

**REPORT OF THE JOINT COMMITTEE CONSTITUTED BY HON'BLE NATIONAL GREEN TRIBUNAL, SOUTHERN ZONE, CHENNAI IN OA NO. 241 OF 2020 FILED BY Mr. MOHAMMED JISHAR & OTHERS VS UNION OF INDIA & OTHERS.**

**1. PREAMBLE**

The Hon'ble National Green Tribunal (NGT) in its order dated 11<sup>th</sup> November 2020 in OA No. 241 of 2020, issued following direction:

*“8. In order to ascertain the nature of project and whether there is any violation of any environmental laws in carrying out the project committed by the National Highway Authority, we feel it appropriate to appoint a Joint Committee comprising of 1) a Senior Officer from Ministry of Environment, Forests and Climate Change, (MoEF&CC) Regional Office, Bangalore 2) a Senior Officer deputed by the National Highway Authority of India, Regional Office, Thiruvananthapuram, Kerala to inspect the area in question and examine the project and submit a factual as well as action report, if there is any violation found.*

*9. The committee is directed to ascertain as to whether prior environmental clearance is required for the purpose of carrying out the project in question and whether if such projects are allowed to continue in piecemeal with ultimate aim of completing the entire stretch without conducting any prior environmental impact assessment and obtaining prior Environment Clearance, will it have any impact on environment. Even if the project has to continue what are all the precautions to be taken by them to avoid the possible environmental impact of such project. If there is any violation found, the committee is also directed to assess the environment damage caused on account of such violation and assess the environmental compensation to be recovered from the National Highway Authority of India.*

*10. The Ministry of Environmental, Forests and Climate Change (MoEF&CC), Regional Office, Bangalore is designated as the nodal agency for co-ordination and for providing all necessary logistics for this purpose.”*

**2. COMPOSITION OF THE JOINT COMMITTEE**

In compliance of above-mentioned order, the Integrated Regional Office, Ministry of Environment, Forest and Climate Change (MoEF & CC), Bangalore, vide letter No F. No. EP / 12.7 / NGT/66/KER/ dated 20.11.2020 has requested the NHAI, Kerala to nominate a Senior official for the Committee to complete the task as assigned by the Hon'ble NGT. On receipt of the nomination, following Committee has been constituted:

Sl. No.	Name and Designation	Organization/ Department
1.	Sh. J. Balachander General Manager (T) & Project Director	National Highway Authority of India, Regional Office, Project Implementing Unit, Cochin, Kerala.
2.	Dr. S. Prabhu Scientist - C	Ministry of Environment, Forest and Climate Change (MoEF&CC), Integrated Regional Office (IRO), Bangalore.



Fig. 1. Joint Committee along with NHAI officials at Edappally (NH-66).

### **3. BRIEF ABOUT THE PROJECT:**

According to NHAI, the National Highway 66, commonly referred to as NH 66 (erstwhile NH-17 and a part of NH-47), is a busy National Highway that runs north–south along the western coast of India, parallel to the Western Ghats. It connects Panvel (a city south of Mumbai) to Cape Comorin (Kanyakumari), passing through the states of Maharashtra, Goa, Karnataka, Kerala and Tamil Nadu.

The project has been entrusted to the DPR consultant M/s. Feedback Infra Project Pvt. Ltd for preparation of Detailed project Report from Ramanattukara, Kozhikode District to Edappally in Ernakulam District. NHAI officials informed that the total stretch from Ramanattukara to Edappally is 194.200 Km, for viability, the project has been divided in to

five stretches which is under different stages of execution (Table -1 & 2). A copy of NHAI letter is annexed herewith as **Annexure – R1**.



**Fig. 2. Existing 2 line of NH-66 at Kodungallur to Edappally Project.**



**Fig. 2. Existing 2 line of NH-66 at Ramanattukara to Valanchery Project.**

**Table 1. Details of the Project:**

Sl. No.	Name of Stretches	Chainage		Length in Km	Existing ROW in m	Additional RoW /land acquisition in m	Status of the Project
		From	To				
1	6 - laning of Ramanattukara to Valancherry	258+800	298+500	39.700	7 m to 45 m	0 m to 38 m	Bids Invited
2	6 - laning of Valancherry to Kappirikkad	298+500	335+850	37.350			Bids Invited
3	6 - laning of Kappirikkad to Thalikulam	335+850	369+015	33.165			Bids Invited
4	6 - laning of Thalikulam to Kodungallur	369+015	397+850	28.835			Bids Invited
5	6 - laning of Kodungallur to Edappally	397+850	423+000	25.150			Under bidding process
<b>Total Length in KM</b>				<b>194.200</b>			

**Table 2. Details of the Various Bypasses:**

Sl. No.	Bypass Location	Existing Chainage		Design Chainage		Length in Km	Proposed RoW	Project
		From	To	From	To			
1	Kottakkal	290.070	295.225	285+300	289+720	4.420	45 m	Ramanattukara to Valanchery
2	Valanchery	306.150	311.330	300+400	304+580	4.180		Valanchery to Kappirikkad
3	Chavakkad	363.140	365.600	349+800	351+840	2.040		Kappirikkad to Thalikulam
4	Vadanapally	374.580	380.315	360+880	367+030	6.150		Thalikulam to Kodungallur
5	Thriprayar Bypass	383.680	387.340	370+400	374+100	3.700		
6	Chentrapini Bypass	389.900	392.100	376+650	378+640	1.990		
7	Moonnupeedika Bypass	395.140	397.350	381+680	384+320	2.640		
8	Mathilakam Bypass	398.450	403.200	385+240	390+020	4.780		
9	North Paravoor Bypass	413.400	422.980	400+410	407+930	7.520		Kodungallur to Edappally

Further, the joint committee noted that Existing road carriage width is 7 meters and the existing Right of Way (RoW) is varying from 7 meter to 45 meter. The proposed RoW for 6 lane configurations is 45 meters with additional land acquisition varying from zero meter to 38 meters and it is also assured that in Bypasses as well realignment section the maximum width of land acquisition is 45 m.

#### **4. STATUTORY CLEARANCES FROM VARIOUS RELEVANT AGENCIES**

**4.1 Approval from State Government of Kerala:** The feasibility study of the alignment has been conducted by M/s. Feedback Infra Pvt Ltd and the alignment report for all above projects were tentatively submitted to NHAI by M/s. Feedback Infra Pvt. Ltd adhering to the relevant technical standards/ specifications which was subsequently presented before the representatives of the people in the presence of the district administration. Accordingly, the draft alignment was finalized tentatively and was submitted for the approval of the Govt. of Kerala. The Govt. of Kerala has subsequently approved the alignment and based on the recommendation of Govt. of Kerala the alignment was finally approved by NHAI/ Ministry of Road Transport and Highways (MoRTH).

Alignment of all above stretches attracts CRZ Notification and according to NHAI, the CRZ maps are getting prepared through National Centre for Earth Science Studies (NCESS), Thiruvananthapuram for obtaining CRZ clearance. Further, there is no protected / Reserve Forest area in the alignment of above projects.

#### **5. CURRENT STATUS OF THE PROJECT:**

All the stretches are under bidding stage (bidding invited for four projects and one is under bidding process). **The Joint Committee visited the entire stretch from Edapally, Ernakulam District to Ramanattukara, Kozhikode District on 28<sup>th</sup> - 29<sup>th</sup> December, 2020 and observed that no work at the site has been started.**

#### **6. DELIBERATIONS OF THE JOINT COMMITTEE**

Hon'ble National Green Tribunal in the order dated 11.11.2020 directed the Joint committee to look into the following:

- i. *Whether there is any violation of any environmental laws in carrying out the project committed by the National Highway Authority?*
- ii. *Whether prior environmental clearance is required for the purpose of carrying out the project in question and whether if such projects are allowed to continue in piecemeal with ultimate aim of completing the entire stretch without conducting any prior environmental impact assessment and obtaining prior Environment Clearance, will it have any impact on environment?*
- iii. *Even if the project has to continue what are all the precautions to be taken by them to avoid the possible environmental impact of such project. If there is any violation found, the committee is also directed to assess the environment damage caused on account of such violation and assess the environmental compensation to be recovered from the National Highway Authority of India?*

In order to deliberate on the above given Terms of References (ToR), the Committee, inspected the entire stretch of the project, had examined relevant Detailed projects Reports (DPR), Regulations, Judgements etc,. Based on the above, each ToR has been deliberated in detail and following are the observations/comments:

**6.1 Whether prior environmental clearance is required for the purpose of carrying out the project in question and whether if such projects are allowed to continue in piecemeal with ultimate aim of completing the entire stretch without conducting any prior environmental impact assessment and obtaining prior Environment Clearance, will it have any impact on environment?**

As per the EIA Notification, 2006; Highways are covered under entry 7(f) of the Schedule to the EIA Notification, 2006. The entry 7(f) of the Schedule of EIA Notification 2006 provides as follows:

	Project or Activity	Category with threshold limit		Conditions if any
		A	B	
(1)	(2)	(3)	(4)	(5)
7		<b>Physical Infrastructure including Environmental Services</b>		
7(f)	Highways	i) New National Highways; and  ii) Expansion of National Highways greater than 30 KM, involving additional right of way greater than 20m involving land acquisition and passing through more than one State.	i) All New State Highwaysprojects ;  ii) State Highway expansion projects in hilly terrain (above 1000 m AMSL) and/or ecologically sensitive areas	General Condition shall Apply  Note: Highways include Expressways

Further, the Ministry has issued an amendment Notification S.O. 2559(E) dated 22.08.2013. The amended provision reads as follows.

“b) in the Schedule, against sub-item (f) of item 7, in column (3), for the entry (ii) the following entry shall be substituted namely:-

(ii) Expansion of National Highways greater than 100 Km involving additional right of way or land acquisition greater than 40m on existing alignments and 60m on re-alignments or by-passes.”

A copy of the amendment notification dated 22.08.2013 is annexed herewith as **Annexure - R2**.

Further, joint committee has noted that as per the judgment of Hon'ble Supreme Court in Civil Appeal Nos. 4035-4037 of 2020 order dated 19<sup>th</sup> January, 2021 (The National Highways Authority of India vs Pandarinathan Govindrajulu & Anr) *“There is no requirement for obtaining environmental clearances for NH 45-A Villuppuram - Nagapattinam Highway as land acquisition is not more than 40 meters on existing alignments and 60 meters on realignments or by passes”*. Judgment copy is annexed herewith as **Annexure - R3**.

In view of above, only such project which meets both the conditions, i.e., threshold length of the highway and envisaged expansion width (RoW or land acquisition) of the highway, would require a prior EC.

In this case, it is noted that combined length of the Highway including all the stretches are more than 100 km, however, the envisaged additional ROW is less than 40 m (38 m) and ROW in bypasses are also less than 60 m (45 m).

**Based on the above, the Joint Committee concluded that the proposed project does not require Environmental Clearance (EC) even though all stretches are considered as one project.**

**6.2 Whether there is any violation of any environmental laws in carrying out the project committed by the National Highway Authority?**

As observed during site visit by the Joint Committee, **no work at the site has been started**. Therefore, **the joint committee has not found any kind of violation of environmental law**.

**6.3 Even if the project has to continue what are all the precautions to be taken by them to avoid the possible environmental impact of such project. If there is any violation found, the committee is also directed to assess the environment damage caused on account of such violation and assess the environmental compensation to be recovered from the National Highway Authority of India?**

During the visit, the committee has not found any violation related to environment. Therefore, the committee has not calculated environmental compensation.

**Further, the committee recommends following precautionary measures to prevent the possible environmental impact by such projects.**

- i. Necessary prior permission shall be obtained for cutting of trees from the Competent Authority. Compensatory afforestation shall be carried out as required and the regulations and regular supervision /monitoring to carried out to ensure higher survival rate.
- ii. The hot mix plant shall be located away from the habitational / School/ Hospital areas
- iii. The vehicle used for transportation of raw materials shall be properly covered to control dust as well as spillage on the route.
- iv. Frequent water spraying shall be carried out to control dust during the laying of road.
- v. Rainwater harvesting including oil and grease trap shall be provided. Water harvesting structures shall be located at every 500 mts along the road. Vertical drain type rainwater harvesting structures shall be set up to minimize surface runoff losses of rainwater.
- vi. The PA shall ensure that the widening of road/laying of bypasses should not alter the natural drainage pattern of the area, also to ensure that any dumping in water /river course/CRZ area be prevented.
- vii. PA should take adequate care to prevent damage and destruction of mangroves.
- viii. The material required for the project shall be sourced only through the authorized vendors.
- ix. Adequate number of underpasses shall be provided in the habitation areas.
- x. No horn zone shall be delineated, and sign boards placed clearly at habitation / School/ Hospital areas.

## **7. CONCLUSION AND RECOMMENDATION:**

**The Joint Committee after examining relevant documents concluded the following:**

- (i) The proposed project does not require Environmental Clearance (EC) even though all the stretches of highway are considered as one project.**
- (ii) There is no violation of environmental laws, as on date as the project work has not started yet.**

**RECOMMENDATIONS:**

- i. All relevant and applicable statutory clearances to be obtained by the Project Authority prior to start of work.
- ii. Necessary fugitive/dust suppression methods to be adopted during construction phase.
- iii. During the construction phase, best traffic management/ diversion measures to be adopted to avoid traffic congestion.
- iv. All precautionary measures detailed at point No 6.3 to be followed.

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*RIS Cochin*  
*28/01/2021*  
**Sh. J. Balachander**

General Manager (T) & Project Director  
National Highway Authority of India  
Regional Office, Project Implementing Unit  
Cochin, Kerala.

*S. Prabu*  
**Dr. S. Prabu**

Scientist – C  
Ministry of Environment, Forest and  
Climate Change (MoEF&CC)  
Integrated Regional Office (IRO)  
Bangalore.

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**भारतीय राष्ट्रीय राजमार्ग प्राधिकरण**  
(सड़क परिवहन और राजमार्ग मंत्रालय)  
**National Highways Authority of India**  
(Ministry of Road Transport & Highways)

टेलिफोन / फेक्स : 0484 - 4864616  
Telephone / Fax: 0484 - 2989417  
ई - मेल : cochin@nhai.org  
E-mail : cochinnhai@gmail.com



परीयोजना कार्यान्वयन इकाई - कोचीन  
**Project Implementation Unit Cochin**  
VII/511-बी, नेयथेली - मावेलीपुरम सड़क,  
VII/511-B, Neytheli- Mavelipuram Road  
मावेलीपुरम, काक्कनाड - 682030, एरणाकुलम जिल्ला (केरल)  
Mavelipuram, Kakknad - 682030, Ernakulam District (Kerala)  
**NHAI/PIU-COCHIN/12641/NH-66/2021/20**

15<sup>th</sup> January 2021

To

Dr.S.Prabhu,  
Scientist 'C'/Dy. Director,  
Ministry of Environment, Forest & Climate Change.  
Integrated Regional Office, Bangalore - 560034.

**Sub:** Joint Committee constituted by Hon'ble National Green Tribunal (NGT), Southern Zone, Chennai in OA No.241/2020 filed by Mr.Mohammed Jishar & others Vs. Union of India & others - Reply - Reg.

**Ref:** 1. Order in O.A.No. 241/2020 issued by the Hon'ble NGT, Chennai dt. 11.11.2020  
2. RO Kerala letter No. 11115/RO-Kerala/Court Case/NGT/1187 dt 05.12.2020  
3. Letter No. EP/12.7/66/KER/983dt. 21.12.2020 of Dr.S.Prabhu, Scientist'C'/ Dy. Director (S), NGT, Bangalore.

Sir,

In reference to your letter cited under reference (3) the parawise comments is as follows:

**Comments to Para -1 & 2**

1. The National Highway NH-66 starts from Panvel in the State of Maharashtra and ends at Kanniyakumari in the State of Tamil Nadu. Further in the State of Kerala it commence from Karnataka /Kerala Border to Kerala /Tamil Nadu Border. The sketch of NH-66 in the State of Kerala is attached herewith.
2. The subject project has been entrusted to the DPR Consultant M/s.Feedback Infra Project Pvt. Ltd for preparation of Detailed Project Report from Vengalam which is situated at Kozhikode District to Edappally in Ernakulam District. The total stretch from Vengalam to Edappally has been divided in to six packages which is under different stage of execution. The same is tabulated below:

SL. No	Name of Package	Chinage		Length in Km	Status of the Package
		From	To		
1.	Six laning Kozhikode Bypass ( i.e Vengalam Junction to Ramanattukara junction)	230+400	258+800	28.200	The agreement has already been signed with the Concessionaire on dt. 18.04.2018
2	6-laning of Ramanattukara to Valancherry	258+800	298+500	39.682	Under bidding stage
3.	6-laning of Valanchery to Kappirikkad	298+500	335+850	37.350	Under Bidding stage
4.	6-laning of Kappirikkad to Thalikulam	335+850	369+015	33.150	Yet to be bidded
5.	6-laning of Thalikulam to Kodungallur	369+015	397+850	29.000	Yet to be bidded
6.	6-laning of Kodungallur to Edappally	397+850	423+000	25.150	Preparation of 3D is under progress

निर्माणित कार्यालय : जी-5 एवं 6, सेक्टर -10, द्वारका, नई दिल्ली - 110075  
**Corporate Office : G-5 & 6, Sector -10, Dwaraka, New Delhi - 110075**

3. The detailed land Acquisition Plan (LAP) with 45 m RoW along with the existing RoW from Ramanattukara to Edappally is attached as Annexure -1. Further various Bypasses and realignment considered in the above packages is tabulated below:

### I. Bypasses

Sl. No	Package	Name of Bypass	Existing Chainage		Design Chainage		Length (km)
			Start	End	Start	End	
1	Ramanattukara to Valanchery	Kottakkal	290.07	295.225	285+300	289+720	4.420
2	Valanchery to Kappirikkad	Valanchery	306.15	311.33	300+400	304+580	4.180
3	Kappirikkad to Thalikulam	Chavakkad	363.145	365.62	349+795	351+870	2.075
4		Vadanappally	374.55	380.325	360+850	367+050	6.200
5	Thalikulam to Kodungallur	Triprayar	383.62	387.365	370+320	374+130	3.810
6		Chentrappinni	389.89	392.16	376+650	378+680	2.030
7		Moonupeedika	395.14	397.385	381+680	384+360	2.680
8		Mathilakam	398.34	403.31	385+130	390+130	5.000
9	Kodungallur to Edappally	North Paravoor	413.4	422.98	400+410	407+930	7.520
<b>Total Length</b>							<b>37.915</b>

### II. Realignments

Sl. No.	Package	Name of Re-Alignment	Existing Chainage		Design Chainage		Length (km)
			Start	End	Start	End	
1	Ramanattukara to Valanchery	Idimuzhikkal Re-Alignment	263.405	264.565	259+380	260+500	1.120
2		Kolappuram Re-Alignment	279.655	280.63	275+180	276+140	0.960
3		Kakkad Re-Alignment	282.725	283.33	278+260	278+840	0.580
4		Kachadi Re-Alignment	283.99	284.7	279+500	280+180	0.680
5	Valanchery to Kappirikkad	Puthanathani Re-Alignment	299.86	300.54	294+300	294+810	0.510
6	Kappirikkad to Thalikulam	Mannalamkunnu Re-Alignment	351.73	353.46	338+330	340+100	1.770
7	Thalikulam to Kodungallur	NA					
8	Kodungallur to Edappally	Cheriyappilly Re-Alignment	408+650	410+900	423+705	426+055	2.350
<b>Total Length</b>							<b>7.970</b>

**Comments to Para - 3**

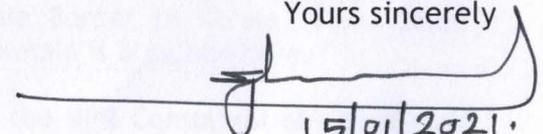
Further the alignment from Ramanattukara to Valancherry was tentatively submitted to NHAI by M/s.Feedback Infra Pvt. Ltd adhering to the relevant technical standards/ specifications which was subsequently presented before the representatives of the people in the presence of the district administration. Accordingly the draft alignment was finalized tentatively and was submitted for the approval of the Govt. of Kerala. The Govt. of Kerala has subsequently approved the alignment and based on the recommendation of Govt. of Kerala the alignment was finally approved by NHAI.

**Comments to Para - 4**

The statutory clearances like CRZ is under process and the CRZ maps are getting prepared through NCESS, Thiruvananthapuram for the said above 5 projects. However the CRZ clearance for the package Six laning Kozhikode Bypass ( i.e Vengalam Junction to Ramanattukara junction) has already been obtained by NHAI. Further it is to mention that environment clearance and forest clearance is not required as per the MoEF Guidelines.

This is for your kind information, please.

Yours sincerely

  
15/01/2021  
(SANJAY KUMAR YADAV)  
DGM (T) & Project Director

Copy to: RO Kerala - for kind information please

रजिस्ट्री सं० डी० एल०-33004/99

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# भारत का राजपत्र

## The Gazette of India

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पर्यावरण और वन मंत्रालय

अधिसूचना

नई दिल्ली, 22 अगस्त 2013

का.आ.2559(अ)-केन्द्रीय सरकार ने, भारत सरकार की पर्यावरण और वन मंत्रालय में पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उप-नियम (3) के खंड (घ) के साथ पठित पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा 3 की उपधारा (2) के खंड (5) और उप-धारा (1) के अधीन जारी अधिसूचना संख्या का.आ. 1533 (अ) तारीख 14 सितंबर, 2006 द्वारा निदेश दिया है कि इस अधिसूचना के प्रकाशन की तारीख से ही नई परियोजनाओं या उक्त अधिसूचना की अनुसूची में सूचीबद्ध विद्यमान परियोजनाओं या कार्यकलापों के विस्तार या आधुनिकीकरण के लिए अपरिहार्य क्षमतावर्धन के लिए प्रक्रिया या प्रौद्योगिकी में परिवर्तन और या उत्पाद मिश्रण, भारत के किसी भी भाग में यथास्थिति केन्द्रीय सरकार या उक्त अधिनियम की धारा 3 की उप-धारा (3) के अधीन केन्द्रीय सरकार द्वारा सम्यक् रूप से गठित राज्य स्तरीय पर्यावरण संघात निर्धारण प्राधिकरण की उसमें विनिर्दिष्ट प्रक्रिया के अनुसरण में पूर्व पर्यावरण निकासी के पश्चात् ही हाथ में लिया जाएगा;

और भारत सरकार ने पर्यावरण और वन मंत्रालय में राजमार्गों, भवनों और विशेष आर्थिक क्षेत्र परियोजनाओं के लिए पर्यावरणीय निकासी प्रदान करने से संबंधित पर्यावरण संघात निर्धारण अधिसूचना, 2006 के उपबंधों का पुनर्विलोकन करने के लिए कार्यालय जापन सं. 21-270/2008-आईए.III, तारीख 11 दिसंबर, 2012 और पर्यावरण और वन मंत्रालय के गगनचुंबी भवनों के संबंध में कार्यालय जापन तारीख 7 फरवरी, 2011 द्वारा सदस्य, (पर्यावरण और वन तथा विज्ञान और प्रौद्योगिकी), योजना आयोग की अध्यक्षता में एक उच्च स्तरीय समिति का गठन किया था ;

3649 GI/2013

(1)

और समिति के संदर्भ के निबंधनों (टीओआर) में एक निबंधन पर्यावरण संघात निर्धारण अधिसूचना के अधीन 60 मीटर के मार्गाधिकार और 200 किलोमीटर लंबी राजमार्ग विस्तार परियोजनाओं के लिए पर्यावरण निकासी की अपेक्षाओं का पुनर्विलोकन करना था ;

और समिति ने मंत्रालय को अपनी रिपोर्ट प्रस्तुत कर दी है और इस टीओआर पर समिति ने राजमार्ग विस्तार परियोजनाओं को विस्तारण की अपेक्षा और पर्यावरण संघात निर्धारण से छूट देने की सिफारिश की है या राजमार्ग विस्तार परियोजनाओं के लिए पर्यावरण प्रबंधन परियोजना माडल टीओआर, जिसे मंत्रालय की वेबसाइट पर पोस्ट किया जाएगा के अनुसार तैयार किया जा सकता है और पर्यावरण निकासी की अपेक्षा के संबंध में समिति ने सिफारिश की है कि 100 किलोमीटर तक राष्ट्रीय राजमार्ग परियोजनाओं का विस्तार जिसमें अतिरिक्त मार्गाधिकार या विद्यमान संरेखणों पर 40 मीटर तक अर्जन और पुनःसंरेखण पर 60 मीटर या उप-मार्गों को अधिसूचना की परिधि से बाहर रखने की सिफारिश की है ;

और समिति की रिपोर्ट की पर्यावरण और वन मंत्रालय में जांच की गई है । पहले ही अधिसूचना सं. का. आ. 3067(अ) तारीख 1 दिसंबर, 2009 द्वारा सभी राज्य राजमार्ग विस्तार परियोजनाओं को सिवाय उन परियोजनाओं के जो पहाड़ी क्षेत्रों (1000 मीटर एएमएसएल) और पारिस्थितिकीय रूप से संवेदनशील क्षेत्रों में है, को पर्यावरण संघात निर्धारण अधिसूचना 2006 से छूट प्रदान कर दी गई है ।

और अन्य बातों के साथ पूर्वोक्त को ध्यान में रखते हुए पर्यावरण और वन मंत्रालय ने कार्यालय जापन सं. 21-270/2008-आईए. III, तारीख 11 दिसंबर, 2012 द्वारा गठित उच्च स्तरीय समिति की पूर्वोक्त सिफारिशों को स्वीकार करने का विनिश्चय किया है ;

अतः, अब, केन्द्रीय सरकार, पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उपनियम (4) के साथ पठित पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा 3 की उपधारा (2) के खंड (5) और उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के पर्यावरण और वन मंत्रालय की अधिसूचना सं. का.आ. 1533(अ) तारीख 14 सितंबर, 2006 में उक्त नियम 5 के उपनियम (3) के खंड (क) के अधीन सूचना की अपेक्षा से अभिमुक्ति देने के लिए निम्नलिखित और संशोधन करती है, अर्थात् :-

2. उक्त अधिसूचना में,-

(क) पैरा 7 के उपपैरा II के मद (i) के स्थान पर निम्नलिखित मद रखी जाएगी, अर्थात्:-

'(i) "विस्तारण" उस प्रक्रिया को निर्दिष्ट करता है, जिसके द्वारा प्रवर्ग 'क' परियोजना क्रियाकलापों के मामले में विशेषज्ञ आंकलन समिति और प्रवर्ग 'ख 1' परियोजनाओं या क्रियाकलापों के मामले में, राज्य स्तर विशेषज्ञ आंकलन समिति, जिसके अंतर्गत विद्यमान परियोजनाओं या क्रियाकलापों के विस्तार या आधुनिकीकरण या उत्पाद मिश्रण में परिवर्तन उस परियोजना या क्रियाकलाप, जिसके लिए पूर्व पर्यावरणीय अनापत्ति ईप्सित की गई है, के संबंध में पर्यावरण समाधात निर्धारण रिपोर्ट (ईआईए) तैयार करने के लिए सभी सुसंगत पर्यावरणीय चिंताओं को संबोधित करते हुए विस्तृत और समय निर्देश के निबंधनों का अवधारण और विशेषज्ञ आंकलन समिति या संबंधित राज्य स्तर आंकलन समिति विहित आवेदन प्ररूप 1/प्ररूप1क में दी गई जानकारी के आधार पर जिसके अंतर्गत आवेदक द्वारा प्रस्तावित निर्देश के निबंधन हैं, किसी विशेषज्ञ आंकलन समिति या संबंधित राज्य स्तर आंकलन समिति के किसी उप समूह द्वारा स्थल भ्रमण यदि संबंधित विशेषज्ञ आंकलन समिति या संबंधित राज्य स्तर विशेषज्ञ आंकलन समिति द्वारा आवश्यक समझा जाए, आवेदक द्वारा सुझाए गए निर्देश के निबंधन, यदि प्रस्तुत किए जाए और अन्य सूचना जो विशेषज्ञ आंकलन समिति या राज्य स्तर विशेषज्ञ आंकलन समिति के पास उपलब्ध हों, सम्मिलित है:

परंतु निम्नलिखित को विस्तारण की आवश्यकता नहीं होगी-

(i) अनुसूची के मद 8 में प्रवर्ग ख के रूप में सूचीबद्ध सही परियोजनाएं और कार्यकलाप (नगरों या वाणिज्यिक परिसरों या आवासन का संनिर्माण) ;

(ii) अनुसूची के मद 7 की उपमद (च) के अधीन स्तंभ (3) और स्तंभ (4) की प्रविष्टि (ii) के अधीन आने वाली राजमार्ग विस्तार परियोजनाएं ;

परंतु यह और कि -

अ. खंड (i) में निर्दिष्ट परियोजनाएं और कार्यकलापों का अंकन प्ररूप 1 या प्ररूप 1क और अवधारणा योजना के आधार पर किया जाएगा ;

आ. खंड (ii) में निर्दिष्ट परियोजनाएं पर्यावरण और वन मंत्रालय द्वारा विनिर्दिष्ट माडल टीओआर के आधार पर ईआईए और ईएमपी रिपोर्ट तैयार करेंगी ;

(ख) अनुसूची में मद 7 की उप मद (च) के सामने स्तंभ (3) में प्रविष्टि (ii) के स्थान पर निम्नलिखित प्रविष्टि रखी जाएगी, अर्थात्:-

"(ii) राष्ट्रीय राजमार्गों का 100 किलोमीटर से अधिक विस्तार जिनमें अतिरिक्त 40 मीटर से अधिक विद्यमान संरेखणों पर और पुनः संरेखणों या उपमार्गों पर 60 मीटर क्षेत्राधिकार या भूमि अर्जन अंतर्बलित है।"

[फा.सं.21-270/2008-आईए.।।।]

अजय त्यागी, संयुक्त सचिव

टिप्पण : मूल नियम भारत के राजपत्र असाधारण, भाग II, खंड 3, उपखंड (ii) में अधिसूचना सं. का.आ. 1533(अ), तारीख 14 सितंबर, 2006 द्वारा प्रकाशित किए गए थे और तत्पश्चात् निम्नानुसार संशोधित किए गए :

1. का.आ. 1733(अ), तारीख 11 अक्तूबर, 2007;
2. का.आ. 3067(अ), तारीख 1 दिसंबर, 2009;
3. का.आ. 695(अ), तारीख 4 अप्रैल, 2011;
4. का.आ. 2896 (अ), तारीख 13 दिसंबर, 2012; और
5. का.आ. 674(अ), तारीख 13 मार्च, 2013

#### MINISTRY OF ENVIRONMENT AND FORESTS NOTIFICATION

New Delhi, the 22nd August, 2013

S.O. 2559(E).- Whereas by notification of the Government of India in the Ministry of Environment and Forests vide number S.O.1533(E), dated the 14th September, 2006 issued under sub-section (1) and clause (v) of sub-section (2) of section (3) of the Environment (Protection) Act, 1986 read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government directed that on and from the date of its publication, the required construction of new projects or activities or the expansion or modernization of existing projects or activities listed in the Schedule to the said notification entailing the capacity addition with change in process or technology and or product mix shall be undertaken in any part of India only after prior environmental clearance from the Central Government or as the case may be, by the State level Environment Impact Assessment Authority, duly constituted by the Central Government under sub-section (3) of section 3 of the said Act, in accordance with the procedure specified therein;

And whereas the Government of India in the Ministry of Environment and Forests had constituted a High Level Committee under the Chairmanship of Member (Environment and Forests and Science and Technology), Planning Commission, vide OM No.21-270/2008-IA.III dated the 11th December, 2012 to review the provisions of Environmental Impact Assessment Notification, 2006 relating to granting Environmental Clearances for Roads, Buildings and Special Economic Zone projects and provisions under the OM dated the 7th February, 2012 issued by the Ministry of Environment and Forests regarding guidelines for High Rise Buildings;

And whereas one of the terms of reference (ToR) of the Committee was to review the requirement of Environmental Clearance for highway expansion projects up to the right of way of 60 meters and length of 200 kms under Environmental Impact Assessment notification;

And whereas the Committee has submitted its report to the Ministry and on this ToR, the Committee has recommended exempting highway expansion projects from the requirement of scoping and that Environmental Impact Assessment or Environment Management Plan for highway expansion projects may be prepared on the basis of model ToRs to be posted on Ministry's website and in respect of requirement of environmental clearance, the Committee has recommended that expansion of National Highway projects up to 100 kms involving additional right of way or land acquisition up to 40 mts on existing alignments and 60 mts on re-alignments or by-passes may be exempted from the preview of the notification;

And whereas the report of the Committee has been examined in the Ministry of Environment and Forests. Earlier, vide notification S.O. 3067(E), dated the 1st December 2009 all State Highway expansion projects, except those in hilly terrain (above 1000 m AMSL) and ecologically sensitive areas, have already been exempted from the purview of the Environmental Impact Assessment notification, 2006.

And whereas, keeping inter-alia in view the foregoing, the Ministry of Environment and Forests has decided to accept the aforesaid recommendations of the High Level Committee constituted vide OM No.21-270/2008-IA.III, dated the 11th December 2012;

Now, therefore in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) read with sub-rule (4) of rule (5) of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following further amendment to the notification of the Government of India, in the Ministry of Environment and Forests number S.O. 1533(E), dated the 14th September, 2006 after having dispensed with the requirement of notice under clause (a) of sub-rule (3) of the said rule 5 in public interest, namely:—

2. In the said notification, —

(a) in paragraph 7, in sub-paragraph II, for item (i), the following item shall be substituted, namely:—

(i) "Scoping" refers to the process by which the Expert Appraisal Committee in the case of Category 'A' projects activities, and State level Expert Appraisal Committee in the case of Category 'B1' projects or activities, including applications for expansion or modernization or change in product mix of existing projects or activities, determine detailed and comprehensive Terms of Reference (TOR) addressing all relevant environmental concerns for the preparation of an Environment Impact Assessment (EIA) Report in respect of the project or activity for which prior environmental clearance is sought and the Expert Appraisal Committee or State level Expert Appraisal Committee concerned shall determine the terms of reference on the basis of the information furnished in the prescribed application Form I or Form 1A including terms of reference proposed by the applicant, a site visit by a sub-group of Expert Appraisal Committee or State level Expert Appraisal Committee concerned only if considered necessary by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, terms of Reference suggested by the applicant if furnished and other information that may be available with the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned:

Provided that the following shall not require Scoping:—

- (i) all projects and activities listed as Category 'B' in item 8 of the Schedule (Construction or Township or Commercial Complexes or Housing);
- (ii) all Highway expansion projects covered under entry (ii) of column (3) and column (4) under sub-item (f) of item 7 of the Schedule:

Provided further that—

- A. the projects and activities referred to in clause (i) shall be apprised on the basis of Form I or Form 1A and the conceptual plan;
- B. The projects referred to in clause (ii) shall prepare EIA and EMP report on the basis of model TOR specified by Ministry of Environment and Forests;

(b) in the Schedule, against sub-item (f) of item 7, in column (3), for the entry (ii), the following entry shall be substituted, namely:—

- "(ii) Expansion of National Highways greater than 100 km involving additional right of way or land acquisition greater than 40m on existing alignments and 60m on re-alignments or by-passes."

[F. No. 21-270/2008-IA.III]

AJAY TYAGI, Jt. Secy.

**Note:** The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) vide notification number S.O. 1533(E), dated the 14th September, 2006 and subsequently amended as follows:—

1. S.O. 1737 (E), dated the 11th October, 2007;
2. S.O. 3067 (E), dated the 1st December, 2009;
3. S.O. 695 (E), dated the 4th April, 2011;
4. S.O. 2896 (E), dated the 13th December, 2012; and
5. S.O.674(E), dated the 13th March, 2013

Non-Reportable

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**Civil Appeal Nos. 4035-4037 of 2020**

**THE NATIONAL HIGHWAYS AUTHORITY OF INDIA**

**.... Appellant(s)**

**Versus**

**PANDARINATHAN GOVINDARAJULU & ANR.**

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

**J U D G M E N T**

**L. NAGESWARA RAO, J.**

**1.** The dispute in these appeals pertains to the environmental clearance for expansion of National Highway 45-A between Villuppuram to Nagapattinam. The High Court held that it is necessary. The Appellant disagrees. Hence, these appeals.

**2.** The project of widening and improvement of the existing 4-laning carriage way in the State of Tamil Nadu

and the Union Territory of Puducherry, from Villuppuram to Nagapattinam was bifurcated into four packages, which are as follows:

- i. Villuppuram to Puducherry (29.000 kms)—Package I.
- ii. Puducherry to Poondiankuppam (38.00 kms)—Package II.
- iii. Poondiankuppam to Sattanathapuram (56.800 kms)—Package III.
- iv. Sattanathapuram to Nagapattinam (55.755 kms)—Package IV.

**3.** Approval was granted by the Competent Authority, *i.e.* Special District Revenue Officer (Land Acquisition), National Highways No. 45-A in March, 2018 and agreements were entered into between the Appellant and the concessionaires. Process was initiated for acquisition of lands required for the project. Writ Petitions were filed in the High Court of Madras by certain aggrieved farmers and public interest litigants questioning the commencement of the project without obtaining environmental clearance. The High Court

allowed the Writ Petitions and issued the following directions:

- a. *“The present project of expansion of NH-45A covering a stretch of 179.555 k.m. shall be put on hold, and the present status quo is directed to be maintained.*
- b. *That the project proponent (NHAI) shall undertake an EIA study and obtain environmental clearance.*
- c. *The NHAI is also directed to obtain approval from CRZMA for CRZ clearance for two locations that it has indicated in its counter in W.P.15217/2019.*
- d. *Once the necessary clearances are obtained as mentioned in (b) and (c) above, the project can proceed. If the EIA study to be undertaken provides any contra-indicators to the NHAI's plan of development of NH-45A, it will be at liberty to make necessary alterations and modifications to make the project environmental viable.*
- e. *If after ensuring the environmental viability of the project, its implementation resumes, the project proponent, and subject to the terms of the contract, the concessionaire, should first identify the places for planting the saplings of the same variety, preferably native-trees, for every tree felled, and it must be grown first. Possibility of forming a Miyawaki forest has to be explored as well.*
- f. *This Court proposes to form a committee to monitor the compliance of the direction given in (e) above, and hence, before resumption of the project, NHAI is required to approach this Court”.*

**4.** Section 3 of the Environment (Protection) Act, 1986 empowers the Central Government to take all such measures for the purpose of protecting and improving the quality of the environment and preventing,

controlling and abating environmental pollution. One of the measures provided in Section 3 (2) (v) is restriction of areas in which any industries, operations or processes or class of industries shall not be carried out or shall be carried out subject to certain safeguards. The Environment (Protection) Rules, 1986 were made in exercise of power conferred by Sections 6 and 25 of the Environment (Protection) Act, 1986. According to Rule 5, the Central Government may prohibit or restrict the location of industries and the carrying on of processes and operations in different areas.

**5.** In exercise of the power conferred on the Central Government by Sub-Clause (i) and Clause (v) of Sub-Section (2) of Section 3 of the Environment (Protection) Act, 1986 read with Clause (b) of Sub rule (3) of Rule 5 of the Environment (Protection) Rules, 1986, the Ministry of Environment and Forests, Government of India issued a Notification on 14.09.2006 directing construction of new projects or activities or the expansion or modernisation of existing projects or activities listed under the Schedule to the Notification shall be undertaken only

after prior environmental clearance from the Central Government or the State Level Environment Impact Assessment Authority. Clause 2 of the said Notification provides that new projects or expansion and modernisation of existing projects listed under the Schedule to the Notification require prior environmental clearance from the concerned regulatory authority. The Schedule to the Notification includes Highways at Item No.7 (f). New National Highways and expansion of National Highways greater than 30 kms involving additional right of way greater than 20 meters or land acquisition and passing through more than one State, require prior environmental clearance. A high-level Committee headed by Member (Environment and Forests, Science and Technology), Planning Commission was constituted by the Ministry of Environment and Forests to review the provisions of the Environmental Impact Assessment Notification dated 14.09.2006 pertaining to environmental clearance for roads, buildings and Special Economic Zone projects. One of the terms of the reference for the Committee was to

review the requirement of environmental clearance for Highways expansion projects with a right of way up to 60 meters and length of 200 km. The Committee submitted its report recommending that expansion of National Highways projects up to 100 km involving additional right of way or land acquisition up to 40 meters on existing alignments and 60 meters on realignments or by passes may be exempted from the purview of the Notification. The report of the Committee was accepted and Item 7 (f) in column (3) to the Notification dated 14.09.2006 was substituted as follows: “expansion of National Highways greater than 100 km involving additional right of way or land acquisition greater than 40 meters on existing alignments and 60 meters on realignments or by passes”.

**6.** The project under consideration in this case pertains to the expansion of NH-45A between Villuppuram to Nagapattinam for a distance of 179.555 kms as a part of the\_Bharatmala Pariyojana project. Admittedly, no environmental impact assessment was undertaken. The Appellant stated in the counter

affidavit filed before the High Court that environmental clearance is not required as the additional right of way or land acquisition was not greater than the limits specified in the Notification even if the expansion of the National Highways is beyond 100 km. Environmental clearance under the Notifications dated 14.09.2006 and 22.08.2013 is required only if the additional right of way or land acquisition is greater than 40 meters on existing alignments and 60 meters on realignments or bypasses. The pivot of the controversy relates to the applicability of Notifications dated 14.09.2006 and 22.08.2013 to the project in question. Therefore, we deem it necessary to adjudicate on the interpretation of the said Notifications though the High Court did not consider the said point.

**7.** A plain reading of Item 7 (f) to the Notification dated 22.08.2013 would make it clear that expansion of a National Highway project needs prior environmental clearance in case (a) expansion of the National Highway project is greater than 100 km. and (b) it involves additional right of way or land acquisition greater than 40 meters on existing alignments and 60 meters on realignments or bypasses. There is no ambiguity in the

above provision as it gives no scope for any doubt. The distance of 100 km is important as expansion of National Highways below 100 km needs no prior environmental clearance. If the project involves expansion of a National Highway greater than 100 km, prior environmental clearance would be required only if it involves additional right of way or land acquisition greater than 40 meters on existing alignments and 60 meters on realignments or by passes.

**8.** A statutory rule or Notification is to be treated as a part of the statute<sup>1</sup>. Rules made under a statute must be treated for all purposes of construction or obligation exactly as if they were in the Act, are to be of the same effect as if they are contained in the Act, and are to be judicially noticed for all purposes of construction or obligation<sup>2</sup>. The principles of interpretation of subordinate legislation are applicable to the interpretation of statutory Notifications<sup>3</sup>. If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those

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1 State of Tamil Nadu v. Hind Stone, (1982) 2 SCC 205

2 The State of Uttar Pradesh and Ors v. Babu Ram Upadhyya 1961 SCR (2) 679

3 Bansal Wire Industries Ltd. v. State of U.P., (2011) 6 SCC 545

words in their natural and ordinary sense. The words themselves do alone in such cases best declare the intent of the law-giver<sup>4</sup>.

**9.** It has been repeatedly held by this Court that where there is no ambiguity in the words, literal meaning has to be applied, which is the golden rule of interpretation. The words of a statute must prima facie be given their ordinary meaning<sup>5</sup>.

**10.** In the current case, there is no ambiguity or scope for two interpretations. On a plain reading of Item 7 (f) of the Notification dated 22.08.2013, we adopt the golden rule of interpretation to hold that there is no requirement of prior environmental clearance for expansion of a National Highway project merely because the distance is greater than 100 km. The project proponent is obligated to obtain prior environmental clearance only the additional right of way or land acquisition is greater than 40 meters on existing alignments and 60 meters on realignments or by passes

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4 (1843-60) All ER Rep 55, Sussex Peerage case

5 Dental Council of India v. Hari Prakash, (2001) 8 SCC 61 and Harbhajan Singh v. Press Council of India, (2002) 3 SCC 722

for a National Highway project which is greater than 100 km.

**11.** It is a cardinal principle of interpretation that full effect has to be given to every word of the Notification<sup>6</sup>. Interpreting the Notification dated 22.08.2013 to mean that every expansion of National Highway which is greater than 100 km requires prior environmental clearance would be making the other words in Item 7 (f) redundant and otiose.

**12.** The learned Attorney General of India relied upon a judgment of this Court in ***CIT v. Surat Art Silk Cloth Manufacturers' Association***<sup>7</sup> to highlight the importance of the word “involving” in Item 7 (f) of the Notification in which it was held as follows:

*“15. We must then proceed to consider what is the meaning of the requirement that where the purpose of a trust or institution is advancement of an object of general public utility, such purpose must not involve the carrying on of any activity for profit. The question that is necessary to be asked for this purpose is as to when can the purpose of a trust or institution be said to involve the carrying on of any activity for profit. The word “involve” according to the Shorter Oxford Dictionary means “to enwrap in anything, to enfold or*

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6 South Central Railway Employees Coop. Credit Society Employees' Union v. Registrar of Coop. Societies. (1998) 2 SCC 580 And Bansal Wire Industries Ltd. v. State of U.P., (2011) 6 SCC 545  
7 (1980) 2 SCC 31

*envelop; to contain or imply". The activity for profit must, therefore, be intertwined or wrapped up with or implied in the purpose of the trust or institution or in other words it must be an integral part of such purpose.*

...

*33. ... The word "involving" in the restrictive clause is not without significance. An activity is involved in the advancement of an object when it is enwrapped or enveloped in the activity of advancement. In another case, it may be interwoven into the activity of advancement, so that the resulting activity has a dual nature or is twin faceted. ..."*

**13.** We find force in the submissions made by the learned Attorney General that the word "involving" is of significance because in the absence of the requirement of an additional right of way or land acquisition greater than 40 meters on existing alignments and 60 meters on realignments or by passes, the expansion of National Highways which are greater than 100 km per se does not require prior environmental clearance.

**14.** It is submitted on behalf of the Ministry of Environment, Forest and Climate Change, Government of India that environmental clearance is necessary only if the expansion project pertains to a National Highway which is greater than 100 km and involves additional

right of way or land acquisition greater than 40 meters on existing alignments and 60 meters on realignments or by passes. In case of a doubt, the interpretation of the author of the Notification has to be accepted<sup>8</sup>. Ergo, the opinion of the author of the notification i.e. the Ministry of Environment, Forest and Climate Change deserves to be accepted.

**15.** A conspectus of the above discussion leads to the unerring conclusion that there is no ambiguity in Item 7 (f) of the Schedule to the Notification that prior environmental clearance is required for expansion of a National Highway project only if:

- (a) The National Highway is greater than 100 kms.
- (b) The additional right of way or land acquisition is greater than 40 meters on existing alignments and 60 meters on realignments and by passes.

**16.** In view of the bifurcation of the National Highway 45-A into four packages and each package being less than 100 km, the Appellant contended before the High Court that the Notifications dated 14.09.2006 and 22.08.2013 are not applicable. Seeking support from a judgment of the United States District Court for the

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<sup>8</sup> Silppi Construction Contractors v. Union of India, 2019 SCC OnLine SC 1133

Southern District of Indiana in ***Old Town Neighborhood Association v. Kauffman***,<sup>9</sup> and a judgment of the European Court of Justice in ***Commission of the European Communities v. Kingdom of Spain***<sup>10</sup>, the High Court held that segmentation of a project as a strategy to avoid environmental clearance is impermissible. The High Court also relied upon a judgment of this Court in ***Deepak Kumar v. State of Haryana***<sup>11</sup> and a judgment of the National Green Tribunal in ***Citizens for Green Doon v. Union of India***<sup>12</sup> to reject the contention of the Appellants that the division of the project into four packages is for administrative expediencies. According to the High Court, if segmentation of National Highway projects is permitted, the Notifications dated 14.09.2006 and 22.08.2013 would become a dead letter as every National Highway beyond 100 km can be divided into packages to avoid environmental clearance.

**17.** It was submitted by the learned Attorney General that the division of the project was done by the

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9 (S.D. Ind. 2002), Case No. 1:02-cv-1505-DFH.

10 Case C-227/01.

11 (2012) 4 SCC 629

12 2018 SCC OnLine NGT 1777

Government of India and the National Highways Authority is only an executing agency. He stated that the proposed project is of great importance to the movement of public goods and services for which reason, speedy execution was required. It would be difficult to get one concessionaire with necessary finances to mobilise required machineries, construction material and human resources for the entire length of 179.555 km. He laid stress on the point that the project was divided into four packages in public interest.

**18.** While economic development should not be allowed at the cost of ecology or by causing widespread environmental destruction, the necessity to preserve ecology and environment should not hamper economic and other development. Both development and environment must go hand in hand. In other words, there should not be development at the cost of environment and vice versa, but there should be development while taking due care and ensuring the protection of environment<sup>13</sup>. The traditional concept

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13 Indian Council for Enviro-Legal Action v. Union of India [(1996) 5 SCC 281]

that development and ecology are opposed to each other is no longer acceptable<sup>14</sup>.

**19.** Apart from providing smooth flow of public goods and services which contribute to the economic growth, highways also benefit regional development in the country. In the normal course, impediments should not be created in the matter of National Highways which provide the much-needed transportation infrastructure. At the same time, protection of environment is important. The Notification dated 22.08.2013 exempts a National Highway, the distance of which is less than 100 km from obtaining environmental clearance. If the project proponent is permitted to divide projects having a distance beyond 100 km into packages which are less than 100 km, the Notifications dated 14.09.2006 and 22.08.2013 will be rendered redundant. In that event, administrative exigencies and speedy completion will be a ground taken for justifying the segmentation of every project. Therefore, we are in agreement with the High Court that segmentation as a strategy is not permissible

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14 Vellore Citizens' Welfare Forum v. Union of India [(1996) 5 SCC 647]

for evading environmental clearance as per Notifications dated 14.09.2006 and 22.08.2013.

**20.** Having held that adoption of segmentation of a project cannot be adopted as a strategy to avoid environmental clearance impact assessment, the question that arises is whether segmentation of a National Highway beyond 100 kms is impermissible under any circumstance. As we lack the expertise of deciding upon this issue, we are of the considered view that an expert committee should examine the permissibility of segregation. After the issuance of a Notification dated 14.09.2006 requiring environmental clearance for new projects and expansion of the existing projects, a High-Level Committee was constituted by the Government of India to review the environmental clearances for Highway expansion projects. As per the Notification dated 14.09.2006, environmental clearance was required for new National Highway and expansion of National Highways greater than 30 kms involving additional right of way greater than 20 meters and passing through more than one State. One of the terms

of the reference to the High-Level Committee was to review the requirement of environmental clearance for Highway expansion projects beyond a distance of 200 kms up to the right of way of 60 meters. The High-Level Committee recommended that environmental clearance would be required for expansion of National Highway projects beyond a distance of 100 kms and if the additional right of way or land acquisition is more than 40 meters on existing alignments and 60 meters on realignments or by passes. The said recommendation was accepted by the Government of India and the Notification dated 22.08.2013 was issued, amending the Notification dated 14.09.2006. As the question of permissibility of the segmentation of a National Highway beyond a distance of 100 kms is a matter to be considered by experts, it would be necessary for a committee to be constituted by the Government of India to decide whether segmentation of a National Highway project beyond a distance of 100 kms is permissible. If it is permissible, the circumstances under which

segmentation can be done also requires to be examined by the expert committee.

**21.** Mr. A. Yogeshwaran, learned counsel appearing for the first Respondent submitted that the toll plazas proposed to be erected on the National Highways should be within the permissible limits specified in the Notification dated 22.08.2013. In the note of submissions made by the learned Attorney General, reference has been made to the definition of “Right of way” placing reliance on Para 2.3 of the Manual of Specifications and Standards for Two-Laning of Highways through Public Private Partnership issued by the Planning Commission of India. Right of way as per the said Manual is the total land width required for the project Highway to accommodate road way (carriage way and shoulders) side drains, service roads, tree plantation, utilities etc. In the written submissions filed on behalf of the Appellant, it has been stated that the right of way not being greater than 40 meters on existing alignments and 60 meters on realignments or by passes, applies only to construction of road and is not applicable for other road amenities or facilities such as toll plazas.

However, the Appellant has also stated in the Written submissions that if this Court is not agreeable to the above proposition, it is willing to limit the construction of toll plazas and rest areas within the permissible limits.

**22.** Section 10 of the Manual of Specifications & Standards for Two Laning of Highways through Public Private Partnership, issued by the Planning Commission of India deals with toll plazas. Figure 10.1 which shows the general lay out of a 2+2 lane toll plazas is as follows:



**23.** A bare perusal of the above figure shows that toll plazas are included in the “right of way”. The aforementioned Manual issued by the Planning Commission of India has been relied upon by the Appellant to highlight the definition of the expression “right of way”. However, it was contended on behalf of the Appellant that amenities such as toll plazas and rest houses cannot be part of the right of way. In other words, the Appellant contended that toll plazas and rest houses can be set up beyond the limit specified in the Notification dated 22.08.2013. We do not agree. As Para 2.3 of the aforementioned Manual makes it clear that right of way is the total land width required for the project Highway to accommodate right of way, side drains, service roads, tree plantations, utilities etc., toll plazas and rest houses should be included in the “right of way”.

**24.** For the sake of clarity, we hold that the “right of way” includes the existing National Highway and the additional right of way. To illustrate further, if the

existing National Highway is 20 meters then the right of way will be that 20 meters and the land acquired for the additional right of way.

**25.** The consternation of the High Court that the Appellant had been remiss in not fulfilling the requirement of reforestation in spite of giving undertakings for the projects taken up earlier is to be noted. There is an obligation on the part of the Appellant to plant ten trees for each felled tree. The High Court commented upon Coastal Regulation Zones (CRZ) clearances to be taken at certain points. The learned Attorney General submitted that the Appellant has already obtained CRZ clearances, wherever it is required. We have not dealt with the issues relating to acquisition of land being in contravention of the National Highways Act, 1956 as no such submission was made either before the High Court or this Court.

**26.** On the basis of the above discussion, we set aside the judgment of the High Court and issue the following directions:

1. There is no requirement for obtaining environmental clearances for NH 45-A Villuppuram -

Nagapattinam Highway as land acquisition is not more than 40 meters on existing alignments and 60 meters on realignments or by passes.

2. The Appellant is directed to strictly conform to the Notification dated 14.09.2006 as amended by the Notification dated 22.08.2013 in the matter of acquisition of land being restricted to 40 meters on the existing alignments and 60 meters on realignments.
3. The Ministry of Environment, Forest and Climate Change, Government of India shall constitute an Expert Committee to examine whether segmentation is permissible for National Highway projects beyond a distance of 100 kms and, if permissible, under what circumstances.
4. The Appellant is directed to fulfil the requirement of reforestation in accordance with the existing legal regime.

**27.** The Appeals are allowed accordingly.

.....J.  
**[L. NAGESWARA RAO]**

.....J.  
**[HEMANT GUPTA]**

.....J.  
**[AJAY RASTOGI]**

**New Delhi,  
January 19, 2021.**