suggestions received in response to the draft notification, the Central Government notified the area upto 5 k.ms. from the boundary of the protected area of the Dalma Wildlife Sanctuary in the State of Jharkhand as the “Eco-sensitive Zone.” Accordingly, an area of 522.98 Sq. k.m. in East Singhbhum and Saraikella-Kharswan district has been notified and declared as Eco-sensitive Zone. The power of the Central Government declaring the area around Dalma Wildlife Sanctuary as “Eco-sensitive Zone” is also not under challenge. In fact the petitioner (s) has/have accepted the validity of notification dated 29.03.2012. In all fairness, Mr. V.P. Singh, the learned Senior counsel confined his argument only to the question of validity of letter dated 20.02.2014 and the decision taken by the Monitoring Committee in its meeting dated 12.11.2013 being arbitrary, illegal without jurisdiction and contrary to the notification dated 29.03.2012.

20. Though, in notification dated 29.03.2012 specifically it is not mentioned that all existing industries falling within the



Eco-sensitive Zone must be closed down, it does not appeal to reason that an existing industry, even if a polluting one, can be continued, after the area upto 5 k.ms. from the boundary of Dalma Wildlife Sanctuary has been declared as the “Eco-sensitive Zone”. With respect to industrial units, the notification dated 29.03.2012 provides as under:

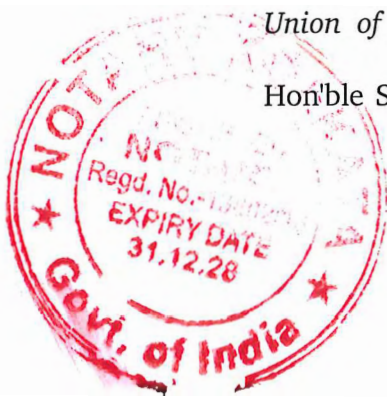
“Industrial Units:

(a) On or after the publication of this notification in the Official Gazette, no new polluting industries shall be allowed to be setup within the Eco-sensitive Zone;

(b) any non-polluting, no-hazardous, small-scale and service industry, agriculture, floriculture, horticulture or agro-based industry producing products from indigenous goods from the Eco-sensitive Zone, and which do not cause any adverse impact on environment, may be permitted in the Eco-sensitive Zone;

(c) no establishment of new wood based industry shall be permitted within the limits of Eco-Sensitive Zone.”

21. The activity carried by the petitioner (s) is commercial mining activity and a perusal of Annexure-3 to notification dated 29.03.2012 makes it abundantly clear that it falls under the “prohibited activity.” It is true that the notification which has not been expressly made retrospective cannot be given a retrospective operation however, I am of the opinion that the activity which has been categorized as “prohibited activity” in notification dated 29.03.2012, even though operating prior to 29.03.2012, cannot be permitted to continue. In “T.N. Godavarman Thirumulkpad Vs. Union of India and Others”, reported in (1997) 2 SCC 267, the Hon'ble Supreme Court issued directions for closure of all ongoing

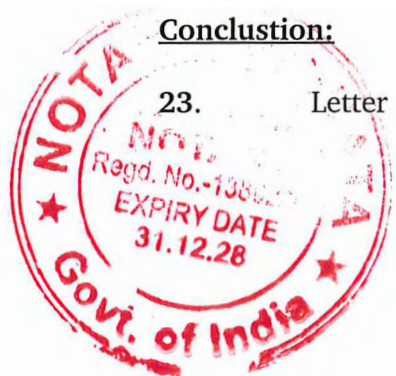


activity within the forest throughout the country and it has been ordered that no activity is permissible without prior approval of Central Government and must stop forthwith.

22. In the counter-affidavit filed on behalf of the respondent-State of Jharkhand it is stated that notification dated 29.03.2012 empowers the Chairman and the Convener of the Monitoring Committee to take action under Section 19 of the Environment (Protection) Act, 1986 against any person, contravening the provision of the said notification. The activity which falls under the “prohibited” category which is definitely deleterious and polluting cannot be permitted in the Eco-sensitive Zone. After issuance of notification dated 29.03.2012, the activities carried by the unit(s) involved in mining of earth, discharge of smoke and dust, discharge of solid waste etc. in terrestrial area causing soil, water pollution, commercial use of fire wood for ignition are also prohibited activities. The Ministry of Environment and Forest, Government of India vide letter dated 24.06.2013 clarified that burrowing /excavation of earth within 1 k.m. of the boundary of National Park and Wildlife Sanctuary shall not be permitted. In most of the cases, the mining lease has expired and none of the units had obtained mandatory environment clearance under the Environment (Protection) Act, 1986.

Conclusion:

23. Letter dated 20.02.2014 issued by the Deputy Forest



Conservator and Zonal Inspector, Elephant Project, Jamshedpur-cum-Coordinator, Monitoring Committee, Eco-sensitive Zone, Jamshedpur cannot be said to be illegal or arbitrary or without jurisdiction. A notice was issued to the petitioner (s) immediately after the notification dated 29.03.2012 was issued by the Ministry of Environment and Forest, Government of India. No material has been brought on record to establish that decision dated 12.11.2013 of the Monitoring Committee is *corum non judice*. I do not find any provision either in the Environment (Protection) Act, 1986 or in the notification dated 29.03.2012 where-under the existing units falling under the category “prohibited activity” are saved/protected. There is no inconsistency in the main provision of notification dated 29.03.2012 vis-a-vis Annexure-3 to the said notification.

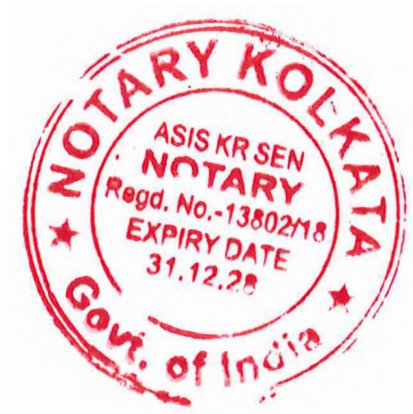
24. It is true that “prohibition” is not the answer to the environmental issues rather, “regulation” is also one of the preferred modes to control environment degradation and therefore, a balance is required to be maintained for the environment protection and development. Therefore, though all the writ petitions are dismissed, a liberty is granted to the petitioner(s) to approach the State Government which would explore the possibility of re-location of units of the petitioners. The State Government may take suggestions of the Monitoring Committee, State of Jharkhand in this regard. The State of Jharkhand should



take all necessary steps in the matter, within 3 months from receiving recommendation of the Monitoring Committee.

(Shree Chandrashekhar, J.)

Satyarthi/-



IN THE HIGH COURT OF JHARKHAND AT RANCHI

L.P.A. No. 391 of 2014
 with
L.P.A. No. 389 of 2014
 with
L.P.A. No. 392 of 2014
 with
L.P.A. No. 393 of 2014
 with
L.P.A. No. 394 of 2014
 with
L.P.A. No. 395 of 2014
 with
L.P.A. No. 396 of 2014
 with
L.P.A. No. 402 of 2014
 with
L.P.A. No. 404 of 2014

(Against the Judgement dated 16.9.2014 passed in W.P.(C) No. 2761 of 2014 and analogous cases by the learned Single Judge).

	L.P.A. No. 391 of 2014		
M/s R.D.S. Bricks, a proprietorship firm, Jamshedpur		...	Appellant
	with		
	L.P.A. No. 389 of 2014		
M/s Dinkar Bricks, a proprietorship firm, Jamshedpur		...	Appellant
	with		
	L.P.A. No. 392 of 2014		
Arun Kumar		...	Appellant
	with		
	L.P.A. No. 393 of 2014		
M/s Sona Bricks, a proprietorship firm, Jamshedpur		...	Appellant
	with		
	L.P.A. No. 394 of 2014		
M/s Shan Bricks, a proprietorship firm, Jamshedpur		...	Appellant
	with		
	L.P.A. No. 395 of 2014		
Amitava Sen		...	Appellant
	with		
	L.P.A. No. 396 of 2014		
Sri Narayan Singh		...	Appellant
	with		
	L.P.A. No. 402 of 2014		
M/s G.S. Enterprises, a proprietorship firm, Jamshedpur		...	Appellant
	with		
	L.P.A. No. 404 of 2014		
Pawan Kumar Singh		...	Appellant

Versus

1. State of Jharkhand
 2. The Secretary, Forest and Environment Department,
 Government of Jharkhand, Ranchi.
 3. The Monitoring Committee, Eco Sensitive Zone, Jamshedpur.



4. Deputy Forest Conservator & Zonal Director,
Elephant Project-cum-Co-ordinator,
Monitoring Committee, Eco Sensitive Zone, Jamshedpur.
..... Respondents
(In all Appeals)

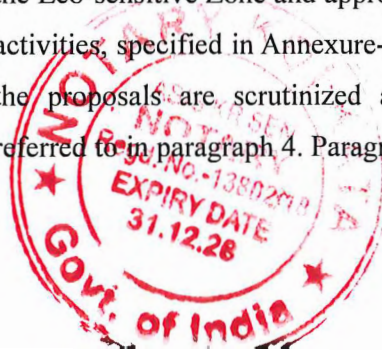
For the Appellants : Mr. Rajiv Ranjan, Sr. Advocate
Indrajit Sinha & Manoj Kumar, Advocates
For the Respondents : M/s Ajit Kumar, AAG, Vikash Kumar &
Sreenu Garapati, Advocates

PRESENT : HON'BLE MR. JUSTICE H. C. MISHRA
HON'BLE MR. JUSTICE Dr. S.N. PATHAK

By Court:- All these letters patent appeal arise out of the common Judgment and as such, they have been heard together and being disposed of by this common Judgement.

2. Heard learned counsels for the appellants and learned counsel for the respondent State.

3. The appellants in these cases are brick kiln owners running their brick kilns within the area up to five kilometers from the boundary of the protected area of Dalma Wide Life Sanctuary. They were running their brick kilns under license and upon getting N.O.C. from the Pollution Control Board. The Union of India, in its Ministry of Environment and Forests, issued notification bearing No.S.O.680 (E) dated 29.03.2012, whereby in exercise of the power conferred under Section 3 of the Environment (Protection) Act,1986, the area up to five kilometers from the boundary of the protected area of Dalma Wild Life Sanctuary was declared as Eco-sensitive Zone. The area, which were declared Eco-sensitive zone, have been detailed in the notification. The notification further stipulated that a Zonal Master Plan for the Dalma Eco-sensitive Zone shall be prepared by the State Government, in such manner as are specified under the Wild Life (Protection) Act, 1972, the law relating to town and country planning for the time being in force in the State, the divisional working plans and the guidelines issued by the Central Government, within a period of one year from the date of the notification and approved by the Central Government in the Ministry of Environment and Forests. It was again provided in the said notification that pending the preparation for the Zonal Master Plan for the Eco-sensitive Zone and approval thereof by the Central Government, all new activities, specified in Annexure-3 to the notification, shall be allowed only after the proposals are scrutinized and approved by the Monitoring Committee referred to in paragraph 4. Paragraph 3 of the notification detailed the prohibited,



regulated and permitted activities in Dalma Eco-sensitive Zone, and as regards the Industrial Units, it provided as follows:-

“Industrial Units

(a) *On and after the publication of this notification in the Official Gazette, no new polluting industries shall be allowed to be setup within the Eco-sensitive Zone;*

(b) *any non-polluting, non-hazardous, small-scale and service industry, agriculture, floriculture, horticulture or agro-based industry producing products from indigenous goods from the Eco-sensitive Zone, and which do not cause any adverse impact on environment, may be permitted in the Eco-sensitive Zone;*

(c) *no establishment of new wood based industry shall be permitted within the limits of Eco-sensitive Zone.”*

4. As regards quarrying and mining, the said notification provided as follows:-

"(a) No mining activity except for bona fide domestic use of the local residents shall be allowed within the Eco-sensitive Zone.

(b) No crushing activity shall be allowed within the Eco-sensitive Zone."

5. It is not in dispute that all the appellants herein were running their brick kilns within the Eco-sensitive Zone and as per Annexure-3 to the notification, the activities relating to commercial mining, setting up industries causing pollution (water, air, soil, noise etc.), commercial use of firewood, discharge of effluents and solid waste in natural water bodies or terrestrial area, were completely prohibited. Air and vehicular pollution was to be regulated.

6. Pursuant to the issuance of the notification, the appellants were informed by letter dated 20.02.2014 as contained in Annexure-5 to L.P.A. No.391 of 2014, and the similar letters issued to the other appellants, whereby the appellants were prohibited by the respondent No.4, the Deputy Conservator of Forests, Jamshedpur, from carrying out brick kiln activities. It was informed in the said letter that they were being prohibited in view of the decision taken by the Monitoring Committee on 12.11.2013. The minutes of the Monitoring Committee have also been brought on record in the L.P.As.

7. Aggrieved by the aforesaid letter and decision of the Monitoring Committee prohibiting the appellants from carrying out the brick kiln activities, the petitioners appellants moved this Court in different writ applications, which were heard together and by the common Judgement dated 16.09.2014, all the writ applications were dismissed by the learned Single Judge. Aggrieved by the said Judgement, the appellants have preferred these Letters Patent Appeals.

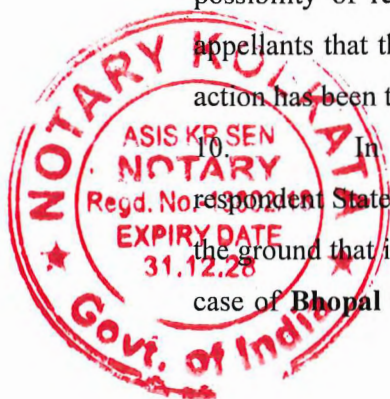
8. From the discussions made in the Judgement, under appeal, it is apparent that the notification dated 29.03.2012 issued by the Ministry of



Environment and Forests, Government of India, was not under challenge. To the contrary, the appellants relied on the said notification and their argument was that according to the notification, pending the preparation of the Zonal Master Plan for Dalma Eco-sensitive Zone and its approval by the Central Government, only all new activities were either to be allowed only after the proposals were scrutinised and approved by the Monitoring Committee, or no new polluting industries were to be allowed to be set up. The case of the appellants is that they were already running their units before coming into force of the notification, and their units were already existing from before and not the new units and as such, they were not covered by the notification, as there was no prohibition in the notification for the units already in existence. The appellants' further stand was that the notification was not retrospective in nature. As such, there was no occasion for prohibiting the appellants from running their brick kiln units, and the impugned decision was absolutely illegal and in teeth of the notification.

9. The learned Single Judge came to the conclusion that though in notification dated 29.3.2012 it is specifically not mentioned that all existing industries falling within the Eco-sensitive zone must be closed down, but it did not appeal to the reason that an existing industry, even if polluting one, can be continued within the area up to five kilometers from the boundary of the Dalma Wildlife Sanctuary, which had already been declared as Eco-sensitive zone. Learned Single Judge also held that though it is true that the notification which has not been expressly made retrospective cannot be given a retrospective operation, but the activities, which had been categorized as "prohibited activity", in the notification dated 29.3.2012, even though operating prior to 29.3.2012, could not be permitted to continue. Learned Single Judge found from the records that in most of the cases, mining lease of the appellants had already expired and none of the units had obtained mandatory environment clearance under the Environment (Protection) Act, 1986. With these findings, the writ applications of the petitioners appellants were dismissed. However, the appellants were given the liberty to approach the State Government, which was directed to explore the possibility of re-location of the units of the appellants. It is the case of the appellants that they moved the State Government in the year 2014 itself, but no action has been taken on their representations so far.

10. In the Judgement under appeal, it finds mentioned that the respondent State has objected the very maintainability of the writ applications on the ground that in view of the specific direction of the Hon'ble Apex Court in the case of **Bhopal Gas Peedith Mahila Udyog Sangathan & Ors. Vs. Union of**



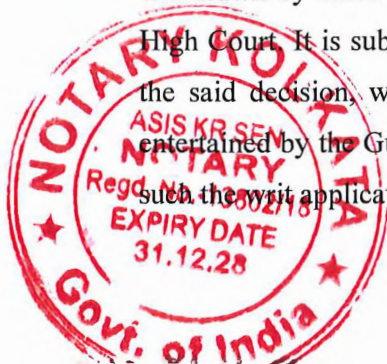
India & Ors., reported in (2012) 8 SCC 326, the writ applications were not maintainable in the High Court and the petitioners ought to have approached the National Green Tribunal. However, no finding was given by the learned Single Judge on this point.

11. The direction of the Supreme Court of India in *Bhopal Gas Peedith Mahila Udyog Sangathan* case (*supra*), is quoted herein below:-

"40. Keeping in view the provisions and scheme of the National Green Tribunal Act, 2010 (for short "the NGT Act") particularly Sections 14, 29, 30 and 38(5), it can safely be concluded that the environmental issues and matters covered under the NGT Act, Schedule I should be instituted and litigated before the National Green Tribunal (for short "NGT"). Such approach may be necessary to avoid likelihood of conflict of orders between the High Courts and 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 I to the NGT Act shall stand transferred and can be instituted only before NGT. This will help in rendering expeditious and specialised justice in the field of environment to all concerned.

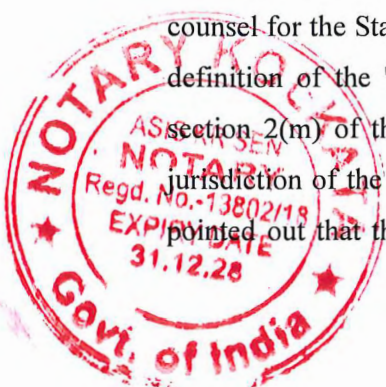
41. We find it imperative to place on record a caution for consideration of the courts of competent jurisdiction that the cases filed and pending prior to coming into force of the NGT Act, involving questions of environmental laws and/or relating to any of the seven statutes specified in Schedule I of the NGT Act, should also be dealt with by the specialised tribunal, that is, NGT, created under the provisions of the NGT Act. The courts may be well advised to direct transfer of such cases to NGT in its discretion, as it will be in the fitness of administration of justice." (Emphasis supplied.)

12. Learned counsel for the appellants has vehemently argued that in spite of the aforesaid direction of the Apex Court, the writ applications were still maintainable in the High Courts in the matters relating to environmental issues. It is submitted that the aforesaid direction of the Apex Court, in *Bhopal Gas Peedith Mahila Udyog Sangathan* case (*supra*), was stayed by the Hon'ble Supreme Court of India by order dated 10.03.2014, in S.L.P.(C) No.27327 of 2013 (*Adarsh Co-operative Housing Society Ltd. Vrs. Union of India & Ors.*). However, subsequently, *Adarsh Co-operative Housing Society Ltd.* case was withdrawn by those petitioners and the matter again went back to the Bombay High Court. It is submitted by learned counsel for the appellants that even after the said decision, writ applications involving environmental issues have been entertained by the Gujrat High Court, as also by the Supreme Court of India. As such the writ applications of the petitioners were quite maintainable.



13. Learned counsel for the appellants has also cited the decisions on the point that the notification could not be given the retrospective effect. It is submitted that in view of the fact that in the notification dated 29.3.2012, there was no prohibition for already existing units, the impugned decision of the respondent-authorities is absolutely illegal and cannot be allowed to continue. Learned counsel for the appellants has also pointed out from the notification dated 29.3.2012 that the Monitoring Committee of fourteen members was to be constituted under the said notification, but the meeting dated 12.11.2013 of the Monitoring Committee, pursuant to which, the appellants have been prohibited from running their brick kiln units, was attended only by three Members and as such, the prohibition order issued to the appellants on 20.2.2014 and the decision of the Monitoring Committee dated 12.11.2013, are fit to be quashed on that score also.

14. Learned counsel for the State, on the other hand, has placed reliance upon the decision of the Supreme Court of India, in the case of *Bhopal Gas Peedith Mahila Udyog Sangathan (supra)* and placing paragraphs-40 and 41, it is submitted that there is a clear direction that all the matters instituted after coming into force of the National Green Tribunal Act, the matters covered under the NGT Act, Schedule I, should be instituted and litigated before the National Green Tribunal. It is also pointed by learned counsel for the State that Schedule-1 of the National Green Tribunal Act contains Environment (Protection) Act, 1986, and the notification dated 29.3.2012 declaring the area up to five kilometers from the boundary of the protected Dalma Wildlife Sanctuary as Eco-sensitive Zone, has been issued under the Environment (Protection) Act. Learned counsel has also pointed out from the said notification that the mining activities, except for bona fide domestic use of the local residents, has been prohibited under the said notification and the brick kiln units essentially required the mining of the earthen soil, which admittedly is minor mineral. It is also pointed out by learned counsel for the State that the activities of the units of the appellants shall also be polluting air in the terrestrial area and there may be commercial use of firewood, at the place of coal, for ignition in the brick kiln, which activities are completely prohibited under the notification. Learned counsel for the State has also pointed out that all these activities came within the definition of the 'substantial questions relating to environment', as defined in section 2(m) of the National Green Tribunal Act, 2010, which fall within the jurisdiction of the National Green Tribunal to adjudicate the matter. It is further pointed out that the composition of the National Green Tribunal, as prescribed

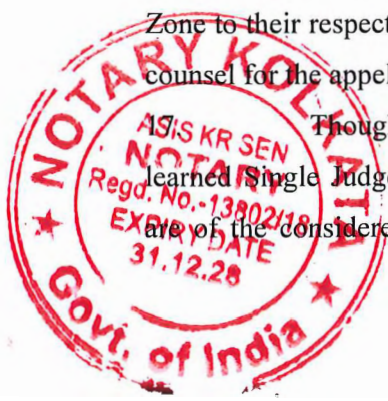


under Section 4 of the National Green Tribunal Act, consists of Chairman, Judicial Members and several Expert Members, and it is for the Expert Members to see whether brick kilns run by the appellants, ought to have been permitted within the Dalma Eco-sensitive Zone or not. Learned counsel, accordingly, submitted that in view of the decisions of the Apex Court in *Bhopal Gas Peedith Mahila Udyog Sangathan (supra)*, all the writ applications ought to have been dismissed in limine, directing the petitioners to move before the National Green Tribunal for redressal of their grievances. It is further submitted by learned counsel for the State that even otherwise, the activities pointed out above, are absolutely prohibited under the notification dated 29.3.2013 and accordingly, the writ applications have been rightly dismissed by the learned Single Judge.

15. Having heard learned counsels for both the sides and upon going through the record, we find that paragraph 3 of the notification dated 29.3.2012, dealing with the industrial units quoted above, clearly states that on or after publication of the notification in the official gazette, no new polluting industry shall be allowed to be set up within the Eco-sensitive zone. However, the notification also states that any non-polluting, non-hazardous, small-scale and service industry, agriculture, floriculture, horticulture or agro-based industry producing products from indigenous goods from the Eco-sensitive Zone, and which do cause any adverse impact on environment, may be permitted in the Eco-sensitive Zone. This clearly shows that the intent of the notification is that any industry / activity causing pollution is not to be permitted within the Dalma Eco-sensitive Zone. We find no illegality in the finding given by the learned Single Judge and though in the notification dated 29.3.2012, specially it is not mentioned that all the existing industries falling within the Eco-sensitive Zone must be closed down, it does not appear to reason that an existing industry even, even if a polluting one, can be continued within the Eco-sensitive Zone. Some of the activities, namely, mining activities, industries causing pollution, etc., are completely prohibited under the notification.

16. Learned counsel for the appellants while arguing the case submitted that the brick kiln may be allowed to operate and the appellants shall mine / bring the earthen soil from outside from the area of the Eco-sensitive Zone to their respective units, for running their units. This submission of learned counsel for the appellants cannot be accepted.

Though we do not find any fault in the findings given by the learned Single Judge, while dismissing the writ applications on merits, but we are of the considered view that in view of the specific direction of the Apex



Court in *Bhopal Gas Peedith Mahila Udyog Sangathan (supra)*, the writ applications were not even maintainable in the High Court and the appellants ought to have approached the National Green Tribunal, particularly, in view of the issues involved in the writ applications, which required adjudication by the Expert Members of the National Green Tribunal. Whether the magnitude of the pollution created by the units of the appellants was permissible within Dalma Eco-sensitive Zone, is also a question which can be adjudicated by the Expert Members of the National Green Tribunal.

18. In view of the aforesaid discussions, we are of the considered view that since the cases of the appellants were required to be decided by the National Green Tribunal, the appellants be given the liberty to move the National Green Tribunal for adjudication of their cases afresh. If the appellants move the National Green Tribunal, the impugned judgment dated 16.9.2014 passed in W.P. (C) No. 2761 of 2014 and analogous cases, shall not come in the way of the National Green Tribunal in giving its independent decision in the matters. Upon adjudication of the matters by the National Green Tribunal, if made, the decision of the National Green Tribunal shall prevail.

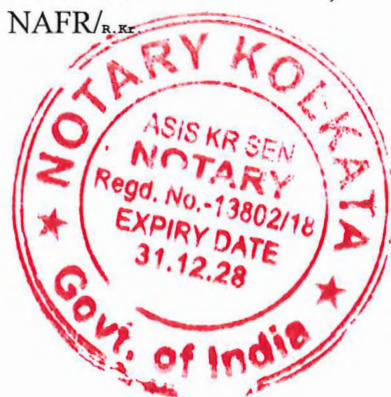
19. All these appeals, accordingly, stand dismissed, with the observation / liberty as above.

20. We find from the record that by order dated 26.7.2016 passed in these appeals, an interim order was passed directing the appellants not to operate their brick kilns and further directing the respondent State that the brick kiln units of the appellants shall not be demolished in the meantime. We extend the interim order only for a period of four weeks from today, during which, the appellants may chose to move the National Green Tribunal.

(H. C. Mishra, J.)

(Dr. S.N. Pathak, J.)

Jharkhand High Court, Ranchi
Dated the 16th November, 2016
NAFR/_{R.K.}



IN THE HIGH COURT OF JHARKHAND AT RANCHI**W. P. (C) No. 7340 of 2012**S T P Limited, a registered Company
under the Indian Companies Act, 1956..... Petitioner

Versus

The Union of India & others Respondents.

CORAM: HON'BLE MR. JUSTICE APARESH KUMAR SINGH

For the Petitioner : Mr. H. K. Shikarwar, Adv.

For the Respondents : J. C. to A.G.

5/8.7.2013 Two weeks' time by way of last indulgence is granted to the learned counsel for the State to seek instruction and file counter affidavit in the matter, for which earlier time has also been granted.

List this case under the heading for admission as has been ordered by order dated 24th January, 2013 itself.

Till then, no coercive steps shall be taken against the petitioner.

(Aparesh Kumar Singh,J)

jk



IN THE HIGH COURT OF JHARKHAND AT RANCHI
(Civil Writ Jurisdiction)
W.P. (C) No.7340 of 2012

STP Limited, a registered company under the Indian Companies Act, 1956, Jamshedpur, having its registered office at Turner Morrison Building, 1st Floor, 6, Lyons Range, P.O.and P.S.: Hare Street, Kolkata and its factory at village: Mirzadih, Patamda, through Sri. K.K.Biyani, S/oLate BC BIYANI, Director, Resident of 15C Anil Roy Road, Kolkata 700029.

.... **Petitioner(s)**

Versus

1. The Union of India through the Secretary, Ministry of Environment & Forests, New Delhi.
2. The State of Jharkhand through the Secretary, Department of Environments & Forest, Government of Jharkhand, Ranchi.
3. The Forest Range Officer, Dalma Range, Dalma wild Life Sanctuary Jamshedpur.

.... **Respondent(s)**

CORAM: HON'BLE MR. JUSTICE RAJESH KUMAR

For the Petitioner(s) : Mr. Hemant Kr. Shikarwar, Adv.
 For the Respondent(s) : Mr. Abhijit Kr. Singh, C.G.C.

10/Dated: 25th September, 2024

1. Heard the learned counsel for the parties.
2. The writ petition has been filed for following reliefs:-

“(1) For the issuance of an appropriate writ/writs, order/orders, direction / directions or a writ in the Nature of Certiorari for quashing the order dated 10.10.2012 (Annexure-6) issued by the Forest Range Officer, Dalma Range, Dalma Wild Life Sanctuary, Jamshedpur vide which Order the Respondent No.: 3 has directed the Petitioner to shut down its factory in an illegal and arbitrary manner

AND/OR

(ii) For the issuance of an appropriate writ/writs, order/orders, direction / directions directing that during the pendency of the instant writ application, the respondents be prevented from taking any coercive action on the basis of the order dated 10.10.12

(iii) For the issuance of an appropriate writ/writs, order/orders, direction / directions directing that during the pendency of the instant writ application, the respondents be restrained to implement the notification dated the, 29, March 2012 and order dated 10th October 2012 in relation to petitioner's factory at Dimna Road, Mirzadih, Jannshedpur 831018.

AND/OR

(iv) For issuance of such other writ(s), order(s) or direction(s) as this Hon'ble Court may think just and proper in the facts and circumstances of the case doing conscionable justice to the petitioners.”



3. Thus, the issue involved in the present writ petition is the effect of the notification dated 29.03.2012.

4. It appears that there was series of litigation and various writ petitions have been filed before this Court in batch of cases i.e. W.P. (C) No.2761 of 2014 with analogous cases. The issue has been settled that it will apply on the existing unit also and accordingly the writ petitions have been dismissed vide order dated 16.09.2014.

5. It further appears that against the order of the said writ court, Letters Patent Appeal has been filed which has been heard together being L.P.A. No.391 of 2014 and analogous cases and the same have been disposed of vide order dated 16.11.2016. Paragraph No.18 of the said LPA is relevant which is quoted hereinbelow:-

“In view of the aforesaid discussions, we are of the considered view that since the cases of the appellants were required to be decided by the National Green Tribunal, the appellants be given the liberty to move the National Green Tribunal for adjudication of their cases afresh. If the appellants move the National Green Tribunal, the impugned judgment dated 16.9.2014 passed in W.P. (C) No. 2761 of 2014 and analogous cases, shall not come in the way of the National Green Tribunal in giving its independent decision in the matters. Upon adjudication of the matters by the National Green Tribunal, if made, the decision of the National Green Tribunal shall prevail.”

6. Thus, the LPA Court has held that the High Court has no jurisdiction rather the jurisdiction lies with the National Green Tribunal. Accordingly, liberty has been given to the parties to approach the National Green Tribunal.

7. Since the issue has been settled that appropriate remedy lies before the National Green Tribunal, accordingly the present writ petition is, hereby, disposed of giving liberty to the petitioner to approach the National Green Tribunal.

8. An interim protection granted to the petitioner vide order dated 08.07.2013 which is continued till date, is extended for further eight weeks from today.

9. The parties are at liberty to work out their remedy in accordance with law.

10. Pending I.A., if any, also stands disposed of.

(Rajesh Kumar, J.)



Amar/-
Uploaded

Per STP Limited
Amit Kumar Shans
Authorized Signatory

VAKALATNAMA
BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA

[Under Section 18(1) read with Section 16(g) of the
National Green Tribunal Act, 2010]

Appeal No. of 2024/EZ

In the matter of:

STP LIMITED

.... Appellant

-Versus-

**MINISTRY OF ENVIRONMENT FORESTS AND CLIMATE
CHANGE & ORS.**

... Respondents

Vakalatnama on behalf of **STP LIMITED**, the Appellant herein

KNOW ALL MEN by these presents that by this Vakalatnama I/We appoint the Advocates noted below or any one of them as my/our lawful Advocates or Advocate for filing the Memorandum of Petition for entering appearance in the above matter for appearing and conducting and arguing the same for deposit or withdrawing any money in connection therewith, for moving the Court in any manner connecting therewith, for preparing the paper book in the case, for putting in papers, petitions, affidavits and documents on my/our behalf for filing or taking back any documents, for withdrawing suits proceedings or appeals or petitions, for signing and filing petitions of compromise in connection with the said matter and for taking copies of papers from the record and to do all acts whatsoever that may be necessary and I/We further say that anything done by my our said Advocate or Advocates or by any one of them after accepting this Vakalatnama shall be considered as my/our own true and lawful act and I/We hereby agree to ratify and confirm the same. Be it be further known that I/We shall pay in full to the said Advocates their usual or settled fees and charges and in default of such payment they will not be bound to do any of the above acts at any stage in the matter. To the above effect I/We execute this Vakalatnama.

NAME OF ADVOCATES

ZULFIQAR ALI ALQUADERI, Advocate
ADITYA SARKAR, Advocate
C/o. **KHAITAN & CO LLP**
Advocates, Notaries, Patent &
Trademark Attorneys
Emerald House
1B, Old Post Office Street
Kolkata 700001
M: **98301 99312/83358 67899**

Received the duly executed copy of the Vakalatnama from the executant who is known to me and I am satisfied about execution of Vakalatnama and accepted by me.

Aditya Sankar Advocate *Trishu Gupta*
Advocate

F/1500/1596/2009

F/1330/1192/2021

F/1317/1396/2024

S.L. NO. 18



BEFORE THE NATIONAL GREEN TRIBUNAL

EASTERN ZONE BENCH AT KOLKATA

[Under Section 18(1) read with Section 16(g) of the
National Green Tribunal Act, 2010]

Appeal No. of 2024/EZ

In the matter of:

STP LIMITED

.... Appellant

-Versus-

MINISTRY OF ENVIRONMENT FORESTS AND CLIMATE CHANGE

& ORS.

... Respondents

AFFIDAVIT OF COMPETENCY

I, Amit Kumar Shaw, son of Prakash Chandra Shaw, aged about 44 years, by faith Hindu, by occupation service and working for gain at 129, Park Street, Kolkata- 700017, West Bengal, India, do hereby solemnly affirm and state as follows:-

1. That I am the Authorised Signatory of the Appellant company herein. I am well acquainted with the facts and circumstances of the instant case and as such I am competent to affirm this affidavit.
2. By the Board Resolution dated 24 January 2024, I have been duly authorised by the Appellant company to make, sign and affirm as

the case may be all papers and documents relating to and/or arising from the aforesaid matter for and on behalf of the Appellant company abovenamed. By virtue of the aforesaid, I am competent and duly authorized to make sign and affirm this Affidavit, Vakalatnama, etc. for and on behalf of the Appellant company abovenamed. Hence, I am signing the instant Affidavit and the accompanying Appeal and other documents and papers in connection with the aforesaid matter. The copy of the aforesaid Board Resolutions dated 24 January 2024 are annexed hereto and collectively marked as Annexure "A" respectively.

3. The statements contained in the foregoing paragraph Nos. 1 to 2 of this Affidavit are true to my knowledge.

Identified by me
Jashe Gupta
 Advocate

F/1317/1396/2024

Amit Kumar Shaw
 Deponent is known to me

Before Me,

Notary



Solemnly affirmed and declared before me on identification
ASIS KR SEN
 ASIS KUMAR SEN
 City Civil Court, Kolkata
 Notary
 No -13802/18

21 NOV 2024





STP Limited

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707, Chiranjiv Tower
43 Nehru Place, New Delhi - 110 019 (India)
Tel: +91 11 4656 1359
Email: info@stpltd.com
Website: www.stpltd.com
CIN: U23109WB1935PLC008423

CERTIFIED TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING OF COMMITTEE OF THE BOARD OF DIRECTORS OF STP LIMITED HELD ON 24TH DAY OF JANUARY 2024 AT 11.00 Am AT CORPORATE OFFICE AT 707, CHIRANJEEV TOWER, NEHRU PLACE, NEW DELHI 110019

The Committee was informed that the Company needs to authorize a person for instituting legal suits under various laws in India and it is recommended to appoint Mr Amit Kumar Shaw, Deputy Manager of the Company, who is currently stationed in one of the offices at Kolkata. After discussion it was:

“RESOLVED THAT Mr. Amit Kumar Shaw, Deputy Manager, of the Company be and is hereby authorized to deal with legal matters and to institute legal proceedings against any person/ persons/ bodies Corporate and to defend Company against any legal proceedings instituted/ to be instituted by any person/ persons/ bodies Corporate etc. and to represent, appear on behalf of the Company before Courts/ Tribunals/ Regulatory Bodies / Government.

RESOLVED FURTHER THAT Mr. Amit Kumar Shaw, Deputy Manager, of the Company be and is hereby authorised to make, sign, execute, file Plaints, Company Petitions, Applications, Vakalatnama, Statements, Declarations, Affidavits and other documents as may be required in connection with legal proceedings for and or against Company for the above-mentioned litigation and to engage any Counsel, Solicitor, Advocate on Company's behalf.

RESOLVED FURTHER THAT Mr. Amit Kumar Shaw, Deputy Manager, of the Company be and is hereby authorised to file complaint U/s.138 of N.I. Act to swear affidavit in evidence, to depose in the matter and to produce evidence and even to file appeal and to appoint advocate to defend the interest of the Company.

RESOLVED FURTHER THAT Mr. J.P. Kukreja, Chief Financial Officer and Company Secretary and / or any Director of the Company be and are hereby severally authorized to furnish a certified true copy of the Resolution on behalf of the Company.”

**Certified to be True Copy
For STP Limited,**

**Jai Prakash Kukreja
(CFO and Company Secretary)**

