

REPORT SUBMITTED BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL (SOUTH ZONE), CHENNAI, AS PER ORDERS DATED 25-10-2021 IN ORIGINAL APPLICATION NO.09 OF 2017

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Preamble

Sri Y.V Pratap Reddy have filed an O.A. No.09 of 2017 before the Hon'ble National Green Tribunal (SZ) seeking the installation of wind mills in Sy.No.1036/1 sub-divided as Sy.No.1174 to 1185, Mallela village and the proposed installation of 4 Nos of wind mills in Sy.No. 1 sub-divided as Sy.Nos 506 to 509, Udavagandla village, Thondur Mandal, Y.S.R.District in a total extent of 40 acres, as illegal.

Orders of the Hon'ble National Green Tribunal, Dated:25.10.2021

The Hon'ble National Green Tribunal (SZ) has passed order dated 25-10-2021 in **Para No. 5 to 8** as follows;

5.It may be mentioned here, in cases where dispute regarding the nature of the land as to whether it will have to be deemed to be a forest land or revenue land for the purpose of the Forest (Conservation) Act, 1980 on the basis of the Godavarman Case, it is for the higher level officials to file their affidavit explaining their stand. But no such exercise was done in this case. So under such circumstances we feel it appropriate to direct the Chief Secretary of Andhra Pradesh to convene a meeting of the Environment Secretary, Revenue Secretary and Principal Chief Conservator of Forests, if necessary the District Collector of the concerned district to evolve a concrete position as to whether this property will fall under the ambit of forest as directed by the Hon'ble Apex Court in Godavarman case or not and then file a report to this Tribunal regarding this aspect.

6. The Chief Secretary is also directed to consider as to whether this disputed property has to be notified as a forest land on the basis of the directions issued by the Hon'ble Apex Court in Godavarman Case.

7. Since the matter is of the year 2017. They are not expected to take longer time to file a report as directed by this Tribunal as it is part heard matter and different department are taking different stand on this aspect which has to be resolved on the basis of the resolutely process that these State Heads are expected to take on this aspect. Further the Principal Chief Conservator of Forests and Head of Forests Force is directed to file independent statement regarding their stand on this aspect.

8. The report to be submitted by the Chief Secretary must also accompany the details of the meetings of the persons who attended along with the minutes showing the discussions, objections, if any, raised by each department and as to how it has been resolved. They are directed to

submit the respective reports to this Tribunal on or before 24.11.2021 by e-filing in the form of Searchable PDF/OCR Supportable PDF and not in the form of Image PDF along with necessary hard copies to be produced as per Rules by serving advance copy to the counsel appearing for all the parties including the amicus curiae so that detailed hearing on that basis can also be conducted on the same date. Amicus curiae is directed to submit his report without waiting for the report of the Chief Secretary of Andhra Pradesh.

It is submitted that, in compliance with the Hon'ble NGT directions, the Chief Secretary to Government has convened the meeting on 23.11.2021 at 4.30 PM in the Conference Hall of Chief Secretary, Block-1, A.P.Secretariat, Velagapudi, to discuss on the orders of the Hon'ble National Green Tribunal, Southern Zone in O.A.No.09 of 2017 and to evolve a concrete position as to whether this property will fall under the ambit of forest. The following officers were present in the virtual Meeting: -

- 1) Dr. Sameer Sharma, IAS, Chief Secretary to Government
- 2) Sri N. Prateep Kumar, IFS., PCCF & HOFF
- 3) Smt. Usha Rani, IAS, Principal Secretary, Revenue Department
- 4) Sri Vijay Kumar, G.SRKR, IAS, Secretary, EFS&T Department
- 5) Sri Chiranjeevi Choudary, IFS., PCCF (CAMPA)
- 6) Sri Vijaya Rama Raju, IAS, District Collector, Kadapa.

I am enclosing herewith the minutes of meeting held on 23-11-2021, as per the directions of the Hon'ble National Green Tribunal, Southern Zone, Chennai.

It is therefore prayed that this Hon'ble Tribunal may be pleased to record this minutes of meeting and pass appropriate order and thus render justice.

Dated at Vijayawada on this the 10th day of December 2021.


**Chief Secretary to Government
Government of Andhra Pradesh**

Minutes of the Meeting on NGT issue related to wind mills in YSR Kadapa District convened by Chief Secretary on 23.11.2021 at 4.30 PM

Following are the officers present in the virtual Meeting:-

- 1) Dr. Sameer Sharma, IAS, Chief Secretary to Government
- 2) Sri N. Prateep Kumar, IFS., PCCF & HoFF
- 3) Smt. Usha Rani, IAS, Principal Secretary, Revenue Department
- 4) Sri Vijay Kumar, IAS, G.SRKR, Secretary, EFS&T Department
- 5) Sri Chiranjeevi Choudary, IFS., PCCF (CAMPA)
- 6) Sri Vijaya Rama Raju, IAS, District Collector, Kadapa.

The Hon'ble National Green Tribunal directed the Chief Secretary, Government of Andhra Pradesh, to evolve a concrete position as to whether this property will fall under the ambit of forest as directed by the Hon'ble Apex Court in Godavarman case or not and then file a report to this Tribunal regarding this aspect and also to consider as to whether this disputed property has to be notified as forest land on the basis of the directions issued by the Hon'ble Apex Court in Godavarman case.

As per the above directions, the Chief Secretary, Government of Andhra Pradesh has convened the meeting to evolve a stand.

Averment of Principal Chief Conservator of Forests and HoFF, AP

The Principal Chief Conservator of Forests has briefed the facts of the case and his views on the issue.

The process of installation of wind mill project commenced by giving advance possession of land in Sy.no.1036/1 over an extent of Acres.30.00 cents of Mallela Village and in Sy.no.1 over an extent of Acres.10.00 of Udavagandla village on 25.06.2015 to the District Manager, NREDCAP, Kadapa.

Later on, knowing the status of land in Sy.no.1036/1 as "Forest Reserve" in revenue records, the Divisional Forest Officer, Proddatur WL, Proddatur cancelled the NoC issued.

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The PrI.CCF & HoFF, AP read the contents of the judgement delivered by the Hon'ble Supreme Court of India, dt.12.12.1996 in W.P (Civil) no.202/1995 in the matter of T.N. Godavarman Thirumulpad Vs Union of India and Others case as follows;

"The Forest (Conservation) Act, 1980 was enacted with a view to check further deforestation which ultimately results in ecological imbalance; and therefore, the provisions made herein for the conservation of forest and for matters connected therewith, must apply to all forests irrespective of the nature of ownership or classification thereof. The word "forest" must be understood according to its dictionary meaning. This description covers all statutorily recognized forests, whether designated as reserved, protected or otherwise for the purpose of Section 2(i) of the Forest Conservation Act. The term "Forest Land" occurring in section 2, will not only include "forest" as understood in dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership".

The PrI.CCF & HoFF, AP has informed that in such type of similar cases in Kondapalli village in Krishna District, the Government of AP has taken a stand on the lands classified as "Forest Reserve" attracts Forest (Conservation) Act, 1980 and accordingly, the firms have got mining leases after getting forest clearance from the Central Government.

The A.P Forest Department has not objected to the establishment of development project in the said land, instead requested the firm to regularize it by applying for diversion under Section 2 of Forest (Conservation) Act, 1980 and get forest clearance.

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Since the lands in Sy.no.1036/1 over an extent of Acres.30.00 cents of Mallela Vilalge and in Sy.no.1 over an extent of Acres.10.00 of Udavagandla village are under the administrative control of Revenue Department, decision has to be taken for giving report to the Hon'ble NGT on "whether the land classified as "Forest Reserve" in Revenue records comes under the purview of above Supreme Court of India judgement or not.

Averment of Principal Secretary to Government, Revenue Department, A.P

The Principal Secretary to Government, Revenue Department, A.P. Secretariat, informed that, land in Sy.no.1036/1 of Mallela village, Thondur mandal having an area of Acres 1567. 52 cents, does not contain tree growth and it is a barren land, and classified as "Forest Reserve" in Revenue Records. It is not fit for agriculture purpose. Excluding the area of Acres.30.00 cents in Sy.no.1036/1 which was allotted to NREDCAP for the development project involving more than Rs. 175 crore investment, the remaining area in Sy.no.1036/1 may be allotted to Forest Department after getting suitable proposals for its notification. As of now, it is not notified forests, it does not attract Forest (Conservation) Act, 1980.

Averment of Secretary, EFS&T Department

The Secretary, EFS&T Department, AP Secretariat, opined that the basic objective of the different Poramboke are to meet the community needs. In this case, the Forest Reserve Poramboke is earmarked for development of Forest to meet the community needs and it is not covered by the Godavarman Judgement of the Hon'ble Supreme Court. As there is no tree growth in the said area for the purpose for which it was reserved, this Forest Reserve Poramboke may not be treated as a Forest.

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Averment of the District Collector, Kadapa

The District Collector, Kadapa also informed that the lands in Sy.no.1036/1 of Mallela Village and Sy.no.1 of Udavagandla village are contiguous and bears the same physical features. The land in Sy.no.1036/1 of Mallela Revenue village is classified as "Forest Reserve" and the land in Sy.no.1 of Udavagandla revenue village is classified as "Hill poramboke". Both these lands are purely Government lands vested with Revenue Department. The lands have rock sheets underneath and soil is eroded and hence virtually no tree growth. Even though it is classified as "Forest Reserve" in revenue records, it is a barren land containing no trees grow in the area except some spiny bushes here and there. It is pure barren, eroded and rocky area with semi desert like features. The entire land is covered with boulders and lesser quantity of soil on the top in the said land. It will not attract Forest (Conservation) Act, 1980 in terms of Hon'ble Supreme Court of India, dt.12.12.1996 in W.P (Civil) no.202/1995 in the matter of T.N. Godavarman Thirumulpad Vs Union of India and Others case.

Averment of Sri Chiranjeevi Chowdary, IFS., Prl.CCF (CAMPA)

Sri Chiranjeevi Chowdary, IFS., Prl.CCF (CAMPA) confirmed the version of Principal Chief Conservator of Forests and Head of Forest Force, AP and informed that the activities in Sy.no.1036/1 of Mallela Village attracts Forest (Conservation) Act, 1980.

After hearing all the above views, the meaning of "Forest Reserve Poramboke" is that the land is earmarked for future development of forests. The Godavarman judgement is applicable to all forests irrespective of the ownership or classification and not to porambokes

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set aside for the purpose of development of forests in the future. So, the land in Sy.No.1036/1 of Mallela Village and in Sy.No.1 of Udavagandla Village does not come within the rubric of "Forest" or "Forest land" as set out by the Hon'ble Supreme Court in the Godavarman case.

Accordingly, the land under issue is not Forest land and is Revenue land vested with the Revenue Department whose future land use is planned to be a forest.


CHIEF SECRETARY TO GOVERNMENT
GOVERNMENT OF ANDHRA PRADESH
