

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI
ORIGINAL APPLICATION NO. 49/2023**

IN THE MATTER OF:

Dinesh Kalahalli

...APPLICANT

Versus

Prasanth Prakash and Others

...RESPONDENTS

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Date: 15.01.2024

Filed by



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IN THE MATTER OF:

Dinesh Kalahalli

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**REPLY BY THE DEPUTY CONSERVATOR OF FOREST AND
DIRECTOR - NAGARAHOLE TIGER RESERVE, HUNSUR,
MYSORE ON BEHALF OF RESPONDENTS NO. 3, 4 AND 7**

MOST RESPECTFULLY SHOWETH:

1. That the instant application is filed pertaining to '*Discovery Village Resort*' situated in Belthur Village, Mysore ('**the said Resort**') alleging excess construction by Respondents No. 1 and 2 as opposed to the permissions granted, and inside the buffer zone of Nagarhole Tiger Reserve, without the requisite NOCs. The Applicant has sought prayers to direct the answering Respondent to shut down the said resort.
2. Respondents No. 1 and 2 in their reply have in turn stated that permission granted is regarding area of land and not number of rooms, that the MoEF notification for Eco-Sensitive Zones has not been notified and is a mere draft notification and hence, NOCs are not required, and that

incorrect survey numbers were inspected at the behest of the Applicant.

3. It is submitted that Belathur Village falls under overall buffer zone of the Nagarahole Tiger Reserve. However, the concerned resort is located within revenue village. The said resort is situated in Revenue Survey Nos 58/1, 58/2P of Belathur Village, being non forest area located at and aerial distance of 1.88 km away from boundary of Nagarahole Tiger Reserve. A Physical Relief Map of the Nagarhole Tiger Reserve Area is annexed herewith as **Annexure R-1**.

4. Regarding the draft ESZ Notification dated 25.07.2017, it is pertinent to note that the same was only a draft notification, and has expired on 20.07.2019, *i.e.* after 725 days of draft notification.

True Copy of MoEF Notification dated 30.03.2020 extending the validity of draft notifications from 545 days to 725 days is annexed herewith as **Annexure R-2**.

5. It is submitted that in terms of the Judgment dated 26.04.2023 in *T.N. Godavarman Versus Union of India and Others*, Writ Petition (Civil) No. 202 of 1995, and also as per

Letter No. F. NO.1-9/2002 WL-1 dated 31.07.2013 issued by MOEF&CC, in the absence of ESZ notification, by default the area within 10 km from the boundary of Protected Area will be considered as Eco-Sensitive Zone. Those activities which require environment clearance need to be submitted to the National Board of Wildlife (**NBWL**) for clearance, whereas in the case at hand, no such activity is proposed. **Annexure R-3**

6. The notification for Eco-Sensitive Zone of Nagarahole Tiger Reserve is currently under process.
7. It is submitted that a representation was received from Applicant herein, referring to the violation of the Sections 18(2), 38(v)(2), 27(2)(3) & (4), 30, 32 and 33 (b)&(c) of the Wildlife (Protection) Act, 1972. Nevertheless, since the Discovery Village Resort is located 1.88 Km away from the boundary of Nagarahole Tiger Reserve, the above allegations regarding violation of Wildlife Protection Act are not tenable, and further, there is no violation of any Eco Sensitive Zone notification as the ESZ has not been notified yet. Moreover, only such activities which require environmental clearance are required to be placed before NBWL.

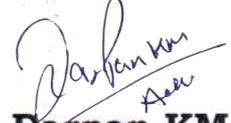
8. Hence, it is submitted that the instant Application may be dismissed.



**Deputy Conservator of Forests and Director
Nagarhole Tiger Reserve
Hunsur**

Date: 08.01.2024

Filed by



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Annexure R-1

**MAP SHOWING AERIAL DISTANCE BETWEEN
NAGARAHOLE TIGER RESERVE AND DISCOVERY VILLAGE RESORT**



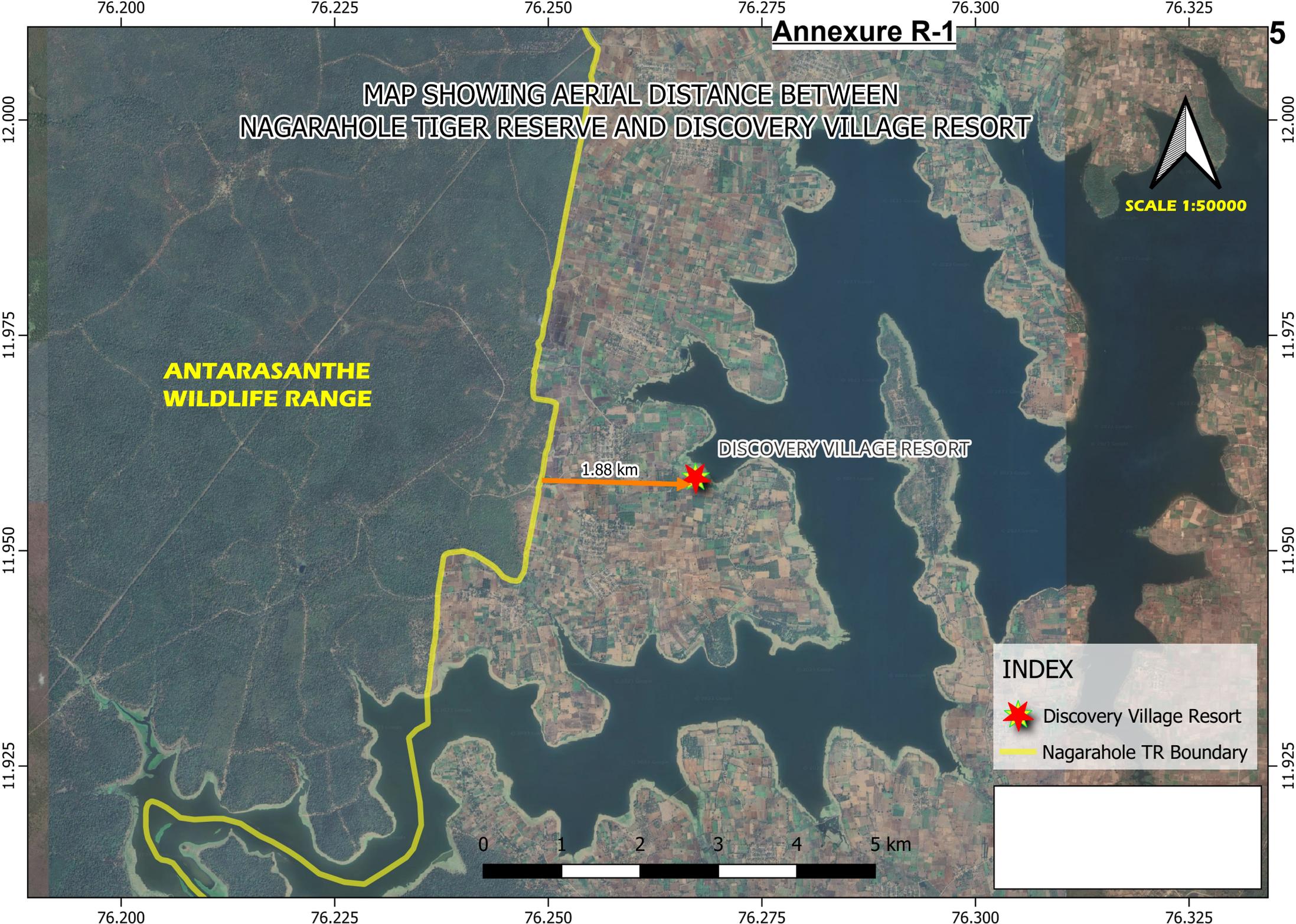
**ANTARASANTHE
WILDLIFE RANGE**

DISCOVERY VILLAGE RESORT

1.88 km

INDEX

-  Discovery Village Resort
-  Nagarahole TR Boundary



**Government of India
Ministry of Environment, Forest and Climate Change
ESZ Division**

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Indira Paryavaran Bhavan
Jor Bagh Road, Aliganj
New Delhi-110 003

Dated the 30th March,2020

Subject: Period of validity of Draft Notification issued under Environment (Protection) Act, 1986 and Environment (Protection) Rules, 1986- Regarding.

Vide Gazette Notification [S.O.No.1127(E) dated 18th March,2020], the period of validity of draft notification relating to Ecologically Sensitive Zones & Ecologically Sensitive Areas, issued under The Environment (Protection) Rules, 1986 has been extended from 545 days to 725 days. The Clause (d) of Sub-rule (3) of Rule 5 in the Environment (Protection) Rules, 1986 accordingly stands amended. A copy of the Gazette Notification is available in the website of this Ministry.

It is hereby clarified that with this amendment, the validity of all existing draft notifications, relating to all Ecologically Sensitive Areas & Ecologically Sensitive Zones, pending & valid as on the date of publication of the notification and subsequent draft notifications shall be 725 days.

Sd./
(Dr. Satish C. Garkoti)
Scientist 'G'

To
All Concerned

Annexure R-3

FC-11/119/2020-FC
Government of India
Ministry of Environment, Forest and Climate Change
 (Forest Conservation Division)

Indira Prayavaran Bhawan,
 Aliganj, Jorbagh Road,
 New Delhi-110003

Dated: 17th May, 2022

OFFICE MEMORANDUM

Subject: Clarification on Requirement of Various Environmental and Forest Clearances for Project/Activity in Eco-Sensitive Zone and Other Such Areas outside Protected Area – regarding.

Ministry has been receiving communications from States/Union Territories, Project Proponents, associated organizations and other stakeholders seeking clarifications regarding requirement of various statutory clearances viz. Environmental Clearance (EC), Forest Clearance (FC) and consideration by the National Board for Wild Life/Standing Committee of the National Board for Wild Life (NBWL/SCNBWL) for Project/Activity falling in Eco Sensitive Zones (ESZ)/ Eco Sensitive Area (ESA) and other such ecologically significant areas around Protected Areas (PAs) as defined in Wild Life (Protection) Act, 1972.

2. In this reference, it is imperative to take note of some of the important related court judgements, which are as enumerated below:

- i. The Hon'ble Supreme Court Order dated 4.12.2006 in Writ Petition No. 460 of 2004 in the matter of Goa Foundation Vs. Union of India, *inter-alia* directed that "(MoEF) would also refer to the Standing Committee of the National Board for Wild Life, under Section 5(b) & 5(c) (ii) of the Wild Life (Protection) Act, 1972, the cases where Environmental Clearances have already been granted where activities are within 10km zone of the boundaries of the Sanctuaries and National Parks".
- ii. Many of developmental activities are prohibited /regulated in ESZs *inter-alia* including mining operations to be carried out in accordance with the Order of the Hon'ble Supreme court dated 4.08.2006 in the T.N. Godavarman Thirumulpad vs UOI matter in WP(C) No. 202 of 1995 and Order dated 21.04.2014 in the matter of Goa Foundation Vs. UOI in WP(C) No. 435 of 2012.

3. Taking cognizance of conservation need of ecologically rich area outside notified PAs and aforesaid Court Orders, Ministry has issued clarifications in reference to the subject matter in the past vide OM No. 22-43/2018-IA.III dated 08.08.2019 followed by OM No. 6-60/2020WL Part (I) dated 16.07.2020.

4. The matter has been further examined in detail in the Ministry with reference to various recent communications received seeking further clarifications w.r.t. applicability of EC, FC and WC in ESZ/ESA and other ecologically significant areas outside PAs.

5. Accordingly, in supersession of Ministry's previous OM No. 22-43/2018-IA.III dated 08.08.2019 and OM No. 6-60/2020WL Part (I) dated 16.07.2020, the following procedure is


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prescribed w.r.t. applicability of EC, FC and WC in ESZ/ESA and other ecologically significant areas outside PA:

Clearance Category	Project/Activity in Notified ESZ Around PA or in notified ESA	Project/Activity outside PA wherein ESZ is not notified or ESZ Notification is at draft stage	Project/Activity outside PA in area which is part of Tiger Reserve or linking one PA or Tiger Reserve to another PA or Tiger Reserve
Environmental Clearance (EC)	Project/Activity shall be regulated and governed by the concerned ESZ/ESA Notification. Accordingly, activities prohibited under the ESZ/ESA Notification cannot be undertaken. Whereas, for regulated and other activities in ESZ/ESA Notification covered under the Schedule of EIA Notification, 2006; prior EC as per the prescribed procedure is mandatory.	For Project/Activity covered under the Schedule of EIA Notification, 2006; prior EC as per the prescribed procedure is mandatory, anywhere outside the PA.	For Project/Activity covered under the Schedule of EIA Notification, 2006; prior EC as per the prescribed procedure is mandatory anywhere outside the PA.
Forest Clearance (FC)	Projects shall be regulated and governed by the concerned ESZ/ESA Notification. Accordingly, activities prohibited under the ESZ Notification cannot be undertaken. Whereas, for regulated and other activities; Forest Clearance will be required, only if forest land is involved and proposed activity is for non-forestry use, as per provisions of Forest (Conservation) Act, 1980 and Rules and guidelines made there under.	Forest Clearance will be required anywhere outside the PA, only if forest land is involved and proposed activity is for non-forestry use, as per provisions of Forest (Conservation) Act, 1980 and Rules and guidelines made there under, irrespective of the notified limits/default limits of ESZ/ESA.	Forest Clearance will be required anywhere outside the PA, only if forest land is involved and proposed activity is for non-forestry use, as per provisions of Forest (Conservation) Act, 1980 and Rules and guidelines made there under, irrespective of the notified limits/default limits of ESZ/ESA.
Consideration by the National Board of Wild Life/Standing	Projects/activities proposed to be located within notified ESZ/ESA shall be regulated and	Project/Activity covered under the Schedule of EIA Notification, 2006 and located within 10 km	Approval of NBWL/SCNBWL is mandatory if the project/activity is

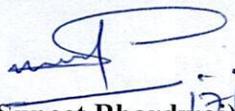

17/05/22

Committee of the National Board for Wild Life (NBWL/SCNBWL)	governed by the concerned ESZ Notification. Accordingly, activities prohibited under the ESZ Notification shall not be undertaken. Whereas, regulated and other activities proposed within notified ESZ around National Park or Sanctuary shall require consideration by the NBWL/SCNBWL, if such activity is covered under the Schedule of EIA Notification, 2006.	of National Park or Sanctuary shall require consideration by the NBWL/SCNBWL.	proposed to be located in an area which forms part of a Tiger Reserve or area linking one PA or Tiger Reserve with another PA or Tiger Reserve as per section 38O(1)(g) of the Wild Life (Protection Act, 1972.
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6. In all such cases, the project proponent may submit the application simultaneously for grant of Terms of Reference under EIA Notification as well as for FC and consideration by the NBWL/SCNBWL.

7. In addition, mining operations shall be carried out in accordance with the Order of the Hon'ble Supreme court dated 4.08.2006 in the T.N. Godavarman Thirumulpad vs UOI matter in WP(C) No. 202 of 1995 and Order dated 21.04.2014 in the matter of Goa Foundation Vs. UOI in WP(C) No. 435 of 2012.

This issues with the approval of Competent Authority.


(Suneet Bhardwaj) 17/10/20

Assistant Inspector General of Forest (FC)

To:

1. The Chief Secretary, All States/UTs
2. Chairman, CPCB
3. The Addl Chief Secretary/Principal Secretary/Secretary, Environment & Forest Department, All States/UTs.

Copy to:

- i. Principal Chief Conservator of Forests, All State Governments/ UT Administrations
- ii. Chief Wild Life Wardens, All State Governments/ UT Administrations
- iii. All Integrated Regional Offices, Ministry of Environment, Forest and Climate Change (MoEF&CC), Government of India
- iv. All ADGFs/Addl. Secretaries/IGFs/ JSs/ Advisors in MoEF&CC, GoI, New Delhi.
- v. Member Secretary, National Tiger Conservation Authority, New Delhi
- vi. Sr. Director (Technical), NIC, MoEF&CC with a request to place a copy of the letter on website of this Ministry.
- vii. PPS to Secretary (EF&C C)/DGF&SS, MoEF&CC, New Delhi.