

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,

SOURTHERN ZONE, CHENNAI

ORIGINAL APPLICATION No.158/2021

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

-Vs-

1. Union of India,

Rep by its Secretary,

Ministry of Environment and Forests and climate Change,

Jorbagh Road , New Delhi- 110003.

2. Ministry Road Transport and Highways,

Rep. by its Secretary,

Room No.509, Transport Bhawan,

1, Parliament, New Delhi-110001.

3. The Chief Secretary to Govt. of Telangana,

Govt. Secretariat, Tank bund,

Hyderabad , Telangana-500022.

4. The Principal Secretary to Govt. of Telangana,

Department of Environment, Forests, Science & Technology,

Govt. Secretariat, Tank bund,

Hyderabad, Telangana-500022.

4

5. The Chief Secretary & Spl. Chief Secretary to
Govt .of Telangana,
Department of Revenue,
Govt. Secretariat, Tank bund,
Hyderabad, Telangana-500022.

6. Principal Chief Conservator of Forests(HOFF),
Telangana Forest Department,
Room No. 505, Aranya Bhavan, Saifaba,
Hyderabad, Telangana-500022.

7. The District Forest Officer ,
Nirmal District,
District Collectorate,
Nirmal-504106.

.... Respondents

4

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,

SOUTHERN ZONE, CHENNAI

ORIGINAL APPLICATION No.158/2021

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

.. Applicant

-Vs-

Union of India,
Rep by its Secretary,
Ministry of Environment, Forests and climate Change,
Jorbagh Road, New Delhi- 110003
And 6 others

...Respondents

INDEX

Sl. No.	Description of Document	Page No.
1.	Reply Affidavit filed by the Respondent No. 1	
2.	Annexure-R-1. Copy of the reply statement filed by Principal Chief Conservator of Forests and Head of Forest Force (HoFF), Department of Forests, Government of Telangana, as 6 th respondent	
3.	Annexure-R-2. In principle (Stage-I) approval conveyed by Inspector General of Forests-cum-Regional Officer, Integrated Regional Office, Hyderabad, MoEF&CC, Government of India vide F.No.4-TSB186/2021-HYD/45, Dt. 18.08.2021.	

DATE: 12.10.2021

4

**AFFIDAVIT ON BEHALF OF UNION OF INDIA THROUGH
MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE
CHANGE (RESPONDENT NO. 1)**

I, Shanmugam Elamurugannan, S/o Late Appavu Shanmugam aged 45 years, Designation Assistant Inspector General of Forests, Integrated Regional Office, Hyderabad, Ministry of Environment, Forest and Climate Change, Government of India do hereby solemnly and sincerely states as follows:-

1. That I am filing this reply affidavit on behalf of Respondent No. 1 and as such I am fully aware of the facts and circumstances of the case from the relevant records available in this office. I further state that the present affidavit is being filed after perusing the office records, which to my knowledge are true and correct, and I am authorized to file this affidavit on behalf of the Respondent No.1 (MoEF&CC).
2. It is humbly submitted that, in case the Hon'ble Tribunal desires technical/specialized information, an expert from the Ministry can be produced subject to the direction of the Hon'ble Tribunal.

Statement of Facts

1. It is humbly submitted that the 'land' is a subject matter of State Government. The forest areas and the legal boundaries thereof are determined and maintained by the concerned State Government. That, inter alia, being the repository of land records, State Government has the primary responsibility to determine status of any parcel of land, giving due regards to gazette notifications, provisions under State and Central Acts and concerned judgements and directions of the Hon'ble Supreme Court.
2. That to provide for the conservation of forests and for matters connected therewith or ancillary or incidental thereto, the Parliament in the Thirty-First Year of the Republic of India enacted the Forest(Conservation) Act, 1980 ("FC Act", for short). FC Act came into force on 25th October, 1980.

4

3. That section 2 of the Forest (Conservation) Act, 1980 ('FC Act', for short) provides that;

"Notwithstanding anything contained in any other law for the time being in force in a State, no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing-

(i) That any reserved forest (within the meaning of the expression "reserved forest" in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;

(ii) That any forest land or any portion thereof may be used for any non-forest purpose ;

(iii) That any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organisation not owned, managed or controlled by Government;

(iv) That any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for reafforestation.

4. That the subject matter of the Original Application is newspaper report on alleged cutting of more than 3,000 trees from the Eco-Sensitive Zone of Kawal Tiger Reserve for a road widening project, in a location where tiger movement has been confirmed by Forest Department officials. It was also allegedly reported that the stretch of road to be widened is located adjacent to Mamda Reserved Forest in Nirmal and Maskapur reserved forest in Khanapur.

5. That, a factual report in this regard was sought from the Principal Chief Conservator of Forests and Head of Forest Force, Department of Forests & Wildlife, Government of Telangana and the authority concerned has shared the copy of the reply affidavit filed as the 6th respondent, in the instant matter, in the Hon'ble National Green Tribunal, Southern Zone, Chennai. The copy of the same is placed as **Annexure-R1**. In the above said reply statement, the 6th respondent *inter-alia*, mentioned the following:



- a. Kawal Tiger Reserve is notified under section 38 of Wildlife (Protection) Act, 1972 vide G.O.Ms.No.27, EFT&T (For.II) Department, 10.04.2012 and the State Gazette No.216, Dt.12.04.2012. The area proposed for diversion is not falling in the Kawal Tiger Reserve but falling in the eco-sensitive zone of the Kawal Tiger Reserve. The eco-sensitive zone of the Kawal Tiger Reserve is not notified, hence, the default distance of 10 km from the periphery of the Kawal Tiger Reserve is taken as eco-sensitive zone as per the guidelines issued by the Ministry of Environment, Forests and Climate Change in F.No.1-0/2007, WL-1(pt), 09.02.2011 and amendments issued therein.
 - b. The proposed road is falling in Mamda, Dimmadurthy and Maskapur Reserved Forests. The proposed road widening by Ministry of Roads Transport & Highways, Hyderabad falling in the eco-sensitive zone of Kawal Tiger Reserve, Nirmal, Telangana State. The number of trees to be cut in the forest area proposed for diversion is 2875 and number of trees to be cut outside forest area is 2366, totaling to 5241. Out of these, 131 trees inside the forest area and 99 trees outside the forest area, totaling to 230 trees are proposed for relocation. So far not a single tree has been felled.
 - c. A total of 3788 trees are existing in Nirmal Division and 1453 trees are existing in Khanapur Division, including forest and non-forest land.
 - d. The proposal does not require the Environmental Clearance under Environment (Protection) Act, 1986. As per the Environment Impact Assessment Notifications issued by Ministry of Environment, Forests and Climate Change, since 2006 and amendments issued in Central Gazette S.O.No.2559 (E), Dt. 22.08.2013, the Expansion of National High ways greater than **100 km** involving additional right of way or land acquisition greater than **40m** on existing alignment and 60 m on re-alignment or bypasses require environment clearance. The present proposal is for a width of maximum 30 m.
 - e. The Chief Conservator of Forests/ Field Director, Project Tiger, Kawal Tiger Reserve, Nirmal has taken into consideration all the aspects and accordingly the mitigation measures are proposed to obviate the impact.
6. That a proposal for declaring Eco-sensitive Zone around Kawal Tiger Reserve was received from the State Govt. of Telangana in July 2017. A Draft Eco-sensitive Zone Notification for Kawal Tiger Reserve was issued vide S.O. 1122(E),



dated 12th March, 2018. However, the state government withdrew the proposal and in the meantime the validity of the draft notification expired in September, 2019. Therefore, in the absence of the final ESZ notification, the default distance of 10 km from the periphery of the Kawal Tiger Reserve is taken as eco-sensitive zone as per the Office Memorandum of this Ministry issued vide F. No. 22-43/2018-IA.III, dated 8th August, 2019 and any developmental activity need to follow procedure mentioned in the said Office Memorandum.

7. That, after careful consideration of the proposal of the State Government and as recommended by the Regional Empowered Committee (REC), the Inspector General of Forests-cum- Regional Officer, Integrated Regional Office, Hyderabad, Ministry of Environment, Forests and Climate Change, Government of India vide Letter No. F.4-TSB186/2021-HYD/45, Dated 18th August, 2021 has conveyed the Central Government's in principle approval (Stage-I) under Section '2' of Forest (Conservation) Act, 1980 for diversion of 13.945 ha (9.038 ha in Nirmal Division and 4.907 ha in Khanapur Division) of forest land for widening and strengthening of existing intermediate lane / two lane to two lane with paved shoulders from km 678 +555 to km 699 + 655 of Nirmal to Khanapur section of NH 61 extended in the State of Telangana under NH 61 extended in the State of Telangana under NH(O) through EPC mode in favour of the Regional Officer, MORTH Hyderabad, subject to compliance of various conditions. The copy of the said in-principle (Stage-I) approval is placed as **Annexure-R-2**.

9. That, the answering respondent reserves the right to file additional information before the Hon'ble Tribunal, if required till *Pendente-lite*.

10. Thus in light of the above submissions, it is most humbly prayed that this Hon'ble National Green Tribunal may kindly pass such order(s) as deemed fit and proper in the facts and circumstances of the case.


12.10.2021

एस.इलमुरुगन्नन, भा.व.से.,
S. Elamurugannan, I.F.S.,
सहायक वन महानिरीक्षक(केन्द्रीय)
Assistant Inspector General of Forest (C)
भारत सरकार/Government of India
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Ministry of Environment, Forest and Climate Change
एकीकृत क्षेत्रीय कार्यालय/Integrated Regional Office
हैदराबाद/Hyderabad

VERIFICATION

I, Sh. Shanmugam Elamurugannan , S/o Late Appavu Shanmugam aged 45 years, Designation Assistant Inspector General of Forests, Integrated Regional Office, Hyderabad, Ministry of Environment, Forest and Climate Change, Government of India do hereby solemnly and sincerely states that, the contents stated in the above reply affidavit are true and correct to the best of my knowledge and belief.

Date: 12.10.2021

Place: HYDERABAD


12.10.2021

एस.इलमुरुगन्नन, भा.व.से.,
S. Elamurugannan, I.F.S.,
सहायक वन महानिरीक्षक(केन्द्रीय)
Assistant Inspector General of Forest (C)
भारत सरकार/Government of India
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
Ministry of Environment, Forest and Climate Change
एकीकृत क्षेत्रीय कार्यालय/Integrated Regional Office
हैदराबाद/Hyderabad