

IN THE HON'BLE NATIONAL GREEN TRIBUNAL, SOUTHERN ZONE
BENCH, CHENNAI

ORIGINAL APPLICATION NO. 49 of 2022

IN THE MATTER OF: -

Pradeep Babu Tandel and Anr

.... Applicant(s)

Versus

The Union of India and Ors.

.... Respondent(s)

ADDITIONAL AFFIDAVIT FILED ON BEHALF OF THE MINISTRY OF
ENVIRONMENT FOREST AND CLIMATE CHANGE


Filed by:
G.M. SYED NURULLAH SHERIFF
Senior Standing Counsel
MoEF&Cc.
Mob. No. 9444015330
Counsel for Respondent no. 1

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL, SOUHERN ZONE,
CHENNAI BENCH**

IN

ORIGINAL APPLICATION NO. 49 OF 2022

IN THE MATTER OF:

Pradeep Babu Tandel & Anr.

Vs.

...Applicants

Union of India & Ors.

...Respondents

INDEX

S. No.	Particulars	Pg. No.
1.	Additional Affidavit on Behalf of The Ministry of Environment, Forest and Climate Change (Respondent No.1)	2-4
2.	Annexure-I	5-6
3.	Annexure-II	7-8

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL, SOUTHERN ZONE,
CHENNAI BENCH**

IN

ORIGINAL APPLICATION NO. 49 OF 2022

IN THE MATTER OF:

Pradeep Babu Tandel & Anr.

...Applicants

Vs.

Union of India & Ors.

...Respondents

**Counter Affidavit On Behalf of Ministry of Environment, Forest
and Climate Change (Respondent No.1)**

IT IS MOST RESPECTFULLY SHOWETH:

I, Dr. Prabhu, S/o Subramani, aged 42 years, currently working as Scientist "E" in the Ministry of Environment, Forest and Climate Change, Integrated Regional Office, Bengaluru, do hereby solemnly affirm and state as under :-

1. That I am working as Scientist "D"
2. That I am fully authorized and competent to swear the present affidavit.
3. That this additional affidavit is being filed in furtherance to the submissions already made in the Counter Affidavit filed earlier.
4. That the Hon'ble Tribunal, vide Order dated 31/01/2023, inter alia directed:-



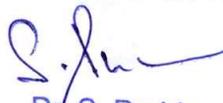
Dr. S. Prabhu
Scientist 'D'
Ministry of Environment Forest & Climate Change
Integrated Regional Office
Kendriya Sadan, 4th Floor, Koramangala
Bangalore - 560 034

"1. The MoEF&CC filed its counter dated 23/08/2022 wherein, it is stated that the 4th respondent had failed to disclose the fact that the second stage development of the project involved forest land and it requires the Forest Clearance (FC) under the Forest (Conservation) Act, 1980.

2. However, the report of the MoEF&CC is silent about the action taken or to be taken for the same. Therefore, the MoEF&CC is directed to file an additional affidavit for any action taken or to be taken based on their report filed."

Copy of the Order dated 31/01/2023 is herewith attached and marked as **Annexure- I**.

5. That in compliance of the abovesaid Order, the answering Respondent respectfully submits that the Government of Karnataka vide letter No. FEE 64 FLL 2022 (e) dated 24/06/2022 has submitted an online proposal (No. FP/KA/Others/46575/2020) under Forest (Conservation) Act, 1980 for diversion of 11.736 ha. of forest land at F.Sy.No. 42, Baithkol village, Karwar Taluk, Uttara Kannada District (Karwar Forest Division) for the purpose of Port Development activities of the Karnataka Maritime Board in favour of the Port Officer, Baithkol, Karwar. After examination of the proposal in the Integrated Regional Office of the answering Respondent, certain additional information has been requested from State Government of Karnataka vide letter


Dr. S. Prabhu
Scientist 'D'

Ministry of Environment Forest & Climate Change
Integrated Regional Office
Kendriya Sadan, 4th Floor, Koramangala
Bangalore - 560 034

dated 18/7/2022 and the State Government's reply in this regard is still awaited. Copy of the letter dated 18/07/2022 is herewith annexed and marked as **Annexure- II**.

6. In view of the above, it is prayed that this Hon'ble Tribunal may take on record and consider above submissions while passing an appropriate order, which the answering respondent shall duly comply with and thus render justice.
7. The answering Respondent craves liberty to file additional information, if any, till *pendente lite*.



DEPONENT

Dr. S. Prabhu
Scientist 'D'

Ministry of Environment Forest & Climate Change
Integrated Regional Office
Kendriya Sadan, 4th Floor, Koramangala
Bangalore - 560 034

VERIFICATION

I, the aforementioned Deponent do hereby declare on this 27th day of March 2023 at Bengaluru that the contents of the affidavit are true to my knowledge and belief and nothing material has been concealed therefrom.



DEPONENT

Dr. S. Prabhu
Scientist 'D'

Ministry of Environment Forest & Climate Change
Integrated Regional Office
Kendriya Sadan, 4th Floor, Koramangala
Bangalore - 560 034

Item No.13:**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI***(Through Video Conference)***Original Application No. 49 of 2022 (SZ) &
I.A. No.122 of 2022 (SZ)****IN THE MATTER OF:**Pradeep Babu Tandel,
Karnataka and Anr.

...Applicant(s)

Union of India,
Through the Secretary,
MoEF & CC, New Delhi and ors.

...Respondent(s)

Date of hearing: 31.01.2023.**CORAM:****HON'BLE Smt. JUSTICE PUSHPA SATHYANARAYANA, JUDICIAL MEMBER****HON'BLE Dr. SATYAGOPAL KORLAPATI, EXPERT MEMBER**For Applicant(s): Mr. Ritwick Dutta along with
Mr. G. Stanly Hebzon Singh.For Respondent(s): Mr. G.M. Syed Nurullah Sheriff for R1.
Mr. H.K. Vasanth for R2.
Mr. Rajat Jonathan Shaw represented
Mr. Darpan K.M. for R3 to R6 / I.A.

ORDER

1. The MoEF&CC filed its counter dated 23.08.2022 wherein, it is stated that the 4th respondent had failed to disclose the fact that the second stage development of the project involved forest land and it requires the Forest Clearance (FC) under the Forest (Conservation) Act, 1980.
2. However, the report of the MoEF&CC is silent about the action taken or to be taken for the same. Therefore, the MoEF&CC is directed to file an additional affidavit for any action taken or to be taken based on their report filed.
3. The SEIAA - Karnataka has not yet filed its report. Let the SEIAA - Karnataka make note of the statements made in the report of the MoEF&CC and file an appropriate response covering all the points and serving a copy in advance to the other counsels. If the objections of the SEIAA - Karnataka is not filed before the next hearing date, the same will be received only on payment of cost of Rs.1,00,000/- (Rupees One Lakh only).
4. Post the matter on 14.02.2023.

Sd/-

Smt. Justice Pushpa Sathyanarayana, JM

Sd/-

Dr. Satyagopal Korlapati, EM

O.A. No.49/2022 (SZ)
I.A. No.122/2022 (SZ)
31st January, 2023. Mn.



भारत सरकार
GOVERNMENT OF INDIA
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
MINISTRY OF ENVIRONMENT, FOREST & CLIMATE
CHANGE



समन्वित क्षेत्रीय कार्यालय
INTEGRATED REGIONAL OFFICE

Kendriya Sadan, IVth Floor, E& F Wings, 17th Main
Road, IIInd Block, Koramangala, Bangalore - 560 034.
Tel.No.080-25635902 (Ext.12), E.Mail: rosz.bng-
mef@nic.in

F. No. 4-KRB1273/2021-BAN

Dated: 15th July, 2022

504

15th

To

The Additional Chief Secretary,
Forest, Ecology and Environment Department,
M.S. Building
Bengaluru-560001

Sub: Diversion of 11.736 ha. of forest land at F.Sy.No. 42, Baithkol village, Karwar Taluk, Uttara Kannada District (Karwar Forest Division) for the purpose of Port Development activities of the Karnataka Maritime Board in favour of the Port Officer, Baithkol, Karwar-regd.

Sir,

I am directed to refer to State Government letter No FEE64FLL2022(e) dated 24.06.2022 on the subject mentioned above. In this regard, it is informed that the proposal submitted by the State Government has been examined in this office and it is requested to furnish the following clarification/ information for further consideration of the proposal:-

1. The details of alternatives explored for development of proposed Port Activity may be furnished along with its Map. Further, some of the components proposed for construction in forest land such as Karnataka Maritime Board Office, Guest House and Karnataka Maritime Institute are non site specific and can be located in the non forest land. Moreover, as per the justification note of the user agency, Karwar Port is having 165 acres land, out of which 42 acres of land has been occupied by the ex-owners of the land. Therefore, user agency shall explore the possibility of vacating the the said land from ex-owners for development of the proposed Port infrastructure.
2. In the justification note furnished by the user agency, it is mentioned that Divisional Commissioner, Bangalore has transferred the proposed forest land in Sy. No. 42A of Baithkol village of Karwar Taluk to Port Development for taking up development activities and the said land is already handed over to Department. Therefore, it may be clarified that how the said forest land has been handed over by the Divisional Commissioner to Port Development activities or whether any violation of F(C) Act,

has been taken place. If so, a detailed report on violation may be furnished.

3. The non forest land proposed for raising the Compensatory Afforestation is in two bits i.e 8.855 ha in Sy. No. 102 &103 of Nagekove village and 3.38 ha in Sy. No. 33 of Devakar village. As per google imagery, certain road is passing in the proposed CA area in Nagekove village and certain Construction is also visible Therefore, as far as possible the CA land shall be identified in single patch for the management point of view.
4. The site suitability of the proposed CA land should be furnished.
5. As per the google imagery non forest land proposed for diversion is already having the vegetation cover, it may be clarified that whether 1000 plants/ha can be planted in the said land, if not the remaining plants has to be planted in the degraded forest land as per Working Plan prescriptions and accordingly CA scheme needs to revised and same may be furnished. Further, it may also be clarified that whether the non forest land identified for the raising CA attracts the provision of F(C)Act, 1980 as per the para 2.4 (i) of Handbook of Forest (Conservation) Act, 1980, if so such land shall be given in double the extent of forest area proposed for diversion.
6. The status of CRZ clearance under Environment (Protection) Act, 1986 may also furnished, as the forest area proposed for diversion falls within 150-200 mtrs from Sea.
7. The FRA compliance certificate furnished in the proposal is not in consistent with the format given in the Handbook of Forest (Conservation) Act, 1980. Therefore, revised FRA compliance certificate along with its enclosure may be furnished.

Yours faithfully,



(B N Anjan Kumar)

Asst. Inspector General of Forests (C)

Copy to:

1. The Principal Chief Conservator of Forests (HoFF), Forests Department, Govt. of Karnataka, Aranya Bhavan, 18th Cross, Malleswaram, Bangalore – 560 003.
2. The Principal Chief Conservator of Forests (FC) /Nodal Officer (FCA), Office of the Principal Chief Conservator of Forests, Forests Department, Govt. of Karnataka, Aranya Bhavan, 18th Cross, Malleswaram, Bangalore – 560 003.
3. The Port Officer, Baithkol, Karwar-581302



(B N Anjan Kumar)

Asst. Inspector General of Forests (C)