

**Before the National Green Tribunal
Eastern Zone Bench, Kolkata
Original Application No.120/2024/EZ**

In the matter of :
Sushil Murmu

..... Applicant

-Versus-

Union of India & Ors.

.... Respondents.

AFFIDAVIT-IN-OPPOSITION ON BEHALF OF WBSUEDCL

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10 DEC 2024

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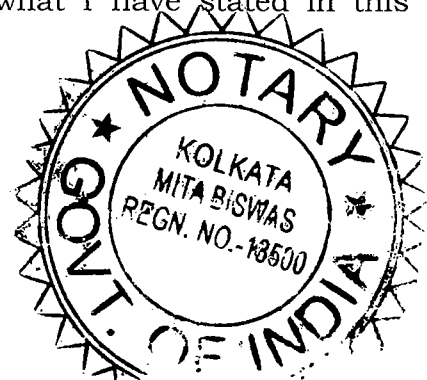
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AFFIDAVIT-IN-OPPOSITION on behalf of the WBSEDCL

I, Sourav Chakraborty, son of Sandip Kumar Chakraborty, aged about 39 years, by faith-Hindu, by occupation-Service, working for gain as Divisional Engineer (Civil) of West Bengal State Electricity Distribution Company Limited, do hereby solemnly affirm and say as follows:-

1. That I am the Divisional Engineer (Civil) of the respondent no 07 in the instant Original Application and I have been served a copy of the Original Application along with all annexures and I have gone through the same and understood the contents and purport thereof.
2. I have been authorized by the respondents no 07 to affirm this affidavit on their behalf and also on behalf of me and I am competent to affirm the same.
3. I have been advised to deal with relevant paragraphs which are necessary for adjudication the issue involved in the instant Original Application and save what appears from admitted records, save and except what are matters of record and what I have stated in this



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Affidavit-in-Opposition, I deny each and every allegations made in the Original Application.

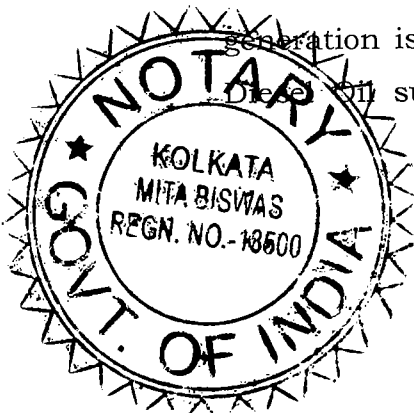
4. Before dealing with the statement made in the Original Application it is pertinent to give a short synopsis with regard to the working of the Turga Pumped Storage Project and its advantages and benefits for the human.

“1000 MW Turga Pumped Storage Project is a Close Loop type Pumped Storage Scheme. It comprises of two reservoirs at two different levels (the difference of water levels of the reservoirs will represent the effective “head” of the Project) and underground water conductor system will connect the two reservoir through an underground power house. Pumped Storage Project is best suitable in a plateau type of topography which permits construction of Upper Reservoir and Lower Reservoir at close proximity.

During peak hours power will be generated by depleting the water reserve of the Upper reservoir which will pass through the water conductor system and turbines-generators installed at the power house and will store in the Lower Reservoir.

During off peak hours the excess power from the Grid will be used to pump up the same water from Lower Reservoir to Upper reservoir through power house where the same turbines-generators will then act as pumps-motors respectively. The same cycle of operation will be repeated during peak and off-peak period.

Pumped Storage Project also act as an effective way for restoration of grid i.e. ‘black start’ in case of Grid failure. This is so because, in case of a Thermal Power Project, normal time for a machine to start generation is almost 8hours with a requirement of huge quantity of Diesel Oil support. On the other hand, a Pumped Storage Project



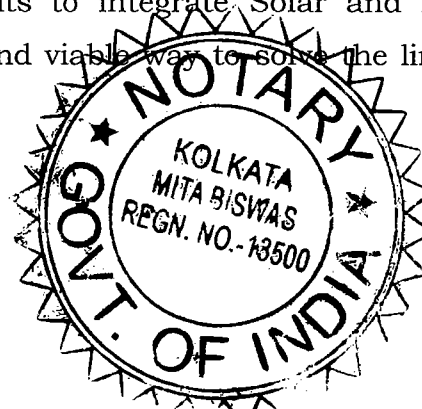
requires only 10 min time to start generation. Thus providing an Environment friendly source of Power generation.

• **REQUIREMENT OF TURGA PUMPED STORAGE PROJECT**

The State of West Bengal and the Eastern region is having predominantly thermal power generation with an insignificant capacity of hydroelectric power generation. For catering Base Load/ Fluctuating/ Peak /Off Peak power, this region has to depend mainly on the thermal power generating units with insignificant capacity of hydro power. In the context of achieving better hydro thermal power mix, for system frequency management and to overcome the shortage of peak power supply, Purulia Pumped Storage Project (PPSP) of 900 MW capacity was developed by WBSEDCL and connected to the grid during 2007-2008 as Peaking Power Station.

West Bengal Government follows the policy of providing uninterrupted 24x7 hours electricity supply throughout the State. In near future beyond 2030, with the expected growth of industrialization and urbanization in the State, there shall be shortfall of power in the evening peak demand period but there will be availability of surplus power during off peak night/early morning hours. So, to keep pace with the industrial demand and to manage the peak load demand and for better load management of the state of West Bengal beyond 2030, development of another new Pumped Storage Project is felt necessary for utilization of the available surplus grid power during off peak period. At the same time, it will provide stability and reliability to the power supply system of the state. So, the state has come up with the proposal of implementing 1000 MW Turga Pumped Storage Project.

The State Government also wants to integrate Solar and Pumped Storage Hydro in an innovative and viable way to solve the limitation



of Solar PV Projects. By integrating Solar and Pumped Storage Hydro, intermittent solar power would be converted into firm Power with shifting of off-peak surplus Power to evening peak time.

WBSEDCL is implementing a floating Solar Project of 10 MWp in the Upper Reservoir of existing Purulia Pumped Storage Project. Uniqueness of this Solar PV lies in the fact that, no additional lands are required for construction of the Solar PV project and the power generated by it shall be used for pumping water for Purulia Pumped Storage Project.”

PRESENT STATUS OF TURGA PUMPED STORAGE PROJECT

“1000 MW Turga Pumped Storage Project at Ajodhya Hills, Block: Baghmundi, District: Purulia is being implemented by West Bengal State Electricity Distribution Company Limited (WBSEDCL) under Power Department, Government of West Bengal.

WBSEDCL engaged apex Government Organizations like Survey of India, Central Water Commission, Central Electricity Authority, Geological Survey of India, Central Soil & Material Research Station, Power Grid Corporation of India, WAPCOS Limited and Foreign Consultant J-Power for fixation and optimization of the Project layout and justification of the project.

The Project had received Techno-Economic Clearance from Central Electricity Authority, Ministry of Power, Govt. of India on October 2016. Environmental Clearance of the project was received from Ministry of Environment, Forests and Climate Change (MoEF&CC), Govt. of India in July 2018.

Based on the approved layout of the Project, it was assessed that the Total Area of land required for the Project is in tune of 292 Hectares.



Out of the total land requirement, Forest Land was assessed as 234 Hectares and Non-Forest Land was assessed as 58 Hectares.

WBSEDCL obtained in-principle Forest Clearance from MoEF&CC, Govt. of India on April, 2018 and Final Forest Clearance on October 2022.

Upon receipt of necessary clearances from various statutory departments of Govt. of India, WBSEDCL took necessary steps towards implementation of the Project.

The total estimated Cost for the Project assessed is in tune of Rs. 6921.90 Crore. It was decided that, part of the Project Cost shall be borne as State Equity and part as Externally Aided Project (EAP) Loan.

On the basis of Exchange of Notes between the Government of Japan and the Government of India, a loan agreement was signed between The President of India and Japan International Co-operation Agency (JICA) on November 2018 for Construction of Turga Pumped Storage Project.

State Cabinet in July 2021 accorded administrative approval of the total Project Cost of Rs. 6921.90 Crores with State Equity of Rs. 1920.80 Crores and JICA EAP Loan of Rs. 5001.10 Crores.

After obtaining clearance from the Statutory Authorities, WBSEDCL engaged Local Consultant WAPCOS Limited, A Govt. of India Undertaking Company and Foreign Consultant J-Power, Japan as Project Management Consultants (PMC) for Carrying out Detailed



Design, Engineering, preparation of Technical Specifications, Tender Drawings and Construction Stage Supervision Activities.

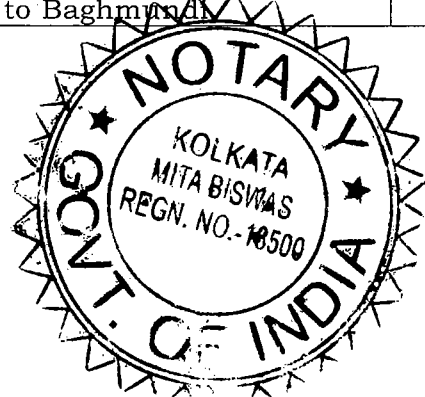
As per direction of MoEF&CC, Forest Department shall carry out various Forest related activities of Turga Pumped Storage Project.

A detailed list of work done along with total Expenditure made till date is as follows:

Description of Work	Expenditure made (Rs.)	Source of Fund	Details of Work	Status of Work
Consultancy work for preparation of Pre-Feasibility Report and Detailed Project Report	37.62 Crores	Govt. of West Bengal Equity	<ul style="list-style-type: none"> • Topographical Survey • Geological Survey & Investigation • Geotechnical Investigation • Preparation of relevant chapters of PFR and DPR • Preparation of chapters related to Environmental Aspects. 	Completed
Detailed Design & Engineering Work	45.75 Crores	Govt. of West Bengal Equity & Loan from JICA	<ul style="list-style-type: none"> • Geological Investigation • Geotechnical Investigation • Designing of Civil Structures, Hydro-Mechanical, Electro-Mechanical, Road and Access Tunnel, etc. • Preparation of Technical Specifications • Preparation of Tender Drawings. 	In progress The work is in progress with the assistance with experts from GSI, WAPCOS and J-Power



Forest Related Activities	107.66 Crores	Govt. of West Bengal Equity	<ul style="list-style-type: none"> • Preparation of Tree Counting Report • Demarcation work and felling of Trees within the diverted forest land • Payment for Net Present Value • Payment for Implementation of Catchment Area Treatment (CAT) Plan • Payment for Implementation of Wildlife Conservation Plan • Payment for Implementation of Compensatory Afforestation (CA) 	<p>In progress.</p> <p>The entire amount was paid to Forest Department as per demand raised by Forest Department.</p> <p>Out of 234 Ha of Non-Forest Land handed over to Forest Department, CA plantation was carried on 106.445 Ha till date. Remaining work are pending.</p>
Local Area Development Plan (LADP)	1.49 Crores	Govt. of West Bengal Equity	<ul style="list-style-type: none"> • Construction of part of Ajodhya-Baghmundi Road • Installation of (09) nos. solar based tube wells for drinking water • Providing Sports Equipment for Football Tournament in Ajodhya Hills. • Conducting various activities for local people in CHOU MELA • Upliftment of local people, especially tribal, through development of infrastructure • Running Public Transport vehicle from Teliabhasa to Baghmundi 	<p>In Progress.</p> <p>Balance work as mentioned in the approved EIA/ SIA/ EMP Report shall be done in due course.</p>



Construction Power	4.58 Crores	Govt. of West Bengal Equity	<ul style="list-style-type: none"> • Upgradation of Earthing System of 33 / 11 kV Sub-station • Procurement of 2 x 10 MVA Power Transformer • Procurement of 11 kV Vacuum Circuit Breaker • Procurement of 33kV Control Relay panel. • Procurement of Battery and Charger for 33 / 11 kV Sub-station • Procurement of Steel Tubular Poles, Conductors, insulators, etc for Construction of 11 kV Overhead lines 	<p>Upgradation work done. Procurement of all items Completed and Erection work is in progress.</p> <p>Installation of Steel Tubular poles is in progress.</p>
Administrative Expenses	8.91 Crores	Govt. of West Bengal Equity	<ul style="list-style-type: none"> • Taxation • Other Administrative Expenditures. 	Complete
Total	206.01 Crores			

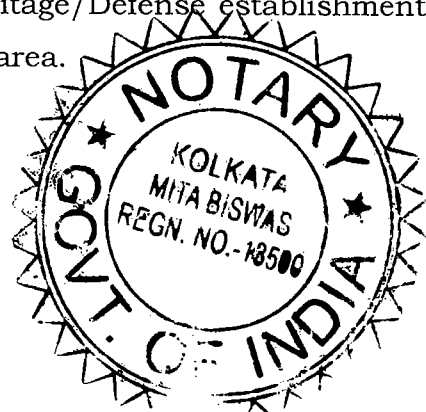
• **ENVIRONMENTAL IMPACT OF TURGA PUMPED STORAGE PROJECT**

Since there is no perennial source of river in the Project location, water will be stored in both of the reservoirs by mainly Rain water harvesting method. Being a Closed loop project, the same water shall be recycled daily for generation and pumping process. Thus, there shall be no misuse of water for the project.

As per statute, WBSEDCL shall release certain percentage of inflow water to the downstream as Environmental Release for sustaining the riverine species as per guidelines of CEA.

No rare / endangered / unique species of flora or fauna are found in the Project area.

There is no protected Archaeological/Heritage/Defense establishment or any other important Monument in the area.



The Project does not form part of any protected area.

Thus, there is a minimal impact on Environment for the construction of this Project.

Ministry of Environment, Forests and Climate Change, Govt. of India has accorded Environmental Clearance of the Project in July 2018.

• **IMPACT ON LOCAL DUE TO TURGA PUMPED STORAGE PROJECT**

The project does not involve Displacement of any people. Therefore, Resettlement & Rehabilitation issues does not arise. The project does not involve submergence of any villages or hamlet.

Besides having direct benefits for the people in the Project area like additional employment opportunity, increased economic activity etc, this Project will also lead to development of suitable social infrastructure in the surrounding area.

It is expected that a project of this magnitude will lead to significant improvement of socio - economic condition of tribal and underprivileged population of Purulia district.

Total budget for Local Area Development Plan is Rs. 44.12 Crore which is included in the total budget for implementation of Environmental Management Plan (EMP) is Rs. 68.30 Crore. The total budget for implementation of Environmental Management Plan (EMP) also includes, Catchment Area Treatment, Fisheries Development, Green Belt Development, Disaster Management, Energy Conservation, etc.



The Local Area Development Plan includes Construction/ Up-gradation of School, Scholarship to students including skill development, Improvement of Public Health facility in Study area.

The demand of Local Public as raised during the Public Hearing Meeting for Environmental Clearance which was conducted on 02nd February 2016 by authorities of WBPCB and ADM (Dev), Purulia, Govt. of West Bengal, has also been included in the budget for Local Area Development Plan.”

5. With regard to the statements made in paragraph 1 of the original application, it is submitted that the Applicant is claiming to be a forest dweller residing in the hamlets in the Ajodhya Range in the Purulia district, West Bengal. However, the Applicant has not enclosed any documentary evidence like Record of Rights (RoR) to show that he is a Forest Dweller. In a similar matter heard before the Hon'ble High Court of Calcutta W.P. No. 20576 (W) of 2018, Sri Sushil Murmu filed a Supplementary Affidavit dated 08.04.2019 wherein he stated that his father Somchand Manjhi alias Somchand Murmu are the same and one person and has Forests Rights and is actually affected by the Project. In this respect, a physical verification was conducted by District Magistrate, Purulia. District Magistrate, Purulia vide letter under memo no. 1627/BCWP dated 24.09.2019 clarified that the plots of Somchand Manjhi alias Somchand Murmu is a Rayoti plot and will no way be affected for the Project.

Copy of the order of the Hon'ble High Court, Calcutta and letter dated 24.09.2019 are annexed herewith and marked as Annexure “R-1” and “R-2” collectively.

With regard to the statements made in paragraphs 2 and 3 of the original application, it is submitted that the 'in-principle' approval

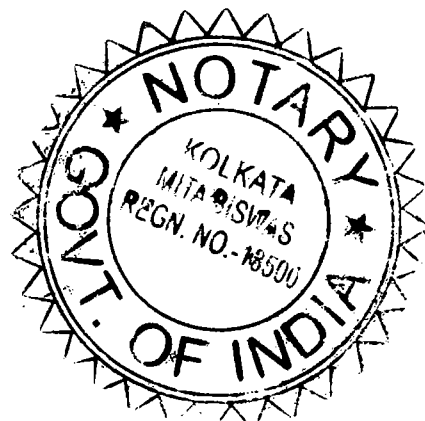


accorded by Ministry of Environment, Forests & Climate Change, Govt. of India on 12.04.2018 for diversion of 234 Ha of Forest Land for implementation of Turga PSP subject to fulfillment of forty (40) conditions. After complying all the stipulated conditions of MoEF&CC, WBSEDCL submitted the Final Compliance Report to the State Forest Department on 08.11.2021. State Forest Department after scrutiny and approval of the said Final Compliance Report submitted the same to Ministry of Environment, Forests & Climate Change, Govt. of India who, after examination of the Compliance Report, accorded Final Clearance on 13.10.2022 for diversion of 234 Ha of Forest Land to WBSEDCL for implementation of Turga PSP.

Copy of the letter dated 12.04.2018 and 13.10.2022 are annexed herewith and marked as Annexure "R-3" and "R-4" collectively.

7. That with regard to the statements made in paragraphs 4, 5 and 6 of the original application, it is submitted that for implementation of Turga PSP all the provision and conditions stated in FRA, 2006 have already been complied before obtaining Final Approval from MoEF&CC. The District Magistrate & Collector, Purulia vide letter having memo no 968/BCWP dated 13.06.2017 has already accorded clearance for FRA, 2006 in line with clause no 6 (e) of Forest Conservation Rules, 2006 stating that Neither any person has been given patta under the Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, nor any person is in possession of any portion of the forest land which is required for 1000 MW Turga Pumped Storage Project, Baghmundi, Purulia.

Copy of the letter dated 13.06.2017 is annexed herewith and marked as Annexure "R-5".



8. With regard to the statements made in paragraph 7 of the original application, it is submitted that as per Rule 8 of the Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007, the District Level Committee has the authority to consider and finally approve the claims and record of Forest Rights prepared by the Sub-divisional Level Committee. However, as claimed by the Applicant, the applications for Individual Forest Rights (IFR) and Community Forest Rights (CFR) are pending before the Sub-divisional Level Committee. Furthermore, WBSEDCL has already obtained Final Forest Clearance for diversion of 234 Ha of Forest land from Central Govt. for construction of Turga PSP on 13.10.2022 as per detailed land scheduled. Thus, in no ways the claims of IFR and CFR as stated in the application are not at all valid.

9. With regard to the statements made in paragraph 8 of the original application, it is submitted that it is statutory under clause no.6(e) of Forest Conservation Rules, 2006 to obtain clearance under FRA, 2006 from the District Collector for submission of proposal seeking approval from Central Govt. This clearance is required to complete the process of recognition and vesting of Forest Rights in accordance with the FRA, 2006 and also to obtain the consent of Gram Sabha for any compensatory and ameliorative measures, if any, for the diverted Forest Lands. The District Magistrate & Collector, Purulia vide his letter dated 13.06.2017 gave concurrence under FRA, 2006 stating that Neither any person has been given patta under the Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, nor any person is in possession of any portion of the forest land which is required for 1000 MW Turga Pumped Storage Project, Baghmundi, Purulia. Thus, the Project does not aim to interfere with Forest Rights or any attempt to dispossess any Forest Dwellers from the diverted Forest Land.



10. With regard to the statements made in paragraphs 9 and 10 of the original application, it is submitted that as per condition no.(xxii) & (xxx) of Stage-I Approval from MoEF&CC dated 12.04.2018, the State Forest Department shall carry out the work of demarcation and felling of trees within the diverted Forest Land. In this regard, WBSEDCL have already deposited an amount of Rs.4,03,26,612.00 to State Forest Dept. on 26.02.2019 as per demand raised by State Forest Department for this purpose. After obtaining Final Forest Clearance from MoEF&CC on 13.10.2022 and Order from the State Govt. dated 20.10.2022. State Forest Department took initiative for boundary demarcation and tree felling by inviting tenders on 13.06.2023 and 15.06.2023. Thus the allegation framed by the applicant against WBSEDCL is false.

Copy of the order dated 20.10.2022 is annexed herewith and marked as Annexure "R-6".

11. With regard to the statements made in paragraph 11 of the original application, this is to state that, vide letter under memo no. 3544/8-5/2(a) dated 12.09.2019 of the Divisional Forest Officer, Purulia reveals that there are no significant religious place namely Sutan Tandi located within the Project Area. This matter was also placed in the hearing before the Hon'ble High Court of Calcutta. In the matter of presence of Elephant Corridor, this is to state that major components of the Project like Waterway, Powerhouse, Switchyard, etc. are located underground and shall no way be affected in the Elephant Corridor. However, the State Forest Dept. has prepared a Report for Mitigation of Wildlife Conservation Plan with special emphasizes to avoid Human-Elephant Conflict within the Project Area.

The said report was approved by Chief Wildlife Warden of Govt. of West Bengal on 16.04.2021. Based on this approved report WBSEDCL have already deposited an amount of Rs.53,55,45,790.00 on



08.09.2021 in the account of MoEF&CC as per demand raised by State Forest Department in this regard.

Copy of the letter dated 12.09.2019 is annexed herewith and marked as Annexure "R-7".

12. With regard to the statements made in paragraph 12 of the original application, it is submitted that Chapter 2 of Part B of Handbook of Forest (Conservation) Act, 1980 and Forest Conservation Rules, 2003 (Guidelines & Clarifications) published by Ministry of Environment, Forests & Climate Change, Govt. of India in 2019 states about Compensatory Afforestation for diversion of Forest Land for Non-Forest Purpose and the purpose for Compensatory Afforestation. In line with clause no 2.3 of the said Chapter, WBSEDCL have diverted equivalent area of 234 Ha of Non-Forest Land to State Forest Dept. for raising Compensatory Afforestation. WBSEDCL have also paid an amount of Rs.27,16,30,244.00 to State Forest Dept. as per demand raised by the State Forest Department for the work of Nursery Plantation, Demarcation of the Compensatory Afforestation Land, Soil Moisture Conservation Work, Compensatory Afforestation and 10 years maintenance of the said lands. WBSEDCL have arranged these Lands in the district of Purulia, Jalpaiguri, Paschim Medinipur, West Bengal in line with the aforesaid Chapter of the Handbook. State Forest Department has already completed Compensatory Afforestation Plantation on 106.445 Ha of land and is planning to carry out Compensatory Afforestation Plantation on the remaining area in a phased manner. Some relevant photographs are attached for ready reference.

Copy of the some photographs are annexed herewith and marked as Annexure "R-8" collectively.



13. With regard to the statements made in paragraph 13 of the original application, it is to state that the Techno-Commercial Aspect of the Project have been concurred by the Central Electricity Authority, Ministry of Power, Govt. of India and the justification of the Project within the Forest Land & De-Reservation of Forest for implementation of the Project along with the Environmental impacts have been concurred by Ministry of Environment, Forests & Climate Change, Govt. of India. Project shall not affect the lives and livelihoods of the people. Furthermore, this is to state that a representation was submitted on 04.03.2024 addressed to the District Magistrate, Purulia, signed by approximate 418 villagers of Saldhi, Vitpani, Teliabhasa, Kurpahar, Tarpania, Saharjuri, Sonahara, Dumdumi, Kultarh, Chetanbera, Ajodhya, Bagandih, Usuldungri, Simulbera, Barujara, Bandhghutu and others requesting to start the construction of the Project from 2024.

Copy of the letter dated 04.03.2024 is annexed herewith and marked as Annexure "R-9".

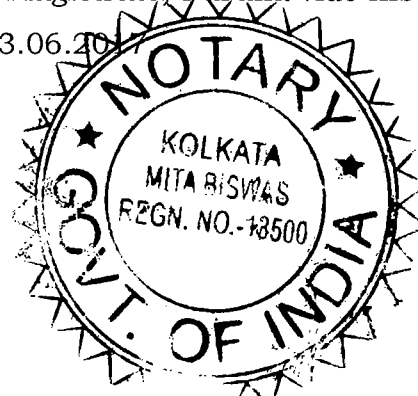
14. With regard to the statements made in paragraph 14 of the original application, it is to state that there has been no violation in the compliance in the conditions stipulated in the Forest Clearance dated 13.10.2022. This is so because, as stated in the clearance letter prior to handing over the Forest Land to WBSEDCL, the State Govt. has already given clearance on 13.06.2017 in the issue of FRA, 2006. WBSEDCL has also obtained the Environmental Clearance for the Project. Based on the payments received from WBSEDCL, State Forest Department has already taken initiative for the work of demarcation of diverted 234 Ha of Forest Land in line with stipulations of In-Principle approval dated 12.04.2018. Once the demarcation work is completed, State Forest Department shall prepare and upload KML files of the



diverted Forest Land. Thus, the allegation raised by the Applicant is premature.

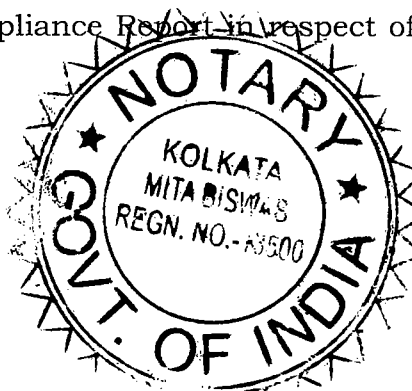
15. With regard to the statements made in paragraph 15 of the original application, it is submitted that it is statutory under clause no.6(e) of Forest Conservation Rules, 2006 to obtain clearance under FRA, 2006 from the District Collector for submission of proposal seeking approval from Central Govt. This clearance is required to complete the process of recognition and vesting of Forest Rights in accordance with the FRA, 2006 and also to obtain the consent of Gram Sabha for any compensatory and ameliorative measures, if any, for the diverted Forest Lands. For Turga PSP, the District Magistrate & Collector, Purulia vide his letter under memo no. 968/BCWP dated 13.06.2017 gave concurrence under FRA, 2006 stating that Neither any person has been given patta under the Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, nor any person is in possession of any portion of the forest land which is required for 1000 MW Turga Pumped Storage Project, Baghmundi, Purulia. Thus, it is evident that the Project does not involve displacement of any Forest Dwellers from the diverted Forest Land and so the issue of obtaining the consent of Gram Sabha for any compensatory and ameliorative measures does not arise. The said function of Gram Sabha has been detailed in clause no. 4 of the Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules 2007.

16. With regard to the statements made in paragraph 16 of the original application, it is submitted that for obtaining Stage I (in-principle) Forest Clearance from the Central Govt., WBSEDCL had obtained FRA, 2006 NoC from the District Magistrate, Purulia vide his letter under memo no. 968/BCWP dated 13.06.2017.



17. With regard to the statements made in paragraphs 17, 18 and 20 of the original application, it is submitted that in M.A.T. 1156 of 2019 (WBSEDCL & Anr. Vs Rabi Besra & Ors) and in M.A.T. 1396 of 2019 (The State of 'West Bengal Vs. Rabi Besra & Ors) Hon'ble Division Bench of High Court of Calcutta vide solemn Judgment dated 23.12.2021 stated that "The issue of settlement of rights as recommended by the State shall be now examined at the appropriate level by the Central Government in consonance with the requirement of Condition xxiii of the letter dated 12th April 2018. The writ petitioners, or their authorized representative, shall also be entitled to place their presentation before the Central Government, upon being put to prior notice. Needless to add, the other Conditions set forth in the letter dated 12th April, 2018 shall also be examined in accordance with law". In this respect WBSEDCL submitted the Final Compliance Report including concurrence on issue of Settlement of Rights to the State Forest Dept for their concurrence and further submission to the Central Govt. On the basis of the Compliance report furnished by the Govt. of West Bengal, Central Govt. examined the proposal and on being satisfied accorded approval under Section 2 of Forest (Conservation) Act, 1980 for diversion of 234 Ha of Forest Land for construction of 1000 MW Turga PSP.

18. With regard to the statements made in paragraphs 19, 21 and 22 of the original application, it is submitted that clause no.8 of the Forest (Conservation) Rules, 2003 detail the submission of Reports on compliance to conditions stipulated in the in-principle approval and grant of Final Approval. Further MoEF&CC, Govt. of India in their letter dated 12th April, 2018 conveyed in- principle approval to the Project subject to the fulfillment of the forty conditions. In line with conditions no. (xxxviii) of the letter dated 12th April, 2018, WBSEDCL had submitted Annual Self Compliance Report in respect of the forty



conditions to the State Govt., concerned Regional Office and to MoEF&CC by the end of March every year. Furthermore, in line with case of Vimal Bhai vs Union of India, appeal no. 7/2012/PB Order dated 07.11.2012, State Govt. had passed Order on 20.10.2022 for diversion of 234 Ha of Forest Land in favour of WESEDCL for construction of 1000 MW Turga PSP in Ajodhya Hills under Purulia Forest Division. The approvals pertaining to Stage I (in-principle) and Stage II (Final) are readily available in different websites/internet for public view. Further, the District Magistrate & Collector, Purulia vide his letter dated 13.06.2017 gave concurrence under FRA, 2006 stating that neither any person has been given patta under the Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, nor any person is in possession of any portion of the forest land which is required for 1000 MW Turga Pumped Storage Project, Baghmundi, Purulia. So, no person shall be displaced from the Forest land required for the Project.

19. With regard to the statements made in paragraphs 23 and 24 of the original application, it is submitted that the Applicant has suppressed the entire fact of the matter. After the Order dated 02.04.2019 was passed by the Hon'ble Single Bench of High Court at Calcutta, WBSEDCL (M.A.T. 1156 of 2019) & Govt. of West Bengal (M.A.T. 1396 of 2019) had appealed against the alleged Order before the Hon'ble Division Bench of High Court at Calcutta. Hon'ble Division Bench in the judgment dated 23.12.2021 was pleased to set aside the judgment of the Single Bench dated 02.04.2019. Hon'ble Divisional Bench also opined that the issue of Settlement of Rights as recommended by the State shall be examined by the Central Govt. in consonance to the requirement of condition no. (xxiii) of the letter dated 12.04.2018. The writ petitioners or their Authorized representatives were entitled to place their presentation before the



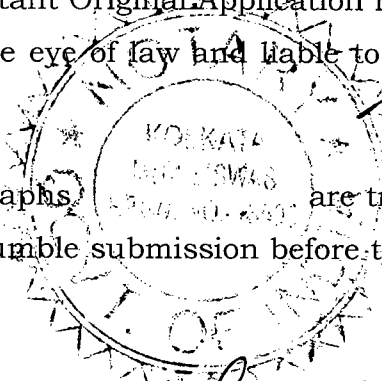
Central Govt., upon being put to prior notice. In this matter, the Applicant has failed to submit any presentation made by him or any of his Authorized representatives before the Central Govt. prior to issuance of Final Forest Clearance on 13.10.2022

Copy of the MAT No.1156 of 2019, MAT No.1396 of 2019 and order dated 23.12.2021 are annexed herewith and marked as Annexure "R-10" collectively.

20. It is further submitted that the impact of the Turga Pumped Storage Project are varied and the same are details below for the kind knowledge of the Hon'ble Tribunal.

21. It is further submitted that the instant Original Application has been filed which is not sustainable in the eye of law and liable to be set aside.

22. That the statement made in paragraphs are true to my knowledge and the rests are my humble submission before this Hon'ble Court.



S. Chakraborty
Deponent is known to me

(S. Chakraborty)
Divisional Engineer (Civil)
Pumped Storage Project Department
W.B.S.E.D.C.L., Vidyut Bhavan
Kolkata-700 091

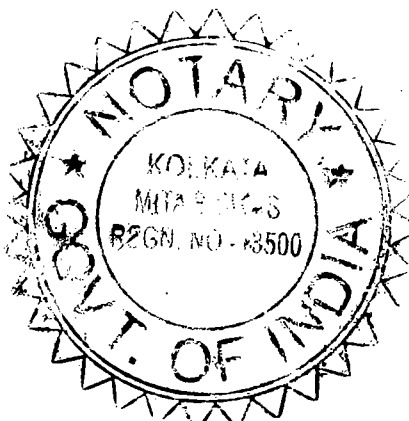
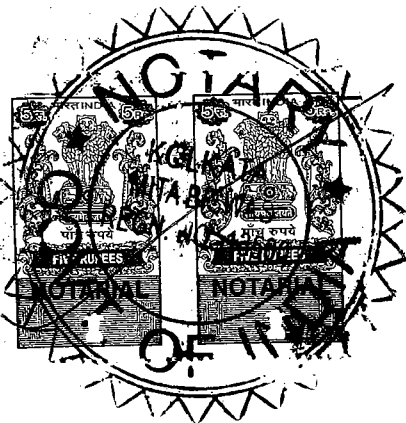
Prepared in my office

Dipankar Ghosh
Advocate

Solemnly Affirmed & Declared Before
me on Identification of Id. Advocate

Mita Biswas

MITA BISWAS NOTARY
Govt. of India, Regd. No -13500

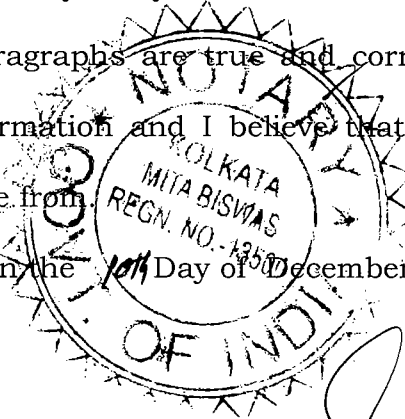


10 DEC 2024

VERIFICATION:

I, the deponent do hereby verify and declare that the statements made in the aforesaid paragraphs are true and correct to the best of my knowledge and information and I believe that nothing material has been concealed there from.

Verified at Kolkata on the 10th Day of December, 2024.



S. Chakraborty

Deponent (S. Chakraborty)
Divisional Engineer (Civil)
Pumped Storage Project Department
Identified by me, Vidyan Bhawan
Kolkata-700 091

D. Singh
Advocate



PS, PD / W/SEEDCL
Page No. 9 of
Date 07.07.19
Content Not Verified

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R-1

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present :

The Hon'ble Justice Debangsu Basak.

WP 20576 (W) of 2018
With
CAN 3341 of 2019

Rabi Besra & Ors.
Versus
The State of West Bengal & Ors.

For Petitioners	:- Mr. Amber Majumder, Mr. Santanu Chakraborty.
For Respondent Nos. 8 & 9	:- Mr. Saptangsu Basu, Sr. Adv., Mr. Debansu Bera, Mr. S. S. Koley.
For Union of India	:- Mr. N. L. Singhanian, Mr. Sankar Sarkar.
Heard On	:- July 2, 2019.
Judgment on	:- July 2, 2019.

CAN 3341 of 2019 and WP No.20576(W) of 2018 are taken up together for hearing pursuant to the order dated April 17, 2019.

The petitioners assail the grant of 'in-principle' forest clearance permission and felling of trees in an area which according to the petitioners is a tribal area and a forest land.

~~APF.~~
PL put up a note
05.07.19

~~CF~~
note put up.

~~DE (C)-II~~ 8/7/19
Note placed to
Dir (Gen)
Ghosh

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Learned Advocate appearing for the petitioners submits that, the petitioners are tribals. They are located in an area which is a tribal and a forest area. The petitioners are entitled to the protection under the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. He submits that, the respondent authorities have undertaken a hydel power project in an area which comes within the purview of the Act of 2006. According to him, requisite permission under the Act of 2006 were not obtained by the authorities. The District Magistrate concerned, manufactured documents so as to give it a colour of legality. He draws attention of the Court to the writings of the District Magistrate and the steps taken by the Central Government. He submits that, every step taken by every authority, is contrary to the provisions of the Act of 2006 and at least in non-compliance thereof. Non-compliance are so glaring, that immediate intervention of the Court is required. He submits that, all rights recognised and granted under the Act of 2006 to a tribal is sought to be negated by the actions taken. He seeks appropriate directions from the Court.

Learned senior Advocate appearing for the respondent nos. 8 and 9 submits that, the provisions of the Act of 2006 requires permission of the Gram Sabha and that, resolutions of at least two Gram Sabhas are available on record. It is not the case of the petitioners that, the Gram Sabhas did not grant permissions. His clients are implementing the project. His clients have taken steps pursuant to the project and made over a sizeable portion of the property to Forest Department for afforestation. He relies upon **(2009) 2 Calcutta High**

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Court Notes 379 (Calcutta Swimming Club Versus Lalit Singh and Ors.) and submits that, the petitioners have no cause of action to espouse. The petitioners cannot champion the causes of the others. The petitioners are located in an area which will not be affected by the project. Two petitioners have residential houses in such area. Therefore, at least at the instance of the petitioners, the writ Court need not intervene.

Learned Advocate appearing for the Central Government submits that, the Central Government granted 'in-principle' approval to the project subject to the compliance of the conditions laid down in the letter granting impugned 'in-principle' approval.

None appears for the State despite notice. The State was represented on April 17, 2019 when it was made clear that, the writ petition and the application will be taken up for hearing. The matters appeared yesterday in the cause list when the State did not appear. A request was made to the learned Advocate for the parties to inform the learned counsel for the State about the matter. The Court is informed that, such communication was made by the learned Advocate for the writ petitioners to the learned counsel appearing for the State.

The respondent no.8 is undertaking a hydel power project in an area which admittedly is governed under the Act of 2006. The Act of 2006 recognises the forest rights of forest dwelling Scheduled Tribes and other traditional forest

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dwellers. Nothing is on record to suggest that, none of the petitioners before me are not persons who are covered under the Act of 2006. They reside in an area in which the Act of 2006 applies.

The Act of 2006 after recognising forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers in Section 3 allows diversion of forest land involving felling of trees. The projects are specified in sub-Section (2) of Section 3 of the Act of 2006 where, felling of trees are permissible. Felling trees for a non-conventional source of energy is permissible under the Act of 2006. The project spoken of, contemplated and sought to be implemented by the respondent no.8 can be construed to be a non-conventional source of energy and therefore, coming within the purview of Section 3(2) of the Act of 2006. Section 3 Sub-Section (2) of the Act of 2006 have two provisos. The second proviso require the clearance of the development project which is subject to the condition that the same is recommended by the Gram Sabha. Gram Sabha is defined in Section 2(g) of the Act of 2006. It is as follows:-

[2(g). "Gram Sabha" means a village assembly which shall consist of all adult members of a village and in case of States having no Panchayats, Padas, Tolas and other traditional village institutions and elected village committees, with full and unrestricted participation of women.]

The definition of the Gram Sabha as appearing in the Act of 2006 requires attendance of adult members of the village in a meeting for the purpose

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of considering a development project as enumerated under Section 3(2) of the Act of 2006. Admittedly, the project area covers numerous Gram Sabhas. Resolutions of only two Gram Sabhas are on record. The Court is informed that, apart from two Gram Sabhas, there are at least 15 others in the locality. State is not present today. It did not file any affidavit in the writ petition as also in the application for extension of interim order despite directions being given. Central Government also did not file any affidavit. The other respondents have filed their affidavits. Therefore, there is nothing on record to suggest that, resolutions were taken by each and every Gram Sabha affected by the project in terms of Section 3(2) of the Act of 2006 for the authorities to proceed further. The Act of 2006 is such that, a project can only be implemented, if, the procedure laid down under the Act of 2006 is followed. The starting point of the implementation of the project in an area governed by the Act of 2006 is a requisite resolution of the Gram Sabha affected by such project. In the present case, even assuming at the highest, although, the facts are otherwise, that, the two resolutions of the two Gram Sabhas satisfy the tests laid down under Section 3(2) read with Section 2(g) of the Act of 2006, then also, all the Gram Sabhas affected did not take the appropriate resolution under the Act of 2006.

So far as the resolutions of the two Gram Sabhas which are on record are concerned, none of them, satisfies the tests laid down under the Act of 2006. One of the resolutions is unsigned by any villager. The other resolution shows an attendance and does not discuss the number of adults available in the village for the Gram Sabha convened. Requisite notice for convening the Gram Sabha

are absent on record. It cannot be said that, the other resolution of the Gram Sabha which bears the signatures of the villagers were held in accordance with law. In absence of the requisite materials being produced by the State despite opportunities given to the State to do so, the irresistible inference is that, appropriate procedure laid down under the Act of 2006 was not followed for the purpose of convening any meeting of any Gram Sabha of any village affected by the project and that, there does not exist appropriate resolution of the Gram Sabha permitting the implementation of the project on the area coming within the purview of the Act of 2006.

The 'in-principle' approval by the Central Government falls in view of the absence of requisite resolution of the Gram Sabha. It is astonishing that, the Central Government approved the project 'in-principle' without being satisfied as to whether requisite formalities under the Act of 2006 have been complied with or not. As the State Government, the Central Government also did not file any affidavit. However, the Central Government is fortunate to be represented before this Court in course of hearing. The queries raised by the Court towards the Central Government remains unsatisfied. There is no answer to the query as to what documents did the officer granting the 'in-principle' approval consider and whether such officer took into account the provisions of Section 3(2) of the Act of 2006 read with Section 2(g) of the Act of 2006 or not.

A hydel project of the nature contemplated to be implemented is in public interest. However, implementation of such a project in public interest is required to be done, in accordance with law. The law in the present case will

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involve the provisions of the Act of 2006. On the materials made available to the Court, the only inference that is possible is that, the provisions of the Act of 2006 were not complied with, in either seeking permission for the project or trying to implement the same.

Calcutta Swimming Club (supra) is of the view that, a plaintiff cannot file a suit alleging that, by the action of the defendant, although none of his rights is infringed will, somebody else's right is going to be affected and such right of the third party should be protected. With respect, in the facts of the present case, the rights of the petitioners will stand affected if, the project is allowed to be implemented in the manner as it is sought to be done now. As tribals living in an area covered under the Act of 2006, the petitioners are entitled to ensure compliance of the provisions of the Act of 2006. It is the contention of the respondent nos.8 and 9 that, the land which the petitioners occupy will not be affected by the project. Again with respect, such a contention cannot be accepted. The petitioners are admittedly residents of an area which will be affected, if not the surroundings, by implementation of the project. Again, in my view, that is no defence to the authorities in not complying with the provisions of the Act of 2006. Any citizen of India is entitled to approach the writ Court to highlight any infraction of law at the instance of an authority within the meaning of Article 12 of the Constitution of India and seek appropriate redress with regard thereto. The petitioners cannot be non-suited on the ground as contended on behalf of the respondent nos.8 and 9. In such circumstances, the

ratio laid down in *Calcutta Swimming Club (supra)* is not attracted to the facts scenario of the present case.

There exists an interim order granted while admitting the writ petition.

Since, the writ petition is heard on merits finally, it would be appropriate to quash the decision 'in-principle' approval granted by the Central Government. It is also appropriate to quash the so-called resolutions of the Gram Sabhas and permissions granted by the State Government in implementing the project. This order, however, will not prevent the authorities from taking recourse to the provisions of the Act of 2006 and acting in accordance with law in implementing the project contemplated.

Learned Advocate appearing for the petitioners submits that, the District Magistrate granting such a false certificate should be visited with appropriate punishment in the nature of costs. In the facts of the present case, I am not minded to enter into that arena.

CAN 3341 of 2019 and WP No.20576(W) of 2018 are disposed of.

No order as to costs.

Urgent certified website copies of this order, if applied for, be made available to the parties upon compliance of the requisite formalities.

(*Debangsu Basak, J.*)

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F. No. 8-51/2017-FC
 Government of India
 Ministry of Environment, Forests and Climate Change
 (Forest Conservation Division)

Indira Paryavaran Bhawan,
 Jor Bagh Road, Aliganj,
 New Delhi - 1100 03.
 Dated: 12th April, 2018

To,
 The Principal Secretary,
 Government of West Bengal,
 Kolkata-700 098

Sub: Diversion of 234.00 ha of forest land for construction of 1000 MW Turga Pumped Storage Project of WBSEDCL in Ajodya Hills under Purulia forest Division.

Sir,

I am directed to refer to the State Government's letter No. 3340-For/O/L/10T-12/2017 dated 18.09.2017 on above mentioned subject seeking prior approval of the Central Government under Section-2 of the Forest (Conservation) Act, 1980 and to say that the proposal has been examined by the Forest Advisory Committee constituted by the Central Government under Section-3 of the said Act.

After careful examination of the proposal of the State Government and on the basis of the recommendations of the Forest Advisory Committee, the Central Government hereby conveys the 'in-principle' approval for diversion of 234.00 ha of forest land for construction of 1000 MW Turga Pumped Storage Project of WBSEDCL in Ajodya Hills under Purulia forest Division subject to fulfilment of the following conditions:-

- (i) Legal status of the diverted forest land shall remain unchanged;
- (ii) On analysis on DSS it is observed that the part of Non -Forest land proposed for CA for the project is falling in the category of recorded forest. The status of Non -Forest land proposed for CA shall be clarified along with documentary evidences. State Government shall also analyse the same on DSS prior to submission of clarification to MoEF&CC. The DSS report generated by State Government shall be submitted prior to Stage II approval. It is noted that CA land has been given in 12 patches, which are dispersed in Puruliya & Jalpaiguri districts of West Bengal State. Based on DSS, Out of 12 patches proposed for CA, 6 CA Patches having the Legal status as Forest land.
- (iii) On perusal of item-wise breakup statement submitted by the State Government and in SIR, it is observed that 10.239 ha, 18.387 ha and 8.537 ha have been proposed for Civil structures, Construction facility and other component respectively. State Government shall submit details of these three components. No residential or commercial complexes which are not ancillary and not site specific shall be permitted.
- (iv) Since water is a precious resource, the user agency shall take some measures for creation of water conservation/ harvesting structures in the

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- Catchment Area so that the water to be released for use of communities and agriculture, down streams, is not affected.
- (v) The user agency should also address the stone quarry within the leased area. After extraction of stones, the quarry should be reclaimed with soil and should be vegetated; thereby developing the mined -out land into an ecotourism spot enhancing the ecology & aesthetics of the site.
 - (vi) The User agency may also fence the quarry prior to reclamation to check possible casualty of wildlife due to accidental fall.
 - (vii) The State Govt. may report for additional forest lands required to be diverted for dismantling the irrigation dam and pillars have to be posted there with proper demarcation;
 - (viii) The encroachment, as reported by CCF Northern Circle, West Bengal in The proposed CA area shall be evicted prior to mutation of land in favour of Forest department. State government shall ensure that the Non- forest land shall be free from all encumbrances. A certificate duly signed by the Nodal Officer(FCA) may be furnished in this regard;
 - (ix) State Government shall prepare a wild life conservation plan with special emphasis to avoid Human elephant conflict in the area at project cost. The plan shall be duly approved by CWLW. The Amount shall be deposited in Adhoc CAMPA. The sanctity of elephant corridor shall not be disturbed. All possible mitigation measure to protect the elephant corridor shall be incorporated in wild life management plan.
 - (x) Compensatory afforestation shall be raised over non- forest land equal to the diverted forest land. At least 1000 plants per hectare (234 hectares x 1000 = 234000 plants) shall be planted over identified non-forest land with provision for ten years on subsequent maintenance.
 - (xi) 25% of revised CA cost will be deposited extra by the user agency for soil and moisture conservation (SMC) activities on the CA land.
 - (xii) The land identified for the purpose of CA shall be clearly depicted on a Survey of India topo-sheet of 1:50,000 scale;
 - (xiii) The non-forest land identified for raising compensatory afforestation shall be transferred and mutated in favour of the State Forest Department before issue of the Stage-II clearance and the said non-forest land as identified for raising Compensatory Afforestation shall be notified by the State Government as RF under Section-4 or PF under Section-20 of the Indian Forest Act, 1927 or under the relevant Section(s) of the local Forest Act, as the case may be, within a period of six months. The Nodal Officer (Forest Conservation) shall report compliance in this regard;
 - (xiv) The User Agency shall transfer the cost of raising and maintaining the compensatory afforestation at the current wage rate in consultation with State Forest Department in the account of Ad-hoc CAMPA of the concerned State through online portal. The scheme may include appropriate provision for anticipated cost increase for works scheduled for subsequent years;
 - (xv) The User Agency shall transfer online, the Net Present Value (NPV) of the forest land being diverted under this proposal, as per the orders of the Hon'ble Supreme Court of India dated 28.03.2008, 24.04.2008 and 09.05.2008 in Writ Petition (Civil) No. 202/1995 and the guidelines issued by this Ministry vide its letter No. 5-3/2007-FC dated 05.02.2009. The requisite funds shall be transferred through online portal into Ad-hoc CAMPA account of the State Concerned;

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- (xvi) The User Agency shall pay the additional amount of NPV, if so determined, as per the final decision of the Hon'ble Supreme Court of India;
- (xvii) The approved Catchment Area Treatment (CAT) Plan shall be implemented at the cost of the user agency and commensurate funds shall be deposited through on-line in the account of Adhoc CAMPA account;
- (xviii) The user agency should ensure that the compensatory levies (CA cost, NPV, etc.) are deposited through challan generated online on web portal and deposited in appropriate bank online only. Amount deposited through other mode will not be accepted as compliance of the Stage- I clearance;
- (xix) The Forest clearance will be for a period co terminus with the lease period specified in the lease agreement. The State Government will submit the lease agreement document specified in the lease agreement;
- (xx) The State Govt. ensure that the user agency shall implement the R&R Plan as per the R&R Policy of State Government in consonance with National R&R Policy, Government of India before the commencement of the project work. The said R&R Plan will be monitored by the State Government/Regional Office of MoEF &CC along with indicators for monitoring and expected observable milestones;
- (xxi) The user agency in consultation with the State Government shall create and maintain alternate habitat/home for the avifauna, whose nesting trees are to be cleared in this project. Birds nests artificially made out of eco-friendly material shall be used in the area, including forest area and human settlements, adjoining the forest area being diverted for the project.
- (xxii) The boundary of the diverted forest land, mining lease and safety zone, as applicable, shall be demarcated on ground at the project cost, by erecting four feet high reinforced cement concrete pillars, each inscribed with its serial number, distance from pillar to pillar and GPS co-ordinates;
- (xxiii) The State Government shall complete settlement of rights, in terms of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, if any, on the forest land to be diverted and submit the documentary evidence as prescribed by this Ministry in its letter No. 11-9/1998-FC (pt.) dated 03.08.2009 read with 05.07.2013, in support thereof;
- (xxiv) The user agency shall carry out muck disposal at pre-designated sites in such a manner so as to avoid its rolling down.
- (xxv) The dumping area for muck disposal shall be stabilized and reclaimed by planting suitable species by the user agency at the cost of project under the supervision of State Forest Department. Retaining walls and terracing shall be carried out to hold the dumping material in place. Stabilization and reclamation of such dumping sites shall be completed before handing over the same to the State Forest Department in a time bound manner as per Plan.
- (xxvi) The State Government and the user agency shall ensure that the tress available between full reservoir level (FRL) and FRL-4 meters are not felled;
- (xxvii) The User agency shall undertake afforestation along the periphery of the reservoir;
- (xxviii) User agency shall provide free water for the forestry related projects;
- (xxix) The User Agency shall obtain the Environment Clearance as per the provisions of the Environmental (Protection) Act, 1986, if required;
- (xxx) Any tree felling shall be done only when it is unavoidable and that too under strict supervision of the State Forest Department;



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- (xxxix) The layout plan of the proposal shall not be changed without the prior approval of the Central Government;
- (xxxii) No labour camp shall be established on the forest land;
- (xxxiii) The User Agency shall provide fuels preferably alternate fuels to the labourers and the staff working at the site so as to avoid any damage and pressure on the nearby forest areas;
- (xxxiv) The user agency will abide by the applicable recommendations of the State Government including State Forest/Wildlife Departments;
- (xxxv) The forest land shall not be used for any purpose other than that specified in the proposal;
- (xxxvi) The forest land proposed to be diverted shall under no circumstances be transferred to any other agency, department or person without prior approval of the Central Government;
- (xxxvii) No damage to the flora and fauna of the adjoining area shall be caused;
- (xxxviii) The User Agency shall submit the annual self-compliance report in respect of the above stated conditions to the State Government, concerned Regional Office and to this Ministry by the end of March every year;
- (xxxix) Any other condition that the concerned Regional Office of this Ministry may stipulate, from time to time, in the interest of conservation, protection and development of forests & wildlife; and
- (xl) The user agency shall comply all the provisions of the all Acts, Rules, Regulations, Guidelines, Hon'ble Court Order (s) and National Green Tribunal Order(s) pertaining to this project, if any, for the time being in force, as applicable to the project;

After receipt of the compliance report on fulfilment of the above conditions from the State Government, formal approval will be considered under Section-2 of the Forest (Conservation) Act, 1980. The transfer of forest land to the User Agency shall not be affected by the State Government till formal orders approving the diversion of forest land are issued by the Central Government.

Yours faithfully,



(Sandeep Sharma) 2.4.18

Assistant Inspector General of Forests (FC)

Copy to:

1. The Principal Chief Conservator of Forests, Government of West Bengal, Kolkata.
2. The Nodal Officer (FCA), O/o the PCCF, Government of West Bengal, Kolkata.
3. Addl. Principal Chief Conservator of Forests (C), Regional Office, Bhubaneswar.
4. User agency.
5. Monitoring Cell
6. Guard file.



(Sandeep Sharma) 2.4.18

Assistant Inspector General of Forests (FC)



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Office of the District Magistrate, Purulia
Backward Classes Welfare Section
Purulia

Tele/fax No. :- 03252 222453, Mob: 8373068607
Email :- pobcwprl@yahoo.in, pobcwprl@gmail.com

Memo No. - 1627/BCWP

Dated - 24-9-19

To
The Additional Chief Secretary
Power & NES Department
Government of West Bengal
Bidyut Unnayan Bhavan, 5th Floor,
3/C, LA Block, Sector-III, Salt Lake,
Kol- 700098.

Com (LRO)
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AS.P.

Sub:- Appeal against the order of Hon'ble High Court in c/w .W.P. No. 20576 of 2018.
Calcutta High Court relating Turga Pump Storage Project.

Ref:- D.O. No. 54/SP/19 dt. 03.09.2019 of the ACS, Power & NES Deptt.

Sir,

I am sending herewith the report of BL&LRO, Baghmundi, Purulia duly endorsed by the SDL&LRO, Jhalda and DL&LRO, Purulia on draft appeal petition against the order of the Hon'ble High Court, Calcutta in c/w W.P. No. 20576 of 2018 relating Turga Pump Storage Project.

This is for your kind perusal and necessary instruction as deem fit.

Encl:- 1. The report of the BL & LRO, Baghmundi

Yours faithfully,

[Signature]
District Magistrate
Purulia

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F. No. 8-51/2017-FC
Government of India

Ministry of Environment, Forests and Climate Change
(Forest Conservation Division)

Indira Paryavaran Bhawan,
Jor Bagh Road, Aliganj,
New Delhi - 1100 03.
Dated: 12th April, 2018

To,
The Principal Secretary,
Government of West Bengal,
Kolkata-700 098

Sub: Diversion of 234.00 ha of forest land for construction of 1000 MW Turga Pumped Storage Project of WBSEDCL in Ajodya Hills under Purulia forest Division.

Sir,

I am directed to refer to the State Government's letter No. 3340-For/O/L/10T-12/2017 dated 18.09.2017 on above mentioned subject seeking prior approval of the Central Government under Section-2 of the Forest (Conservation) Act, 1980 and to say that the proposal has been examined by the Forest Advisory Committee constituted by the Central Government under Section-3 of the said Act.

After careful examination of the proposal of the State Government and on the basis of the recommendations of the Forest Advisory Committee, the Central Government hereby conveys the 'in-principle' approval for diversion of 234.00 ha of forest land for construction of 1000 MW Turga Pumped Storage Project of WBSEDCL in Ajodya Hills under Purulia forest Division subject to fulfilment of the following conditions:-

- (i) Legal status of the diverted forest land shall remain unchanged;
- (ii) On analysis on DSS it is observed that the part of Non -Forest land proposed for CA for the project is falling in the category of recorded forest. The status of Non -Forest land proposed for CA shall be clarified along with documentary evidences. State Government shall also analyse the same on BSS prior to submission of clarification to MoEF&CC. The DSS report generated by State Government shall be submitted prior to Stage II approval. It is noted that CA land has been given in 12 patches, which are dispersed in Puruliya & Jalpaiguri districts of West Bengal State. Based on DSS, Out of 12 patches proposed for CA, 6 CA Patches having the Legal status as Forest land.
- (iii) On perusal of item-wise breakup statement submitted by the State Government and in SIR, it is observed that 10.239 ha, 18.387 ha and 8.537 ha have been proposed for Civil structures, Construction facility and other component respectively. State Government shall submit details of these three components. No residential or commercial complexes which are not ancillary and not site specific shall be permitted.
- (iv) Since water is a precious resource, the user agency shall take some measures for creation of water conservation/ harvesting structures in the

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- Catchment Area so that the water to be released for use of communities and agriculture, down streams, is not affected.
- (v) The user agency should also address the stone quarry within the leased area. After extraction of stones, the quarry should be reclaimed with soil and should be vegetated; thereby developing the mined -out land into an ecotourism spot enhancing the ecology & aesthetics of the site.
 - (vi) The User agency may also fence the quarry prior to reclamation to check possible casualty of wildlife due to accidental fall.
 - (vii) The State Govt. may report for additional forest lands required to be diverted for dismantling the irrigation dam and pillars have to be posted there with proper demarcation:
 - (viii) The encroachment, as reported by CCF Northern Circle, West Bengal in The proposed CA area shall be evicted prior to mutation of land in favour of Forest department. State government shall ensure that the Non- forest land shall be free from all encumbrances. A certificate duly signed by the Nodal Officer(FCA) may be furnished in this regard;
 - (ix) State Government shall prepare a wild life conservation plan with special emphasis to avoid Human elephant conflict in the area at project cost. The plan shall be duly approved by CWLW. The Amount shall be deposited in Adhoc CAMPA. The sanctity of elephant corridor shall not be disturbed. All possible mitigation measure to protect the elephant corridor shall be incorporated in wild life management plan.
 - (x) Compensatory afforestation shall be raised over non- forest land equal to the diverted forest land. At least 1000 plants per hectare (234 hectares x 1000 = 234000 plants) shall be planted over identified non-forest land with provision for ten years on subsequent maintenance.
 - (xi) 25% of revised CA cost will be deposited extra by the user agency for soil and moisture conservation (SMC) activities on the CA land.
 - (xii) The land identified for the purpose of CA shall be clearly depicted on a Survey of India topo-sheet of 1:50,000 scale;
 - (xiii) The non-forest land identified for raising compensatory afforestation shall be transferred and mutated in favour of the State Forest Department before issue of the Stage-II clearance and the said non-forest land as identified for raising Compensatory Afforestation shall be notified by the State Government as RF under Section-4 or PF under Section-20 of the Indian Forest Act, 1927 or under the relevant Section(s) of the local Forest Act, as the case may be, within a period of six months. The Nodal Officer (Forest Conservation) shall report compliance in this regard;
 - (xiv) The User Agency shall transfer the cost of raising and maintaining the compensatory afforestation at the current wage rate in consultation with State Forest Department in the account of Ad-hoc CAMPA of the concerned State through online portal. The scheme may include appropriate provision for anticipated cost increase for works scheduled for subsequent years;
 - (xv) The User Agency shall transfer online, the Net Present Value (NPV) of the forest land being diverted under this proposal, as per the orders of the Hon'ble Supreme Court of India dated 28.03.2008, 24.04.2008 and 09.05.2008 in Writ Petition (Civil) No. 202/1995 and the guidelines issued by this Ministry vide its letter No. 5-3/2007-FC dated 05.02.2009. The requisite funds shall be transferred through online portal into Ad-hoc CAMPA account of the State Concerned:

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- (xvi) The User Agency shall pay the additional amount of NPV, if so determined, as per the final decision of the Hon'ble Supreme Court of India;
- (xvii) The approved Catchment Area Treatment (CAT) Plan shall be implemented at the cost of the user agency and commensurate funds shall be deposited through on-line in the account of Adhoc CAMPA account;
- (xviii) The user agency should ensure that the compensatory levies (CA cost, NPV, etc.) are deposited through challan generated online on web portal and deposited in appropriate bank online only. Amount deposited through other mode will not be accepted as compliance of the Stage- I clearance;
- (xix) The Forest clearance will be for a period co terminus with the lease period specified in the lease agreement. The State Government will submit the lease agreement document specified in the lease agreement;
- (xx) The State Govt. ensure that the user agency shall implement the R&R Plan as per the R&R Policy of State Government in consonance with National R&R Policy, Government of India before the commencement of the project work. The said R&R Plan will be monitored by the State Government/Regional Office of MoEF &CC along with indicators for monitoring and expected observable milestones;
- (xxi) The user agency in consultation with the State Government shall create and maintain alternate habitat/home for the avifauna, whose nesting trees are to be cleared in this project. Birds nests artificially made out of eco-friendly material shall be used in the area, including forest area and human settlements, adjoining the forest area being diverted for the project.
- (xxii) The boundary of the diverted forest land, mining lease and safety zone, as applicable, shall be demarcated on ground at the project cost, by erecting four feet high reinforced cement concrete pillars, each inscribed with its serial number, distance from pillar to pillar and GPS co-ordinates;
- (xxiii) The State Government shall complete settlement of rights, in terms of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, if any, on the forest land to be diverted and submit the documentary evidence as prescribed by this Ministry in its letter No. 11-9/1998-FC (pt.) dated 03.08.2009 read with 05.07.2013, in support thereof;
- (xxiv) The user agency shall carry out muck disposal at pre-designated sites in such a manner so as to avoid its rolling down.
- (xxv) The dumping area for muck disposal shall be stabilized and reclaimed by planting suitable species by the user agency at the cost of project under the supervision of State Forest Department. Retaining walls and terracing shall be carried out to hold the dumping material in place. Stabilization and reclamation of such dumping sites shall be completed before handing over the same to the State Forest Department in a time bound manner as per Plan.
- (xxvi) The State Government and the user agency shall ensure that the tress available between full reservoir level (FRL) and FRL-4 meters are not felled;
- (xxvii) The User agency shall undertake afforestation along the periphery of the reservoir;
- (xxviii) User agency shall provide free water for the forestry related projects;
- (xxix) The User Agency shall obtain the Environment Clearance as per the provisions of the Environmental (Protection) Act, 1986, if required;
- (xxx) Any tree felling shall be done only when it is unavoidable and that too under strict supervision of the State Forest Department;

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- (xxx1) The layout plan of the proposal shall not be changed without the prior approval of the Central Government;
- (xxxii) No labour camp shall be established on the forest land;
- (xxxiii) The User Agency shall provide fuels preferably alternate fuels to the labourers and the staff working at the site so as to avoid any damage and pressure on the nearby forest areas;
- (xxxiv) The user agency will abide by the applicable recommendations of the State Government including State Forest/Wildlife Departments;
- (xxxv) The forest land shall not be used for any purpose other than that specified in the proposal;
- (xxxvi) The forest land proposed to be diverted shall under no circumstances be transferred to any other agency, department or person without prior approval of the Central Government;
- (xxxvii) No damage to the flora and fauna of the adjoining area shall be caused;
- (xxxviii) The User Agency shall submit the annual self-compliance report in respect of the above stated conditions to the State Government, concerned Regional Office and to this Ministry by the end of March every year;
- (xxxix) Any other condition that the concerned Regional Office of this Ministry may stipulate, from time to time, in the interest of conservation, protection and development of forests & wildlife; and
- (xl) The user agency shall comply all the provisions of the all Acts, Rules, Regulations, Guidelines, Hon'ble Court Order (s) and National Green Tribunal Order(s) pertaining to this project, if any, for the time being in force, as applicable to the project;

After receipt of the compliance report on fulfilment of the above conditions from the State Government, formal approval will be considered under Section-2 of the Forest (Conservation) Act, 1980. The transfer of forest land to the User Agency shall not be affected by the State Government till formal orders approving the diversion of forest land are issued by the Central Government.

Yours faithfully,



(Sandeep Sharma)

Assistant Inspector General of Forests (FC)

24.16

Copy to:

1. The Principal Chief Conservator of Forests, Government of West Bengal, Kolkata.
2. The Nodal Officer (FCA), O/o the PCCF, Government of West Bengal, Kolkata.
3. Addl. Principal Chief Conservator of Forests (C), Regional Office, Bhubaneswar.
4. User agency.
5. Monitoring Cell
6. Guard file.



(Sandeep Sharma)

Assistant Inspector General of Forests (FC)

24.18



পাশ্চাত্য স্টোরেজ প্রজেক্ট ডিপার্টমেন্ট
West Bengal State Electricity Distribution Company Limited
 (A Government of West Bengal Enterprise)
 Pumped Storage Project Department

FAX : 033 2334-5855
 Telephones : 033 2334-5821/2319-7628
 E-Mail : cepspd@wbseidcl.in, wbseidclpspd@gmail.com

Vidyut Bhavan (5th Floor)
 Block-DJ, Sector-II
 Bidhannagar, Kolkata - 700 091

Memo No. PSPD/2F2/ Turga-Forest (Compliance) / 253

Dated : 08 November 2021

To
 The Divisional Forest Officer,
 Purulia Forest Division,
 Govt. of West Bengal
 Purulia

Sub: 1000 MW Turga Pumped Storage Project in Purulia District of West Bengal
 Report on compliance of all conditions stipulated in In-Principle Approval for
 Diversion of total 234 Ha (578.22 Acres) of Forest Land at Ayodhya Hills in Purulia
 District for implementation of the Project under Purulia Forest Division
 Final Compliance Report

Ref: i) MoEF&CC Forest Proposal No. FP/WB/HYD/8214/2014
 ii) In-Principle Approval accorded vide Govt. MoEF & CC no. 8-51/2017-FC, dt. 12.04.2018

Dear Sir,

With reference to above, the Final Compliance Report of all relevant conditions stipulated in "In-Principle Approval" for Diversion of total 234 Ha (578.22 Acres) of Forest Land at Ayodhya Hills in Purulia District under Purulia Forest Division along with all desired documents and drawings are enclosed herewith for your kind perusal and taking further necessary action towards early diversion of forest land for the project implementation.

This is for your kind information please.

Thanking you.

Encls: Five (05) Sets of Final Compliance Report

Yours faithfully,

[Signature]
 Chief Engineer
 PSPD, WBSEDCL

Dated : 08 November 2021

Memo No. PSPD/2F2/ Turga-Forest (Compliance) / 253
 Copy forwarded for kind information and necessary action:

1. The Addl. PCCF (Central), MoEF&CC, Govt. Eastern Regional Office, Bhubaneswar
2. The Addl. PCCF, CAMPA and Nodal Officer FCA-1980, Govt. of West Bengal
3. Asst. Inspector General of Forests (FC), MoEF&CC, Govt. New Delhi

[Signature]
 Chief Engineer
 PSPD, WBSEDCL

Dated : 08 November 2021

Memo No. PSPD/2F2/ Turga-Forest (Compliance) / 253
 Copy forwarded for kind information and necessary action:

1. The Director (Generation), WBSEDCL, Vidyut Bhavan, Kolkata
2. The C.E., Turga PSP, WBSEDCL, Vidyut Bhavan, Kolkata
3. P.S to CMD, WBSEDCL

[Signature]
 Chief Engineer
 PSPD, WBSEDCL

Website: www.wbseidcl.in

CIN: U40109WB200753013478

Received
 (5 sets)
 Head Clerk
 Purulia Division

[Handwritten notes]
 08/11/2021
 14/11/2021

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Government of India
Ministry of Environment, Forests and Climate Change
(Forest Conservation Division)

Indira Paryavaran Bhawan,
Jor Bag Road, Aliganj,
New Delhi - 110003.

Dated: 13th October, 2022

To

The Principal Secretary (Forest),
Government of West Bengal,
Kolkata-700098

Sub: Diversion of 234.00 ha of forest land for construction of 1000 MW Turga Pumped Storage Project of WBSEDCL in Ajodya Hills under Purulia forest Division.

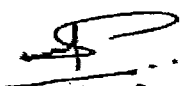
Madam/Sir,

I am directed to refer to the State Government's letter No. 3340-For/O/L/10T-12/2017 dated 18.09.2017 on above mentioned subject seeking prior approval of the Central Government under Section-2 of the Forest (Conservation) Act, 1980 and to say that the above proposal has been examined by the Forest Advisory Committee constituted by the Central Government under Section-3 of the aforesaid Act. After careful consideration of the proposal by the Forest Advisory Committee (FAC) and after its recommendation, and approval of competent authority in the Ministry, In-principle/Stage-I approval was accorded vide this Ministry's letter of even number dated 12.04.2018 subject to fulfillment of certain conditions. The State Government has furnished compliance report in respect of the conditions stipulated in the approval and requested the Central Government to grant final approval.

2. In this connection, on the basis of the compliance report furnished by the Government of West Bengal vide their Letters No.1395-For/O/L/10T-12/2017 dated 22.12.2021, No.314-For/O/L/10T-12/2017 dated 11.03.2022, No.678-For/O/L/10T-12/2017 dated 12.05.2022 and No.1281-For/O/L/10T-12/2017 dated 01.09.2022, approval of the Central Government is hereby accorded under Section-2 of the Forest (Conservation) Act, 1980 for diversion of 234.00 ha of forest land for construction of 1000 MW Turga Pumped Storage Project of West Bengal State Electricity Distribution Company Limited (WBSEDCL) in Ajodya Hills under Purulia Forest Division, subject to following conditions:

A: Conditions which need to be complied prior to handing over of forest land to user agency by the State Govt.:

- i. The State Government shall ensure that the compliance of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 has been completed in accordance with the relevant Rules and Guidelines issued by this Ministry in this regard, before handing over of forest land to the user agency;
- ii. The State Govt. shall ensure that the User Agency will obtain necessary Environmental Clearance, Wildlife Clearance, CRZ Clearance, if required;
- iii. The State Government shall upload the KML files of the area under diversion and the sites identified for compensatory afforestation in the E-green Watch portal, before handing over forest land to the user agency.


13/10/2022

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B: Conditions which need to be complied after handing over of forest land to the user agency by the State Govt.:

- i. Legal status of the diverted forest land shall remain unchanged;
- ii. The State Govt. shall ensure that Compensatory Afforestation over the identified non-forest land of 234 ha. i.e 578.22 Acres, which has been notified as Protected forest vide undermentioned notifications, shall be raised within a period of three years with effect from the date of issue of Stage-II clearance and maintained for ten years thereafter in accordance with the approved plan by the State Forest Department from the funds provided by the user agency. The detail of notifications is as under:

S.N.	Area in Acres	Notification No.
1	62.72	No. 851-For/0/1/10T-12/2017 dated 29.07.2021
2	392.65	No.531-For/O/L/10T-12/2017 dated 25.03.2019
3	122.85	No.412-For/O/L/10T-12/2017 dated 08.03.2019
Total:	578.22	

- iii. State Govt. and the user agency shall ensure to carry out the soil and moisture conservation activities on the area proposed for CA, from the funds provided by the User agency;
- iv. The State Govt. and the user agency shall ensure that no residential or labour colony or commercial complexes shall be constructed over forest land;
- v. The State Govt. shall ensure that the State Forest Department shall implement the approved Catchment Area Treatment (CAT) plan and approved Wildlife Conservation Plan from the funds provided by the user agency;
- vi. The State Govt. ensure that the user agency will carry out muck disposal at pre-designated sites in such a manner so as to avoid its rolling down and the dumping area for muck disposal shall be stabilized and reclaimed by planting suitable species by the user agency at the cost of project under the supervision of State Forest Department. Retaining walls and terracing shall be carried out to hold the dumping material in place. Stabilization and reclamation of such dumping sites shall be completed before handing over the same to the State Forest Department in a time bound manner as per Plan.
- vii. The State Government and the user agency shall ensure that the trees available between full reservoir level (FRL) and FRL-4 meters are not felled;
- viii. The State Government shall ensure that the User agency will carry out afforestation along the periphery of the reservoir and provide free water for the forestry related projects;
- ix. The User Agency shall pay the additional amount of NPV, if so determined, as per the final decision of the Hon'ble Supreme Court of India;
- x. The State Govt. shall ensure that no labour camp shall be established on the forest land and the User Agency shall provide fuels preferably alternate fuels to the labourers and the staff working at the site so as to avoid any damage and pressure on the nearby forest areas;
- xi. The State Govt. shall ensure that the forest land proposed to be diverted shall under no circumstances be transferred to any other agency, department or person without prior approval of the Central Government and the layout plan of the proposal shall not be changed without the prior approval of the Central Government;
- xii. The State Govt. ensure that the boundary of the forest land being diverted will be demarcated on ground at the project cost, using four feet high RCC pillars, each pillar inscribed with the serial number, DGPS coordinates, forward and backward bearings and distance from adjoining pillars etc;


13/10/2022

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- xiii. The State Govt. ensure that the user agency will explore the possibility of translocation of maximum number of trees identified to be felled and any tree felling shall be done only when it is unavoidable and that too under strict supervision of the State Forest Department, and the User Agency will obtain permission for felling of trees as per applicable court orders/Forest Act/Rules/Guidelines;
- xiv. The User Agency shall submit the Annual Compliance Report in respect of the above stated conditions to the concerned Integrated Regional Office and to this Ministry every year regularly;
- xv. The violation of any of these conditions will amount to violation of Forest (Conservation) Act, 1980 and action would be taken as prescribed in para 1.21 of Chapter 1 of the Handbook of comprehensive guidelines of Forest (Conservation) Act, 1980 as issued by this Ministry's letter No. 5-2/2017-FC dated 28.03.2019; and
- xvi. The State Govt. shall ensure that the user agency shall comply with the provisions of all Acts, Rules, Regulations, Guidelines, Hon'ble Court Order (s) and NGT Order (s) pertaining to this project, if any, for the time being in force, as applicable to the project.

Yours sincerely,



(Suneet Bhardwaj)

Assistant Inspector General of Forests (FC)

Copy to:

1. The Principal Chief Conservator of Forests (HoFF), Government of West Bengal, Kolkata.
2. The Nodal Officer (FCA), O/o the PCCF(HoFF) , Government of West Bengal, Kolkata.
3. Regional Officer(C), Integrated Regional Office, Kolkata.
4. User agency.
5. Monitoring Cell of FC Division, MoEF&CC,IPB New Delhi for uploading on PARIVESH.
6. Guard file.

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Annexure-I

FORM-I
Government of West Bengal
 Office of the District, Purulia
 Backward Classes Welfare, Purulia
 Beside SP Office

Memo No.- 968/BCWP

Dated - 13-6-17

TO WHOMSOEVER IT MAY CONCERN

In compliance of the Ministry of Environment, Forest and Climate Change (MoEF & CC), Government of India's letter no. 11-9/1998-FC(pt) dated 3rd August 2009 wherein the MoEF & CC issued guidelines on forest land proposed to be diverted for non-forest purposes read with MoEF & CC's letter dated 5th February 2013 wherein MoEF & CC issued certain relaxation in respect of liner projects on submission of evidences for having initiated and completed the process of settlement of Rights under the Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 ('FRA', for short) on the forest land, it is certified that 234 Hectares of forest land proposed to be diverted in favour of West Bengal State Electricity Distribution Company Limited (Name of the User Agency) for implementation and installation of 1000 MW Turga Pumped Storage Project in Purulia district falls within jurisdiction of Baghmundi, Bareria, Gosaidih, Kudna Mouza in Baghmundi Gram Panchayat and Ranga, Teliabhasa, Hatnada Mouza in Ajodhya Gram Panchayat under Baghmundi Block within Purulia Forest Division.

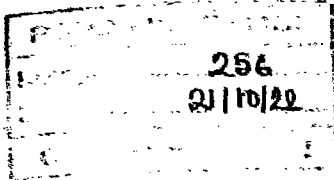
It is further certified that:

- a) The complete process for identification and settlement of rights under the FRA has been carried out for the entire 234 hectares of forest land proposed for diversion. Copies of following letters enclosed,
 - vide no. 1071/BDO/BAG dated 27/03/2017 of BDO, Baghmundi
 - vide no. 182/BAGH/GP dated 23/03/2017 of Baghmundi Gram Panchayat
 - vide no. 22/AGP dated 24/03/2017 of Ajodhya Gram Panchayat
 - vide no. 1891/BDO/BAG dated 05/06/2017 of BDO, Baghmundi
 - vide no. 86/AGP dated 05/06/2017 of Ajodhya Gram Panchayat
- b) The proposal for diversion of forest land has been placed before each concerned Gram Sabha of forest-dwellers, who are eligible under the FRA.
- c) The diversion of forest land for facilities managed by the Government as required under section 3(2) of the FRA have been completed and the Gram Sabhas have given their consent.
- d) Neither any person has been given of patta under the Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006, nor any person is in possession of any portion of the forest land which is required for 1000 MW Turga Pumped Storage Project, Baghmundi, Purulia.

Encl: As Above

District Magistrate,
Purulia





[Handwritten signature]

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Government of West Bengal
Department of Forests
Aranya Bhavan, Block-LA-10A, Sector-III, Salt Lake City
Kolkata-700 106

No. 1526 -For/O/L/10T-12/2017

Kolkata, the 20th October, 2022

ORDER

Sub: Diversion of 234 ha of forest land for construction of 1000 MW Turga Pumped Storage Project of WBSEDCL in Ajodhya Hills under Purulia forest Division

With reference to the In-principle/Stage-I approval accorded by the Ministry of Environment, Forests & Climate Change, Government of India vide its letter No. B-51/2017-FC dated 12/5/2018 and in pursuance of Ministry of Environment, Forests & Climate Change, Govt. of India's letter No. B-51/2017-FC dated 13/10/2022, the undersigned is directed to say that the Governor is pleased to accord Stage-II/final approval under Sec 2 of the Forest (Conservation) Act, 1980, for diversion of 234 ha of forest land in favour of WBSEDCL for construction of 1000 MW Turga Pumped Storage Project in Ajodhya Hills under Purulia Forest Division, subject to the fulfilment of the following conditions:

1. Compliance of Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 has to be completed in accordance with the relevant Rules and Guidelines, before handing over of Forest land to the User Agency;
2. The User Agency will obtain necessary Environmental Clearance, Wildlife Clearance, Coastal Regulatory Zone Clearance, if required;
3. The KML files of the area under diversion and the sites identified for compensatory afforestation shall be uploaded in the E-green Watch portal, before handing over forest land to the User Agency;
4. Legal status of the diverted forest land shall remain unchanged;
5. Compensatory Afforestation over the identified non-forest land of 234 ha i.e. 578.22 acres, which has been notified as Protected Forest vide the under-mentioned Notifications, shall be raised within a period of three years from the date of issue of Stage-II clearance and maintained for ten years thereafter, in accordance with the approved plan, by the State Forest Department from the funds provided by the User Agency. The details of the Notifications are as under:

S.N.	Area in Acres	Notification No.
1	62.72	No.851-For/O/L/10T-12/2017 dated 29.07.2021
2	392.65	No.531-For/O/L/10T-12/2017 dated 25.03.2019
3	122.85	No.412-For/O/L/10T-12/2017 dated 08.03.2019
Total	578.22	

6. The soil and moisture conservation activities on the area proposed for Compensatory Afforestation shall be carried out from the funds provided by the User Agency;
7. The User Agency shall ensure that no residential or labour colony or commercial complexes are constructed over forest land;

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8. The State Forest Department shall implement the approved Catchment Area Treatment (CAT) plan and the approved Wildlife Conservation Plan from the funds provided by the User Agency;
9. The User Agency will carry out muck disposal at pre-designated sites in such a manner so as to avoid its rolling down and the dumping area for muck disposal shall be stabilized and reclaimed by planting suitable species by the User Agency at the cost of project under the supervision of State Forest Department. Retaining walls and terracing shall be carried out to hold the dumping material in place. Stabilization and reclamation of such dumping sites shall be completed before handing over the same to the State Forest Department in a time bound manner as per Plan.
10. The User Agency shall ensure that the trees available between full reservoir level (FRL) and FRL-4 meters are not felled;
11. The User Agency will carry out afforestation along the periphery of the reservoir and provide free water for the forestry-related projects;
12. The User Agency shall pay the additional amount of Net Present Value, if so determined, as per the final decision of the Hon'ble Supreme Court of India;
13. No labour camp shall be established on the forest land and the User Agency shall provide fuels, preferably alternate fuels, to the labourers and staff working at the site so as to avoid any damage of pressure on the nearby forest areas;
14. The forest land proposed to be diverted shall, under no circumstances, be transferred to any other agency, department or person without prior approval of the Central Government and the layout plan of the proposal shall not be changed without the prior approval of the Central Government.
15. The boundary of the forest land being diverted will be demarcated on the ground at the project's cost, using four feet high RCC pillars, each pillar inscribed with the serial number, DGPS coordinates, forward and backward bearings and distance from adjoining pillars, etc;
16. The User Agency will explore the possibility of translocation of maximum number of trees identified to be felled and, any tree felling shall be done only when it is unavoidable and that too under strict supervision of the State Forest Department, and the User Agency will obtain permission for felling of trees as per the applicable Court orders/Forest Act/Rules/Guidelines;
17. The User Agency shall submit the Annual Compliance Report in respect of the above-stated conditions to the Department of Forests and the Integrated Regional Office, MoEFCC, Kolkata every year regularly;
18. The violation of any of these conditions will amount to violation of Forest (Conservation) Act, 1980 and action would be taken as prescribed in para 1.21 of Chapter 1 of the Handbook of Comprehensive Guidelines of Forest (Conservation) Act, 1980, issued by the MoEFCC, Kolkata letter No.5-2/2017-FC dated 28.03.2019; and
19. The User Agency shall comply with the provisions of all Acts, Rules, Regulations, Guidelines, Hon'ble Court Order (s) and NCT Order (s) pertaining to this project, if any, as may be applicable to the project.

Sd/-
Deputy Secretary to the Government of West Bengal

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No. IS21/14 For/O/L/10T-12/2017

Kolkata, the 26th October, 2022

Copy forwarded for information and necessary action to:

- 1) The Additional Chief Secretary, Power Department
- 2) The PCCF (HoFF), WB
- 3) The PCCF & Nodal Officer, FCA, 1980
- 4) The Assistant Inspector General of Forests (FC), Ministry of Environment, Forests & Climate Change, (Forest Conservation Division), Govt. of India, Indira Paryavaran Bhawan, Jorbagh Road, Aliganj, New Delhi-110 003
- 5) The Chief Engineer, PSPD, WBSEDCL, Bidyut Bhawan, Kolkata-700 091


Deputy Secretary to the Government of West Bengal

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Government of West Bengal
Directorate of Forests,
Office of the Divisional Forest Officer,
Purulia Division.

Phone No. : 03252 - 222329 & FAX No. : 03252 - 228323
Email: dfopfd@gmail.com & dfopur-wb@nic.in

No. 3544 /8-5/2(a)

Dated, Purulia, the 12/09 /2019.

From : The Divisional Forest Officer,
Purulia Division.

To : The Chief Engineer,
PSPD.WBSEDCL.

Sub : Enquiry report regarding location of 'Sutan Tandi' within 234 ha of Forest land for construction of 1000 MW Turga Pumped Storage of WBSEDCL in Ajodhya Hill.

Ref. : Your memo no. PSPD/2F1/Turga-Forest(Gen)/293, dated 06.09.2019.

.....

In response to your letter in connection with the location of Sacred Grove namely Sutan Tandi alias Gardham, an enquiry report as submitted by Range Officer, Ajodhya Range which is self explanatory is enclosed for your kind perusal.


Divisional Forest Officer,
Purulia Division.

No. 18-5/2(a)

Dated, Purulia, the /2019.

Copy forwarded for information to:

1. The Chief Conservator of Forest, South-West Circle, West Bengal.


Divisional Forest Officer,
Purulia Division.



Government of West Bengal
Directorate of Forests
Office of the Range Officer
Ajodhya Range
Purulia Division

No:- 230 /AJ- 28,

Dated- Ajodhya, the 10 /09/19.

To,
The Divisional Forest Officer,
Purulia Division,
Purulia.

Sub:- Enquiry Report regarding location of Sutan Tandi.

Ref:- Your Memo No:- 3500/8-5/2(a), Dt:- 09.09.2019 in connection with the Memo No:- PSPD/2F1/Turga-Forest (Gen)/298, Dt:- 06.09.2019. of the Chief Engineer, PSPD, WBSEDCL.

Sir,

Referring to the above mentioned references and subject to enquire the location of the sacred grove namely Sutan Tandi alias Gardham, for your kind information it is to report that the GPS data of the said spot is N- 23°12'27.38196" (Lat), E- 86°7'14.21184" of which a spot-photo is enclosed here with as your ready reference.

And also to report for your kind information, one of the nearest boundary-spots of the projected area locates at N-23°12'50.14584", E- 86°5'28.8528" of which a spot-photo is enclosed here with.

The approximate distance difference between the said sacred grove and nearest boundary spot is 2.5 to 3.0 km.


Range Officer,
Ajodhya Range.

**RANGE OFFICER
AJODHYA RANGE**



632

Government of West Bengal
Office of the Additional District Magistrate
& District Land & Land Reforms Officer.
At- Raghobpur, Purulia, 723101
Ph No 03252-222560
Telefax- 03252-222782

পশ্চিমবঙ্গ সরকার
অতিরিক্ত জেলা শাসক ও
জেলা ভূমি ও ভূমি সংস্কার আধিকারিকের কার্যালয়,
পূরুলিয়া, ৭২৩১০১
Email : dllropr19@gmail.com

Memo No. X/4 / 1009 / Con. 2019

Dated , Purulia the 20th September 2019.

From: The Additional District Magistrate
&
District Land & Land Reforms Officer.
Purulia

To: The District Magistrate, Purulia

Sub: Physical verification report regarding presence of any dwelling house or homestead within the entire project area boundary of 1000 MW Turga Pumped Storage Project proposed to be implemented by WBSEDCL.

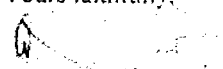
Sir,


Enclosed please find herewith the enquiry report in connection with the subject mentioned above submitted by the BL&LRO, Bagmundi vide his Memo No. 248/BL&LRO/Bag/19 dated 19.09.2019. The matter has been verified by the SDL&LRO in-charge, Jhalda and the Deputy District Land & Land Reforms Officer, Purulia.

This is for your kind perusal and taking necessary action.

Encl: As stated above.

Yours faithfully,


Additional District Magistrate
&
District Land & Land Reforms Officer,
Purulia


20/9/19

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Report (after field verification) on the factual points of the draft petition against W.P. no:- 20576 of 2018, Calcutta high Court relating to Turga Pump Storage Project, with reference to the memo no :- 1601/BCWP/ Dt. 18/09/2019 of project officer cum District Welfare Officer, Back ward Classes Welfare, Purulia.

As directed by the the Additional District Magistrate and District Land & Land Reforms Officer, Purulia the undersigned visited the spot pertaining to Mouza :- Ranga, JL.no- 106 Plot no:- 117 in presence of Sri Dipak Kumar Mondal, Dy. DL&LRO, Purulia the BL&LRO, Bagmundi, R.I. Bagmundi and Amin, Bagmundi was also present.

It was found on the spot that Sri Rabi Besra and Budhun Besra, the two writ petitioner have their dwelling house with farming land on plot no:- 117 of Mouza :- Ranga, JL. no- 106 with an area 0.40acre.

The BL&LRO Bagmundi was instructed to send a field enquiry report on the point whether the homestead of Sri Rabi Besra, Budhun Besra and Rupchand Majhi, Somchand Majhi lies within the Turga Pump Storage Project.

Received the report of the BL&LRO, Bagmundi and it appears that the homestead of Rabi Besra and Budhan Besra is outside the the boundary of the land to be diverted for Turga Project. It also came to light from the report that Rupchand Majhi and Somchand Majhi are not a Patta holder on the plot no:- 117. They are not the recorded owner of plot no:- 157 which is a rayati plot and is far away from the Project site.

The undersigned is agreed with the report of the BL&LRO, Bagmundi

Submitted by

Encl:- 1) Copy of the report of the BL&LRO
2) Copy of ROR, 3) Copy of Site plan.

 20/9/19
SDLLRO, JHALDA.

To

The ADM & DL&LRO, Purulia.



GOVERNMENT OF WEST BENGAL
OFFICE OF THE BLOCK LAND & LAND REFORMS OFFICER,
BAGHMUNDI, PURULIA

Memo No 248 /BL&LRO/Bag/19

Date: 19/09/2019

To
**The Additional District Magistrate and
District Land & Land Reforms Officer
Purulia**

Sub: Physical verification report regarding presence of any dwelling house or homestead within the entire project area boundary of 1000 MW Turga Pumped Storage Project proposed to be implemented by WBSEDCL.

Sir,

This is to report that as per your kind order, physical verification has been done on 17.09.2019 by the undersigned in connection with the subject matter noted above. After site inspection it is observed that Rabi Besra and Budhun Besra have their homestead over plot no. 117 of Mouza-Ranga, J.L-106, PS: Bagmundi. It is to state that they have received "Forest Patta" measuring area 0.40 Acre (40 Decimal) in the said plot and the patta is recorded in favour of them. It is also state that the Plot No. 117 is a big plot measuring area 204.87 Acre out of which land measuring 80.65 Acre (32.64 Ha) is acquired at the said Project area. It is observed that the homestead of Rabi Besra and Budhun Besra is outside the boundary of the land to be diverted for Turga Project. It is also mentioned that Rabi Besra and Budhun Besra both are husband & wife and got joined Patta on the said Plot. It may also be noted that, Rupchand Majhi and Somchand Majhi are not the Patta holder on the plot no. 117 and Plot no. 157 is a Raiyoti plot and is far away from the Project site also not concern with the Project.

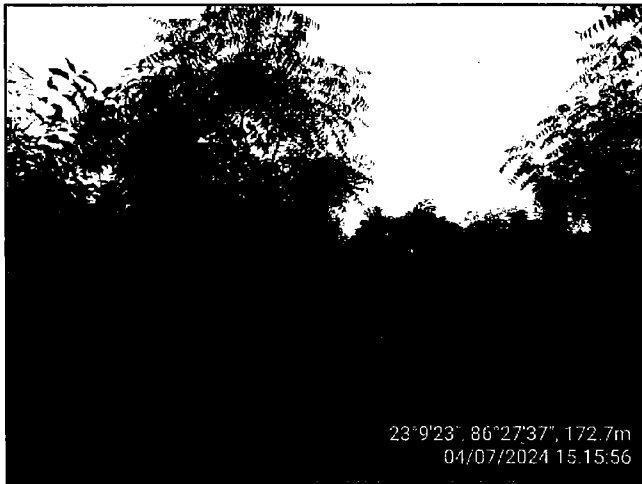
So, the plots of Rabi Besra, Budhun Besra, Rupchand Majhi and Somchand Majhi will no way be affected for the project.

This is for favour of your kind information

[Signature]
19/09/19
Block Land & Land Reforms Officer,
Bagmundi & Land Reforms
Officer, Bagmundi

8141
20/9/19

Compensatory Afforestation at Plot no. 412, Mouza – Durku, Block – Manbazar-I, District – Purulia under Kangsabati (South) Forest Division, Purulia



Compensatory Afforestation at Plot no. 789 & 1717, Mouza – Dhabani, Block – Pancha, District – Purulia under Kangsabati (North) Forest Division, Purulia

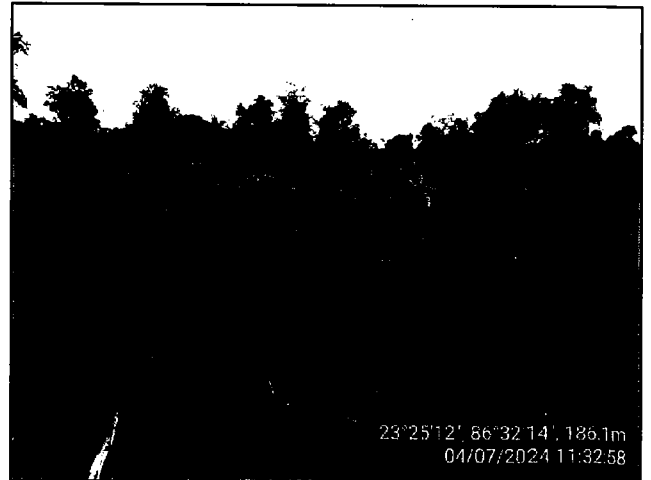


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Compensatory Afforestation at Plot no. 1270, Mouza – Hariharpur, Block – Pancha, District – Purulia under Kangsabati (North) Forest Division, Purulia

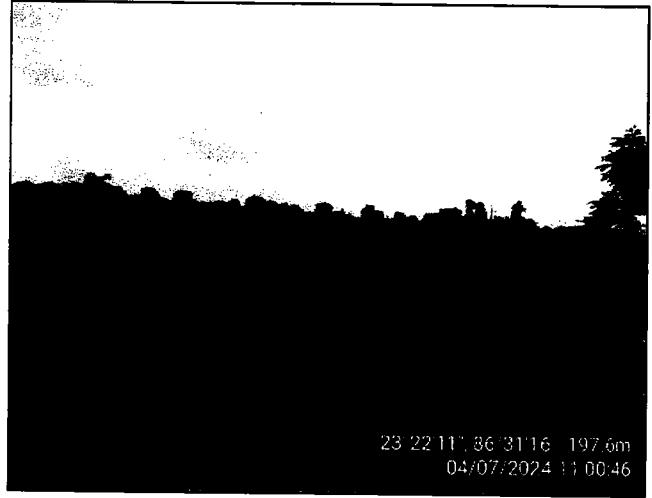


Compensatory Afforestation at Plot no. 2150, Mouza – Madhabpur, Block – Hura, District – Purulia under Kangsabati (North) Forest Division, Purulia

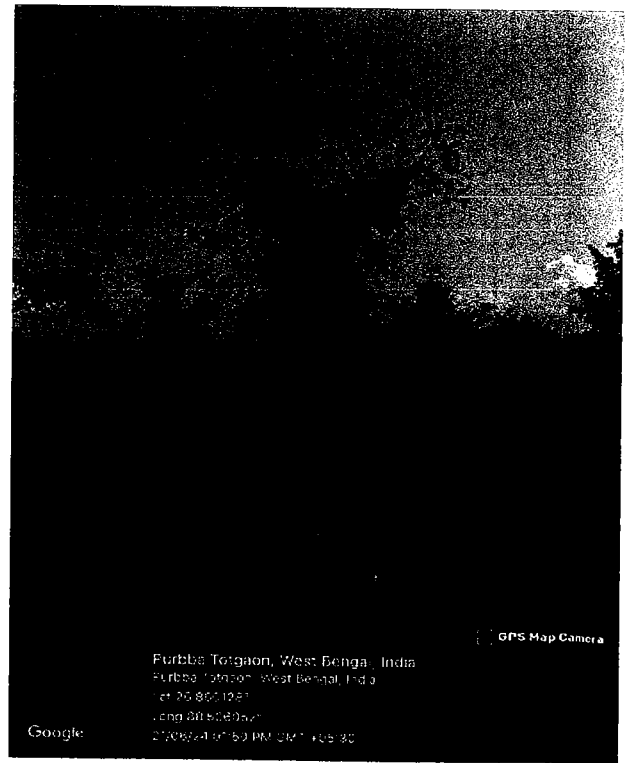
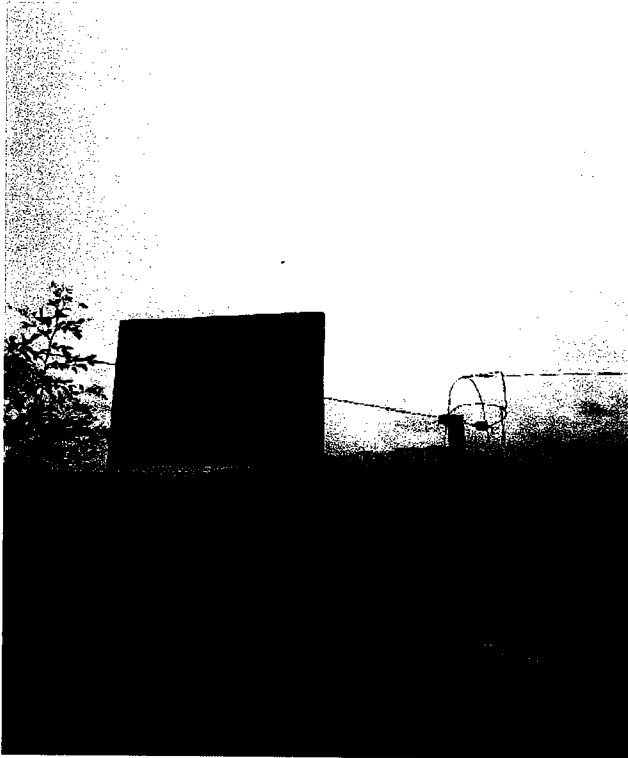


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Compensatory Afforestation at Plot no. 487, Mouza – Saharjuri, Block – Hura, District – Purulia under Kangsabati (North) Forest Division, Purulia



Compensatory Afforestation at Plot no. 24(P), 25 to 38, Mouza – Purba Totegaon, Block – Mal, District – Purulia under Baikunthapur Forest Division, Jalpaiguri



Received No. 260
Date: 04.03.24
Office of the Chief Engineer & Project
Manager, P.P. WBSEDCL
Bagmunda, Cuttack - 753152
Signature: _____

R-9
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বিষয় : ইন্ডিয়া প্রজেক্ট: অসম্পূর্ণ করার জন্য আবেদন পর : 741

স্বাক্ষর

আবেদনকারী এলাকার আধিকারী P.P S.P প্রজেক্ট: ইন্ডিয়াতে বেশ কিছু অঞ্চলের উন্নতি রয়েছে বিভিন্ন দিক থেকে। যেমন- রাস্তা ঘাট, পৌকম পাট, হোমলেট, লক্ষ্য, টুরিস্ট দেয়কে সাইড করা, টুরিস্টদের গাড়িতে টাঁদা তোলা, নিজেস্ব গাড়ি চুরিটোকে ফ্রেশ করালা ইত্যাদি। এই P.P.S.P- এর কাজের সাফল্যের পর পশ্চিমা বঙ্গ সরকার থেকে ইন্ডিয়া প্রজেক্ট করার চেষ্টা করা হচ্ছে। এছাড়া সামগ্রী স্থানিচি তে এই প্রজেক্ট করার জন্য বিভিন্ন দপ্তর থেকে সরকারি অনুমোদন পাওয়াগে আমাদের এলাকার বেশ কিছু বেকার যুবক ছেলেরা প্রজেক্টের বিভিন্ন সার্ভের কাজে অনেক দির্ঘে নিযুক্তি ছিল। পূর্বের প্রজেক্টে ইন্ডিয়াতে পর্যটকদের আদায়ন অনেক বেশি দেখা যাচ্ছে। যার ফলে তাথোবিয়া পাহাড় বাসিন্দা বিভিন্ন ধরনের ব্যবসা বাণিজ্য করতে আগ্রহ বাড়ছে। এলাকার অনেক পরিবার আর্থিক দির্ঘে থেকে অসহকারী পরিবর্তন হয়েছে। বর্তমানে সামগ্রী জুঙ্গলের কাঠ জাঁটে যাচারে অসহায় হলে বিক্রী করে জীবন জীবিকা নিবাহ করা থাকি। সঁতে হাজারাদের চাহিদা মেটে না। যদি ইন্ডিয়া প্রজেক্ট হয়, তাহলে সামগ্রী বিভিন্ন ধরনের ব্যবসা বাণিজ্য করতে শিখবে এবং জুঙ্গল কাট অসহকারী কমবে। শিক্ষা স্বাস্থ্য ও জীবিকার জ্ঞান অনেক পরিবর্তন হবে। কিছু বাইরের লোকের জোড়ত আমাদের এলাকার বেশ কয়েকজন ছেলেদেরকে সঁচি: করে বিভিন্ন ধরনের উপপ্রচার চালাচ্ছে। তাতে বিভিন্ন প্রজ্ঞাসনিক দপ্তর তাবছে অসহবিয়া পাহাড় বাসিন্দা ইন্ডিয়া প্রজেক্ট চাই না। চন্দ্রাধর ওটা সম্পূর্ণ ছিল। বেজির ডোন বাইরে লোককে দেখিয়ে প্রজেক্ট আর্থিকারির কাছে হুস্তি আত্র টাকা রেজার গেন। ইন্ডিয়া প্রজেক্ট ইন্ডিয়াতে আমাদের তে দাবি অসহু আছে তা নিহ দিলাম-

- 1) প্রজেক্ট ইন্ডিয়াতে তে পরিচালন কম জুঙ্গল নষ্ট হবে তার বিপুল বৃদ্ধারোপন করতে হবে।
- 2) এলাকা উন্নয়নের জন্য তে কাজেট খঁরা হয়েছে সম্পূর্ণ পাহাড় এলাকাতই কাজ করতে হবে।
- 3) প্রজেক্ট জালদা প্রায়গুলি থেকে শিক্ষাগত যোগ্যতা এবং কাজের দক্ষতা বিচারে ১০% ছেলে/মেয়েরা কাজের সুযোগ দিতে হবে।
- 4) জামাদের এলাকাতই কি বিদ্যেৎ অধ্যাপনা দিতে হবে।
- 5) জ্বলনষ্ট কারি কৃষিদের কাজের উত্খাধিকার দিতে হবে। এই দাবি অসহুগুলি পূরণ হলে অসহবিয়া পাহাড় বাসিন্দা সঁচি: অসহবিয়া গরবে না।

- Copy to
- 1) S.P. India
 - 2) S.P. Pancha
 - 3) S.P. Bagmunda
 - 4) S.P. Bagmunda
 - 5) P.P. S.P. Office

অতিরিক্ত স্বাক্ষর/স্বাক্ষর নিকট ইন্ডিয়া প্রজেক্টের আবেদন যাতে-2024 জালের নার্কে ইন্ডিয়া প্রজেক্টের কাজ শুরু হবে এবং অসহবিয়া পাহাড় বাসিন্দা ইন্ডিয়া প্রজেক্টে কাজের সুযোগ পাওয়া জামাদে জন্য অসহবিয়া গরবে না।

স্বাক্ষর

অসহবিয়া পাহাড় বাসিন্দা স্বাক্ষর/স্বাক্ষর
Bali Bar Normo 09/03/2024
Mob: 9322907889

538A

Date: 04.03.2024

To
The District Magistrate, Purulia,
West Bengal.

Sub: Turga Pumped Storage Project.

Sir,

This is to inform you that due to the said Turga Pumped Storage Project in the said Bagmundi area is going up so much improve in different ways, like- there are so many new shop, tourist lodge, hotels, home stays are build and also road conditions are also improved. Due to construction of so many hotels, tourist lodge our unemployed poor people are also getting employment in the said Hotels, tourist lodge and their livelihood are totally dependent upon the said project. Not only that so many tourists are coming all over the year due to see the said project and the business of the said area are also running successfully over the year.

It is also noted that some unknown outsiders tried to misguide the people of the said Bagmundi Gram regarding the disadvantage of the said project and they are trying to close the said project. If the said project will close then we the people of the said Bagmundi Gram will face irreparable loss and our livelihood will also hampered.

The said outsiders also called several meeting and try to misguide us and for that the Government Department think that the people of the said Bagmundi Gram do not want to complete the said Turga Pumped Storage Project. It is totally wrong, we want to complete the said Turga Pumped Storage Project, but we have some conditions and our humble request to you please fulfill our conditions which are going below:-

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- i) Government should go for more plantation in the said area.
- ii) Government should employed 80% employee from our village.
- iii) Total sanctioned money should be used for only the said project as well as the development of the said Hill area.
- iv) Government should supply free electricity connection in our area.
- v) Due to this project the villagers whose land was destroyed they should give the first preference for employment in the said project.

So, our humble request to you kindly complete the said Turga Pumped Storage Project and for that the villagers of the said area should get some benefit which will be help for their daily livelihood.

Yours faithfully

Satdhi

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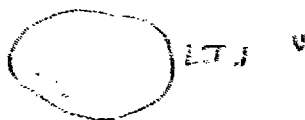
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संख्या

प्राप्त

2 29 / 27/11/2017

287) कालिदास मंदिर

288) महा मंदिर

289) अन्नदाता मंदिर

290) Sannath mandir

291) Bhakti - Muzum

292) Purna chandra Mandir - Tarapur

293) कालिदास मंदिर - Tarapur

294) Padmasani Mandir

295) सुभाष मंदिर

296) 20/12 मंदिर

297) सुभाष मंदिर

298) Bhoj Mandir

299) सुभाष मंदिर

300) सुभाष मंदिर

301) सुभाष मंदिर

302) Nalini Mandir

303) कालिदास मंदिर

304) Amberhali Mandir

305) Champa Rani Mandir

306) कालिदास मंदिर

307) सुभाष मंदिर

308) Sannath Mandir - 7872826039

309) कालिदास मंदिर

310) सुभाष मंदिर

311) सुभाष मंदिर

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289/ Shikha Kamborani

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290/ Shakti Pada Kisku

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291/ Subhadra Singh Barduar

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292/ Subhadra Kishore

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293/ Rajen Sharma

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294/ Rishon Kisku

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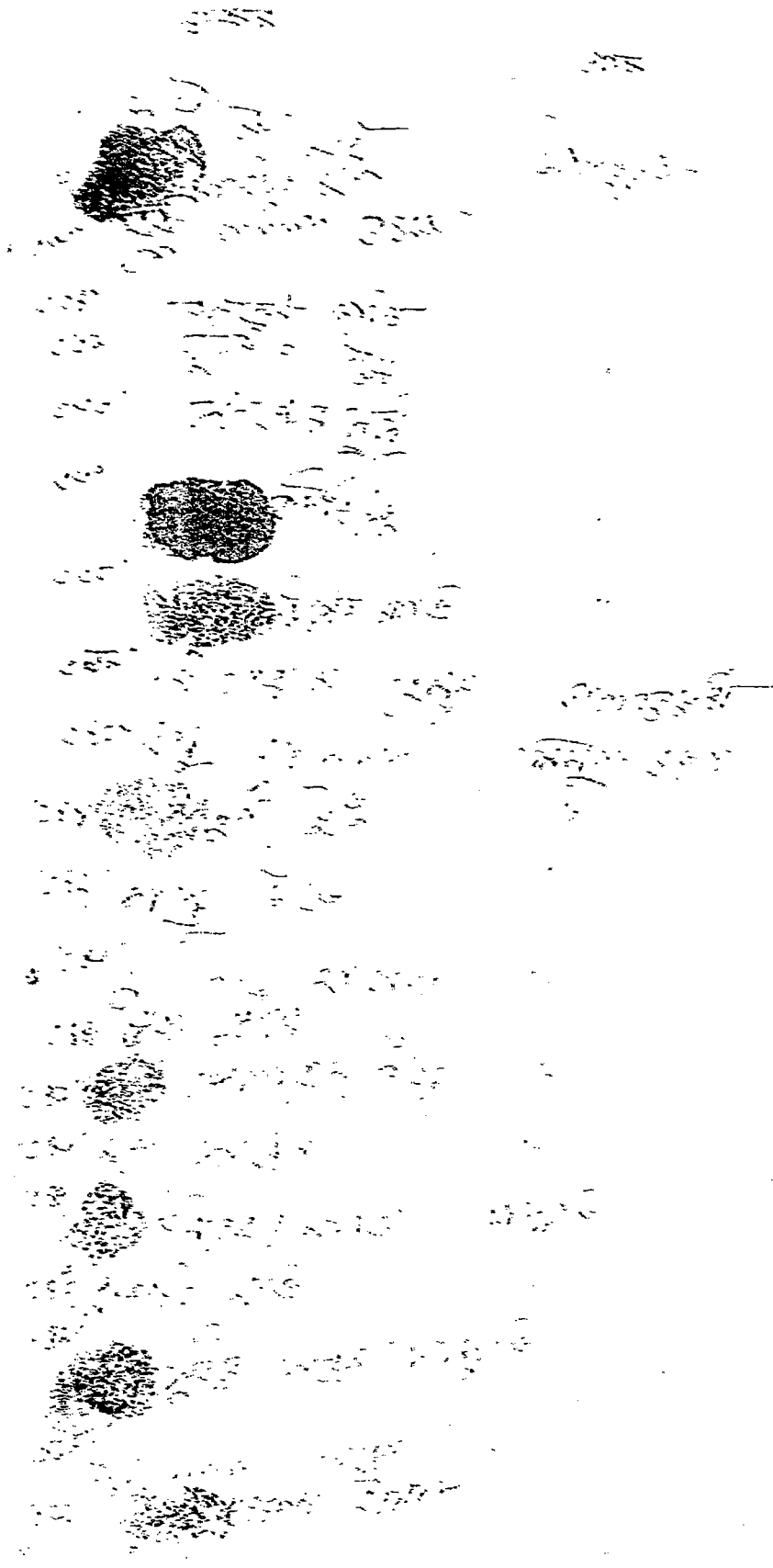
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୩୧୭	Sushanta Mandir	"
୩୧୮	କାଳିକା ମନ୍ଦିର -	ସିଦ୍ଧିନାଥ ମନ୍ଦିର
୩୧୯	ଅକ୍ଷୟ ମନ୍ଦିର -	"
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DISTRICT : PURULIA**IN THE HIGH COURT AT CALCUTTA****CIVIL APPELLATE JURISDICTION****Memorandum of Appeal from Original Order under Clause 15 of
the Letters Patent No. of 2019****M.A.T.NO. 1156 OF 2019**

1. West Bengal State
Electricity Distribution
Company Limited, a
Government of West Bengal
Enterprise, having its
corporate office at Bidyut
Bhawan, Block-DJ, Sector-II,
Salt Lake, Kolkata-700 091.

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2. The Chief Engineer, West Bengal State Electricity Distribution Company Limited, Pumped Storage Project Department, having its office at Bidyut Bhawan, Block-DJ, Sector-II, Salt Lake, Kolkata - 700 091.

.. Added Respondent Nos. 8
and 9/ Appellants

Versus

1. Rabi Besra, son of late Birsingh Besra, residing at Village-Barelchor, P.O. Ranga, West Bengal, Pin-723152

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2. Muniram Saren, son of
Rupchand Saren, residing at
Village-Barelhor, P.O. Ranga,
West Bengal, Pin-723152.

3. Sushil Murmu, son of
Somchand Murmu, residing at
Village-Barelhor, P.O. Ranga,
West Bengal, Pin-723152

..... Writ Petitioners/

Respondents

4. The State of West Bengal,
service through the Chief
Secretary, Government of West
Bengal, having its office at
Nabanna, HRBC Building,

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325, Sarat Chatterjee Road,
Howrah-711102.

5. The District Magistrate,
Purulia, Government of West
Bengal having its office at
Office of the District
Magistrate, Purulia, Bus Stand
Road, West Bengal Pin-723101

6. The Block Development
Officer, Baghmundi, having its
office at Block Development
Office, Baghmundi, Pathardi,
West Bengal Pin-723152

7. The Divisional Forest
Officer, Purulia Division,
having his office at office of the

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Divisional Forest Officer,
Purulia Division, Pin-723101.

8. The Principal Chief
Conservator of Forest and
HoFF, Government of West
Bengal, having its office at
Aranya Bhavan, Block-
LA/10A, Sector-III, Salt Lake,
Kolkata-700 098.

9. The Secretary, the Tribal
Development Department,
Government of West Bengal,
having its office at DJ-4,
Sector-II, Administrative
Building, 5th floor,

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Bidhannagar, Salt Lake,
Kolkata-700 091.

10. The Secretary, Ministry
of Environment, Forests and
Climate Change, Government
of India having its office at
Indira Paryavaran Bhawan,
Jorbagh Road, New Delhi-
110003.

..... Respondents

Being aggrieved by and/or dissatisfied with the judgement and
order dated 2nd July, 2019 passed by the Hon'ble Justice
Debangsu Basak in W.P. No. 20576 (W) of 2018 (Rabi Besra &
Ors -Vs- State of West Bengal & Ors.), the appellants beg to
prefer this Memorandum of Appeal in this Hon'ble Court under
Clause 15 of the Letters Patent on the following amongst other:-

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GROUNDS

- I. For that the Hon'ble Judge failed to appreciate the facts and points of law involved in the case in the correct and proper perspective, and, thereby erred in law in passing the impugned Judgment and allowing the writ petition.

 - II. For that the Hon'ble Judge was wrong in quashing the 'in principle' approval granted by the Central Government being Annexure-P/2 to the writ petition, as also the resolution of the Gram Sabhas, and the permission granted by the State Government, being Annexure-P/4 to the writ petition and failed to consider the provisions of Law applicable to the instant case, and applied wrong the provisions of the Schedule Tribes and other Traditional Forest Dwellers
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(Recognition of Forest Rights) Act, 2006 in connection with the same.

- III. For that the Hon'ble Judge approached the issue in the case entirely from wrong angle and decided the same by applying inapplicable laws.
 - IV. For that the judgement is inter se inconsistent and contradictory.
 - V. For that when admittedly none of the petitioners reside within the project area measuring 234.00 hectares in respect of which the 'in-principle' approval for diversion of 234.00 hectares was granted by the Central Government and when there is no positive assertion either in the writ petition or in the supplementary affidavits filed by the writ petitioners before the Hon'ble Trial Judge, nor, was any document produced or
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annexed to show that the petitioners reside within the project area, the Hon'ble Trial Judge failed to consider that there was no scope of the respondents/ writ petitioners of being evicted and/or displaced from their respective dwelling houses, and they have no locus standi or legal right to challenge the "in-principle" approval granted under Section 2 of Forest (Conservation) Act, 1980.

- VI. For that the Hon'ble Trial Judge erred in holding that permission under the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 was required to be obtained from the Competent Authority under the said Act of 2006 at the stage of grant of "in principle" approval by the Central Government.

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VII. The Hon'ble Trial Judge failed to consider that the 'in-principle' approval (Stage - I) for diversion of 234.00 hectares was granted by the Central Government under section 2 of the Forest (Conservation) Act, 1980 and under the provisions of the rules of the Forest (Conservation) Rules, 2003 but not under the provisions of 2006 Act or the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007, which issue would arise at the later stage of issuance of permission and/or "Final" clearance under Stage-II by the Competent Authority, authorizing the implementing Authority to commence actual physical work in the said Pumped Storage Hydel Project.

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- VIII. For that the Hon'ble Trial Judge totally overlooked that the 'in-principle' approval for diversion of 234.00 hectares Forest Land itself speaks of approval was granted under section 2 of the Forest (Conservation) Act, 1980 and not under Act of 2006, and, so the order of the Hon'ble Judge is wholly wrong on and unsustainable basis.
- IX. For that section 3(2) of said Act of 2006 has no manner of application to a Project of more than 1 hectares and in the case of the instant project the area is 234.00 hectares, which the Hon'ble Trial Judge failed to consider and appreciate.
- X. For that the Hon'ble Trial Judge overlooked that the 'in-principle' approval for diversion of 234.00 hectares was

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granted by the Central Government by Memo. dated 12th April, 2018, being Annexure-P/2 to the writ petition and which was the subject matter of challenge in the writ petition was not granted under Act of 2006 but under the Forest (Conservation) Act, 1980.

- XI. For that the decision of the Hon'ble Single Judge that the project spoken of, contemplated and sought to be implemented by the respondent no. 8 can be construed to be a non-conventional source of energy and therefore, coming within the purview of Section 3(2) of the said Act of 2006 is wholly erroneous, and without advertence to the proviso thereof.
- XII. For that the Hon'ble Single Judge while considering the scope of sub-section (2) of section 3 of the Act of 2006, totally failed to consider the scope of sub-section (2) of

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section 3 of the said Act of 2006 which starts with a "non-obstante" clause and the first proviso thereto.

- XIII. For that the Hon'ble Single Judge erred in proceeding on the basis of oral submissions made on behalf of the writ petitioner at the hearings of the writ petition, that the project area covers numerous Gram Sabhas and that apart from two Gram Sabhas, in question, there are at least 15 others in the locality, although, no document was produced in support of the said submissions, nor was there was anything on record to suggest the same, and, the impugned judgment and order are on assumptions and presumptions without any corroborating evidence in support of the same.
- XIV. For that the Hon'ble Single Judge did not even consider the documents disclosed by the writ petitioners at
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pages 44-45 and 47 of the writ petition, wherefrom it would appear that the entire project area covers only seven Mouzas; namely: - Baghmundi (Sheet-1, Sheet-2, Sheet-3 and Sheet-4), Hatinada (Sheet-1), Gosaidih, Ranga, Teliabhasa (Sheet-2), Barriya (Sheet-1, Sheet-4) and Kudna (Sheet-3), and project area covers some plots in full and some plots in part, and thereby erroneously passed the order contrary to admitted facts.

- XV. For that the Hon'ble Single Judge failed to consider that the resolutions of the two Gram Panchayets disclosed in the writ petition at pages 47 to 53 would show that the resolutions of two Gram Panchayets were taken covering all seven Mouzas viz: Baghmundi Gram Panchayets in respect of Mouzas: Baghmundi (Sheet-1,

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Sheet-2, Sheet-3 and Sheet-4), Gosaidih, Barriya (Sheet-1, Sheet-4) and Kudna (Sheet-3), and, Ajothya Gram Panchayets, took resolutions in respect of Mouzas: namely, Hatinada (Sheet-1), Ranga, Teliabhasa (Sheet-2), and, as such, the finding of the Hon'ble Single Judge that "the project area covers numerous Gram Sabhas and the Court is informed that apart from two Gram Sabhas, there are at least 15 others in the locality and there is nothing on record to suggest that, resolutions were taken by each and every gram sabha affected by the project" are factually incorrect.

- XVI. For that from the supplementary affidavit affirmed on 8th April, 2019 it would appear that respondent/writ petitioner no. 1 alongwith Budhun Besra are the owners and possessors of 40 decimals (0.40 acres) of

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lands in respect of plot no. 117 of Mouza: Ranga, and, that the father of the respondent/ writ petitioner no. 2, Rupchand Majhi is the owner and possessor of 0.3333 acres of lands in respect of plot no. 157 in Mouza: Ranga, and, that father of the respondent /writ petitioner no. 3, Somchand Majhi is the owner and possessor of various plots of lands in Mouza: Ranga, but, none, of which come within the scope or ambit or within the Project Area envisaged in the Hydel Project in respect of which the "in-principle" clearance was issued.

- XVII. For that it would appear from document at page 44 of the writ petition that only four plots viz: plot nos. 117 having an area of 32.64 hectares, plot No. 544 having an area of 1.042 hectares, Plot No. 545 having an area

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of 0.769 hectares and Plot No. 571 having an area of 1.868 hectares all in Mouza: Ranga, fall within the project area, and, from Page 46 of the writ petition it would further appear that parts of all those plots were included in the said project, with which the respondents/ writ petitioners had no interest or claim whatsoever.

XVIII. For that out of the aforesaid four plots of lands in Mouza: Ranga, parts of which are included in the project, the respondent / writ petitioner No.1 is the patta holder of plot no. 117 of Mouza: Ranga measuring 20 decimals (0.20 acres) only, while total area of the said plot no. 117 of Mouza: Ranga is about 208.72 acres, and, the portion of the lands of the respondent/ petitioner no.1 is situated far away at a distance of

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about 500 metres from the boundary line of the Project Area as per Report of the Block Land and Land Revenue Officer, Baghmundi, and, so far as the respondents/petitioners nos. 2 and 3 are concerned their lands do not fall at all within any portion within or near the project area and so the respondents/ writ petitioners are not affected persons and will not be displaced from their dwelling and cultivation activities, and/or cannot have any grievance in respect of diversion of forest lands for the project in question, which the Hon'ble Single Judge wholly failed to consider and appreciate.

- XIX. For that the Hon'ble Single Judge was wholly wrong in holding that the starting point of implementation of the project in the area governed by the Act of 2006 is a requisite resolution of Gram Sabha affected by such

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project and in the present case purportedly all the Gram Sabhas did not take the appropriate resolution under the said Act of 2006, the same was vitiated, is wholly erroneous in as much as the said project is not at all governed by the said Act of 2006, which would apply only after the grant of the "in-principle".

- XX. For that the Hon'ble Single Judge failed to consider and appreciate that when in the instant case that as per the provisions contained in Sections 6 and the relevant subsections thereunder, of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 it has been clearly specified therein that the decision of the District Level Committee, of which the concerned District Magistrate is the Chairperson, as per the constitution of the State

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Government made under Rule 1 of the Scheduled tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007, as to the forest rights of any person, shall be final and binding, and, when the said Chairperson of the said Committee had specifically stated that neither any person has been given any patta or forest right under the Act of 2006, nor, any person is in possession of any portion of the forest lands of 234.00 hectares in 1000 MW Turga Pumped Storage Project, Baghmundi, Purulia, as appearing from the letter No. 968/BCWP dated 13-6-17, being Annexure "P/4" of the said writ petition which the Hon'ble Single Judge wholly failed and neglected to consider and/or appreciate, and unlawfully set aside the same.

XXI. FOR THAT, when as per the provisions of Rule 6(e) (ii) of the Forest Conservation Rule, 2003, the District

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Collector obtained consent of each Gram Sabha having jurisdiction over the whole of the forest lands indicated in the proposal for the diversion of such forest lands and compensatory and ameliorative measures, if any, under the said Project, and the said District Collectors, having understood the purposes and details of diversion, wherever required, came to the finding that as there was no resettlement and/or displacement issue arose, the functionality of Gram Sabhas did not arise, which the Hon'ble Single Judge wholly failed to consider and appreciate.

XXII. FOR THAT, the Hon'ble Single Judge failed to consider and appreciate that as per the provisions contained in sub-clause (e) of Sub-Section (2) of Section 4 of the said Forest Rights Act, of 2006, that consent of the Gram Sabhas of the areas was required for any proposed

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resettlement causing displacement only and did not at all apply to the instant Project in as much as there was no inhabitants or forest dwellers within the said Forest Area of 234.00 hectares for the said Project, and, thus, no question of any resettlement or forest dwellers being evicted or displaced from their dwelling and cultivation arose in this case.

XXIII. For that the Hon'ble Single Judge failed to appreciate that the functions and duties of the concerned District Collector and/or the concerned gram sabhas in respect of any forest land under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is for compensatory and ameliorative measures, if any, for verification of the Records of Forest Rights and title of any claimants under the said

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Act, 2006, if there are any resettlement issues in respect of diversion of forest land, and for the aforesaid Pumped Storage Hydel Project involving 234.00 hectare of forest land, upon verification of the concerned plots and the pattas granted under the Act of 2006 to any person in possession of any part of such forest lands and confirm that the said Project of the appellants did not involve displacement nor did it affect any person in the forest areas, within the Project area, and, as such, the question of resettlement and/or compensatory or ameliorative measures did not arise at all in the instant case as none of the concerned patta holders were in any way affected by the Project in question, as none resided within the forest lands concerned in the said Project.

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- XXIV. FOR THAT the Hon'ble Single Judge erred in holding that the 'in-principle' approval granted by the Central Government falls in view of the absence of requisite resolutions of the Gram Sabhas.
- XXV. FOR THAT the Hon'ble Single Judge did not at all consider the provisions of Rule 6 and the various sub-rules of Rule 6 (e) of the Forest (Conservation) Rules, 2003, which are applicable in this case, and, specifically provides for consent of gram sabhas covering a part of the forest lands in the Project in question of 234.00 hectares of forest lands,—as such, the Order of the Hon'ble Single Judge is wholly erroneous and wrong.
- XXVI. FOR THAT the Hon'ble Single Judge did not at all consider the affidavit-in-opposition of the appellants
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wherein the details about the steps taken by the appellants and the requisite documents submitted therewith starting from submission of application for granting of 'In-principle' approval and all subsequent steps taken towards compliances of the conditions imposed in the 'In-principle' approval alongwith development of the Forest Area and the surroundings have been disclosed by the appellants therein in detail.

XXVII. FOR THAT the Learned Trial Judge erred in allowing the writ petition.

XXVIII. For that the Hon'ble Trial Judge failed to appreciate and follow the law settled by the Hon'ble Apex Court of the country that a miniscule percentage of the persons alleging against a Project of national importance cannot hold such a Project and the development of the

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surrounding area and all facilities and amenities to be provided to the inhabitants around the said Project at ransom by raising technical and/or procedural irregularities, if any.

XXIX. For that the Hon'ble Trial Judge wholly failed to consider and appreciate the alternative remedy available to the respondents/ writ petitioners for obtaining equal efficacious remedy from the Appropriate Forum of the Hon'ble Green Bench, and erred in exercising jurisdiction under Article 226 of the Constitution of India.

XXX. FOR THAT the Learned Judge failed to appreciate that the writ petitioners have not affected by the Hydro

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Power Project and have no legal right to maintain the petition under Article 226 of the Constitution;

- XXXI. FOR THAT the Learned Judge should have allowed the appellant to rely on the document issued by the District Magistrate, Purulia dated 13th June, 2017 under the Forest Rights Act, 2006, which was relevant for considering the supplementary affidavit filed by the writ petitioner;
- XXXII. FOR THAT the Learned Judge should not have disposed of the writ petition finally without directing the appellant to file an affidavit in opposition to the supplementary affidavit wherein new documents were disclosed by the writ petitioners.
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XXXIII. FOR THAT Learned Judge failed to exercise his description on sound judicial principles.

XXXIV. FOR THAT, the Learned Trial Judge failed and/or erred to note the admitted position that, physical construction or execution of the Project cannot be commenced until and unless the 'Final' clearance under Stage - II is issued by the concerned Appropriate Authority of the Central Government under Forest (Conservation) Act, 1980 and that no question arose of any construction or execution work by the Appellants being commenced after issuance of the 'in-principle' clearance under Stage- I of the said Act of 1980 with 'Final' Clearance under Stage II yet to be issued.

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XXXV. FOR THAT the decision of the Hon'ble Trial Judge in the impugned Judgment and Order is otherwise bad in law and liable to be set aside.

I certify that the above grounds are good grounds for appeal.

Advocate

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DISTRICT: PURULIA

**In the High Court at Calcutta
Civil Appellate Jurisdiction
Memorandum of Appeal from
Original Order under Clause 15
of the Letters Patent No. of 2019**

**M.A.T.NO. OF 2019
West Bengal State Electricity
Distribution Company Limited,
....Appellants
-Versus-
Rabi Besra & Ors.
.... Respondents**

MEMORANDUM OF APPEAL

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**Advocate,
High Court, Calcutta**

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DISTRICT: PURULIA

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side

[Mandamus Appeal]

MEMORANDUM OF APPEAL FROM AN ORIGINAL ORDER PASSED IN
CONSTITUTIONAL WRIT JURISDICTION

M.A.T. No. 1346 of 2019.

F.M.A. No. of 2019.

In the matter of:

1. The State of West Bengal, service through the Chief Secretary, Government of West Bengal, having its office at "Nabaana", HRHC Building, 325, Sarat Chatterjee Road, Howrah-711102.
2. The District Magistrate, Purulia, Government of West Bengal, having its office at Office of the District Magistrate, Purulia, Dis. Stand Road, West Bengal, Pin-723101.

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3. The Block Development Officer,
Baghmundi, Purulia, having its office
at Block Development Officer,
Baghmundi, Patardi, West Bengal-
723152.

4. The Divisional Forest Officer,
Purulia Division, having its office at
Office of the Divisional Forest Officer,
Purulia Divisions, Pm- 723101.

5. The Principal Chief Conservator of
Forest & HOFF, Government of West
Bengal, having its office at Aranya
Bhavan, Block-LA/10A, Sector-III,
Salt Lake City, Kolkata-700098.

6. The Secretary, The Tribal
Development Department,
Government of West Bengal.

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Government of West Bengal, having
its office at DJ-4, Sector-II,
Administrative Building, 5th Floor,
Bidhannagar, Salt Lake City,
Kolkata-700091.

.....APPELLANTS/RESPONDENTS.

[In the writ petition]

-Versus-

1. Rabi Besra, son of Late Birsingh
Besra, residing at Village Barlohor,
Post Office Range, West Bengal, Pin-
723152.
2. Muniram Saren, son of Rupchand
Saren, residing at Village Barlohor,
Post Office Range, West Bengal, Pin-
723152.
3. Sushil Murmu, son of Somchand
Murmu, residing at Village
Barlohor, Post Office Range, West

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Bengal, Pin- 723152.

.....RESPONDENTS/WRIT
PETITIONERS (in the writ petition).

4. The Secretary, Ministry of
Environment, Forests & Climate
Change, government of India, having
its office at Indira Paryayaran
Bhawan, Jorbagh Road, New Delhi-
110003.

5. West Bengal State Electricity
Distribution Company Limited, a
Government of West Bengal
Enterprise, having its corporate
office at Bidyan Bhawan, Block-DJ,
Sector-II, Salt Lake, Kolkata-
700091.

6. The Chief Engineer, West Bengal
State Electricity Distribution
Company Limited, Pumped Storage

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Project Department, having its office
at Bidyut Bhawan, Block-DJ, Sector-
II, Salt Lake, Kolkata- 700091.

.....RESPONDENTS.

APPEAL VALUED AT NIL

[Incapable of Valuation since it arises out of an order passed in a writ
petition]

Being aggrieved by and dissatisfied with the Judgment and order dated
July 02, 2019 passed by the Hon'ble Justice Debansu Basak in W. P
No. 20576 [W] of 2018 [In Re: Rabi Basra & Ors. - Vs- The State of West
Bengal & Others] whereby and where under His Lordship was pleased to
disposed of the aforementioned writ petition by quashing the decision
"in-principle" approval granted by the Central Government and also
quashing the so-called resolutions of the Gram Sabhas and permissions
granted by the State Government in implementing the project, the
appellants herein beg to prefer this instant appeal inter alia, on the
following amongst others:

GROUND S

- I. For That the Hon'ble Single Judge has acted with material
irregularity by not considering the purported grievance of the writ
petitioner in its proper perspective and thereby erred in law and in

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fact in passing the impugned Judgment and Order dated July 02, 2019 allowing the writ petition.

ii. For That the Hon'ble Single Judge proceeded under an erroneous impression in holding that the area of the Hydel Power Project is admittedly governed under Act of 2006 in oblivion of the fact that "in-principle" approval being Annexure-P2 of the writ petition accorded by the Central Government was issued in consonance with Section 2 of the Forest Conservation Act, 1980.

Therefore, without examining the applicability and enforceability of the relevant provisions of the statute governing the field, the Hon'ble Judge erroneously adjudicated the issue in question by quashing the "in principle" approval granted by the Central Government and the resolution of the Gram Sabhas and permission being Annexure-P4 of the writ petition granted by the State Government. As such, the impugned Judgment and Order is a glaring example of non-application of mind and thus liable to be set aside and quashed.

iii. For That the finding arrived at and the observation made in the impugned Judgment and Order is based on surmise and

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conjecture and thus the said Impugned Judgment and Order is not sustainable in the eye of law.

IV. For That the Hon'ble Single Judge has failed to consider that the applicability of the proviso (ii) of Section 3(2) of The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 comes into play if the diversion of the forest land for the purposes as enumerated under Section 3(2) is less than 1 (one) hectare in each case as envisaged in proviso (i) of Section 3(2) of the Act of 2006. Since, admittedly, the project area is measuring about 234.00 hectares, there is no applicability of the proviso (ii) of Section 3(2) of the Act of 2006. Therefore, the resolution taken by Gram Sabha is not mandatory for implementation of the subject project.

V. For That the Hon'ble Single Judge has committed a patent mistake in observing that "the Act of 2006 is such that, a project can only be implemented, if, the procedure laid down under the Act of 2006 is followed".

VI. For That the Hon'ble Single Judge ought to have considered that the instant writ petition is not maintainable as the writ

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petitioners has failed to demonstrate as to how their constitutional right or any legal right has been transgressed owing to failure in discharging the statutory obligation of the Respondent Authorities. Moreover, neither the writ petitioners are the inhabitants of the project area, nor are they anyway related to the subject project as evident from the records disclosed in this proceeding. Therefore, the Respondent No. 1, 2, and 3 herein do not have any authority to maintain the lis.

VII. For that the Hon'ble Single Judge has failed to appreciate that "in-principle" approval was accorded by the Central Government in consonance with the provision enumerated under Section 2 of the Act of 1980 subject to fulfillment of the conditions stipulated therein and therefore it can be construed that upon fulfillment of the conditions stipulated therein, final approval would be accorded. In view of the aforesaid fact, the purported interference by the Hon'ble Single Judge at the instance of the writ petitioners, who are not the inhabitants of this area, in quashing the said "in-principle" approval is bereft of any merit and deserves to be interfered with.

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VIII. For That the Hon'ble Single Judge erred in holding that the Central Government approved the project "in-principle" without being satisfied as to whether the requisite formalities under the Act of 2006 have been complied with or not.

✓ IX. For That the Hon'ble Single Judge should have considered that "in-principle" Stage - I approval for diversion of 234 hectares was granted by the Central Government under Section 2 of Forest (Conservation) Act, 1980 and under Rule 6 of the Forest Conservation Rules, 2003 which includes the compliance of the relevant provisions of The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2005.

✓ X. For That the Hon'ble Single Judge has failed to examine the relevant provision of the Forest (Conservation) Act, 1980 and Forest Conservation Rules, 2003 for adjudging the propriety of the "in-principle" approval of the Central Government being Memo dated April 12, 2018 which is impugned in this writ petition and thereby failed to adopt the correct judicial approach while adjudicating the issues alleged to have been raised in the writ petition.

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XI. For That Section 3(2) of the Act of 2006 has no manner of application owing to the proviso (i) of Section 3(2) of the Act of 2006 and therefore, the findings arrived are based on irrelevant consideration of the proposition of law not holding the field and therefore the impugned Judgment and Order is palpably erroneous and thus not sustainable.

XII. For That the Hon'ble Single Judge erred in relying the oral submission advanced by the writ petitioners without insisting the writ petitioners to furnish evidence in proof of such oral argument and thereby proceeded on uncorroborated oral submission which is not permissible in law.

XIII. For That the supplementary affidavit affirmed on April 08, 2019 it would appear that Respondent/Writ Petitioner No. 1 along with Budhun Beera are the owners and possessors of 40 decimals (0.40 acres) of lands in respect of plot no. 117 of Mouza- Ranga, and, that the father of the Respondent/Writ Petitioner No. 2, Rupchand Majhi is the owner and possessor of 0.3333 acres of lands in respect of plot no. 157 in Mouza- Ranga, and, that father of the Respondent/Writ Petitioner No. 3, Somchand Majhi is the owner and possessor of various plots of lands in Mouza- Ranga.

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but, none, of which come within the scope or ambit or within the project area envisaged in the Hydel Project in respect of which the "in-principle" clearance was issued.

XIV. For That the Hon'ble Single Judge has committed an error in holding that the starting point of implementation of the project in the area governed by the Act of 2006 is a requisite resolution of Gram Sabha affected by such project and in the present case purportedly all the Gram Sabhas did not take the appropriate resolution under the said Act of 2006, the same was vitiated, is wholly erroneous in as much as the said project is not at all governed by the said Act of 2006, which would apply only after the grant of the "in-principle".

XV. For That it is evident from the records that the plot numbers as mentioned in the writ petition included in the subject project wholly or in part does not in any way related to the writ petitioners and as such the interest of the writ petitioners have not been jeopardized in any manner whatsoever.

XVI. For That it is discernable from the Physical verification report of the Block Land and Land Reforms Officer, Baghmundi

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dated 17.06.2019 that, the portion of the lands of the respondent / writ petitioner no. 1 is situated far away from the boundary line of the Project Area and in view of such fact, the question of prejudice owing to implementation of the subject project does not and cannot arise in any context.

XVII. For That the Hon'ble Single Judge ought to have considered that as per the provisions contained in Section 6 and the relevant sub-section there under of The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 it has been clearly specified therein that the decision of the District Level Committee, of which the concerned District Magistrate is the Chairperson, as per the constitution of the State Government made under Rule 1 of the Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Rules, 2007, as to the forest rights of any person, shall be final and binding and when the said Chairperson of the said Committee had specifically stated that neither any person has been given any patta or forest right under the Act of 2006, nor any person is in possession of any portion of the forest lands of 234.00 hectares in 1000 MW Tunga Pumped Storage Project, Baghmundi, Purulia, as appearing from the letter No. 968/BCWP dated June 13, 2017 being Annexure- P4 of the

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writ petition which the Hon'ble Single Judge wholly failed and neglected to consider and/or appreciated and unlawfully set aside the same.

XVIII. For That when as per the provisions of Rule 6(c)(ii) of the Forest Conservation Rule, 2003, the District Collector obtained consent of each Gram Sabha having jurisdiction over the whole of the forest lands indicated in the proposal for the diversion of such forest lands and compensatory and ameliorative measures, if any, under the said project, and the said District Collector having understood the purposes and details of diversion, wherever required, came to the finding that as there was no resettlement and/or displacement issue arose, the functionality of Gram Sabhas did not arise, which the Hon'ble Single Judge wholly failed to consider and appreciate.

XIX. For That the Hon'ble Single Judge should have considered that the provisions of Rule 6 and the various sub-rules of Rule 6(c) of the Forest Conservation Rules, 2003 which are applicable in this case and specifically provides for consent of Gram Sabhas covering a part of the forest lands in the project in question of 234.00

hectares of forest lands, as such the impugned Judgment and Order is wholly erroneous and wrong.

XX. For That the Hon'ble Single Judge has failed to consider and appreciate that as per the provisions contained in 4(2)(c) of the Act of 2006 that consent of the Gram Sabhas of the areas was required for any proposed resettlement causing displacement only and did not at all apply to the instant project in as much as there was no inhabitants or forest dwellers within the said forest area of 234.00 hectares for the said project and thus, no question of any resettlement or forest dwellers being evicted or displaced from their dwelling and cultivation arose in this case.

XXI. For That with a view to clarify the anomalous situation arisen in different states, has regards the issuance of 'in-principle' approval accorded by the Central Government by a memo being no. F. No. 11-43/ 2013-FC dated 03.12.2013, the Central Government clarified that as per provisions enumerated under Forest (Conservation) Amendment Rules, 2016, the compliance under Forest Rights Act is not sine qua non for considering the in-principle approval. Although, the aforesaid memo dated 03.12.2013 could not be placed before the Hon'ble Single Judge for

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his consideration, the said memo being clarificatory in nature, is required to be considered in its proper perspective.

XXII. For That the Hon'ble Single Judge has failed to appreciate and follow the law settled by the Hon'ble Apex Court that a miniscule percentage of the persons alleging against a project of national importance cannot hold such a project and the development of the surrounding area and all facilities and amenities to be provided to the inhabitants around the said project at ransom by raising technical and/or procedural irregularities, if any.

XXIII. For That the Hon'ble Single Judge wholly failed to consider and appreciate the alternative remedy available to the Respondents/Writ Petitioners for obtaining equal efficacious remedy from the Appropriate Forum of the Hon'ble Green Bench and erred in exercising jurisdiction under Article 226 of the Constitution of India.

XXIV. For That the Hon'ble Single Judge has failed to exercise his discretion on sound judicial principles.

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XXV. For That the Hon'ble Single Judge has failed and/or erred to note the admitted position that physical construction or execution of the project cannot be commenced until and unless the 'Final' clearance under Stage-II is issued by the concerned appropriate authority of the Central Government under Forest (Conservation) Act, 1980 and that no question arose of any construction or execution work by the Appellants being commenced after issuance of the "in-principle" clearance under Stage-I of the said Act of 1980 with 'Final' clearance under Stage-II yet to be issued.

XXVI. For That the Hon'ble Single Judge should have considered that the subject project undertaken by West Bengal State Electricity Distribution Co. Ltd. is also an instrumentality of State through which the State of West Bengal discharges its statutory obligation. Although, owing to miscommunication the State of West Bengal could not be represented, the report prepared by the District Magistrate furnished by the West Bengal State Electricity Distribution Co. Ltd. should have been considered.

XXVII. For that the Hon'ble Single Judge ought to have considered that the approximate distance between the sacred grove and nearest boundary spot of the project area is 2.5 to 3.0 k.m. as

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evinced from the Global Positioning System Data .Therefore, the allegation made in the paragraph 10 of the writ petition is based on surmise and conjecture.

XXVIII. For That the impugned order dated July 02, 2019 passed by the Hon'ble Single Judge is, otherwise, bad in law and liable to be set aside and quashed.

Certify that the grounds set forth are in my opinion good and sufficient to succeed in the appeal.

Sd/- Debashis Sankar
Advocate.

LIST OF DOCUMENTS:

- | | |
|--|---|
| 1. Memorandum of Appeal | 1 |
| 2. Xerox Certified copy of the Impugned Order dated July 2, 2019 | 1 |
| 3. Hon'ble Second Judge's copy | 1 |
| 4. Vakalatnama | 1 |

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**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

PRESENT:

**HON'BLE JUSTICE SUBRATA TALUKDAR
AND
HON'BLE JUSTICE SAUGATA BHATTACHARYYA**

**M.A.T. 1156 of 2019
With
CAN 1 of 2019(Old No. CAN 9607 OF 2019)
CAN 2 of 2019(Old No. CAN 10307 OF 2019)
CAN 3 of 2020**

**WBSEDCL & Anr.
vs.
Rabi Besra & Ors.**

With

**M.A.T. 1396 of 2019
With
CAN 1 of 2019(Old No. CAN 10259 OF 2019)
CAN 2 of 2019(Old No. CAN 10262 OF 2019)**

**The State of West Bengal
vs.
Rabi Besra**

**For the Appellants
In MAT 1156 OF 2019**

**: Mr. L.K. Gupta
Mr. Sujit Sankar Koley**

**For the Appellants
In MAT 1396 OF 2019**

**: Ld. Advocate General Mr. Subhabrata
Datta**

**Ld. Advocate General Mr. Debasish
Sarkar**

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For the UOI : Mr. Nandalal Singhania
In both the appeals : Mr. Sankar Sarkar

For the respondents/ writ petitioner : Mr. Ambar Majumder
Mr. Ashirbad Sarkar

Heard on : 30/09/2021

Judgment on : 23/12/2021

Subrata Talukdar, J: The primary issue in this appeal arising out of the writ petition on the self-same point pertains to the steps taken by the State of West Bengal to submit a proposal to the Central Government seeking prior approval of the latter under Section 2 of the Forest (Conservation) Act, 1980 (for short *the 1980 Act*) for diversion of 234 hectares (234ha) of forest land for construction of the 1000 MW. Turga Pumped Storage Project of the West Bengal State Electricity Development Corporation Limited (for short *SEDCL*), also referred to as the User Agency, in Ayodhya Hills under Purulia Forest Division (for short referred to as the said Project).

Responding to the State's proposal dated 18th September 2017 seeking prior approval of the Central Government (*supra*), by a reply dated 12th April 2018 addressed on behalf of the Ministry of Environment, Forests and Climate Change (MoEF&CC), it was, *inter alia*, stated that the proposal of the State was examined by the Forest Advisory Committee (FAC) constituted by the Central

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Government under Section 3 of the 1980 Act. Further, by the said communication dated 12th April 2018, the *In-principle* approval for diversion of 234ha of forest land for the said Project on the basis of the examination of the State's proposal by the FAC was made subject to fulfilment of XL/ 40 (Forty) conditions, as also stated in the letter dated 12th April 2018.

In the light of the aforesaid developments, the writ petitioners, who are three in number and are the respondents in both the appeals, arrived before the Hon'ble Single Bench seeking a writ of *Mandamus* upon the respondent authorities, both State and Centre, not to give any effect or further effect to the *In-principle* approval as granted by the FAC to *the said Project*. The writ petitioners also prayed for a writ of *Mandamus* declaring the Certificate issued by the District Magistrate, Purulia dated 13th of June 2017, *inter alia*, declaring that the work of settlement of rights of Scheduled Tribes and Other Traditional Forest Dwellers *qua the said Project* land has been completed, to be declared *void ab initio*.

By further praying for a writ of *Certiorari*, the writ petitioners urged the Hon'ble Court to call for the records and documents showing compliance of procedure by the Project Authorities of the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (for short *the 2006 Act*).

The primary contention of the writ petitioners before the Hon'ble Single Bench in the writ petition being WP No. 20576 (W) of 2018 with its connected

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CAN 3341 of 2019 (for short *the said writ petition*) related to non-compliance by the Project Authorities of the provisions of *the 2006 Act* which protect the rights of Scheduled Tribes and Other Traditional Forest Dwellers from being encroached without the authority of law by the Project Authorities. It is submitted on behalf of the writ petitioners/the respondents to both these appeals by Mr. Ambar Majumder, Learned Counsel, that *the 2006 Act* provides for a detailed mechanism to consult the adult members of each village likely to be affected by *the said Project* and referred to as Gram Sabhas.

It is submitted that the DM, Purulia forwarded the certification dated 13th of June 2017 holding that the consultative mechanism provided by *the 2006 Act* has been completed and the Gram Sabhas have given their consent. It has been also certified by the DM, Purulia that no person has been given *patta* under *the 2006 Act* of the land in the project area and no person is in possession of forest land, also in the Project area. It is submitted by the writ petitioners/ the respondents to these appeals that *the 2006 Act*, particularly Section 3 thereof, protects both individual and community forest rights of Scheduled Tribes and Other Traditional Forest Dwellers. Although the procedure for consulting the Gram Sabhas has been clarified by the notices issued by the DM, Purulia to the effect that in compliance of the Scheduled Tribes and Other Traditional Forest Dwellers, (Recognition of Forest Rights Rules), 2008 (for short *the 2008 Rules*), the consultative mechanism in respect of each Gram Sabha within the project area was also initiated, the writ petitioners allege that actually no such consultative mechanism was followed

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prior to certifying the project area to be free from encumbrances. It is submitted that while proposing to obtain an *In-principle* approval from the Central Government, the State has been unable to show that the requirement of displacing the forest habitat *qua the said Project* was met by seeking the consent of each Gram Sabha represented by at least fifty percent of its adult population and also the public circulation of the requirement of the forest land for the project amongst the members of each Gram Sabha in a language comprehensible to the villagers.

The State was not represented before the Hon'ble Single Bench at the hearing. Neither did the State file an affidavit-in-opposition to the writ petition.

The User Agency/*SEDCL* and the Union of India were though represented before the Hon'ble Single Bench as respondents to the writ petition.

By a detailed order, the Hon'ble Single Bench noticed the requirement of specific compliance with the provisions of *the 2006 Act*. It was, *inter alia*, held that there is nothing on record to suggest that resolutions in favour of the said Project were taken by each and every Gram Sabha under Section 3 (2) of *the 2006 Act*. Therefore, in the absence of compliance with the provisions of *the 2006 Act*, the Hon'ble Single Bench quashed the *In-principle* approval granted by the Central Government, also quashing the purported resolutions of the Gram Sabhas and permission granted by the State Government to implement the project.

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It was made clear that the Judgement and Order of the Hon'ble Single Bench dated 2nd July 2019 shall not prevent the Project Authorities from taking recourse in accordance with law to *the 2006 Act* for implementing the project.

Aggrieved by the Judgement and Order dated 2nd of July 2019 the State, being one of the implementing Project authorities and the SEDCL, being the User Agency for *the said Project*, have filed the instant appeals respectively being MAT 1396 of 2019(MAT-I) and MAT 1156 of 2019 (MAT-II).

The State appellants represented by the Learned Advocate General and ably assisted by Mr. Subhabrata Datta, Learned Junior Government Advocate, argue that the writ petition is premature since, as on the date of the communication dated 12th April, 2018 from the Centre to the State, the *In-principle* approval conveyed by the FAC stands subject to fulfilment of forty conditions specified in the said communication. It is submitted that in the event if all the conditions are not fulfilled, the *In-principle* approval of the project will lapse.

This Court is taken copiously to the contents of the communication dated 12th April 2018. Reference is drawn to *Condition No. xxiii* of the said conditions. It is submitted that Condition *xxiii* relates to Settlement of the Rights of Scheduled Tribes and Other Traditional Forest Dwellers. It is pointed out that the onus has been placed on the State Government to *complete settlement of rights in terms of the 2006 Act* and providing documentary evidence as

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prescribed by the MoEF&CC in support thereof. Such documentary evidence would have to be in compliance with the MoEF&CC's orders dated 3rd August 2009 and 5th July 2013.

Therefore, it is argued that until *Condition No. xxiii* is satisfied and such condition directly relates to the issue of compliance of *the 2006 Act* raised by the writ petitioners before the Hon'ble Single Bench, the said Project can only be approved if all forty Conditions, including *Condition No. xxiii* stand fulfilled.

On the issue of the consultative mechanism *qua* Gram Sabhas stipulated by *the 2006 Act*, State takes the position that out of a total of seventeen villages said to have fallen within the Project area, one village is not within the Project area at all. Of the remaining, eleven villages fall under Ayodhya Gram Panchayat and five within Bagmundi Gram Panchayat. It is submitted that the consultative mechanism envisaged by *the 2006 Act* does not dispense with the role of Gram Panchayats acting as the vehicle for expression of consent by the Gram Sabhas under them.

In addition to the above points, the State takes the point of absence of *locus* of the three writ petitioners to maintain the writ petition at all. On the basis of facts emerging from documents produced at the hearing, the State submits that none of the writ petitioners are either Scheduled Tribes and Other Traditional Forest Dwellers requiring protection under *the 2006 Act*. It is submitted that only one of the writ petitioners is stated to be a resident within the Project area. It is urged that the writ petitioners therefore cannot espouse

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any legal right more so, on behalf of others, in respect of whom they (i.e. the writ petitioners) purport to file the writ petition, which is not even filed in representative capacity. Therefore, the State urges that the writ petition ought to have been dismissed *in limine* and this appeal should succeed at the very threshold.

On behalf of the User Agency, i.e. the *SEDCL*, Mr. L.K. Gupta, Learned Senior Counsel appears and takes the point outright that *the said Project* stands outside the purview of Section 3 (2) of *the 2006 Act*. It is argued that Chapter II of Section 3 (1) provides for the Forest Rights of Scheduled Tribes and Other Traditional Forest Dwellers. After such rights are enumerated in Section 3 (1), Section 3 (2) thereafter provides for the Central Government allowing for the diversion of the forest land *notwithstanding* anything contained in *the 1980 Act* connected to certain specific projects/ facilities managed by the Government which involve felling of trees. It is submitted that such facilities/ projects covered by Section 3(2) (*supra*), *inter alia*, relate to non-conventional sources of energy. It is submitted that *the said Project*, being hydel in nature, is a conventional source of energy and hence Section 3(2) stands inapplicable at the threshold.

Since the premise connected to the project itself laid down by Section 3 (2)(*supra*) stands to be inapplicable, its *Provisos* axiomatically stand inapplicable. Specific mention is made by Learned Senior Counsel for *SEDCL* to *Proviso II* requiring the Forest projects to be first recommended by the Gram Sabhas. It is urged that with *the said Project* not falling within the purview of

Section 3(2) at all, the compliance of *Proviso (III)* as raised by the writ petitioners is wholly unnecessary.

Having considered the rival submissions and closely examined the materials placed, this Court arrives at the following findings:

- A)** That the non-application of Section 3(2) of the 2006 Act as raised by Learned Counsel for the User Agency/*SEDCL*/ the appellants in *MAT-II* requires to be first addressed. The premise on which Section 3(2) is based relates to facilities/projects managed by the Government which involve felling of tree which shall not exceed 75 trees per hectare. Therefore there is an arithmetical dimension to the application of 'Section 3(2) in respect of projects/facilities which involve the felling of trees specifically fixed at not exceeding 75 trees per hectare.
- B)** Keeping such arithmetic in mind *the said Project* area comprises in all 234 hectares. The total number of trees required to be felled for the said Project as recommended by the Conservator of Forests(Central) (pages 224-229 of the State' Paper Book) is 6816. Therefore, on an arithmetical basis, the number of trees required to be felled per hectare of the said Project is approx. 30 – a figure well within the limit of 75 trees per hectare provided by Section3(2).
- C)** With further regard to the arguments placed by Learned Senior Counsel for the User Agency, the attention of this Court is drawn to the contents of the National Electricity Plan (Vol.-I), Generation, as

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issued by the Central Electricity Authority (CEA) Ministry of Power, Government of India in January 2018. Item 5.1 under Chapter 5 reads as follows:

"5.1 OPTIONS FOR POWER GENERATION IN INDIA

Coal is the major source for power generation in our country and since Low Carbon Growth Strategy has to be followed, other generation options need to be harnessed in the most optimum manner.

Fuel Options available for Power Generation are:

- *Conventional Sources- Coal and Ignite, Hydro, Nuclear natural gas*
- *Non-Conventional Renewable Energy Sources- Solar, Wind, Biomass, small hydro, tidal, Geothermal, Waste to energy, Hydrogen/fuel cells, etc."*

D) From item 5.1(*supra*) the position stands unassailable that *the said Project* being hydel in nature is a conventional source of energy. Since Section 3(2) of *the 2006 Act* confers blanket clearance to projects involving non-conventional sources of energy, *the said Project* stands admittedly outside the purview of Section 3(2)(*supra*).

E) Moving on from the pure factual indices offered by Section 3(2) of *the 2006 Act*, this Court is required to examine whether the Hon'ble Single Bench was *absolutely* justified in directing the respondent State/ Central Governmenta/ the User Agency to undertake the process under *the 2006 Act* afresh.

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This Court is also required to examine whether having regard to the contents of the communication dated 12th April 2018, particularly *Condition xxiii* thereof disclosing, *inter alia*, that the *said Project* is still at the approval stage, whether the Hon'ble Single Bench was correct in cancelling the exercise outright at this stage.

- F)** At the heart of the controversy raised by the writ petitioners lies the consultative mechanism *qua* Gram Sabhas. While on the one hand, the writ petitioners insist on disclosure of the complete consultative mechanism in terms of the 2008 Rules attached to *the 2006 Act*, it will not be out of place to also notice the merits of the nature of the consultative exercise disclosed by the State leading up to its recommendation for confirmation of the *In-principle* approval.
- G)** The State has submitted that the villages within *the said Project* area are part of two Gram Panchayats namely, Ayodhya and Bagmundi. The State has disclosed the assent of the two Gram Panchayats, i.e. Ayodhya and Bagmundi. Now, the definition of Gram Sabha provided under Section 2(g) of *the 2006 Act* reads as follows :

"(g) "Gram Sabha" means a village assembly which shall consist of all adult members of a village and in case of States having no Panchayats, Padas, Tolas and other traditional village institutions and elected village committees, with full and unrestricted participation of women;"

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The definition of a Gram Panchayat in the West Bengal Panchayat Act, 1973 (for short, *the 1973 Act*) *vide* Section 4 thereof reads as follows :

"Section 4. Gram Panchayat and its constitutions.- (1) For every Gram the State Government shall constitute a Gram Panchayat bearing the name of the Gram. (2) Persons whose names are included in the electoral roll 2 [prepared in accordance with such rules as may be made by the State Government in this behalf and in force on such date as the State Election Commissioner may declare for the purpose of an election] pertaining to the area comprised in the Gram, shall elect by secret ballot at such time and in such manner as may be prescribed, from among themselves such number of members 3 [not being less than five] or 4 [more than thirty] 5 [as the prescribed authority may, having regard to the number of voters in hill areas and other areas and in accordance with such rules as may be made in this behalf by the State Government, determine

Provided that seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in a Gram Panchayat, and the number of seats so reserved shall bear, as nearly as may be and in the manner and in accordance with such rules as may be made in this behalf by the State Government, the same proportion to the total number of seats in that Gram Panchayat to be filled up by election as the population of the Scheduled Castes in that Gram or of the Scheduled Tribes in that Gram, as the case may be, bears to the total population of that Gram and such seats shall be subject to allocation by rotation, in the manner prescribed, to such different constituencies having Scheduled Castes or Scheduled Tribes population which bears with the total population in that constituency not less than half of the proportion that the total Scheduled Castes population or the Scheduled Tribes population in that

Gram, as the case may be, bears with the total population in that Gram."

The definition of Gram Sabha is provided in Section 2(11a) of the 1973 Act and reads as follows:

"11(a) "Gram Sabha" means a body consisting of persons registered in the electoral rolls pertaining to a Gram declared as such under sub-section (1) of section 3;"

Section 2(10) and Section 2(11) of the said 1973 Act refer to Gram and Gram Panchayat and read as follows :

"(10) "Gram" means an area referred to in section 3;

(11) "Gram Panchayat" means a Gram Panchayat constituted under section 4;"

Finally Section 3 of the 1973 Act defines the area which forms part of a Gram and reads as follows:

"3. Gram - (1) The State Government may, by notification, declare for the purposes of this Act any mauza or part of a mauza or group of contiguous mauzas or parts thereof to be a Gram: 3 Provided that any group of mauzas or parts thereof, when they are not contiguous or have no common boundaries and are separated by an area to which this Act does not extend or in which the remaining sections of this Act referred to in subsection (3) of section 1 have not come into force, may also be declared to be a Gram.

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(2) The notification under sub-section (1) shall specify the name of the Gram by which it shall be known and shall specify the local limits of such Gram.

(3) The State Government may, after making such enquiry as it may think fit and after consulting the views of the Gram Panchayat or Panchayats concerned, by notification—

(a) exclude from any Gram any area comprised therein; or

(b) include in any Gram any area contiguous to such Gram or separated by an area to which this Act does not extend or in which the remaining sections of this Act referred to in sub-section (3) of section 1 have not come into force; or

(c) divide the area of a Gram so as to constitute two or more Grams, or

(d) unite the area of two or more Grams so as to constitute a single Gram."

H) Therefore, to the mind of this Court from a conjoint reading of the 2006 Act and the 1973 Act the following may be deduced.

That Gram Sabha would mean a village assembly under the 2006 Act and, in case of States having no Panchayats, such village assembly shall include other traditional village institutions.

That in the context of a State such as West Bengal, the Gram Sabha, as statutorily defined, essentially indicates an electoral-

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cum-geographical area comprising villagers residing in a particular Gram.

That again in the context of the State of West Bengal the statutory administrative unit for every Gram shall be the Gram Panchayat elected on the basis of adult franchise including women.

- I) In the light of the discussion at the **Paragraph-F** above, the disclosure by the State of the consent of Ayodhya and Bagmundi Gram Panchayats comprising the villages stated to be within *the said Project* area requires to be tested. It also requires to be tested whether the specific consent mechanism enshrined in the 2008 Rules attached to *the 2006 Act* as also notified by the DM, Purulia at the pre-recommendation stage of *the said Project* stands essentially fulfilled.

It must be also noticed that, as stated in the communication dated 12th of April 2018 the *In-principle* approval is not final but subject to fulfilment of settlement rights as provided by the 2006 Act. Reference may be had to *Condition xxiii* which requires the State Government/User Agency to complete the settlement of rights in terms of *the 2006 Act* and submit documentary evidence thereof. For the benefit of this discussion *Condition XXIII* stands quoted below :

“(xxiii). The State Government shall complete settlement of rights, in terms of the Scheduled Tribes and Other

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Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, if any, on the forest land to be diverted and submit the documentary evidence as prescribed by this Ministry in its letter No. 11-9/1998-FC(pt.) dated 03.08.2009 read with 05.07.2013, in support thereof⁸

- J)** Accordingly, in terms of *Condition xxiii*, the issue of consent of the Gram Sabhas is still open for scrutiny under Section 2 of *the 1980 Act* by the appropriate authority constituted by the Central Government. It has been clearly conveyed by the communication dated 12th of April 2018 that there shall be no transfer of forest land to the User Agency till formal orders approving the diversion of forest land are issued by the Central Government. In the above view of the matter this Court finds substance in the argument of the State appellants that the writ petition is premature, although at the same time this Court does appreciate that compliance of the terms of *the 2006 Act* pertaining to rights of Scheduled Tribes and Other Traditional Forest Dwellers is an issue which requires scrutiny at the appropriate level.
- K)** This Court is now also required to notice certain supplementary but important facts.

That it is the second Project of its type in the Purulia region named as the Turga Pumped Storage Scheme. The previous project by the name of Purulia Pumped Storage Scheme is already operational. The

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Geological Survey of India had conducted feasibility studies in 1978-1979.

That the Project is suitable for the terrain from the technical point of view.

That the Project is likely to generate permanent/ regular employment for 169 persons and temporary employment for 1890000 persons.

That the Project area also comprises of an Elephant corridor for a herd of around 14 wild elephants. However, the Project work involves minimum to nil displacement of humans, fauna and flora. (Source: Site Inspection Report of the Conservator of Forests (Central); (Pages 224-229 of the State' Paper Book).

It would be not without significance to notice that the above topographical, social, economic and natural facts stood uncontroverted at the hearing.

For the reasons as already stated above in this Judgement and Order, this Court is not persuaded to agree with the finding of the Hon'ble Single Bench that the consultative mechanism involving Gram Sabhas under *the 2006 Act* read with its 2008 Rules has been absolutely subverted.

This Court finds that the consultative mechanism performed and placed by the State requires to be tested at the appropriate level whether reflective of the consent of the minimum required adult members, including women, in villages covered by the *said Project* area.

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For the above reasons, the Judgement and Order of the Hon'ble Single Bench dated 2nd July, 2019 directing the process of settlement to be executed afresh stands set aside.

The issue of settlement of rights as recommended by the State shall be now examined at the appropriate level by the Central Government in consonance with the requirement of *Condition xxiii* of the letter dated 12th April 2018. The writ petitioners, or their authorized representative, shall also be entitled to place their presentation before the Central Government, upon being put to prior notice. Needless to add, the other *Conditions* set forth in the letter dated 12th April, 2018 shall also be examined in accordance with law.

M.A.T. 1156 of 2019 with CAN 1 of 2019(Old No. CAN 9607 of 2019), CAN 2 of 2019(Old No. CAN 10307 of 2019), CAN 3 of 2020 and M.A.T. 1396 of 2019 with CAN 1 of 2019(Old No. CAN 10259 OF 2019), CAN 2 of 2019(Old No. CAN 10262 OF 2019) stand accordingly disposed of.

Parties shall be entitled to act on the basis of a server copy of this Judgement and Order placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities

I agree.

(Sangata Bhattacharyya, J.)

(Subrata Talukdar, J.)

**Before the National Green Tribunal
Eastern Zone Bench, Kolkata**

**Original Application
No.120/2024/EZ**

In the matter of :

Sushil Murmu

..... Applicant

-Versus-

Union of India& Ors.

.... Respondents.

**AFFIDAVIT-IN-OPPOSITION ON
BEHALF OF WBSEDCL**

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