BEFORE THE NATIONAL GREEN TRIBUNAL (SZ) CHENNAI

Application No. 242 of 2021 (SZ)

Tejah & Ors … Applicant

Versus

MoEF &CC & anr …Respondent

Memo filed by the Applicant

The applicant respectfully submits as follows:

1. This Hon'ble Tribunal vide order dated 14.09.2022 had directed NHAI to consider alternatives to the present proposal which involves felling of a huge number of old banyan trees. NHAI, after several months, filed its status report dated 6.01.2023 and an additional report dated 20.01.2023. Copies of the maps and other documents relied on by NHAI and filed along with the earlier report were also furnished only on 20.01.2023. In both these reports, NHAI has essentially stated that they cannot adopt any other alternative and can only proceed to widen the subject road – at the expense of the Banyan trees. The applicant seeks a reasonable period of time to file a detailed affidavit in response to the reports and documents filed by NHAI.

2. This memo is filed to address certain justifications and submissions made in the reports filed by NHAI.

3. **Firstly,** it is submitted that there is a gross discrepancy in the number of Banyan trees mentioned in the reports by NHAI.

    a. According to the document titled "Banyan Trees Strip chart", the total number of Banyan Trees are 759 out of which 544 are affected and 215 are not affected.
    b. In the above chart from 33+600 – 37+760, a "dash (-)" has been indicated, implying that there are no trees and none are being impacted. However, this is the stretch of the road runs through the Mudimyal RF. However, the fact is that there are 145 number of Banyan trees on this stretch. The applicants had geotagged all the

banyan trees along the entire road in June 2022 and this data is readily and publicly available.

c. Similarly, between 58+000 to 58+840, area passing through khandlapalli RF, there are 5 number of Banyan Trees.
d. Therefore, the total number of trees that are impacted is 694 and not 544 as mentioned in the document filed by NHAI.
e. It is to be mentioned that the Banyans along this road have been marked with paint by NHAI – White paint indicating that the trees is to be felled and Green where the road is not being widened.
f. The areas where Banyan trees have been marked green are located in areas where the road was already being realigned to straighten curves etc. The alignment marked originally has not been changed and it is seen that the 200 Banyans were not falling part of the proposed road alignment originally as well.

4. **Secondly,** a submission was made that any attempt to move the alignment away from the existing road would mean impacting thousands of other trees or houses etc.
    a. The road as indicated in the strip chart filed by NHAI, has banyans in clusters in a few stretches – like between 26+300 – 28+000, 29 +000 – 32+000 etc.
    b. The existing road is not surrounded on both sides by thick forests or thickly populated areas. Populated areas are already being bypassed by NHAI and bypasses are proposed.
    c. In a few locations, there are mango plantations and majorly, the land on either side of the road is agricultural (mustard etc) or without any vegetation.
    d. Photos and videos of these stretches were taken on 29.01.2023 and are filed along with this memo. These photos show that there

is absolutely no truth in the assertions made by NHAI and the road alignment could very well be shifted to save the Banyans.

e. Khandlapalli RF is a plantation by the forest department with only 5 Banyan trees. There is no ecological impact by the removal of these plantations and certainly none comparable to the felling of these aged Banyans.

f. Mudimyal RF is typical Deccan shrub forest and NHAI has already marked this area for widening the road. This is a small RF of about 15 Sq KM and the existing road dissects it. It would be in the interest of the environment if this small RF is avoided in the alignment and a slight deviation is explored – as can be seen from the map furnished by NHAI. This would save not only the Banyans on this stretch but also one of the last stretches of a pristine patch of Deccan shrub forest that is fast disappearing.

5. **Thirdly,** It was submitted that these banyans had lost their ecological value (para 3 of the 20.01.2023 report) and photos of a few trees with LED lighting were produced as proof.

   a. The applicants counted a total of 3 Banyans near Taj Inn hotel with LED trees and one Neem tree with LED lights outside dhaba a few kilometres away.

   b. The attempt by NHAI to state that all the trees have lost their value because of 4 trees with LED lights is without merit.

   c. These LED lights have to be removed by the authorities and cannot be used as an excuse to justify their felling.

6. **Fourthly,** it has been submitted that these banyans could be translocated and that NHAI has experience in successfully translocating Banyans and 2 photographs were produced in the report dated 06.01.2023.

a. Translocation does not mean that the entire tree is removed and planted at a new location.
b. Only the stump of the trunk is translocated. The canopy, branches, aerial roots etc are completely lopped off. A Banyan tree sustains not only because of its trunk but its canopy and aerial roots. While individual trees may survive the severe shock of translocation, the NHAI has not submitted any evidence for mass translocation successes.
c. In fact, the photographs submitted by NHAI is evidence and proof of why these majestic trees ought not to be subjected to this process. In one photo, after 3 years, the stump has grown a smattering of leaves.
d. The documented and acknowledged biodiversity of the area, the bird life and the ecosystem represented by these trees have not been considered by NHAI.

7. **Fifthly,** it has been stated that 90 % of these trees " in size are as good as any other tree" and photos of an individual posing next to a tree with LED lights, a cut stump and a stunted tree with lopped off canopy.

a. Some of the trees look stunted despite their age because of the unique scrub land habitat they grow in. Their size is no indication of their actual age or their ecological value and services like fruiting etc.

b. It can be seen from photographs and video of trees along the stretches filed that the claim that 90% of the trees are small is false.

c. As noted earlier, the applicants along with other volunteers systematically documented and mapped all the Banyans on this 45km stretch of NH-163. The activity and its data was also widely

reported in news media (please see appendix). 20 volunteers spent a cumulative 200 hours measuring and geo-tagging 914 Banyans and making that data available on Google Maps.

d. The details of the geo-tagging exercise are below, and these details are publicly available for the public to access and verify. Summary of the findings is tabulated below:

Length of Stretch	46.6 kms	
Number of Banyans	914	
Number of Banyans in Reserve Forest	145	15.86%
'Iconic' Trees	168	18.38%
Trees with extensive prop roots	650	71.12%
Trees with trunks of girth over 5 ft	543	59.41%
Trees with cut branches	370	40.48%
Trees with burns, of which	90	9.85%
Extensive	45	4.92%
Marginal	42	4.60%
Completely Obliterated	3	0.33%

8. It is submitted that the data shows a majority of these trees (650 trees; 70%) have extensive prop roots. About 40% of the trees have cut branches due to neglect and belief that their cutting is inevitable, or because of a poor understanding of the value of these trees. However, many trees are over 5 feet girth.

9. The applicants are also listing all the species of bird and animal life they have identified on these trees:

List of Species

Birds – Frugivores

Coppersmith Barbet, Indian Grey Hornbill, Rose-ringed Parakeet, Asian Koel, Yellow-footed Green Pigeon, House Crow, Rufous Treepie, Golden Oriole, Pale-billed Flowerpecker, Thick-billed Flowerpecker, Red-vented Bulbul, White-browed Bulbul, Common Myna, Brahminy Starling, Rosy Starling, Large Grey Babbler, Common Hawk Cuckoo, Indian White-eye.

Birds – Insectivores

Small Minivet, Plain Prinia, Ashy Prinia, Black Drongo, Red-rumped Swallow, Common Iora, Blyth's Reed Warbler, Green Bee-eater. Several frugivorous birds also eat insects.

Mammals – Frugivores

Short-nosed Fruit Bat, Indian Flying Fox, Rhesus Macaque, Bonnet Macaque, Hanuman Langur, Small Indian Civet, Chital, Wild Boar and Indian Pipistrelle (an insectivore).

Moths – Banyan is the larval host

Perina nuda, Lymantria serva, Somena scintillans, Attatha regalis, Asota caricae, Psimada quadripennis, Asota sericea, Glyphodes bicolour, G.stolalis.

Butterflies – Banyan is the larval host

Silverstreak Blue, Map Butterfly, Common Crow Butterfly.

10. It is submitted that NHAI's own PFR relied on by them, does not even make a mention of the Banyan trees, its importance or impact of its felling. The alignment was fixed by them without consideration of these issues at all, as is evident from the reports of NHAI.

11. NHAI has also stated that they cannot acquire lands because of legal issues and land acquisition litigation. It is submitted that this is not a justification by any stretch. NHAI faces and deals with litigation routinely in all their projects. The chance of a litigation in any case, is no justification for felling these trees.

12. The contention that land on either side is either catchment area or forest area false.

13. It is submitted that the accident data produced for this road is not a justification for the felling of these trees. It is a case for a wider road that can be laid even without disturbing the existing trees. Curiously, during COVID lockdown, the accident figures for this road show no reduction. The locations mentioned are where schools and other infrastructure is present and the accidents are not being caused by the trees. These "Blind spots" are not a justification for felling these trees.

14. The stretches where cluster of banyans are present is around 15 km and it is possible for NHAI to realign the road and construct bypasses – as they do for villages and towns. What is lacking is the will the explore alternatives to the present proposal. The objective of any highway project is for the creation of a good road between two points – and this objective can be achieved without felling these banyan trees.

15. The applicants seek leave to file a detailed affidavit in response to the report and documents served on them by the NHAI on 20.01.2023 and pray that this Hon'ble Tribunal be pleased to consider the submissions and pass orders.

Dated this the 31st day of January, 2023 at Chennai

Counsel for the Applicants