

BEFORE THE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

OA No. 59 of 2024

IN SUO MOTO MATTER:

**In Re: **DEFORESTATION FOR MINING RESUMES IN HASDEO,
 LOCALS, ACTIVISTS ALLEGE DETENTION****

**ADDITIONAL AFFIDAVIT ON BEHALF OF RESPONDENT No.4- M/s
RAJASTHAN RAJYA VIDYUT UTPADAN NIGAM LIMITED. (“RRVUNL”)**

WITH SUPPORTING AFFIDAVIT

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M/s RAJASTHAN RAJYA VIDYUT UTPADAN NIGAM LIMITED.
("RRVUNL") WITH SUPPORTING AFFIDAVIT**

MOST RESPECTFULLY SHOWETH:

1. I, Hem Raj, s/o Shri Nanag Ram, aged about 55 years, working as Superintendent Engineer, with Respondent No. 4 RRVUNL Company, R/o Chhaya Deep II Colony, Mahesh Nagar, Jaipur do hereby solemnly say and affirm as follows:
2. That I am the authorized representative of Respondent No.4 - M/s Rajasthan Rajya Vidyut Utpadan Nigam Limited. (**'RRVUNL'**) and well versed with the facts and circumstances of the case and as such competent to swear the present affidavit.
3. That RRVUNL, which is State of Rajasthan undertaking, has been impleaded as a party to the captioned proceedings vide order dated 21.03.2024. Vide the said order, this Hon'ble

Tribunal had also been pleased to direct the Respondent No.4 to file its reply to the captioned proceedings. The Respondent No.4 is filing the present reply in furtherance to the said directions issued by this Hon'ble Tribunal.

4. That the present additional affidavit is being filed on behalf of the RRVUNL, which is the Project Proponent, having been allocated the following three coal blocks in the Hasdeo – Arand Coal Field (**HAC**) situated in Surguja district, Chhattisgarh by the Ministry of Coal, Government of India (**MoC**): -

S. No.	Name of Coal Block	Forest Area (Ha)	Non-forest land	Total Area (Ha)
1.	Parsa Coal Block (PCB)	841.538	410.909	1252.447
2.	Parsa East and Kanta Basan (PEKB)	1898.328	812.706	2711.034
3.	Kete Extension	1742.600	17.400	1760.000
	Total	4482.466	1241.015	723.481

5. At the outset, RRVUNL craves liberty of this Hon'ble Tribunal to rely upon the contents of its main affidavit dt. 23.08.2024 filed in the captioned suo moto proceedings. By way of present additional affidavit, RRVUNL seeks to set out the chronology of events as demonstrated herein below in respect of the subject matter of the captioned proceedings:

A. Forest Clearance for the subject Parsa East and Kanta Basan (PEKB) Coal Block:

6. That a composite Forest Clearance for the diversion of 1898.328 ha of forest land falling in PEKB Coal Block for non-forest

activity purposes was granted to RRVUNL by the Ministry of Environment Forest & Climate Change, Government of India (**“MoEF & CC”**) on 15.03.2012 which fructified into forest diversion order dt. 28.03.2012 passed by the Chhattisgarh State Government under Section-2 of the Forest Act, 1986.]

A True Copy of the MoEF Forest Clearance dt. 15.03.2012 is annexed herewith and marked as **ANNEXURE R-1**.

A True Copy of the forest diversion order dt. 28.03.2012 passed by the Chhattisgarh State Government is annexed herewith and marked as **ANNEXURE R-2**

7. The said forest diversion permissions for non-forest activities were granted after due diligence and taking all abundant precautions to minimize the environmental degradation in the area. Thereafter RRVUNL carried out and continued with the mining operations on the PEKB coal block.
8. Pertinently, a bare perusal of the Forest Clearance dated 15.03.2012 granted by the MoEF & CC shows that the Forest diversion permission was granted for diversion of the entire 1898.328 ha of forest land in respect of PEKB captive block open cast mining project in favour of RRVUNL, in which area the mining was envisaged to be carried out in **two-phases** :
 - A. Phase-1:** mining was to be carried out in the area of 762 ha
 - B. Phase-2:** mining was to be carried out in the balance area of 1136 ha.

9. Further, the application for the requisite permission to commence the Phase-II mining operations could only be made after the due compliance and submission thereof, of the conditions enumerated for Phase-I mining operations.

B. NGT Proceedings:

10. The Forest Clearance dated 28.03.2012 issued by the State of Chhattisgarh (Forest Department) and approval by Central Government under Section 2 of Forest (Conservation) Act, 1980 was challenged by one Sudiep Shrivastava before this Hon'ble Tribunal, Principal Bench, New Delhi vide Appeal No. 73 of 2012.

11. That this Hon'ble Tribunal, vide final order and judgment dated 24.03.2014, had been pleased to set aside the MoEF & CC order dated 23.06.2011 and the consequential State Forest Diversion order dated 28.03.2012 passed by the Government of Chhattisgarh under section 2 of the Forest (Conservation) Act, 1980, while remanding the case to the Respondent No.3/MoEF, to pass a reasoned order, with directions to seek fresh advice of Forest Advisory Committee (**FAC**) within reasonable time on all aspects of the proposal. Vide Order dated 24.03.2014 the Ld. NGT *inter-alia* directed as under: -

“1. Order dated 23rd June, 2011 passed by the respondent no. 2- MoEF Government of India and consequential order dated 28th March,

2012 passed by the respondent no. 1 State of Chhattisgarh under section 2 of the Forest (Conservation) Act 1980 for diversion of forest land of PEKB Coal Blocks are set-aside;

- 2. The case is remanded to the MoEF with directions to seek fresh advice of the FAC within reasonable time on all aspects of the proposal discussed herein above with emphasis on seeking answers to the following questions: (i) What type of flora and fauna in terms of biodiversity and forest cover existed as on the date of the proposal in PEKB Coal Blocks in question. (ii) is/was the PEKB Coal Blocks habitat to endemic or endangered species of flora and fauna. (iii) Whether the migratory route/corridor of any wild animal particularly, elephant passes through the area in question and, if yes, its need. (iv) Whether the area of PEKB Block has that significant conservation/protection value so much so that the area cannot be compromised for coal mining with appropriate conservation/management strategies. (v) What is their opinion about opening the PEKB Coal Blocks for mining as per the sequential mining and reclamation method proposed as well as the efficacy of the translocation of the*

tree vis-a-vis the gestation period for regeneration of the flora? (vi) What is their opinion about the Wildlife Management plan finally prescribed. (vii) What conditions and restriction do they propose on the mining in question, if they favour such mining? Liberty is granted to the FAC to seek advice/opinion/specialised knowledge from any authoritative source such as Indian Council of Forestry Research and Education Dehradun or Wildlife Institute of India including the sources indicated in the present case by the parties.

3. ***The MoEF shall pass a reasoned order in light of the advice given by the FAC in accordance with law and pass appropriate order in accordance with law.***
4. *All work commenced by the respondent no. 3 project proponent and respondent no. 4 pursuant to the order dated 28th March 2012 passed by the respondent no. 1 State of Chhattisgarh under section 2 of the FC Act 1980, except the work of conservation of existing flora and fauna, shall stand*

suspended till such further orders are passed by the MoEF in accordance with law.

5. *No order as to costs.”*

A True copy of the order and judgment dated 24.03.2014 in Appeal No.73/2012 in the matter Sudiep Shrivastava Vs. State of Chhattisgarh passed by this Hon’ble Tribunal is annexed herewith as **ANNEXURE R-3.**

C. Supreme Court Proceedings:

12. It is submitted that the RRVUNL impugned the said judgment dated 24.03.2014 passed by this Hon’ble Tribunal before the Hon’ble Apex Court vide Civil Appeal No. 4395 of 2014 in the matter of “*Rajasthan Rajya Vidyut Utpadan Nigam Ltd. Vs. Sudiep Shrivatava & Ors.*”

13. That, vide order dated 28.04.2014, the Hon’ble Apex Court was pleased to issue notice in the Civil Appeal and further was pleased to grant an interim stay in favour of RRVUNL qua direction no. 4 w.r.t the suspension of mining activities is concerned. The Hon’ble Supreme Court of India had directed as under:

“Issue notice....

...In the meanwhile, we stay the direction in the impugned order that all works commenced by the appellant pursuant to the order dated 28th March 2012 passed by the State of Chhattisgarh under

Section 2 of the Forest Conservation Act, 1980 shall stand suspended till further orders are passed by the Ministry of Environment and Forest”.

A True Copy of the order dated 28.04.2014 passed by the Hon’ble Supreme Court of India in Civil Appeal No. 4395 of 2014 in the matter of “Rajasthan Rajya Vidyut Utpadan Nigam Ltd. Vs. Sudiep Shrivatava & Ors is annexed herewith and marked as **ANNEXURE R-4.**

14. A combined reading of the impugned judgment dated 24.03.2014 passed by this Hon’ble Tribunal and the order dated 28.04.2014 passed by the Hon’ble Supreme Court, makes it clear that there was no stay or condition with regard to the continuation of the mining activities/work already commenced by RRVUNL in the present PEKB Coal falling in Hasdeo Forest Area is concerned.
15. It is also relevant to mention here that there was also no bar for the FAC to take a fresh decision in the matter. While referring to the Hon’ble Supreme Court’s order dated 28.04.2014, the above position has also been subsequently clarified by this Hon’ble Tribunal vide order dated 17.09.2018, wherein an issue with respect to grant of Environment Clearance for the enhancement of coal production capacity for the subject PEKB coal block was challenged by the Mr. Sudiep Shrivastava in a subsequent proceeding being Appeal No. 185 of 2018 in the

matter of “*Sudiep Shrivastava Vs. Union of India & Ors.*”. It is also imperative to mention here that this Hon’ble Tribunal has been pleased to dispose off the said Appeal No. 185 of 2018 in the matter of “*Sudiep Shrivastava Vs. Union of India & Ors.*” by way of final order and judgment dated 19.12.2022. A True Copy of the order dt. 17.09.2018 passed in the Appeal No. 185 of 2018 is annexed herewith and marked as **ANNEXURE R-5**.

D. ENVIRONMENT CLEARANCE:

16. That the Environment Clearance to PEKB was granted on 21.12.2011 by the MoEF & CC for 10 MTPA mining capacity. Further, Environment Clearance dt. 10.08.2018 was granted by MoEF & CC for the expansion of mining capacity from 10 MTPA to 15 MTPA. The EC dt. 10.08.2018 for expansion was challenged before this Hon’ble Tribunal in Appeal No. 185 of 2018 (P.B) in the matter of “*Sudiep Shrivastava Vs. Union of India & Ors.*”, wherein this Hon’ble Tribunal dismissed the said challenge on merits and held that the earlier EC was upheld which cannot be taken to be nullity. This Hon’ble Tribunal further held that due process has been followed and that no damage to environment is shown. A True Copy of the order dt. 19.12.2022 passed by this Hon’ble Tribunal in Appeal No. 185 of 2018 is annexed herewith and marked as **ANNEXURE R-6**.

E. Compliance of NGT Directions dated 24.03.2014 for Biodiversity Study in Hasdeo Arand Forest Area:

17. In the meantime, the FAC on 25.01.2018 recommended Biodiversity Assessment Study Area by the expert institutes namely Indian Council for Forest Research and Education, Dehradun (**“ICFRE”**) in consultation with Wildlife Institute of India (**“WII”**) for the whole Hasdeo Arand Coalfield_comprising of 23 coal blocks including PEKB (subject matter of present proceedings), Parsa Coal Block and Kente Extension Coal Block as allocated to RRVUNL and Tara.

18. Accordingly, the State Government approached the ICFRE for conducting the above said study in the whole Hasdeo - Arand Coalfield (HAC) comprising of 23 coal blocks that include Tara, Parsa, Parsa East & Kanta Basan and Kente Extension coal blocks.

19. The ICFRE approached WII, Dehradun for a proposal to undertake the studies as directed by the NGT and MoEF & CC. The Dean, Faculty of Wildlife Sciences, WII, Dehradun vide letter dated 20.04.2018 submitted the proposal and revised proposal vide e-mail dated 07.07.2018. Subsequently, ICFRE submitted the consolidated proposal to Government of Chhattisgarh on 12.07.2018. Based on the approved Terms of Reference, the Government of Chhattisgarh awarded the study to the ICFRE Dehradun vide letter dated 29.01.2019 and the entire coal block region biodiversity study was to be carried out within a time span of 18 months.

20. It is pertinent to mention here that Phase-I mining was already going on in the subject PEKB Coal Block under the interim orders passed by the Hon'ble Supreme Court of India.
21. An in depth detailed Biodiversity Assessment Study was carried out by ICFRE in association with WII in the HAC over a period of 2 years from the year 2018-2021, which included site visit as. In July, 2021 ICFRE, in aid with WII, submitted the Biodiversity Assessment Report (**BAR**) to the Chhattisgarh State Government, which then forwarded the said Report to MoEF & CC on 08.10.2021.
22. The said study was undertaken and a detailed report was prepared, wherein after considering all relevant considerations including the report submitted by WII, the ICFRE had recommended that:

*“The allotted four contiguous coal blocks falling within the Gej-Jhink watershed viz., Tara (15), Parsa (13) PEKB (14) & Kente Extension (12) that are either already opened or in advance stage of getting the statutory clearances/ToR approved, **can be considered** for mining with strict environmental safeguards including appropriate conservation measures for management of surface water and biodiversity.”*

A True Copy of the Executive Summary of the Biodiversity Assessment Report, 2021 is annexed herewith and marked as **ANNEXURE R-7.**

23. It is also relevant to mention here that pursuant to the BAR Report submitted to MoEF, all NGT directions dated 24.03.2014 stand fully complied with.

C. Present Phase-2 Mining Details in the PEKB Coal Block:

24. That while the ICFRE Study was going on, the Chhattisgarh Government forwarded the request of the user agency/Project Proponent- RRVUNL to MoEF&CC on 22.02.2021 seeking permission for forest diversion of balance phase-II PEKB mine consisting 1136 ha. falling in forest land. It was stated that due to enhancement of mine capacity from 10-15 MTPA, Phase-I mining would be over in 2021.
25. The MoEF vide letter dated 25.05.2021 sought opinion from State Government in view of pendency of Civil Appeal No. 4395 of 2014 in the Supreme Court before granting permission for Phase-II PEKB Mine. The State Government forwarded opinion of AoR on 22.06.2021 stating that there was no bar in taking decision as per NGT directions on the basis of fresh study of ICFRE.
26. Pursuant to BAR Report submitted to MoEF, all NGT directions dated 24.03.2014 stand fully complied with. It is pertinent to

mention here that the NGTs direction included passing of a reasoned order by MoEF & CC. Hence the directions by NGT stood complied with when the MoEF passed order on 2.2.2022

D. BAR REPORT:

27. It is submitted that ICFRE Report does not bar the mining of coal from the said coal fields, instead suggests further mitigation measures to be carried out while mining the said coal blocks. It is further submitted that a total of 23 coal block in the Hasdeo Arand Area was duly examined by the WII and ICFRE. Out of the 23 coal blocks in the HAC area, ICFRE has permitted mining in only 4 coal blocks being Tara, PCB, PEKB and Kente Extension, with mitigation measures. Out of the said 4 coal blocks 3 coal blocks i.e. PEKB, PCB and Kente Extension have been allocated to RRVUNL.
28. That it is clear that mining has been permitted to be carried out in the 4 contiguous coal blocks of Hasdeo-Arand area, namely Tara, PCB, PEKB and Kente Extension Coal Blocks, by the ICFRE with certain conditions and additional mitigation measures which needs to be carried out by RRVUNL, so as to conserve the relatively dense moist-dry deciduous forests in the other coal blocks. It can thus be seen that conservation of the forests, the flora and fauna therein were the top priority of the ICFRE.

29. It may not be out of place to mention here that the entire HAC area is spread over 1876.6 sq. kms. and the four contiguous coal blocks covers only 4.31 % of the entire HAC. The area covered by the Coal Blocks are as follows: (i) PEKB coal block is 26.83 sq.km, (ii) PCB is 12.52 sq. km and (iii) KECB is 17.60 sq. km.
30. Pertinently, the ICFRE took into consideration the comments and study carried out by the WII. It is submitted that the Biodiversity Assessment study Report (**BAR Report**), carried out by ICFRE and the WII was part of the study. A perusal of the BAR Report shows that the report/observations by the WII were duly considered and examined by the ICFRE in its final report and ICFRE has given practical and reasonable recommendations addressing the said issues. A perusal of the said BAR Report also goes to show that the suggestions/observation given by the WII have been duly taken into consideration and implementation of the same has been recommended by the ICFRE. It is further most respectfully submitted that this is also in consonance with the principles of Sustainable Development.

E. 3 Member MoEF Sub-Committee:

31. The MoEF & CC on 28.10.2021 met for the first time to consider the subject PEKB Mine Phase-2 Mining Permission application filed by RRVUNL and as forwarded by the State Government. The FAC, as a matter of abundant precaution and after due

diligence on the BAR Report, constituted a 3-member site inspection sub-committee to see the compliances that have been carried out by PEKB Mine while considering the permission of Phase-2 mining in the balance area of 1136 ha of forest land. The sub-committee found that the reclamation measures were already being implemented in the area of inspection which were satisfactory and ecologically sustainable. The Sub-Committee accordingly, recommended the Phase-2 Mining in the PEKB coal block.

F. Forest Advisory Committee Final Recommendation:

32. The FAC again met on 23.12.2021 and considered the recommendations of 3 members sub-committee and also the detailed presentation of BAR Report of ICFRE and WII in the said meeting. The FAC, after detailed consideration of BAR Report, discussion and deliberation with Nodal officers of State Government, recommended the proposal for Phase-II PEKB Mine over balance area of 1136 ha of forest land for which final Stage-II FC was already granted on 15.03.2012 with strict compliance with the Biodiversity Assessment Report. Finally, on the basis of FAC recommendations, MoEF granted Phase-II mining permission on 02.02.2022. Thereafter, the State Government also passed an order conforming Forest Diversion vide order dt. 25.03.2022 for commencement of Phase-II mining.

33. That all due approvals have been granted to RRVUNL and the necessary procedures have been followed by the MoEF&CC and State Government while granting permission for tree felling arising out Phase-II PEKB Mining permission.
34. The above narrated facts were duly brought to the notice of the Hon'ble Supreme Court of India by the MoEF&CC, Government of India by way of Affidavit in the pending Civil Appeal No. 4395 of 2014.
35. It is, thus, abundantly clear that as many as four expert institutes/committee namely – (i) ICFRE & WII Reports (BAR Report), (ii) Sub-Committee constituted by the Forest Advisory Committee, (iii) Forest Advisory Committee and (iv) MOEF&CC, have duly applied their mind on each and every aspect of the issue and after careful consideration have decided to recommend commencement of Phase II mining in PEKB Coal Block falling in Hasdeo Arand Forest Area, Chhattisgarh.
36. From the above facts, it is cleared that the decision to grant the permission for Phase-II mining by the MoEF & CC on the advice of FAC as per its decision dated 23.12.2021 has been taken as per the Hon'ble NGT's direction no. 3 in its judgment dated 24.03.2014. Further, the decision has been taken with due application of mind by 4 expert bodies i.e. ICFRE in aid with WII, FAC while taking into account 3-member sub-committee's site inspection report as well as BAR Report-2021, MoEF &CC and the State Government. The FAC had complied with the

directions passed by the Hon'ble NGT and followed due procedure and recommended the proposal for Phase-II mining on 23.12.2021. Subsequently, after considering the recommendation of State Government and the FAC, the MoEF & CC has accorded its approval for commencing of Phase-II mining to RRVUNL.

37. It is imperative to mention here that as per this Hon'ble Tribunal's directions dt. 24.03.2014, the MoEF & CC had to pass fresh orders in light of the advice of the FAC and the Biodiversity Report. Similarly, even the Hon'ble Supreme Court of India in its order dt. 28.04.2014 had permitted mining till the fresh decision was taken by the MoEF & CC which has been duly done in its order dt. 02.02.2022 permitting Phase-II mining in PEKB coal block.

38. Therefore, the directions pursuant to the final order and judgment dt. 24.03.2014 passed by this Hon'ble Tribunal along with the interim order dt. 28.04.2014 passed by the Hon'ble Supreme Court has worked itself out and therefore Phase-II mining is going on.

G. Supreme Court Civil Appeal No. 4395 of 2014 disposal:

39. While the Supreme Court Civil Appeal challenging this Hon'ble Tribunal's final order and judgment dt. 24.03.2014 in Appeal No. 73 of 2012 was pending, pursuant to the BAR Report-2021, Forest Advisory Committee recommendation dt. 23.12.2021, for

the Phase-2 PEKB mining permissions, MoEF order dated 02.02.2022 granted Phase-II mining permissions to RRVUNL which was subsequently granted by the State Governments State Forest Department's Forest Diversion Order dated 25.03.2022. It is relevant to mention here that the said permissions for Phase-II mining were challenged by way of I.A. for directions being I.A. No. 2007 of 2022 and I.A. No. 71316 of 2022 in Civil Appeal No. 4395 of 2014 was filed by the Respondent No. 1 therein Mr. Sudiep Shrivastava (Original NGT Applicant in Appeal No. 73 of 2012), seeking immediate stay of non-forest activities in the entire Hasdeo Arand Forest Area including the subject PEKB Coal Block.

40. It is again imperative to mention here that there was no stay at any stage by the Hon'ble Supreme Court on carrying out the mining activity in PEKB Coal Block falling in Hasdeo Arand Forest Area and that the mining activity continued pursuant to the interim order dated 28.04.2014 passed by the Hon'ble Supreme Court.
41. That the Hon'ble Supreme Court of India was pleased to dispose off the Civil Appeal No. 4395 of 2014 of RRVUNL in light of the subsequent developments i.e. the permission dt. 02.02.2022 and 25.03.2022 granted by MoEF & CC and the State Government respectively which was taken pursuant to the directions contained in the final order and judgment dt. 24.03.2014 passed by this Hon'ble Tribunal. A True Copy of the final order and dt. 16.10.2023 passed by the Hon'ble Supreme

Court of India in Civil Appeal No. 4395 of 2014 is annexed herewith and marked as **ANNEXURE R-8**

H. Tree Felling Issue in the Special Leave Petition before the Hon'ble Supreme Court:

42. The Hon'ble Supreme Court while hearing Civil Appeal No. 4395 of 2015 along with IA for Directions, came across another Special Leave Petition being SLP (Civil) No. 18103 of 2022 in the matter of "*Hasdeo Arand Bachao Sangharsh Samiti Vs. Union of India & Ors.*", impugning the interim order dated 30.09.2022 passed by the Hon'ble High Court of Chhattisgarh at Bilaspur in IA No. 5 of 2022 in Writ Petition (Civil) No. 1346 of 2016 whereby the Hon'ble High Court had refused to grant any stay on tree felling in the PEKB Coal Block falling in the Hasdeo Arand forest.
43. The issue in Writ Petition (Civil) No. 1346 of 2016 before the Hon'ble Chhattisgarh High Court was filed challenging the alleged Community Rights Revocation order dated 08.01.2016 passed by the Collector and Chair of the District Level Forest Rights Committee, Surguja District, Chhattisgarh, thereby revoking their alleged Community Rights as granted vide order dated 03.09.2013 under Forest Rights Act, 2006 in respect of forest area falling under village Ghatbarra.
44. The tree felling activity was started in 43 hectares of forest area falling in balance 1136 ha of Phase-II PEKB Mine in September,

2022, which led to filing of IA for Stay being I.A. No. 5 of 2022 in the Chhattisgarh High Court Writ Petition. As stated above, the Hon'ble High Court of Chhattisgarh had already refused the interim relief for non-felling of trees.

45. The Hon'ble Supreme Court of India as pleased to decide finally the Civil Appeal No. 4395 of 2014 and SLP (Civil) No. 18103 of 2022 on 16.10.2023. While a detailed order was passed in Civil Appeal No. 4395 of 2014 disposing off the said appeal, the issue raised in SLP (Civil) No.18103 of 2022 was relegated to the Hon'ble High Court of Chhattisgarh and the Petitioner-Hasdeo Arand Bachao Sangharsh Samiti in the SLP was directed to seek their remedies before the Hon'ble High Court. The relevant extract of the order dated 16.10.2023 passed by the Hon'ble Apex Court in Civil Appeal No. 4395 of 2015 reads as under:

1. The appeal has arisen from an order dated 24 March 2014 of the National Green Tribunal. The NGT issued the following directions:

“.....”

2. Since the order of the NGT, the Ministry of Environment, Forest and Climate Change has granted approval for commencing Phase II mining operation for the Parsa East and Kete Basan (PEKB) Coal Block on 2 February 2022. Thereafter, the State of Chhattisgarh has on 25 March 2022 accorded permission for coal mining and for non-forest activity in respect of the Parsa

East and Kete Basan Coal Block comprising 1136 hectares.

3. *The above facts are not in dispute.*

4. Since the order of the NGT has resulted in the above orders of MoEF & CC dated 2 February 2022 and of the State of Chhattisgarh dated 25 March 2022, Mr A N S Nadkarni, senior counsel appearing on behalf of the appellant states that the appeal is not pressed.

5 The appeal is accordingly disposed of.

6 Pending applications, if any, stand disposed of.

Further, while disposing of SLP (C) No. 18103 of 2023, the Hon'ble Supreme Court asked the Ld. Senior Advocate of RRVUNL to continue with its oral statement (made on 13.10.2022) for non-felling of trees for a period of 2 weeks which ended on 06.11.2023, within which time the Petitioner therein was granted an opportunity to file or interim stay. The order dated 16.10.2023 passed in SLP (C) No. 18103 of 2023 reads as under:

“Special Leave Petition (Civil) No 18103 of 2022

1. *The Special Leave Petition arose from an order dated 30 September 2022 of a learned Single Judge in IA No 5 of 2022 in Writ Petition (Civil) No 1346 of 2016. The learned Single Judge declined to entertain the prayer for interim relief primarily on the ground that proceedings were pending before this Court in which certain reliefs were claimed in respect the orders dated 2 February 2022, 25 March 2022 and 5 May 2022. The learned Single Judge had also indicated that there was no challenge to the orders at that stage.*
2. *Mr C U Singh, senior counsel appearing on behalf of the petitioner states that an application for amending the writ petition has been filed before the High Court which is pending.*
3. *By a separate order passed today, Civil Appeal No 4395 of 20143 instituted before this Court has been disposed of as not pressed.*
4. *Since the writ petition under Article 226 of the Constitution is pending before the High Court, it would be appropriate and proper to relegate the petitioners to pursue their rights and remedies in accordance with law. **Since the application for interim relief in IA No 5 of 2022 was not considered by the High Court for the reasons***

which have been indicated above, we clarify that it will be open to the petitioners to move an application for seeking interim relief. The above liberty is subject to such objections which the contesting respondents may have to the grant of interim relief. This Court has not expressed any opinion on the merits of the challenge before the High Court.

5. The Special Leave Petition is accordingly disposed of.

6. Pending applications, if any, stand disposed of.”

I. Chhattisgarh High Court Proceedings in Writ Petition (Civil) No. 1346 of 2016 arising out Supreme Court SLP (Civil) No. 18103 of 2022:

46. The writ petition was filed challenging the alleged Community Rights revocation order dt. 08.01.2016 passed by the Collector and Chair of the District Level Forest Rights Committee, Surguja District, Chhattisgarh, thereby revoking their alleged Community Rights as granted vide order dt. 03.09.2013 under Forest Rights Act, 2006 in respect of forest area falling under village Ghatbarra.

It is relevant to mention here that pursuant to the above final order passed by the Hon'ble Supreme Court, on 19.10.2023, the

Petitioners before the Hon'ble Chhattisgarh High Court filed yet another application for stay on tree felling being IA for Stay being I.A. No. 8 of 2023 in Writ Petition (Civil) No. 1346 of 2016 seeking interim relief(s) as under:

- 1) *“Stay the operation of orders of:*
 - a) *The MoEF & CC dated 02.02.2022 approving commencement of mining in Phase 2 of PEKB mines,*
 - b) *The State Government dated 25.03.2022 diverting 1136 ha of forest land for Phase 2 mining, and*
 - c) *the APCCF permitting felling of trees in 43.63 ha of forest land dated 05.05.2022*
till the disposal of the instant Writ Petition,
- 2) *Direct the Respondent Authorities to ensure that there is no further destruction of the forest areas claimed by the Petitioner no. 1 in the Claim for Community Forest Rights filed on 12.06.2023 (Annexure P-26) till the disposal of the instant Writ Petition...”*

47. That the Hon'ble High Court of Chhattisgarh vide order dated 09.11.2023 heard the Petitioners therein as well as RRVUNL at length, raising the issue of tree felling activities in the Phase-2 of PEKB Mine falling in Hasdeo Arand Forest Area, Chhattisgarh and reserve the IA for Stay for orders. The High Court of Chhattisgarh is very much seized off the matter and has not granted any stay on the tree felling activities. Further, RRVUNL was also released off its oral statement by the Hon'ble Supreme

Court on 06.11.2023 (the Supreme Court oral statement period ended on said date).

48. Subsequent to the order dated 16.10.2013 passed by the Hon'ble Apex Court in Civil Appeal No. 4395 of 2014, The Petitioners had filed I.A. for amendment of their pending W.P. (Civil) No. 1346 of 2016 seeking amendment of prayers in the Writ Petition and challenging the MoEF&CC order dated 02.02.2022 read with State Government Forest diversion order dated 28.03.2022 granting Phase-II permission for PEKB Mine owned by RRVUNL. The said amendment application has been partly allowed by the Hon'ble High Court vide order dated 02.05.2024 and has again declined to pass any orders restraining the tree felling. A True Copy of the order 02.05.2024 passed by the Hon'ble Chhattisgarh High Court in Writ Petition (Civil) No. 1346 of 2016 is annexed herewith and marked as **ANNEXURE R-9**

J. 2nd SPECIAL LEAVE PETITION AGAINST TREE FELLING IN SPECIAL LEAVE PETITION (CIVIL) NO. 21759 of 2024 TITLED HASDEO ARAND BACHAO SANGHARSH SAMITI & ANR. VS. UNION OF INDIA AND ORS.

49. That, one of the impleader before this Hon'ble Tribunal in the present proceedings- Hasdeo Arand Bachao Sangharsh Samiti had filed 2nd Special Leave Petition (Civil) No. 21759 of 2024 against the order dt. 02.05.2024 passed by the Hon'ble High Court of Chhattisgarh in I.A. No. 13 of 2023 in Writ Petition

(Civil) No. 1346 of 2016, whereby the Hon'ble High Court had declined to grant stay on the tree felling activity arising out of Phase-II mining in the PEKB Coal Block.

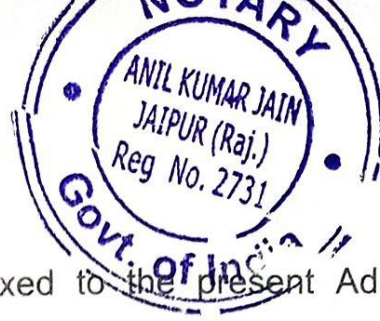
50. That the Hon'ble Supreme Court of India vide final order dt. 17.09.2024 was pleased to dispose off the 2nd SLP against tree felling and requested the Hon'ble High Court to dispose off the main Writ Petition itself while leaving the stay application open for consideration by the Hon'ble High Court to consider afresh within a month from the Supreme Court order dt. 17.09.2024. A True Copy of the order dt. 17.09.2024 passed by the Hon'ble Supreme Court of India in SLP (Civil) No. 21759 of 2024 is annexed herewith and marked as **ANNEXURE R-10**.
51. That the pursuant to the Hon'ble Supreme Court's order dt. 17.09.2024, the Hon'ble High Court of Chhattisgarh vide order dt. 03.10.2024 Petition has decided to list the main Writ itself for final disposal on 20.11.2024. A True Copy of the order dt. 03.10.2024 passed by the Hon'ble High Court of Chhattisgarh in Writ Petition (Civil) No. 1346 of 2016 is annexed herewith and marked as **ANNEXURE R-11**

No challenge to the Phase-II mining permissions dt. 02.02.2022 and State Government Forest Diversion order dt. 25.03.2022

52. It is submitted that any order passed by the MoEF & CC under the Forest (Conservation) Act, 1980 is amenable to challenge under Section-16 (e) of the National Green Tribunal Act, 2010 ("NGT Act"). It is submitted that pursuant to the order dt.

02.02.2022 passed by the MoEF & CC and 25.03.2022 passed by the State Forest Department, Chhattisgarh, no appeal has been preferred before this Hon'ble Tribunal by any party till date. The aforesaid subsequent permissions granted by the MoEF & CC and the State Forest Department permitting Phase-II mining were in compliance of this Hon'ble Tribunal's directions dt. 24.03.2014, which has not been assailed before this Hon'ble Tribunal till date by way of a Statutory Appeal prescribed under Section-16 (e) of the NGT Act and have hence attained finality. Any challenge to the said forest permissions will be barred under the Section- 16 (e) of the NGT Act since the act provides for maximum time period of 90 days to challenge the same.

53. Any challenge beyond 90 days will be time barred and this Hon'ble Tribunal will not have jurisdiction to entertain the same.
54. That in view of the above narrated facts, permissions, order of the Hon'ble Supreme Court of India, Hon'ble Chhattisgarh High Court, this Hon'ble Tribunal may consider the issue at hand for which the present suo-moto proceedings have been initiated, however it is most humbly prayed that no stay ought to be granted by this Hon'ble Tribunal on the tree felling activities.
55. The Project Proponent/Respondent No.4 seeks liberty of this Hon'ble Tribunal to file a further detailed additional affidavit/reply as may be required at the appropriate stage of the present proceedings.



56. That, Annexures R- 1 to R- 11 annexed to the present Additional Affidavit are true copies of their respective originals.

[Signature]

DEPONENT

Superintending Engineer (Fuel)
RVUN, Jaipur

VERIFICATION

I, the above named deponent, do hereby solemnly state and affirm that the contents of the above affidavit are true and correct to the best of my knowledge and belief and nothing material has been concealed therefrom.

Signed and verified at Jaipur on this 14th day of October, 2024.



ATTESTED

[Signature]
Anil Kumar Jain
Notary (Govt. of India)
JAIPUR (Raj.)

14 OCT 2024

[Signature]
DEPONENT

Superintending Engineer (Fuel)
RVUN, Jaipur

F. No. 8-31/2010-FC
Government of India
Ministry of Environment & Forests
 (FC Division)

Paryavaran Bhawan, C.G.O Complex,
 Ludhi Road, New Delhi - 110510.

Dated: 15th March, 2012

To
 The Principal Secretary (Forests),
 Government of Chhattisgarh,
 Raipur.

Sub: Diversion of 1898.328 ha in two phases of forest land for Parsa East and Kete Basan captive coal block open cast mining project in favour of M/s Rajasthan Rajya Vidut Utpadan Nigam Limited in South Surguja Forest Division in Surguja District of Chhattisgarh - reg.

Sir,

I am directed to refer to the State Government's letter no. FS-4/2010/10-2 dated 28.04.2010 on the subject cited above seeking prior approval of the Central Government under the Forest (Conservation) Act, 1980. After careful consideration of the proposal by the Forest Advisory Committee constituted under section-3 of the said Act, in-principle approval was granted vide this Ministry's letter of even number dated 06.07.2011 subject to fulfilment of certain conditions prescribed therein. The State Government has furnished compliance report in respect of the conditions stipulated in the in-principle approval and has requested the Central Government to grant final approval.

In this connection, I am directed to say that on the basis of the compliance report furnished by the State Government vide letter no. vide its letter no. 331-53/2455 dated 31.12.2011, approval of the Central Government is hereby granted under section-2 of the Forest (Conservation) Act, 1980 for diversion of 1898.328 ha in two phases of forest land for Parsa East and Kete Basan captive coal block open cast mining project in favour of M/s Rajasthan Rajya Vidut Utpadan Nigam Limited in South Surguja Forest Division in Surguja District of Chhattisgarh subject to fulfilment of the following conditions:

1. Legal status of forest land shall remain unchanged.
 - a. Compensatory afforestation shall be raised and maintained by the State Forest Department over degraded orange forest land double in extent to the forest land proposed to be diverted at the project cost.
 - b. Fencing, protection and regeneration of the safety zone area shall be done at the project cost. Besides this, afforestation on degraded forest land, to be selected elsewhere, measuring one and a half times the area under safety zone, shall also be done at the project cost.
 - c) Wherever possible and technically feasible, the User Agency shall undertake afforestation measures in the blanks within the lease area, as well as along the roads outside the lease area diverted under this approval, in consultation with the State Forest Department at the project cost.

2. Following activities undertaken by the project proponent under the supervision of the State Forest Department at the project cost:
 - (i) Proper mitigative measures to minimize soil erosion and choking of streams shall be prepared and implemented.
 - (ii) Planting of adequate drought hardy plant species and sowing of seeds to arrest soil erosion.
 - (iii) Construction of check dams, retention / toe walls to arrest sliding down of the excavated material along the contour.
 - (iv) The areas shall be reclaimed keeping in view the international practice of stabilizing the dumps by grading / benching so that angles of repose (normally less than 28 at any given place) are maintained.
 - (v) No damage shall be caused to the top-soil and the user agency will follow the top soil management plan.
3. The approval under the Forest (Conservation) Act, 1980 is subject to the clearance under the Environment (Protection) Act, 1986 and any other Acts/Regulation/Rules.
4. The period of diversion of the said forest land under this approval shall be for a period co-terminus with the period of the mining lease proposed to be granted under the Mines and Minerals (Development & Regulating) Act, 1957, or Rules framed there under, subject to a maximum period of 30 years.
5. The User Agency shall furnish an undertaking to pay the additional NPV, if so determined, as per the final decision of Hon'ble Supreme Court of India.
6. Demarcation of mining lease area will be done on the ground at project cost using four feet high reinforced cement concrete pillars with serial numbers, forward and back bearings and distance from pillar to pillar.
7. Mining/reclamation schedule shall be implemented by the user agency at their cost as per Environmental Management Plan / phased reclamation programme. The annual report about the progress of reclamation should be submitted to the CCF (Central), Regional Office, Bhopal.
8. The mining shall be done in two phases:
 - i. During phases-I, covering 15 years, the mining shall be restricted to 762.00 ha of forest land.
 - ii. During phase -II the mining permission over remaining 1136.00 ha will be linked to the reforestation and biodiversity management in phase-I.
 - iii. The project proponent will submit the application for permission for mining in phase - II along with compliance report of phase-I.

9. The user agency will ensure the dumping of OB and phase wise rehabilitation and afforestation of the used / mined out pits / voids as per the approved plan under the supervision of the State Forest Department.
10. The user agency will make arrangement for free supply of alternate fuels to labourers and staff working on the project site so as to avoid any pressure on the adjacent forest areas.
11. The forest land shall not be used for any purpose other than that specified in the proposal.
12. Any tree felling shall be done only when it is unavoidable and under strict supervision of the State Forest Department.
13. No damage to the flora and fauna of the area shall be caused.
14. No labour camps shall be set up inside the forest area.
15. The forest land proposed to be diverted shall under no circumstances shall be transferred to any other agency, department or person without prior approval of the Central Government.
16. The user agency will implement the Resettlement and Rehabilitation Plan as per the R&R Policy of State Government.
17. The user agency will undertake transplantation of important tree species under 60 cm girth under the supervision of State Forest Department.
18. The State Government will not come up for opening up of the main Hasdeo-Arand area.
19. The user agency will ensure proper implementation of Wildlife Management Plan prepared by the State Government.
20. The user agency will assist the State Government in conservation and preservation of the flora and fauna of the area.
21. The State Government will suitably incorporate the comments, as suggested by of the WIJ, Dehradun, into the Wildlife Management Plan prepared for the area. The project proponent has deposited an amount of Rs. 22 crores (Rs. Twenty two crores) towards cost of implementation of the Wildlife Management Plan. Increased costs, if any, due to incorporation of the suggestions of WIJ, Dehradun will be borne by the user agency. Final copy of the Wildlife Management Plan will be submitted to this Ministry and the Regional Office, Bhopal within a period of three months for the purpose of monitoring. A soft copy in PDF format will also be submitted to the Ministry.
22. The user agency will make provision for appropriate financial outlay for the establishment of Rescue and Rehabilitation team to mitigate human-wildlife conflicts.
23. The Wildlife Management Plan will be implemented by the State Government and independent institutions like the Nature Conservation Foundation, Wildlife Trust of India and the Center for Ecological Studies at the Indian Institute of Science apart from the Wildlife Institute of India may be involved in implementation of the Plan. In order to ensure proper implementation of the Wildlife Management Plan, the State Government shall make necessary provisions for carrying out the monitoring and evaluation of the plan. It would be appropriate to include

Chief Wildlife Warden of the State in monitoring the implementation of the Plan.

24. The user agency will undertake and implement suitable mitigative measures as prescribed in the Wildlife Management Plan for reducing the dependency of cattle and people on the surrounding forest area.
25. Any other condition that the Chief Conservator of Forests (Central), Regional Office, Bhopal may impose from time to time in the interest of conservation, protection or development of forests.
26. The user agency shall submit the annual compliance report in respect of the above conditions to the State Government and to the Regional Office, Bhopal regularly.

Yours faithfully,

Shiv Pal Singh
(Shiv Pal Singh)

Sr. Assistant Inspector General of Forests

Copy to:-

1. The Principal Chief Conservator of Forests Government of Chhattisgarh, Raipur.
2. The Nodal Officer, Office of the PCCF, Government of Chhattisgarh, Raipur.
3. The Chief Conservator of Forest, Regional Office, Bhopal.
4. User Agency
5. Monitoring Cell, FC Division.
6. Guard file.

Shiv Pal Singh
(Shiv Pal Singh)

Sr. Assistant Inspector General of Forests

Best

15/3/12

Shiv Pal Singh

//True Copy//

छत्तीसगढ़ शासन

वन विभाग

दाऊ कल्याण सिंह भवन, मंत्रालय, रायपुर

क्रमांक एक 5-4/2010/10-2

रायपुर, दिनांक: 28/03/2012

प्रति,

प्रधान मुख्य वन संरक्षक,
छत्तीसगढ़, रायपुर।

विषय :- Diversion of 1898.328 ha in two phases of forest land of Parsa East and Kete Basen Captive coal Block open cast mining project in favour of M/s Rajasthan Rajya Vidyut Utpadan Nigam Limited in South Sarguja Foresty Division in Sarguja District of Chhattisgarh

संदर्भ:- भारत सरकार, पर्यावरण एवं वन मंत्रालय, नई दिल्ली का पत्र क्रमांक 8-31/2010-FC, दिनांक 15.03.2012।

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विवेकांतरित भारत सरकार, पर्यावरण एवं वन मंत्रालय, नई दिल्ली के पत्र क्रमांक 8-31/2010-FC, दिनांक 15.03.2012 (छायाप्रति संलग्न) के माध्यम से सरगुजा जिले के दक्षिण सरगुजा वनमंडल अंतर्गत कुल 1898.328 हे. वनभूमि दो चरणों में परसा ईस्ट तथा कांटे बासन केप्टिव कोल ब्लॉक खुली खदान परियोजना के वनेतर उपयोग हेतु मेसर्स राजस्थान राज्य विद्युत उत्पादन निगम लिमिटेड को वन संरक्षण अधिनियम 1980 की धारा-2 के अंतर्गत सराई औपचारिक अनुमोदन किया गया है। जिसके आधार पर राज्य शासन एतद्वारा उपरोक्तानुसार सरगुजा जिले के दक्षिण सरगुजा वनमंडल अंतर्गत 1898.328 हे. वनभूमि दो चरणों में परसा ईस्ट तथा कांटे बासन केप्टिव कोल ब्लॉक खुली खदान परियोजना हेतु मेसर्स राजस्थान राज्य विद्युत उत्पादन निगम लिमिटेड को वनेतर उपयोग हेतु औपचारिक अनुमोदन निम्न शर्तों के अधीन किया जाता है :-

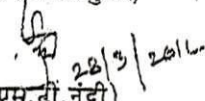
1. Legal status of forest land shall remain unchanged.
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 - b. Fencing, protection and regeneration of the safety zone area shall be done at the project cost. Beside this, afforestation on degraded forest land, to be selected elsewhere, measuring one and a half times the area under safety zone, shall also be done at the project cost.
 - c. Wherever possible and technically feasible, the User Agency shall undertake afforestation measures in the blanks within the lease area, as well as along the roads outside the lease area diverted under this approval, in consultation with the State Forest Department at the project cost.
2. Following activities undertaken by the project proponent under the supervision of the State Forest Department at the project cost:
 - (i) Proper mitigative measures to minimize soil erosion and choking of streams shall be prepared and implemented.
 - (ii) Planting of adequate drought hardy plant species and sowing of seeds to arrest soil erosion.
 - (iii) Construction of checks dams, retention/toe walls to arrest sliding down of the excavated material along the contour.
 - (iv) The areas shall be reclaimed keeping in view the international practice of stabilizing the dumps by grading/benching so that angles of repose (normally less than 28 at any given place) are maintained.
 - (v) No damage shall be caused to the top-soil and the user agency will follow the top soil management plan.
3. The approval under the Forest (Conservation) Act, 1980 is subject to the clearance under the Environment (Protection) Act, 1986 and any other Acts/Regulation/Rules.
4. The period of diversion of the said forest land under this approval shall be for a period co-terminus with the period of the mining lease proposed to be granted under the Mines and Minerals (Development & Regulating) Act, 1975, or Rules framed there under, subject to a maximum period of 30 years.

5. The user Agency shall furnish an undertaking to pay the additional NVP if so determined, as per the final decision of Hon'ble Supreme Court of India.
6. Demarcation of mining lease area will be done on the ground at project cost using four feet high reinforced cement concrete pillars with serial numbers, forward and back bearings and distance from pillar to pillar.
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 - iii. The project proponent will submit the application for permission for mining in phase-II along with compliance report of phase-I.
9. The user agency will ensure the dumping of OB and phase wise rehabilitation and afforestation of the used /mined out pits / voids as per the approved plan under the supervision of the State Forest Department.
10. The user agency shall establish and operate a Vocational Training Institute having capacity to impart training in at-least five disciplines, to be decided by the State Government concerned in consultation with the user agency, for the benefits of the eligible unemployed youth in the project affected villages. The user agency should also endeavour to employ such trained manpower in their own industry or any other appropriate industry, preferably located in vicinity of the forest land being diverted. Any other condition imposed by the MoEF New Delhi's stage-I approval letter No. 8-31/2010-FC, Dated 06/07/2011, which is yet to be fulfilled, should be fulfilled by the user agency.
11. The user agency will make arrangement for free supply of alternate fuels to labourers and staff working on the project site so as to avoid any pressure on the adjacent forest areas.
12. The forest land shall not be used for any purpose other than that specified in the proposal.
13. Any tree felling shall be done only when it is unavoidable and under strict supervision of the State Forest Department.
14. No damage to the flora and fauna of the area shall be caused.
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18. The user agency will undertake transplantation of important tree species under 60 cm girth under the supervision of State Forest Department.
19. The State Government will not come up for opening up of the main Hasdeo - Arand area.
20. The user agency will ensure proper implementation of Wildlife Management Plan prepared by the State Government.
21. The user agency will assist the State Government in conservation and preservation of the flora and fauna of the area.
22. The State Government will suitably incorporate the comments, as suggested by of the WII, Dehradun, into the Wildlife Management Plan Prepared for the area. The project proponent has deposited an amount of Rs. 22 crores (Rs. Twenty two crores) towards cost of implementation of the Wildlife Management Plan. Increased costs, if any, due to incorporation of the suggestion of WII, Dehradun will be borne by the user agency. Final copy of the Wildlife Management Plan will be submitted to this Ministry and Regional Office, Bhopal within a period of three months for the purpose of monitoring. A soft copy in PDF format will also be submitted to MoEF New Delhi.
23. The user agency will make provision for appropriate financial outlay for the establishment of Rescue and Rehabilitation team to mitigate human-wildlife conflicts.
24. The wildlife management plan will be implemented by the State Government and independent institutions like the Nature Conservation Foundation, Wildlife Trust of India and the Center for Ecological Studies at the India Institute of Science apart from the Wildlife Institute of India may be involved in implementation of the Plan. In order to insure proper implementation of the Wildlife Management Plan, the State Government shall make necessary provisions for carrying out the monitoring and evaluation of the plan. It would be appropriate to include Chief wildlife Warden of the State in monitoring the implementation of the Plan.

25. The user agency will undertake and implement suitable mitigative measures as prescribed in the Wildlife Management Plan for reducing the dependency of cattle and people on the surrounding forest area.
26. Any other condition that the Chief Conservator of Forest (Central), Regional Office, Bhopal may impose from time to time in the interest of conservation, protection or development of forests.
27. The user agency shall submit the annual compliance report in respect of the above conditions to the State Government and to the Regional Office, Bhopal regularly.

संलग्न :- उपरोक्तानुसार ।

छत्तीसगढ़ के राज्यपाल के नाम से
तथा आदेशानुसार,


(एम.डी. नंदी)

विशेष सचिव

छत्तीसगढ़ शासन, वन विभाग

रायपुर, दिनांक: 28/03/2012.

पृष्ठांकमांक एफ 5-4/2010/10-2

प्रतिलिपि :-

1. मुख्य वन संरक्षक (भू-प्रबंध) कार्यालय प्रधान मुख्य वन संरक्षक छत्तीसगढ़ रायपुर ।
 2. वन संरक्षक, सरगुजा वन अंबिकापुर ।
 3. अवर सचिव, छत्तीसगढ़ शासन, खनिज साधन विभाग, मंत्रालय रायपुर ।
 3. वनमंडलाधिकारी, दक्षिण सरगुजा वनमंडल अंबिकापुर ।
 4. आवेदनकर्ता श्री एस.एम. गौयल, अतिरिक्त मुख्य अभियंता (C&F) राजस्थान राज्य विद्युत उत्पादन निगम लिमिटेड प्पोती नगर रायपुर (राजस्थान) ।
- को ओर सूचनार्थ अर्पित ।

विशेष सचिव,

छत्तीसगढ़ शासन, वन विभाग



//True Copy//

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI, NEW
DELHI

Appeal no. 73/2012

In the matter of:

Sudiep Shrivastava
r/o Dharam Prakash Chawl
Mungeli Naka Bilaspur
Chhattisgarh- 495001

..... Appellant

Versus

1. State of Chhattisgarh
Through the Principal Secretary (Forests)
Government of Chhattisgarh
Raipur
 2. Union of India
Through the Secretary
Ministry of Environment and Forests
Government of India
Paryavaran Bhawan, C.G.O Complex
Lodhi Road, New Delhi - 110003
 3. M/S Rajasthan Rajya Vidyut Utpadan Nigam Ltd
Vidyut Bhawan
Jyoti Nagar, Janpath
Jaipur- 302005
 4. Kente Basan Coilleries co. Ltd
C/O M/S Rajasthan Rajya Vidyut Utpadan Nigam Ltd
Vidyut Bhawan
Jyoti Nagar, Janpath
Jaipur- 302005
- Respondents

Counsel for appellant:

Mr. Raj Panjwani, sr. advocate along with
Mr. Rahul Choudhary, Mr. Ritwick Dutta
and Srilekha Advocate

Counsel for Respondents:

Mr. Atul Jha, Advocate for respondent no. 1
Ms. Neelam Rathore, Mr. Vikramjeet,
Ms. Syed Amber Advocates for respondent no. 2
Mr. Parag Tripathi sr. Advocate along with
Mr. Kunal Verma Advocates for respondent no. 3
Mr. Pinaki Mishra, sr. Advocate, Mr. Ravi Nair
and Mr. Arjun Khera, Advocates for respondent no. 4

Present:

Hon'ble Mr. Justice Swatanter Kumar (Chairperson)
Hon'ble Mr. U.D. Salvi (Judicial Member)
Hon'ble Dr. D.K. Agrawal (Expert Member)
Hon'ble Prof. A.R. Yousuf (Expert Member)
Hon'ble Dr. R. C. Trivedi (Expert Member)

JUDGMENT

Per U.D. Salvi J.(Judicial Member)

Dated: 24th March, 2014

1. A diversion of 1898.328 hectares of forest land at Parsa East and Kante-Basan captive coal blocks (shortly referred to as PEKB Coal Blocks) situated in Hasdeo-Arand coal fields in Hasdeo-Arand forest- South Sarguja Forest Division, District Sarguja, Chhattisgarh in favour of M/s Rajasthan Rajya Vidyut Utpadan Nigam Ltd (shortly referred to as RVUNL) - the respondent no. 3 herein vide order no. F 5-4/2010/10-2 dated 28th March, 2012 passed by the State of Chhattisgarh - the respondent no. 1 herein in pursuance to the approval under section 2 the Forest (conservation) Act 1980 (shortly referred to as FC Act) accorded by

the Central Government the respondent no. 2 herein, finds challenge in the present Appeal.

2. Undisputed facts leading to the present appeal are as under: Tara, Parsa, and PEKB Coal Blocks are part of Hasdeo-Arand Coal Fields of Chhattisgarh, which fall in South Sarguja Forest Division. PEKB Coal Blocks ad measure 2388.525 hectares. Initially, the proposal dated 12th January, 2009 for diversion of 1898.328 hectares of forest land in PEKB Coal Blocks was forwarded by the State Government- State of Chhattisgarh the respondent no. 1 herein to MoEF-the respondent no.2 on 20th April, 2010. The respondent no.3- the project proponent on its own submitted a revised proposal regarding sequential mining of coal in two phases on 02nd March, 2011. Such revised proposal was the subject matter for deliberations before FAC on 10th March, 2011. The FAC appointed a sub-Committee to inspect, enquire into and to submit its report giving its findings in relation to Tara, Parsa and PEKB Coal Blocks. This sub-committee inspected some locations situated within the above coal blocks on 14th and 15th May, 2011 and submitted its observations/findings before the FAC. In its meeting convened on June, 20th and 21st 2011, the FAC considered the sub-Committee's observations/findings and took decision not to recommend the diversion of proposed forest area. In the said meeting, the FAC also dealt with the proposals for diversion of forest land falling in neighbouring coal fields, namely, Tara. On 22nd June, 2011 the final recommendations of the FAC rejecting the proposals for opening of Tara and PEKB Coal Blocks for mining

were placed before the Minister of State, Environment and Forest. The Hon'ble Minister preferred to disagree with the final recommendations of FAC, rejecting the proposal and decided to give stage-I approval in respect of the said proposals for forest clearance on 23rd June, 2011.

3. The Hon'ble Minister of State gave six reasons for his disagreement with the FAC, which are as follows:

(i) The coal blocks are clearly in the Fringe and actually not in the Bio-diversity rich Hasedo Arand forest region (a "No Go" area); and are separated by a well-defined high hilly ridge with drainage into Aten river flowing towards Hariyarpur in the opposite direction making it fall in totally different watershed;

(ii) Substantial changes in the mining plans as originally envisaged i.e. the revised proposal envisaging sequential mining in two phases- each phase of 15 years, firstly covering 762 hectares and in the next phase 1136 hectares, with reclamation of the mined out area to commence from the 3rd year onwards thus making it possible to link renewal for phase-II to performance on reforestation and bio-diversity management in phase-I;

(iii) Wildlife concerns to be taken care of through a well prepared and well executed Wildlife Management Plan under the aegis of independent institutions like the Wildlife Institute of India (WII) with involvement of other independent institutions with expertise on elephant related issues like the Nature Conservation Foundation, Wildlife Trust of India and the Centre for Ecological Studies at the Indian Institute of Science;

(iv) Coal Blocks to be linked to super-critical thermal power generation stations making such linkage as an explicit pre-condition for approval;

(v) Power generation plants of Chhattisgarh and Rajasthan being closely linked to the said coal blocks, the said States have been persistently following up;

(vi) Imperative to sustain the momentum generated in the XI plan in terms of capacity addition in keeping with broader developmental picture and balancing of different objectives and considerations.

4. As a sequel to the Minister's approval the respondent no. 2-MoEF issued stage-II approval dated 15th March 2012 to the said proposal for forest clearance which was followed by the impugned order dated 28th March, 2012 passed by the respondent no. 1-State of Chhattisgarh.

5. The appellant took exceptions to the reasons cited to over-rule FAC's recommendations and contended that the Hon'ble Minister's rejection of FAC's recommendations was both legally and factually not tenable. According to the appellant the Hon'ble Minister of State had over-ruled the FAC's recommendations purely on his subjective assessment without there being any basis for it; and the Minister had no power to take a contrary view from the one taken by the expert body- the FAC. In support of this contention the appellant placed reliance on *TWP's* case [*T. N. Godavarman Thirumulpad versus Union of India*; (2010)13 SCC 740]. The appellant further submitted that the Hon'ble Minister has

completely ignored the fact of identification of PEKB Blocks as "No Go area" on the basis of the joint studies carried out by Ministry of Coal and MoEF, and the outcome of such studies is material in addressing environmental issues. The appellant further submitted that the joint study for identification of the areas as "Go" and "No Go areas" is not merely an administrative exercise but a requirement in pursuance to the Forest (Conservation) Rules 2003- Rule 7(2)(c) read with entry 8 of Form-A under Appendix to the Rules. The appellant contended that the material information with regard to flora and fauna was concealed by the project proponent while submitting forest clearance proposal and the cost-benefit analysis of the project is flawed. Incidents of man-elephant conflict, the appellant submitted, reveal that the area in question falls in elephant reserve corridor area and the Wildlife Management Plan prepared by the state and looked into by WII in a very casual manner is wholly inadequate and fails to prescribe measures to contain man-elephant conflict. According to the appellant there is enough coal deposit available in the classified "Go areas" i.e. outside "No Go Area" to cater to the coal demand in next 60 years and the Ministry ought to have considered these facts, particularly, when there is no need to allow mining in dense forest and the afforestation would not regenerate natural forest. The appellant pointed out that the Minister had on three previous occasions rejected coal mining projects in Hasdeo-Arand forest area- an un-fragmented forest area and had surprisingly taken a different view contrary to the earlier view in the instant case, particularly in

violation of the order dated 4th August, 2006 in *TWP* case (supra).

The appellant further pointed out that the condition of supply of this coal to super thermal power plants is not being complied with.

6. Besides oral submissions learned advocate Mr. Panjwani for appellant placed on record written submissions accompanied by compilation of documents in support. The parties hereto have placed their responses on record in form of their replies and rejoinders with accompaniments as well as written submissions, which have been perused.

7. The MoEF took a stand that the FAC is merely an advisory body and the MoEF is the decision making body, and as such the MoEF is competent to override the FAC's advice/recommendations. Accordingly the MoEF contended that the Hon'ble Minister of State has granted permission for forest clearance in question on the basis of six well thought-out logical reasons on 23rd June 2011. The MoEF further submitted that the concerns in relation to the wildlife were suitably addressed by getting comments from WII Dehradun on the Wildlife Management Plan submitted by the State Government, and on issuing directions to the State Government to incorporate them in Wildlife Management Plan and to the project proponent to bear the increased cost of Wildlife Management Plan vide order dated 13th March, 2012. Thus, on satisfaction of all the conditions stipulated, the Stage-II approval in question was granted.

8. Learned Counsel for the respondent no. 3 argued at length and further placed written submissions along with the

accompaniments on record. With reference to the provisions of Forest (Conservation) Act, 1980 and rules made thereunder, he argued that the role of FAC remained advisory and the power to grant approval to the proposal overriding the recommendations of FAC vested in the Central Government. He pointed out that the Hon'ble Apex court vide order dated 02nd February, 2004 in *I.A. No. 11266 in I.A. 703/2011 in writ petition (c) No. 202/1995* has stayed the operation of the Forest (Conservation) amendments Rules 2004 repealing Rule 8 of Forest (Conservation) Rules, and as such the said Rule 8 expressly spelling out the power of the Central Government either to grant approval to the proposal or to reject the same within 60 days requires to be taken into consideration. As regards the directions in *TWP's Case* (supra), he submitted, the same were passed in order to meet the peculiar situation arising in the matter of grant of temporary work permits in the cases of renewal of mining licenses and cannot be applied generally. In his view the process of identifying "Go" and "No Go" areas was at the proposal stage and was never given effect to and as such has/had no binding force in Law. Adverting to *Lafarge Umium Pvt Ltd. Case* [Lafarge Umiam Minig Pvt. Ltd. Vs. Union of India & ors: (2011)7SCC338], he submitted that the Government remained vested with sufficient discretion in deciding competing interest demand like development versus Population/environment/forest.

9. Our attention was invited to Forest map and mapping done by GIS cell of Forest Management Information System, Division Raipur, Chhattisgarh as well as to the observations made by the

sub-Committee appointed to inspect PEKB Coal Blocks to point out that the vegetation in the PEKB Coal Blocks is poor, and it is situated on the fringe of the Hasdeo-Arand Coal fields in different watershed. Our attention was also invited to the facts overlooked by FAC while tendering its advice. According to the respondent no. 3 translocation of the trees is being done with modern techniques and tools, and the sequential mining in two phases assures regeneration of forest cover.

10. The respondents further pointed out that the coal mined from PEKB Blocks was to be utilised by the public undertaking for power generation in the State of Rajasthan and the present need of power generation justified the exploitation of our coal reserves particularly when huge amounts were being spent needlessly on coal imports. The respondents submitted that the order passed by the Hon'ble Minister of State is, therefore, just and reasonable, and as such the appeal deserved to be dismissed.

11. Controversy thus raised begs the following questions, which if answered would help its resolution:

(I) whether the advice rendered by FAC is binding on the Minister dealing with the proposal for granting approval to the forest clearance under section 2 of the Forest (Conservation) Act, 1980 and what weight it needs to be given?

(II) Whether the reasons adduced by the Minister of State, Environment and Forest in the order dated 23rd June, 2011 have sufficient basis to outweigh the advice rendered by the FAC?

(III) What order?

12. For answering the first question, it would be worthwhile to examine the relevant provisions of FC Act. Section 2 of the FC Act, 1980 spells out the role of the Central Government in the matter of granting prior approval to the State Governments proposals for dereservation of forest or use of forest land for non-forest purpose. This provision assigns a pivotal role to the Central Government and not to the Forest Advisory Committee constituted under Section 3 of the FC Act in the matter of granting the prior approval to the State Government's proposal for forest clearance in the following words:

2. Restriction on the dereservation of forests or use of forest land for non- forest purpose-

Notwithstanding anything contained in any other law for the time being in force in a state, no state Government or other authority shall make, except with the prior approval of the Central Government, any order directing,-

(i) that any reserved forest (within the meaning of the expression "reserved forest" in any law for the time being in force in that State) or any portion thereof, shall cease to be reserved;

(ii) that any forest land or any portion thereof may be used for any non-forest purpose;

[(iii) that any forest land or any portion thereof may be assigned by way of lease or otherwise to any private person or to any authority, corporation, agency or any other organisation not owned, managed or controlled by Government;

(iv) that any forest land or any portion thereof may be cleared of trees which have grown naturally in that land or portion, for the purpose of using it for reforestation.]

[Explanation.- For the purpose of this section "non-forest purpose" means the breaking up or clearing of any forest land or portion thereof for-.....

A look at the Section 3 of the FC Act would clearly reveal that the Forest Advisory Committee is the creation of the Central Government made for seeking advice in the matters connected with the grant of approval under Section 2 of the FC Act and with the

Conservation of forest, which may be referred to it by the Central Government. Section 3 of the FC Acts reads as under:

3. Constitution of Advisory Committee.-

The Central Government may constitute a Committee consisting of such number of persons as it may deem fit to advise that Government with regard to-

- (i) The grant of approval under section 2; and
- (ii) any other matter connected with the conservation of forest which may be referred to it by the Central Government.

Incorporation of this provision in the FC Act implies how important is the need of an advise in the matter of grant of approval under Section 2 to the Central Government, and it empowers the Central Government to constitute a mechanism for advice. Further reading of the FC Act takes us to the power of the central Government to devise its own tools for carrying out the provisions of the Act. This power to make rules for carrying out the provisions of the Act is conferred on Central Government under section 4 of the FC Act. Reading of some of the relevant provision of the Forest (Conservation) rules 2003 framed in exercise of the powers conferred by sub-section 1 of Section 4 of the FC Act namely, Rule 3, 5, 6, 7, and now deleted Rule 8 would reveal the manner in which the provisions of FC Act are given effect to, and the character and roles of the FAC, State Government, Central Government and their respective organs/authorities.

Rule 3 Reads as under:

3. Composition of the Forest Advisory Committee.-

- (1) The Forest Advisory Committee shall be composed of the following members, namely:-
- (i) the Director General of Forest, Ministry of Environment and Forests - Chairperson

- (ii) the Additional Director General of Forests, Ministry of Environment and Forests - Member
- (iii) the Additional Commissioner(soil Conservation), Ministry of Agriculture - Member
- (iv) **three non-official members** who shall be Experts one each in Mining, civil Engineering and Development Economics - Members
- (v) the Inspector General of Forests (Forest Conservation), Ministry of Environment and Forests -Member Secretary

(2) Additional Director General of Forests shall act as the Chairperson in the absence of Director General of Forests.

Composition of the forest advisory Committee clearly reveals that it comprises of the experts or men of standing in the fields of environment and forest, soil conservation, mining, civil engineering, development, economics and forest conservation.

Rule 5 (iii) reads as under:

5. Conduct of the business of the Committee.-

.....

(iii) In a case where the Chairperson is satisfied that inspection of site or sites of forest land proposed to be used for non-forest purposes shall be necessary or expedient in connection with the consideration of the proposal or proposals received under sub-rule (3) of rule 6, he may direct that the meetings of the Committee to be held at a place other than New Delhi from where such inspection of site or sites is necessary.

This provision gives us an idea about the importance of inspection of site or sites of forest land proposed to be used for non-forest purposes and the discretion vested in the Chairperson of the FAC to hold meeting at the very site of forest land in question in order

to get acquainted with the first-hand knowledge about the forest land in question.

Rule 6 of the FC Act reads as under:

Submission of proposals seeking approval of the Central Government under section 2 of the Act-

Every user agency, who wants to use any forest land for non-forestry purposes, shall make its proposal in the relevant Form appended to the rules, i.e., Form A for proposals seeking first time approval under the Act, and Form B for proposals seeking renewal of leases, where approval of the Central Government under the Act had already been obtained, to the Nodal Officer of the concerned State Government or the Union Territory Administration, as the case may be, along with requisite information and documents, complete in all respects.

The user agency shall endorse a copy of the proposal, along with a copy of the receipt obtained from the office of the **Nodal Officer, to the concerned Divisional Forest Officer or the Conservator of Forests, Regional Office, as well as the Monitoring Cell of the Forest Conservation Division of the Ministry of Environment and Forest, Paryavaran bhawan, CGO Complex, New Delhi-110003.**

(a) After having received the proposal, the State Government or the Union Territory Administration, as the case may be, shall process and forward it to the Central Government within a period of two hundred and ten days of the receipt of the proposal including the transit period.

(b) The Nodal Officer of State Government or as the case may be, the Union Territory Administration, after having received the proposal under sub-rule (1) and on being **satisfied that the proposal is complete in all respects, and requires prior approval under section 2 of the Act,** shall send the proposal to the concerned Divisional Forest Officer within a period of ten days of the receipt of the proposal:

(c) if the Nodal Officer of the State Government or the Union Territory Administration, as the case may be, finds that the proposal is incomplete, he shall return it within the period of ten days as specified under clause (b), to the user agency and this time period shall not be counted for any future reference.

(d) The Divisional Forest Officer or the Conservator of Forest shall examine the factual details and feasibility of the proposal, **certify the maps, carry out site-inspection and enumeration of the trees and forward his findings in the format specified in this regard to the Nodal Officer within a**

period of ninety days of the receipt of such proposal form him.

(e) (i) The Nodal Officer, through the Principal Chief Conservator of Forests shall forward the proposal to State Government or the Union Territory Administration, as the case may be, along with his recommendations, within a period of thirty days of the receipt of such proposal from the Divisional Forest Officer or the Conservator of Forests.

(f) If the proposal, alongwith the recommendations, is not received from the concerned State Government or the Union Territory Administration, as the case may be, till fifteen days of the expiry of the time limit as specified under clause (a), it shall be construed that the concerned State Government or, as the case may be, the Union Territory Administration, has rejected the proposal and the concerned State Government or the Union Territory Administration shall inform the user agency accordingly:

Provided that in case the State Government or the Union Territory Administration, as the case may be, subsequently forward the proposal, alongwith its recommendations, to the Regional Office or the Ministry of Environment and Forests, as the case may be, the proposal shall not be considered by the Central Government unless an explanation for the delay to the satisfaction of the Central Government is furnished, together with action taken against any individual held to be responsible for the delay.

(4) The proposal referred to in clause (ii) of sub-rule(3), involving forest land upto forty hectares shall be forwarded by the concerned State Government or as the case may be, the Union Territory Administration, along with its recommendations, to the Chief Conservator of Forests or the Conservator of Forests of the concerned Regional Officer of the Ministry of Environment and Forests, Government of India who shall, within a period of forty-five days of the receipt of the proposal from the concerned State Government or the Union Territory Administration, as the case may be (a) decide the diversion proposal upto five hectares other than the proposal relating to mining and encroachments, and (b) process, scrutinise and forward diversion proposal of more than five hectares and upto forty hectares including all proposals relating to mining and encroachments upto forty hectares, alongwith the recommendations, if any, to the Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, New Delhi - 110003, for obtaining the decision of the Central Government and inform the State Government or the Union Territory Administration, as the case may and the User Agency concerned.

(5) The Regional Empowered Committee shall decide the proposal involving diversion of forest, land upto forty hectares other than the proposal relating to mining and

encroachments, within forty-five days of the receipt of such proposal from the State Government or the Union Territory Administration, as the case may be:

Provided that the Central Government may, if consider it necessary, enhance or reduce the limit of the area of the forest land.

(6) The proposal referred to in clause (ii) of sub-rule(3), involving forest land of more than forty hectares, shall be forwarded by the concerned State Government or as the case may be, the Union Territory Administration, along with its recommendations, to the Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, New Delhi - 110003.

(ii) The State Government or the Union territory Administration, as the case may be, shall forward the complete proposal, along with its recommendations, to the Regional Office or the Ministry of Environment and Forest, Paryavaran Bhawan, CGO Complex, New Dlehi-110003, as the case may be, in the specified Forms within a period of sixty days of the receipt of the proposal form he Nodal Officer:

Provided that on the determination regarding completeness of the proposal or the expiry of ten days, whichever is earlier, the question of completeness or other wise of the proposal shall not be raised.

This rule read with Form A prescribed thereunder for proposals seeking first time approval under the Act reveals the importance of the requisite information, particularly concerning geographical situation of the required forest land, economic impact, vegetation, rare/endangered/unique species of flora and fauna, details of alternatives, details of compensatory afforestation schemes, site inspection report giving observations and recommendations of Conservator of Forest, recommendation of State Government departments in the matter of grant of approval of the Central Government to the proposal for forest clearance under Section 2 of the FC Act, and gives the entire dynamics of the proposal passing through various authorities for their recommendations before it reached the Central Government.

13. Amendments to the FC Rules due to Forest Conservation (Amendments) Rules 2004 Vide G.S.R. 94(E), dated 3rd February, 2004 have caused incorporation of Rule 7(1A) and deletion of Rule 8.

Rule 7(1A) reads as under:

[(1A) These proposals shall be processed and put up before the Committee and the recommendations of the Committee shall be placed within a period of ninety days of the receipt of such proposals from the State Government or the Union Territory Administration, as the case may be, before the Central Government for its decision.]

However, it is brought to our notice that the implementation of the said amendments to the rules has been stayed by the Hon'ble Apex Court vide order dated Feb 02, 2004 in I.A No. 1126 in I.A No. 703/2000 in Writ petition(c) 202/1995. In effect, therefore, we have to read rule 7 sans the amended rule IA and with rule 8, which read as under:

7. Committee to advise on proposals received by the Central Government -

(1) The Central Government shall refer every proposal, complete in all respects, received by it under [sub-rule (6) of rule 6] including site inspection report, wherever required, to the Committee for its advice thereon.

(2) The Committee shall have due regard to all or any of the following matters while tendering its advice on the proposals referred to it under sub-rule (1) namely: -

(a) whether the forests land proposed to be used for non-forest purpose forms part of a nature reserve, national park wildlife sanctuary, biosphere reserve or forms part of the habitat or any endangered or threatened species of flora and fauna or of an area lying in severely eroded catchment;

(b) whether the use of any forest land is for agricultural purposes or for the rehabilitation of persons displaced from their residences by reason of any river valley or hydro-electric project;

(c) whether the State Government [or the Union Territory Administration, as the case may be,] has certified that it has considered all other alternatives and that no other alternatives in the circumstances are feasible and that the **required area is the minimum needed for the purpose**; and
 (d) Whether the State Government [or the Union Territory Administration, as the case may be,] undertakes to provide at its cost for the acquisition of land of an equivalent area and afforestation thereof.

3. While tendering the advice, the Committee may also suggest any conditions or restrictions on the use of any forest land for any non-forest purpose, which in its opinion, would minimise adverse environmental impact.

Rule 8. Action of the Central Government on the advice of the Committee.-

The Central Government shall, after considering the advice of the Committee tendered under rule 7 and after such further enquiry as it may consider necessary, grant approval to the proposal with or without conditions or reject the same within sixty days of its receipt.

14. Use of word "Advice" in Rule 7 and Rule 8 makes a great **sense and must be read in its ordinary and grammatical sense** for understanding the correct import of the word "Advice" Learned Counsel of respondent no. 3 referred to its dictionary meanings vide- Webster's comprehensive dictionary 2003 and The Law lexicon 3rd edition 2012 and quoted extracts from the judgments delivered by the Hon'ble Supreme Court: *Tourist Hotel Vs. State of Andhra Pradesh and Anr.* (1975) ILLJ 211 AP , A.N. D'silva Vs. Union of India AIR 1962 SC 130 , *In Buddhadev Maity and Ors. Vs. Union of India (UOI) and Ors.*, (2010) IVLLJ 451 Del and Union of India Vs. TRAI 74 (1998) DLT2 82.

15. To meet the submissions of the respondents, learned counsel for the appellant has placed reliance on the order dated 4th

August 2006 passed by the Hon'ble Supreme Court in *I.A No. 1598-1600 in WP(C) no. 202/1995: T.N Godawaramn Thirumulkapad Versus Union of India and others:(2010)13SCC 740*. He particularly invited our attention to the following directions at Para 20(x) to (xii) in the Said order:

Para20(x) All proposals for grant of the FC Act clearances and TWPs in respect of mining leases shall be placed before FAC. Where FAC by order recommends the grant of a clearance or a TWP, MoEF shall, within a period of four weeks from the date of such order, issue orders for the grant of clearance on the usual terms, including those relating to the payment of NPV;

Provided where a TWP is being granted, it shall only be for a period not exceeding one year and upon payment of NPV for the already broken up area;

(xi) Decision on grant of a TWP shall be taken before the expiry of the mining lease. Decision of MoEF on the proposal for diversion of forest land for mining lease under the FC Act shall be conveyed to the user agency before the expiry of TWP.

(xii) In case MoEF disagrees with the recommendation of FAC, it shall record its reasons in writing and communicate the same to FAC, and FAC may, after considering such reasons, pass such further orders as it thinks fit;

Provided where the Government still disagrees with the order passed by FAC, it may seek appropriate direction from this court;

16. It is pointed out to us by the respondents that the Hon'ble Supreme Court was considering a peculiar situation arising out of issuance of temporary working permissions (TWP) in cases of renewal of mining leases without following the procedure under the FC Act and had laid down the pre-conditions and procedure for grant of TWP's vide para 20 in said judgment. It is correct that the Hon'ble Supreme Court was not dealing with the case of grant of approval for fresh mining licenses and was dealing with the peculiar situation before it. This is apparent from a bare perusal of the order:

“18. On considerations thereof, the conditions precedent for the grant of TWP's as well as the procedure for their grant shall be as provided hereinafter. At the outset, it is clarified that TWP's shall be granted only where the following conditions are satisfied.

Preconditions:

19.(i) TWP's can only be granted for the renewal of mining leases, and not where the lease is being granted for the first time to the applicant user agency:

(ii) The mine is not located inside any national park/sanctuary notified under sections 18, 26-A or 35 of the Wild Life (Protection) Act, 1972”.

.....

17. As observed herein above the FAC is constituted by the Central Government under Section 3 of the FC Act for the purposes of seeking advice and is composed of experts or men of standing in the fields of forest, forest conservation, soil conservation, mining, civil engineering and development economics, who are specialised in their approaches and as such have ability to look at the problem with a view based on their technical knowledge and experience in their respective fields which a generalist or bureaucrat may seldom possess; and therefore, the FAC on getting conversant with the ground realities can render valuable and objective advice to the Central Government. Pertinently, the proposal for forest clearance accompanied with the feedbacks/recommendations collated during the processing of the said proposal moves on to the Central Government which is under obligation as per Rule 7 of the FC rules to refer it to the FAC for its advice. There is also provision made in the FC Rules to enable the FAC to gain first-hand knowledge by conducting a site inspection. All this signifies the worth of the study of the problem from all angles to formulate holistic

authoritative view point for its meaningful resolution and consequent rendering of advice.

18. On this backdrop learned counsel for the appellant submitted that the advice of the FAC is therefore binding on the Minister. At this juncture it is worthwhile to refer to *Tourist Hotel Vs. State of Andhra Pradesh and Anr.* (1975) ILLJ 211 AP wherein it was thus observed:

"The word Advise" appearing in Section 5 like the word "Consultation" is quite often used and is well understood. These words, in circumstances such as here, are interchangeable words. Although no purpose will be served in attempting to define the word "advise", it is useful to keep in mind its popular meaning. 20th Century Chamber's Dictionary gives amongst others, the meaning as "to counsel" or "to consult". Likewise, the Shorter Oxford Dictionary gives as one definition of the verb to consult "to ask advice of", "seek counsel from". The term "advise" however, like "consult", is not synonymous with "direct" or "instruct". When Section 5 authorises the committee to advise, it has no power to direct or instruct the Government. The Committee can only counsel and the Government is not bound by the advice.

19. In the entire scheme of FC Act and the rules made therein there is no provision which give the meaning of the word 'advice' or makes the acceptance of the advice tendered by the FAC obligatory. The formation of the FAC is for the purposes of ensuring the fair and fully informed decision by the Minister without any arbitrariness in the matter of grant of approval under Section 2 of the FC Act. Judgments cited by the respondent no. 3 do point out creation of similar mechanism of rendering advice under the Constitution as well as statute. In *A.N D'silva Case (supra)* the Apex Court held that the *President is by Art. 320 of the Constitution required to consult the Public Service Commission (except in certain*

cases, which are not material) but the President is not bound by the advice of the Commission. Likewise in *Jatinder Kumar Case* [(1985) 1 SCC 122: *Jatinder Kumar and ors. Vs. State of Punjab and Ors.*] the Hon'ble Apex Court observed that the fact that there is no provision in the Constitution which makes the acceptance of the advice tendered by the Commission, when consulted, obligatory rendered the provisions of Article 320(3) only directory and not mandatory. The selection by the Commission however, is only a recommendation of the Commission and the final authority for appointment is the Government. The Government may accept the recommendation or may decline to accept the same.

20. Given a proper meaning to the word "Advise" used in section 3 of the FC Act and the rules framed there under, it is not difficult to see that the function of FAC is to give advice or to make recommendations to the Central Government (MoEF) which the Central Government is under obligation to consider but is free to take such decision granting approval to the proposal with or without conditions or rejecting the same after such further enquiry as it may consider necessary. In other words, considering the scheme of the FC Act and the Rules made thereunder, in our considered view, such an advice is not binding *stricto sensu* on the Central Government (Minister of State Environment and Forest) but the Central Government remains under obligation to duly consider the advice of the FAC and pass a reasoned order either accepting with or without condition or rejecting the same based on

facts, studies and such other authoritative material, if necessary gathered from further enquiry.

21. In our considered view the advice of the FAC springs from its opinion- an opinion of an expert body and to overturn the same there should be appropriate reasoning backed by data the expert's opinion carries its value, not only persuasive but weighty enough to tilt the scales either in favour or against the proposal examined and as such cannot be brushed aside on conjectures or imaginative grounds having no basis anywhere. Mere expression of the fanciful reasons relating to environmental concerns without any basis in fact situation, scientific study or past experience would not render the advice of the FAC- a body of experts inconsequential. The Minister rejecting the recommendation of such expert body must bear in mind that he is countering an expert opinion/viewpoint and in doing so he must meet it with such opinion or viewpoint which it would outweigh both by content and quality as aforesaid. The first question in relation to the nature and weight of the advice of the FAC is answered accordingly.

22. The answer to the first question obliges us to assess weight of the reasons adduced for rejecting the advice of the FAC and the validity of the consequent approval dated 23rd June, 2011 granted by the Minister to the proposal for forest clearance in relation. It is revealed that the FAC had appointed a sub-committee comprising of: (i) Additional Director General of Forest (Forest Conservation). (ii) Non- Official Member of the FAC. (iii) Assistant Inspector General of Forest along with Nodal Officer

Forest (Conservation) Act, 1980 of Government of Chhattisgarh for the inspection of the Coal Blocks (including PEKB) located in Hasdeo-Arand Coalfields in the meeting held on 10th March, 2011. The sub-committee inspected some locations in the said Coal Blocks and interacted with the field officials and project affected persons on 15th May, 2011 vide annexure-I to the report of site inspections on annexure-A2 to the appeal.

Observations/findings of the sub-committee are as below:

(A). General Observations.

(i). These blocks are located near northern boundary of the Hasdeo-Arand landscape/coal field which comes in "Category A" according to the Joint study undertaken by MoEF and MoC.

(ii). The area generally supports good forest cover comprising of SAL (*Shoera robusta*) and its associates of varying density. The visit was during the season in which many species shed their leaves, crop condition on the spots visited, suggests that the crop density closer to (more or less matches with) the forest cover maps prepared by the Forest Survey of India (FSI). The team wanted to do an analysis of stand density by using tele-relascope or wedge prism. But this could not be done since no such equipment was available in the department. The team, advised the Nodal Officer to get an analysis done at some of the spots visited and furnish a complete and more accurate report. The Working Plan maps were found to be seriously deficient and incomplete in crucial respects. In particular, at several places, the crop density was shown much lower than actual. Further, at some places even the boundary and boundary pillars were not matching what was shown on the map. Personnel were unable to adequately explain the inaccurate reportage on the density or on salient points on the maps.

This is a very serious matter as the information purports to contradict the FSI maps. The latter, is the nodal agency for generating data and interpreting it as information on forest density. The team found the FSI data base to be sound in terms of the ground realities.

(iii) During the short visit of the sub-committee, it was not possible to ascertain the extent of presence of wildlife (fauna and avifauna) in these Blocks. However, the area appears to be suitable and existing habitat for wild vertebrates including large mammals reported to be present there.

DFO, the South Surguja Division while forwarding the proposal for diversion of forest land in the Tara Coal Block in his site inspection note dated 2nd May, 2007 indicated that the area is rich in bio-diversity. These lists included Schedule-I Species (under the Wildlife Protection Act, 1972) such as the sloth bear and leopard. Their presence in turn indicates a population of wild prey species.

(iv) Previous reports of endangered species include a November 2005 sighting of a small herd of wild elephants that moved from Maheshpur to Salhi via Kantaroli, Abhaipur and Janardanpur. The elephants stayed in this area for nearly four days. The team headed by DGF and SS during their visit to the area on 27th and 28th August 2009 also confirmed the presence of elephants in the area. It appears that part of the area possibly serves as elephant corridor from Surguja to Korba districts. The Nodal officer was asked to submit the map showing the proposed Elephant Reserves or main populations of elephants in and around the proposed area. It might be apt to note that the

2007 Report of the MoEF on elephant- human conflict in the state had given special emphasis to maintaining the larger landscape outside the two proposed Elephant Reserves intact to enable movement and minimize conflict. The landscape is general and the forest corridors in particular will be fragmented and will be severely and irreparable degraded in quality unless there is protection of the tree cover.

(v) Interaction with villagers, who are likely to be affected if the projects become operational, revealed inadequate knowledge about the R&R policy/measures. There is a serious need for an independent assessment of the efficacy of the schemes. The team also noted the presence of the project proponents during the interaction. The latter left the site only after polite but firm request to the team. This enabled more frank and free exchange of views with the citizens resident in the forest area. Such presence during interaction with PAP's is not advisable and this point is of significance for the local administration.

(vi) As per the information provided by the Nodal Officer, Forest(Conservation) Act, 1980, Government of Chhattisgarh the process for settlement of community rights, in accordance with the provisions of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, on the forest land proposed for diversion have not been completed, so far. There is a lack of basic awareness of such provisions in this very important Union legislation on the matter of forest and community rights. Any such settlement is to include not only those residents in the Reserved Forests but others who may be dependent on the said forests. This means the process of the settlement of rights prior to application for clearance is

incomplete and not in full conformity with the law and regulations thereof.

As regards PEKB Coal Block the sub-committee observed;

(c) Parsa East and Kante Basan Coal Block

(v) The quality of the forest cover available in the PEKB coal block is poorer compared to area in the Tara coal block. However, as per the study jointly undertaken by the MoEF and MoC Gross Forest Cover is 52.95% and Weighted Forest Cover comes to 27.55%.

The sub-committee concluded on the basis of the said observations that it was not advisable to recommend diversion of the proposed forest areas. It noted that improvement in the quality of reportage on forest quality and conditions from the State Government was the need of the hour to enable sound judgement in such cases.

23. Meeting of the FAC was convened on June, 20th/21st, 2011, when the proposal for diversion of the forest land PEKB Coal Block in question was considered. The minutes of this meeting provide some access to the mind of the FAC and therefore the relevant portion of the minutes is reproduced herein below:

11. Diversion of 1898.328 ha of forest land for Parsa East and Kante Basan captive coal block open cast mining project in favour of M/s Rajasthan Rajya Vidyut Utpadan Nigam Limited in South Surguja Division in Surguja district of Chhattisgarh.

(F. No. 8-31/2010-FC)

The Committee reconsidered the proposal and noted that the Committee in its meeting dated 10-03-2011 decided to visit the site to have better appreciation of the proposal. The coal produced shall be used in two thermal power projects in Jhalawad district of Rajasthan. The Committee listened to the presentation made by the Nodal Officer (FAC) of the State & the project proponent and noted the following:

- (i). The coal block is on the northern fringe of Hasdeo-Arand
- (ii). The mining is planned in two phases with the aim of? Sequential mining, 'scientific void management, planned

felling of tress and afforestation, top soil management, and reclamation, etc.

(iii) In phase-I (15 years), total requirement of forest area is 762 ha (40% of total), where 1,25,547 trees will be affected.

(iv) In phase-II (16th year onwards), total requirement of forest area will be 1136.328ha, where 2,42,670 trees will be affected.

(v). The reclamation of mined out area will start from 3rd year onwards.

(vi). The project belongs to the State Government and is directed to meet the energy requirements of the State.

The FAC also taken into consideration the observations of the sub-committee of the FAC, which visited the area recently. The Sub-committee consisted of Shri A.K. Bansal, Dr. Mahesh Rangarajan and Shri Harish Chaudhary and its report is part of the minutes as Annexure. It concluded that:

(i). The Quality of the forest cover available in the Parsa East and Kante Basan coal block is poorer compared to area in the Tara coal block. However, as per the study jointly undertaken by the MoEF and MoC Gross Forest Cover is 52.95% and Weighted Forest Cover comes to 27.55%.

(ii). During the short visit of the sub-committee, it was not possible to ascertain the extent of presence of wildlife (fauna and avifauna). However, the area appears to be suitable **and existing habitat for wild vertebrates including large mammals** that are in schedule I of the Wildlife (Protection) Act. DFO, South Surguja Division, while forwarding the proposal for diversion of forest land in the Tara coal Block, in his site inspection note dated 2nd may 2007 indicated that the area is rich in bio-diversity. These lists included Schedule-I Species (under the Wildlife Protection Act, 1972) such as the sloth bear and leopard. Their presence in turn indicates a population of wild prey species.

(iii). Previous reports of endangered species include a Novemebr 2005 sighting of a small herd of wild elephants that moved from Maheshpur to Salhi via Kantaroli, Abhaipur and Janardanpur. The elephants stayed in this area for nearly four days. The team headed by DGF&SS during their visit to the area on 27th & 28th August 2009 also confirmed the presence of elephants in the area.

(iv). Interaction with villagers, who are likely to be affected if the projects become operational, revealed inadequate knowledge about the R&R policy/measures. The process of the FRA, especially of settlement of community rights is not complete.

Based on the above findings/observations the sub-committee, the FAC does not recommend the diversion of the proposed forest area.

24. On this backdrop, the order dated 23rd June, 2011 of the Minister expressing his disagreement with the final recommendations of the FAC makes an interesting reading. It is evident that the final recommendations of the FAC were received by the Minister on June 22nd, 2011 and the next day the Minister rejected the recommendations/advice of FAC giving six reasons for his disagreement with the FAC. It appears that the Minister did not think it necessary either to ask the FAC to examine worth of his views, particularly those in respect of which the FAC was not candid, in light of their knowledge and experience, or embark upon such enquiry single handedly or with the aid of such other experts to find basis for his view, understanding and belief in any fact situation, past experience or scientific study.

25. Before we examine the reasons adduced by the Minister, it is worthwhile to take hint from the words of the Hon^{ble} Apex Court in Para 19, 20 and 30 of the judgment delivered in Lafarge Umium Pvt Ltd case (supra) which reads as under:

19. Universal human dependence on the use of environmental resources for the most basic needs renders it impossible to refrain from altering environment. As a result, environmental conflicts are ineradicable and environmental protection is always a matter of degree, inescapably requiring choices as to the appropriate level of environmental protection and the risks which are to be regulated. This aspect is recognized by the concept of "sustainable development". It is equally well-settled by the decision of this court in the case of Narmada Bachao Andolan v. Union of India and Ors. MANU/SC/0640/2000: (2000) 10SCC 644 that environment has different facets and care of the environment is an on-going process. These concepts rule out the formulation of across-the-board principle as it would depend on the facts of each case whether diversion in a given case should be permitted or not, barring "No Go"

areas (whose identification would again depend on undertaking of due diligence exercise). In such cases, the Margin of Appreciation Doctrine would apply.

20. Making these choices necessitates decisions, not only about how risks should be regulated, how much protection is enough, and whether ends served by environmental protection could be pursued more effectively by diverting resources to other uses. Since the nature and degree of environmental risk posed by different activities varies, the implementation of environmental rights and duties require proper decision making based on informed reasons about the ends which may ultimately be pursued, as much as but the means for attaining them. Setting the standards of environmental protection involves mediating conflicting visions of what is of value in human life.....

30. Time has come for us to apply the constitutional "doctrine of proportionality" to the matters concerning environment as a part of the process of judicial review in contradistinction to merit review. It cannot be gainsaid that utilization of the environment and its natural resources has to be in a way that is consistent with principles of sustainable development and intergenerational equity, but balancing of these equities may entail policy choices. In the circumstances, barring exceptions, decisions relating to utilization of natural resources have to be tested on the anvil of the well-recognised principles of judicial review. Have all the relevant factors been taken into account? Have any extraneous factors influenced the decision? Is the decision strictly in accordance with the legislature policy underlying the law (if any) that governs the field? Is the decision consistent with the principles of sustainable development in the sense that has the decision-maker taken into account the said principle and, on the basis of relevant considerations, arrived at a balanced decision? Thus, the court should review the decision-making process to ensure that the decision of MoEF is fair and fully informed, based on the correct principles, and free from any bias or restraint. Once this ensured, then the doctrine of "margin of appreciation" in favour of the decision-maker would come into play. Our above view is further strengthened by the decision of the Court of Appeal in the case of R.V Chester City Council reported in (201) 1 All ER 476.

The precious words of the Hon'ble Apex Court do hint at two things:

1. there are no across the board principles to state what is

sustainable development as it would depend on the facts of each case. 2. Proper decision making needs to be based on informed reasons about the ends pursued.

26. The Minister while passing the order dated 23rd June, 2011 exercised statutory discretion and to judge its validity, normally, the test based on Wednesbury Principle needs to be applied. Whenever a decision making function is entrusted to the subjective satisfaction of a statutory functionary, there is an implicit obligation on such functionary, like the Minister in the present case, to apply his mind to pertinent and proximate matters only, issuing the irrelevant and the remote. A decision is said to be unreasonable in Wednesbury sense if (i) it is based on wholly irrelevant material or wholly irrelevant consideration, (ii) it has ignored a very relevant material which it should have taken into consideration, or (iii) it is so absurd that no sensible person could ever have reached to it. Controversies relating to arbitrariness thus can be determine on application of Wednesbury Principle, and for that purpose it is necessary to examine whether relevant matters had not been taken into account. In other words it needs to be understood whether the Minister's decision was fair and fully informed and consistent with the principle of sustainable development.

27. First three reasons relate to the environment and the rest relate to the developmental issues. According to the Minister the said coal block in question is linked to super critical thermal power generation station and such linkage is made an explicit pre-

condition for approval. The Minister further reasoned that keeping in view the persistent follow up by the State Governments of Chhattisgarh and Rajasthan as their power generation plans are closely linked to the coal block in question and the broader developmental picture for sustaining momentum generation in XIth plan in terms of capacity additions, there is need to open the said Coal Blocks as proposed by the Chhattisgarh Government. With the increasing demand for the power, one can legitimately feel the need for development of the power resources. The Minister added that the super critical technology is essential for the country in order to deal with global warming issues and concerns; and with the 660/800 MW super critical technology, anywhere between 5-8 per cent lower emission of carbon dioxide will accrue over a conventional sub-critical 500MW power units, which have been put up so far; and super-critical and ultra-supercritical thermal power plants have to proliferate rapidly as our energy demand is to be met in environmental acceptable manner. In this regard the appellant contended that though the mining activity has started the super-critical plants have not been constructed as yet.

28. Understandably, there is a reason for the State Governments to persistently follow up the opening of the coalfields as there power generation plants are linked to the coal blocks. However, these are anthropocentric reasons the merit of which needs to be evaluated in context with ecocentric reasons in order to understand whether the development proposed is sustainable. In our considered view

such reasons adduced by the Minister order dated 23rd June, 2011 *per se* therefore, cannot be the basis for rejecting the FACs advice.

29. Learned Counsel for the appellant further questioned the allotment of the Coal Block in question particularly when it fell in "No Go Area" as identified in the joint study undertaken by the MoC and the MoEF. According to him Suhagpur Coalfield, which was 200 kms distance from the power plant and which fell in "Go Area" could have been considered for allotment instead of the coal Block in question. This submission, though tempting, is preposterous. We are considering the merit of the Minister decision rejecting the FACs advice and not the issue of allocation of a Coal Reserve, the decision of which is taken by the Central Government in accordance with The Mines and Minerals (Development and Regulation) Act, 1957. Rule 7(2)(c) of FC rules if r.w Para 8 of Form-A under FC rules would reveal that it deals with what the State Government has to comment regarding the proposal for diversion of the forest land in hand i.e. column 2 of Part I of the Form-A filled by the user agency/project proponent as to the barest minimum requirement for the said project and if the project is unavoidable recommended area for each of the items in the project with details of the alternatives therefor. The submission made therefore, cannot form the basis of evaluating the merit of the action of the Minister in dealing with proposal of forest Clearance under FC Act.

30. Adverting to the Lafarge Umiam Pvt. Ltd case (*supra*), Learned Counsel for the applicant submitted that the Minister had

completely misread the fact of identification of the PEKB Blocks by the joint study undertaken by the MoC and MoEF as Category-A "No Go Area" as "actually not....(a No Go Area)", and consequently ignored the National Forest Policy 1988 which the Hon'ble Apex Court had declared it to be a governing factor in the matter of grant of forest clearance under Section 2 of FC Act 1980 in the following words:

Care for environment is an ongoing process. Time has come for this Court to declare that the National Forest Policy, 1988 which lays down far-reaching principles must necessarily govern the grant of permissions under Section 2 of the Forest (Conservation) Act, 1980 as the same provides the road map to ecological protection and improvement under the Environment (protection) Act, 1986. The principles/guidelines mentioned in the **National Forest Policy, 1988 should be read as part of the provisions of the Environment (Protection) Act, 1986 read together with the Forest (Conservation) Act, 1980.**

Our attention was also invited to the worth of the forest land, manner of its assessment and importance of its conservation as highlighted in National Forest Policy, 1988 at Para No. 4.4.1 therein which is quoted herein below:

4.4.1 Forest land or land with tree cover should not be treated merely as a resource readily available to be utilised for various projects and programmes, but as a national asset which requires to be properly safeguarded for providing sustained benefits to the entire community. Diversion of forest land for any non-forest purpose should be subject to the most careful examinations by specialists from the standpoint of social and environmental costs and benefits. Construction of dams and reservoirs; mining and industrial development and expansion of **agriculture should be consistent with the needs for conservation of trees and forests.** Projects which involve such diversion should at least provide in their

investment budget, funds for regeneration/compensatory afforestation.

Our attention was also invited to the draft note for Cabinet annexure A-31 on building of infrastructure for enhancing coal production on diversion of forest land with least possible adverse impact on environment in general and forest and wildlife in particular.

31. From these submissions it is crystal-clear that the Minister while taking decision under Section 2 of the FC Act, 1980 ought to have been mindful of the exhortations of the National Forest Policy, 1988. Forest land is a national asset which requires to be properly safeguarded for providing sustained benefits to the entire community. As observed by the Hon'ble Apex Court diversion of forest land for any non-forest purpose is required to be made on the basis of most careful examination of any such proposal by specialist to evaluate social and environmental cost and benefits. What matters therefore, in the instant case are the first three reasons which deal with environment from the point of view of cost incurred in terms of loss of forest and damage to the wildlife interest therein as well as regeneration/compensatory afforestation.

32. Order dated 23rd June, 2011 reveals that the Minister considered the PEKB Block as falling in the fringe and actually not in bio-diversity rich Hasdeo-Arand forest region ("No Go Area") separated by a well-defined high hilly ridge with drainage into Aten river which flows towards Hariarpur in the opposite direction- a totally different watershed.

33. If one looks to comments of the MoEF on a draft note for Cabinet referred to herein in above vide Annexure A-31 it can be

seen that the MoEF on suggestions from Ministry of Coal (MoC) had jointly undertaken a study in nine major coalfields to classify coal blocks into two categories-

Category A ("No Go Area") and Category B ("Go Area") in order to facilitate objective, informed and transparent decision on diversion of forest land for coal mining projects. Accordingly fragmented forest landscape having crown density more than 0.50 were named as Category A ("No Go Area") and fragmented forest landscapes having crown density less than 0.50 were named as Category B ("Go Area"). It further reveals that with the objective to achieve coal production target by causing least possible adverse impact on environment in general and forest and wildlife in particular, the MoEF and MoC had initially agreed and that the proposal seeking diversion of forest land for coal mining shall be considered only in Category B area.

34. In this context, what weighed in the mind of the FAC is the outcome of the joint study undertaken by the MoEF and MoC vis-a-vis forest cover in the coal blocks in South Sarguja division, which is reproduced hereunder.

	Tara Central	Parsa	Parsa East	Kente	Parsa East plus Kente
VDF	1529	120	0	205	205
MDF	363	514	380	460	840
OF	36	49	141	201	342
Total Forest Cover	1928	683	521	866	1387
Scrub	0	0	0	0	0
Water	0	0	0	0	0
NF	475	555	746	486	1232
Grant Total	2403	1238	1267	1352	2619

Weighted Forest Cover(EFC)	1508.30	396.95	244.25	477.50	721.25
% Weighted Forest Cover	62.77%	32.06%	19.028%	35.32%	27.55%
% Gross Forest Cover(GFC)	80.23%	55.17%	41.12%	64.05%	52.95%
Status as per % WFC and GFC with the threshold limit of 10% & 30% resp.	A	A	A	A	A

These facts and figures on which the FAC based its opinion/advise are drawn from the working plan of the South Sarguja forest division. It can also be seen that the applicant has pegged his entire case on the said working plan in order to contend that the Ministry had not taken the relevant consideration in mind while issuing an order under Section 2 of the land in question. This approach has been assailed by the respondents particularly the respondent no. 3 the project proponent with an argument that the facts and figures forming the basis of FAC opinion have been culled out from the data for the entire area of South Sarguja Division which spreads over 2,51,539.180 hectares of which the PEKB Block ad measuring 2,388.525 hectares is a part; and the computation of the trees density for 1898.328 hectares of the land culled out from PEKB Block on the basis of 4.6% sampling would differ.

35. According to the respondent no. 3 the computation of the tree density in the entire South Sarguja Forest Division was based on 435 sample plots of the size of 0.1 hectares. This sample plot data so computed was extrapolated to work out tree density for whole of the South Sarguja Division. Out of these 435 sample plots 93 sample plots were laid out in the Udaipur range area wherein falls PEKB Coal Blocks. Thus 9.3 hectares (93 sample plots into 0.1 hectares) i.e. 0.003% of the entire Udaipur range was sampled for the purpose of working out tree density.

36. In this context it was urged on behalf of the appellant that the total number of trees mentioned in the recommendations forwarded by the respondent no. 1 State Government to the respondent no. 2 MOEF is incorrect and misleading in as much as the total number of trees initially enumerated were 4,24,701 trees which were subsequently reduced to 3,68,217 without any physical counting. Answering this contention, the respondent no. 3 pointed out that this reduction in enumeration of trees is due to reduction in the forest area in the diversion proposal and change in the method of sampling and the intensity thereof. It is revealed that the initial figure of 2,10,701 trees was calculated on the basis of sampling carried out in September, 2008 on 78 sample plots and measuring 0.1 hectares on forest area of 1,954.236 hectares. Thus the total area sampled was 7.8 hectares i.e. 0.40% of the then forest area. On 12th January, 2009 the respondent no. 3 amended its proposal and reduced the forest land for which the diversion was sought from 1,954.236 hectares to 1898.32 hectares. In the

second sampling, 88 sample plots of one hectare each were laid on the forest area ad measuring 1898.32 hectares using the geographical positioning system along with grid map of Forest Management Information System. Thus, the total area on which sampling was carried out was 88 hectares with 4.6% of the total forest area and the total number of trees enumerated worked out to 3,68,217.

37. Our attention was invited to the letter dated 5th September, 2008 issued by Chief Conservator of Forest (land management) giving instruction to all the Conservator of forest to carry out **sampling in accordance with National Working Plan Code** which provides that inspection by conventional tools should not be less than 5% and with the use of modern tools sampling intensity can be reduced to one percent. By these standards 4.6% sampling of the land in question ad measuring 1,898.328 hectares' of forest appears to be more scientific logical and invasive in nature and for that reason the contentions of the applicant regarding furnishing of incorrect /misleading data deserves to be rejected. Pertinently, the proposal made for dereservation forest land in question referred to the density in revenue forest at 0.1 to 0.4 and density in protected forest at 0.3 to 0.6- the facts confirmed by Divisional Conservator of Forest, Central Regional Office of MoEF upon a site visit on 17-06-2010. However, this by itself fails to answer whether PEKB Coal Block can be regarded as a "Go Area", in terms of the joint study undertaken by MoC and MoEF and could be regarded

as "actually not falling in Bio-diversity rich No Go Area", as referred to by the Minister in his order dated 23rd June, 2011.

38. As regards of fringe area the only material observation made by the FAC is the Coal Block on the Northern Fringe of Hasdeo-Arand. Perusal of the detailed map prepared by the GIS cell of Forest Management Information System, Division Raipur, Chhattisgarh on a scale of 1:375,000 depicting the forest cover based on digitally interpreted on ARSP6 LISS-III data of October, 2008-09 from FSI report of 2011 reveals physical features of the Hasdeo-Arand forest including PEKB Coal Block. Apparently, the entire South Sarguja Forest Division is made of two forest ranges well separated by an arc of 50 km or so wherein there are human **settlements with concomitant agricultural fields and industrial areas** along with occasional open forest- the first and the major one is found lying on the border of Jharkhand, Orissa and Madhya Pradesh and the second one in Udaipur range and surrounding wherein lie the coalfields on the South. It also reveals that PEKB Coal Blocks in question lies on the Northern boundary of Hasdeo-Arand coalfields comprising of Tara, Parsa, Parsa East, Kante and Parsa East and kante together refer to as PEKB Coal Block and the forest cover in the PEKB Blocks is less as compared to the remaining area of Hasdeo-Arand Coalfields (not forest). Thus, it can be seen that with the change in density of vegetation there is change in habitat or eco-system i.e. from open forest to mid-density forest and to very dense forest. To this extent it can be said to be in the fringe area of the Coal Blocks, but we find no basis for the

Ministers opinion or understanding that it was “actually not in Hasdeo-Arand forest region (a No Go Area)” i.e. in other words in “Go Area” of Hasdeo-Arand forest region. It can also be seen from the map produced before us that this coal block lies on northern side of hilly ridge with drainage into Aten river flow into Hariyarpur area falling in totally different watershed. Does it mean that it is not in Bio-diversity rich Hasdeo-Arand forest region?

39. Geographical situation of an area need not *per se* define its wealth of bio-diversity. Bio-diversity can exist or can share more than one watershed. Section 2(b) of the Biological Diversity Act 2002 defines “biological diversity” as *the variability among living organisms from all sources and the ecological complexes of which they are part and includes diversity within species or between species and of eco systems*. Going by this definition and the revelations made from the map produced before us the area in question, being fringe area as described by the Ministry, can be regarded as Ecotonal area i.e. area on the edge of the forest. The term “Ecotonal” was used by famous Ecologist Mr. E.P. Odum in his treatise “Fundamentals of Ecology”.

According to him “**Ecotonal**” community contains many of the organism of each overlapping community and, in addition organism which are characteristic of and often restricted to ecotone; and often both the number of species and population density of some of the species are greater in the ecotone than in the community flanking it. Such tendency of increased variety and density at community junction is known as the *Edge Effect*. Odum further stated that these

ecotones support a community additional to those of the community which adjoin the ecotone and, therefore, unless the ecotone is very narrow, some organism which are not present in the main forest are likely to be found in the region of ecotone. If it is so protection of ecotone species is also equally important as they contribute to higher bio-diversity.

40. Working plan of South Sarguja forest lists 29 species of fish, 14 species of reptiles, 111 species of birds, 34 species of mammals [some of them from schedule I of Wildlife (Protection) Act, 1972], 51 species of medical plants, 86 species of trees, 38 species of scrubs, 19 species of herbs, 17 species of climbers, 12 species of grasses found in the entire area of South Sarguja forest. As understood universally, to define any area as a "bio-diversity rich area" it is not necessary to only have a good forest cover, rather what is more important is the species (floral and faunal) composition in the area in question and whether these species are endemic and unique and as such deserving priority for conservation. It may not be out of place to mention that to arrive at "priority" for conservation efforts one is required to understand what is the extent of distribution of similar eco-systems in the country and whether similar eco-systems are already under protection or not.

41. Interestingly, the very Minister previously entertained an opinion in response to the FACs view as regards the proposal for diversion of forest lying in neighbouring Tara Coal Block as large compact coal Block very rich in species diversity that such

important un-fragmented areas need to be protected and further enriched for posterity- vide letter dated 2nd August, 2010. From the record it is not very well understood as to what made his mind change overnight, particularly when the FAC had also not applied its mind to the material issue/questions in respect of PEKB Coal Blocks as arising before us nor any further enquiry was ordered by the Minister for making up his mind to say that the area in question was actually not in bio-diversity rich Hasedo Arand forest region.

42. Further reason adduced by the Minister for rejection of FACs recommendation is that the revised proposal envisaged two phased sequential mining in PEKB Blocks having forest quality poorer than Tara. The Minister merely quoted sequence of mining in two phases of 15 years each, firstly on 762 hectares and subsequently on 1136 hectares, with reclamation to commence from 3rd year onwards and renewal of second phase depending on the performance of reforestation and bio-diversity Management in phase-I. As a matter of precaution the Minister ought to have looked for the opinion of the specialist in the field as regards the efficacy of the effort of reforestation and bio-diversity Management including use of tools and the manner therefor as envisaged. The record reveals that neither FAC, commented on this aspect nor was there any material on which the Minister could have based his second reason for overriding the advice of the FAC.

43. The working plan of South Sarguja Forest Division reveals that there are species falling in Schedule- I of Wildlife (Protection) Act, 1972 and there have been several instances of men-elephant

conflict in Udaipur range wherein falls PEKB Coal Blocks. Though, it is revealed, the State of Chhattisgarh- the respondent no. 1 entertained an idea of declaring elephant reserve in Badalkhol Manora, North Sarguja Forest Division's Tamor Pingla and Lemru area of Korba Forest Division with effective forest corridors linking them- vide letter dated 07-11-2007 from the Principal Chief Conservator of Forest Chhattisgarh to the Conservator, of Forest Bilashpur in reference to letter dated 5th October, 2007 of MoEF- the respondent no.2, it changed its mind and as of today decided to continue the work to create elephant reserve in Badalkhol Samarsot and Tamor Pingla sanctuaries only and no other place- vide order dated 20th July, 2009 from the Secretary Chhattisgarh government to the Chief Conservator of Forest Chhattisgarh. It can also be appreciated that the Task Force of MoEF had identified 88% elephant corridors throughout India without identifying any area in South Sarguja Forest Division vide report dated 31st August, 2010 titled as "Gajah- securing the future for elephant in India". Apparently the maps produced before us depict creation of Elephants Reserves and National Park in South Sarguja Forest Division i.e. the forest bordering Jharkhand, Orissa and Madhya Pradesh, and also a 50 km arc of agricultural fields with human settlements including industrial development between such reserves and forest area. Nonetheless, the fact remains that there have been sightings and instances of men-elephant conflict in the area in question. The FAC it appears did not consider this material fact in order to conclude as to whether such conflicts could be stray

incidents or were the occurrences en-route the Elephant Corridor and what could be the mode of resolution of such conflicts. The Minister while addressing the concerns in relation to the wildlife in his order dated 23rd June, 2011 merely stated that these concerns should be taken care of through well prepared and well executed Wildlife Management Plan and programme under the aegis of an institution like Wildlife Institute of India. Thus, the Minister was aware of such important concern regarding wildlife but chose not to examine Wildlife Management Plan prepared/endorsed by the Wildlife Institute of India before the Minister. Unfortunately, there was no comment or a specialist view of the Wildlife Management Plan forthcoming from the FAC.

44. Instances of human wildlife conflict just cannot be ignored as those spring not from the encroachment of human territories by animals but *vice versa* and, therefore, have to be regarded as alarm bells in respect of the encroachments human invasion on the environment. Human wildlife conflict is critical threat to the survival of endangered species like elephants, tiger, wild buffalos, lion etc. They not only affect its pollution but have environmental impacts on eco-system equilibrium and bio-diversity. Conservation of bio-diversity is directly linked with conservation of eco-system and thus with water and food security in as much as natural process, forest and wild habitats recharge aquifers, maintain water regimes and moderates the impact of floods, droughts and cyclones to ensure regulation of climate and the consequent food security. National planning and development has

not taken into account the adverse ecological consequences of shrinkage and degradation of wilderness from the pressures of population, industrialisation mining and commercialisation. Increased man animal conflict is the outcome of shrinkage, fragmentation and deterioration of habitat. In fact wildlife management is a crucial management issue which needs to be addressed through innovative approaches. Wildlife conservation cannot be restricted to natural parks and sanctuaries as areas outside the protected area network including fringe areas are vital in its role to provide sufficient habitat for spatial movement of the species outside protected areas and provide biological resources needed by the local communities to prevent their dependency on protected areas. Such areas are also critical to the linking of protected areas with effective wildlife corridors for providing genetic community and prevent insular wild animal's populations.

45. Keeping this in view Rule 7 sub-clause 2 of the FC rules required the FAC to have due regards to the matters namely area in question forming part of a natural reserve, national park, wildlife sanctuary, biosphere reserve or habitat of any endangered or threatened species of flora and fauna, its use for agricultural purposes or for rehabilitation of persons, compensatory afforestation while tendering its advice on the proposals for forest clearance referred to sub-rule 1 of the said rule. Reading of sub-clause 3 of rule 7 also reveals the role of FAC in suggesting

conditions or regulations on the use of any forest land which would
minimise adverse environmental impact thus the role of the FAC is



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both diagnostic and curative in the matter of tendering its advice on the proposal for forest clearance.

46. In this context the Hon'ble Apex Court in the judgement delivered in *T. N. Godavarman Thirumulpad Case [T. N. Godavarman Thirumulpad versus Union of India; (2012) 3 SCC 277]* made pertinent observations as follows:

"17. Environmental justice could be achieved only if we drift away from the principle of anthropocentric to ecocentric. Many of our principles like sustainable development, polluter-pays principle, intergenerational equity have their roots in anthropocentric principles. Anthropocentrism is always human interest focussed and that non-human has only instrumental value to humans. In other words, humans take precedence and human responsibilities to non-human based benefits to humans. Ecocentrism is nature-centred where humans are part of nature and non-humans have intrinsic value. In other words, human interest does not take automatic precedence and humans have obligations to non-humans independently of human interest. Ecocentrism is therefore life-centred, nature-centred where nature includes both humans and non-humans. The National Wildlife Action Plan 2002-2012 and the Centrally Sponsored Integrated Development of Wildlife Habitats Scheme, 2009 are centred on the principle of ecocentrism."

47. In the instant case the area in question of PEKB Coal Blocks is going to be virtually shaved off its forest cover for the purposes of mining in two phases of 15 year duration each and the reclamation i.e. hopefully effort towards regeneration of forest cover and restoration of bio-diversity is to start from 3rd year of its commencement. Undoubtedly, the nature has a potential to regenerate so long as this potential is not destroyed or irreversibly damaged. This vital aspect of reclamation vis-a-vis the existing flora and fauna in view of the provisions of law discussed above ought to have been relevant both for the advice tendering and

decision making apparatus. FAC was expected to examine whether the efforts towards reclamation of mined area by transplantation of trees and such other means envisaged had potential to regenerate the nature lost in mining, what was the gestation period for such regeneration, if it was to be so and whether there could be keen monitoring of such regeneration by increasing the frequency of sequential mining over more than two phases. A perusal of the Wildlife Management Plan reveals that apart from various types of surveys regarding bio-diversity elements, provisions have been made for fire protection, grazing, soil moisture conservation works, public awareness, compensation, habitat improvement and conservation measures. However, components like providing safe corridors for wildlife especially near human settlements/coal mines through modern fencing etc. as well as its needs have been over looked.

48. However, it can be seen that the FAC at the first instance failed to give due regard to these material issue/questions while tendering its advice to the Ministry and the Ministry largely overtaken by the anthropocentric reasons ignored these material and relevant ecocentric issues and proceeded to reject the FACs advice on his "understanding and belief" having no basis either in any authoritative study or experience in the relevant fields. Surprisingly, the impugned order dated 23rd June, 2011 acknowledges the existence of "fragile eco-system of the region" and yet proceeds to make exception thereto as regards the PEKB Coal

Blocks lying in the same region without any basis therefor in any study.

49. In view of the aforesaid discussion it is evident that the FAC did not examine all the relevant facts and circumstances while rendering its advice and to cap it the Minister acted arbitrarily and rejected the FACs advice for the reasons having no basis either in any authoritative study or experience in the relevant fields. In short the reasons adduced by the Minister fail to outweigh the advice rendered by the FAC. This calls for quashing of the Minister's order dated 23rd June, 2011 rejecting the FACs advice and consequential order dated 28th March, 2012 passed by the respondent no. 1- State of Chhattisgarh in order to have holistic reappraisal of the entire issue. It is therefore, just and necessary to remand back the entire case to the Minister with appropriate directions to get a fresh advice from the FAC on the material issues in the present case and to reconsider the entire matter afresh in accordance with law. The point numbers 2 and 3 are answered accordingly.

Hence, the order:

1. Order dated 23rd June, 2011 passed by the respondent no. 2- MoEF Government of India and consequential order dated 28th March, 2012 passed by the respondent no. 1 State of Chhattisgarh under section 2 of the Forest (Conservation) Act 1980 for diversion of forest land of PEKB Coal Blocks are set-aside;
2. The case is remanded to the MoEF with directions to seek fresh advice of the FAC within reasonable time on all aspects of the

proposal discussed herein above with emphasis on seeking answers to the following questions: (i) What type of flora and fauna in terms of bio-diversity and forest cover existed as on the date of the proposal in PEKB Coal Blocks in question. (ii) is/was the PEKB Coal Blocks habitat to endemic or endangered species of flora and fauna. (iii) Whether the migratory route/corridor of any wild animal particularly, elephant passes through the area in question and, if yes, its need. (iv) Whether the area of PEKB Block has that significant conservation/protection value so much so that the area cannot be compromised for coal mining with appropriate conservation/management strategies. (v) What is their opinion about opening the PEKB Coal Blocks for mining as per the sequential mining and reclamation method proposed as well as the efficacy of the translocation of the tree vis-a-vis the gestation period for regeneration of the flora? (vi) What is their opinion about the Wildlife Management plan finally prescribed. (vii) What conditions and restriction do they propose on the mining in question, if they favour such mining? Liberty is granted to the FAC to seek advice/opinion/specialised knowledge from any authoritative source such as Indian Council of Forestry Research and Education Dehradun or Wildlife Institute of India including the sources indicated in the present case by the parties.

3. The MoEF shall pass a reasoned order in light of the advice given by the FAC in accordance with law and pass appropriate order in accordance with law.

4. All work commenced by the respondent no. 3 project proponent and respondent no. 4 pursuant to the order dated 28th March, 2012 passed by the respondent no. 1 State of Chhattisgarh under section

2 of the FC Act 1980, except the work of conservation of existing flora and fauna, shall stand suspended till such further orders are passed by the MoEF in accordance with law.

5. No order as to costs.

....., CP
(Swatanter Kumar)

....., JM
(U.D. Salvi)

....., EM
(Dr. D.K. Agrawal)

....., EM
(Prof. A.R. Yousuf)

....., EM
(Dr. R. C. Trivedi)



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S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 4395 OF 2014

RAJASTHAN RAJYA VIDYUT UTP.NIGAM LTD

Appellant (s)

VERSUS

SUDIEP SHRIVASTAVA & ORS

Respondent(s)

(With appln(s) for ex-Parte stay,exemption from filing c/c of the impugned Judgment,permission to file additional documents and office report)

Date: 28/04/2014 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. PATNAIK
HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR
HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA

For Appellant(s) Mr. Mukul Rohtagi, Sr. Adv.
Mr. Vikram Nankani, Adv.
Mr. Kirat Singh Nagra, Adv.
Mr. Monish Panda, Adv.
Mr. Arjun Khera, Adv.
Mr. Avneesh Arputham, Adv.
Mr. Kunal Verma, Adv.

For Respondent(s) Mr. Raj Panjwani, Sr. Adv.
Ms. K.V.Bharathi Upadhyaya, Adv.

For State of Chhattisgarh Mr. Ravindra Shrivastava, Sr. Adv.
Mr. Atul Jha, Adv.
Mr. Sandeep Jha, Adv.
Mr. Dharmendra Kumar Sinha, Adv.

For RR 4 Mr. Parag P. Tripathi, Sr. Adv.
Mr. Vikram Nankani, Adv.
Mr. Kirat Singh Nagra, Adv.
Mr. Manish Panda, Adv.
Mr. Arjun Khera, Adv.
Mr. Avneesh Arputham, Adv.
Ms. Monisha Handa, Adv.

UPON hearing counsel the Court made the following
O R D E R

Heard learned counsel for the appelalnts.

Issue notice.

Since respondent No. 1 has already entered
appearance through counsel. No formal notice need
be issued to respondent No. 1. Let notice be issued
to the other respondents.

In the meanwhile, we stay the direction in the impugned order that all works commenced by the appellant pursuant to the order dated 28th March, 2012 passed by the State of Chhattisgarh under Section 2 of the Forest Conservation Act, 1980 shall stand suspended till further orders are passed by the Ministry of Environment and Forests.

[KALYANI GUPTA]
COURT MASTER

[SHARDA KAPOOR]
COURT MASTER



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**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

**Appeal No. 185/2018
(M. A. No. 1333/2018)**

IN THE MATTER OF:

Sudiep Shrivastava Vs. Union of India & Ors.

**CORAM : HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Present: Appellant: Mr. Raj Panjwani, Sr. Adv. Mr. Rahul Choudhary and Mr. Rahul Choudhary, Advs.

Date and Remarks	Orders of the Tribunal
<p align="center">Item No. 02</p> <p align="center">September 17, 2018</p> <p align="center">R</p>	<p>1. Only point which has been pressed in this appeal is that the Forest Advisory Committee has not taken a decision in the matter of granting Forest Clearance for diversion of the forest area for non-forest purpose. The reason given is only that the matter is pending before the Hon'ble Supreme Court.</p> <p>2. Vide order dated 28.04.2014 in <i>Civil Appeal No(s). 4395 of 2014</i> titled as "<i>Rajasthan Rajya Vidyut Utp. Nigam Ltd. Versus Sudiep Shrivastava & Ors.</i>", following interim order was granted by the Hon'ble Supreme Court:</p> <p align="center"><i>"In the meanwhile, we stay the direction in the impugned order that all works commenced by the appellant pursuant to the order dated 28th March, 2012 passed by the State of Chhattisgarh under Section 2 of the Forest Conservation Act, 1980 shall stand suspended till further orders are passed by the Ministry of environment and Forests."</i></p> <p>3. Thus, the stay granted is only with regard to the continuation of the work already commenced. There is no bar for the Forest Advisory Committee to take a decision in the matter. However, since the matter is pending before the Hon'ble Supreme Court, we do not consider appropriate to pass any further order in the matter.</p> <p>3. List after the decision of the Hon'ble Supreme Court</p>

	Item No. 2 September 18, 2018 R	in <i>Civil Appeal No(s). 4395 of 2014</i> . Adjourned sine die. , CP (Adarsh Kumar Goel) ,JM (S.P. Wangdi) ,EM (Dr. Nagin Nanda) 17.09.2018
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Item No. 04

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

(By Hybrid Mode)

Appeal No. 185/2018
(M.A. No. 1333/2018)

Sudiep Shrivastava

Appellant

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 19.12.2022

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SUDHIR AGARWAL, JUDICIAL MEMBER
HON'BLE PROF. A. SENTHIL VEL, EXPERT MEMBER**

Appellant: Mr. Saurabh Sharma, Advocate for Appellant

Respondent: Mr. Atmaram N.S. Nadkarni, Senior Advocate with Mr. Kunal Verma &
Ms. Yugandhara Pawar Jha, Advocates for Rajasthan Rajya Vidyut
Utpadan Nigam Limited (PP)**ORDER**

1. This appeal has been preferred against EC dated 10.08.2018 granted by the MoEF&CC to M/s Rajasthan Rajya Vidyut Utpadan Nigam Limited (the PP) for expansion of the mine from 10 MTPA to 15 MTPA at Parsa East and Kanta Basan Opencast Coal mine project in Chattisgarh.

2. Before dealing with the appeal, we may briefly mention the background giving rise to this appeal. As the record would show, EC for Parsa East and Kanta Basan Opencast Coal mine project of 10 MTPA production capacity along with a Pit Head Coal Washery (10 MTPA ROM) was earlier granted to M/s Rajasthan Rajya Vidyut Utpadan Nigam Limited involving a total project area of 2711.034 hectare under the Environmental Impact Assessment Notification, 2006 subject to the

specific conditions stated vide order dated 21.12.2011 of the MoEF&CC. The appellant, Sudiep Shrivastava, preferred *Appeal No. 33/2013* against the same *inter-alia* alleging concealment of information regarding elephant movement in the area and other flora and fauna, non-consideration of relevant data of water source requirement, infrastructure relating to transport, impact of drilling and blasting, vitiation of public hearing. The appeal was contested by the MoEF&CC as well as PP. Vide order dated 25.09.2014, This Tribunal dismissed the appeal on the ground of delay which order was upheld by the Hon'ble Supreme Court in further Appeal. The said EC was revalidated/amended vide letters dated 25.06.2015 and 29.12.2015.

3. As a sequel to EC dated 21.12.2011, approval under section 2 the Forest (Conservation) Act, 1980 (FC Act) was accorded by Central Government for diversion of forest land in question for non forest purposes. The order dated 28.03.2012 granting FC was challenged by the appellant in Appeal No. 73/2012 before this Tribunal on the ground that earlier rejection by FAC on 22.06.2011 was wrongly overruled by the Minister on subjective assessment. Incidents of man and elephant conflicts in the area were wrongly ignored. The said appeal was contested by the MoEF&CC, justifying the approval. This Tribunal, on due consideration of the matter, vide order dated 24.03.2014, sustained the challenge and quashed the approval for forest clearance as follows:-

*“49. In view of the aforesaid discussion it is evident that the FAC did not examine all the relevant facts and circumstances while rendering its advice and to cap it **the Minister acted arbitrarily and rejected the FACs advice for the reasons having no basis either in any authoritative study or experience in the relevant fields.** In short the reasons adduced by the Minister fail to outweigh the advice rendered by the FAC. This calls for quashing of the Minister's order dated 23rd June, 2011 rejecting the FACs advice and consequential order dated 28th March, 2012 passed by the*

respondent no. 1- State of Chhattisgarh in order to have holistic reappraisal of the entire issue. It is therefore, just and necessary to remand back the entire case to the Minister with appropriate directions to get a fresh advice from the FAC on the material issues in the present case and to reconsider the entire matter afresh in accordance with law. The point numbers 2 and 3 are answered accordingly.

Hence, the order:

1. Order dated 23rd June, 2011 passed by the respondent no. 2- MoEF Government of India and consequential order dated 28th March, 2012 passed by the respondent no. 1 State of Chhattisgarh under section 2 of the Forest (Conservation) Act 1980 for diversion of forest land of PEKB Coal Blocks are set-aside;

2. The case is remanded to the MoEF with directions to seek fresh advice of the FAC within reasonable time on all aspects of the proposal discussed herein above with emphasis on seeking answers to the following questions: (i) What type of flora and fauna in terms of bio-diversity and forest cover existed as on the date of the proposal in PEKB Coal Blocks in question. (ii) is/was the PEKB Coal Blocks habitat to endemic or endangered species of flora and fauna. (iii) Whether the migratory route/corridor of any wild animal particularly, elephant passes through the area in question and, if yes, its need. (iv) Whether the area of PEKB Block has that significant conservation/protection value so much so that the area cannot be compromised for coal mining with appropriate conservation/management strategies. (v) What is their opinion about opening the PEKB Coal Blocks for mining as per the sequential mining and reclamation method proposed as well as the efficacy of the translocation of the tree vis-a-vis the gestation period for regeneration of the flora? (vi) What is their opinion about the Wildlife Management plan finally prescribed. (vii) What conditions and restriction do they propose on the mining in question, if they favour such mining? Liberty is granted to the FAC to seek advice/opinion/specialised knowledge from any authoritative source such as Indian Council of Forestry Research and Education Dehradun or Wildlife Institute of India including the sources indicated in the present case by the parties.

3. The MoEF shall pass a reasoned order in light of the advice given by the FAC in accordance with law and pass appropriate order in accordance with law.

4. All work commenced by the respondent no. 3 project proponent and respondent no. 4 pursuant to the order dated 28th March, 2012 passed by the respondent no. 1 State of Chhattisgarh under section 2 of the FC Act 1980, except the

work of conservation of existing flora and fauna, shall stand suspended till such further orders are passed by the MoEF in accordance with law.

5. *No order as to costs.*”

4. Against the said order, *Civil Appeal No. 4395/2014, Rajasthan Rajya Vidyut Utp. Nigam Ltd. vs. Sudiep Shrivastava & Ors.* was preferred by the PP, the Rajasthan Rajya Vidyut Utpadan Limited. Vide order dated 28.04.2014, the Hon’ble Supreme Court stayed the injunction granted by this Tribunal against proceeding with the project which order is operative and the appeal is still pending.

5. We now refer to the grounds for challenging the impugned EC for expansion. According to the appellant, ongoing mining is on the strength of interim order passed by the Hon’ble Supreme Court on 28.04.2014, without requisite FC. The original EC dated 21.12.2011 is itself nullity, enhancing production capacity will violate the mining plan on the basis of which EMP was prepared, previous FC condition of utilizing 40 % of the forest land in first 15 years will be violated, further study has not been carried out by FAC as directed by this Tribunal vide judgment of this Tribunal dated 24.03.2014 in *Appeal No. 73/2012*, proper appraisal has not been carried out before granting expansion.

6. We have heard learned Counsel for the appellant and the PP and considered the matter. Learned Counsel for the appellant has reiterated the grounds mentioned in the memo of appeal, mentioned earlier. Learned Counsel for the PP, on the other hand, submitted that Forest Clearance has been subsequently granted. Earlier EC having attained finality on dismissal of appeal by this Tribunal vide dated 25.09.2014 in *Appeal No. 33/2013*, which order was upheld by the Hon’ble Supreme Court, EC dated 21.12.2011 cannot be assumed to be nullity. Further,

revalidation/amendment letters dated 25.06.2015 and 29.12.2015 in respect of the said EC having not been challenged and EC for expansion having been granted after following due process, there is no scope of interference by this Tribunal.

7. On consideration, we do not find any merit in the appeal. Earlier EC was upheld which cannot be taken to be nullity. Quashing of forest clearance stands stayed. Due process has been followed. No damage to environment is shown. Thus, we are inclined to dismiss the appeal, However, learned counsel for the appellant submitted that IA has been filed by the appellant in proceedings pending before the Hon'ble Supreme Court in *Civil Appeal No. 4395/2014, Rajasthan Rajya Vidyut Utp. Nigam Ltd. vs. Sudiep Shrivastava & Ors.* against judgment of this Tribunal dated 24.03.2014 in Appeal No. 73/2012. It is submitted that order of this Tribunal should not prejudice remedy of the appellant in the said IA.

8. Accordingly, this Appeal is dismissed without prejudice to the remedies of the parties in pending proceedings before the Hon'ble Supreme Court.

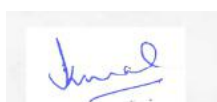
M.A. No. 1333/2018 will also stand disposed of.

Adarsh Kumar Goel, CP

Sudhir Agarwal, JM

Prof. A. Senthil Vel, EM

December 19, 2022
Appeal No. 185/2018
(M.A. No. 1333/2018)
SN



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Biodiversity study in the entire Hasdeo-Arand Coalfield comprising of Tara, Parsa, Parsa East & Kanta Basan and Kente Extension coal blocks in Chhattisgarh



Chhattisgarh Forest Department

For

State Forest Department
Government of
Chhattisgarh



By



Indian Council of Forestry Research and Education (ICFRE) Dehradun

In association with



भारतीय वन्यजीव संस्थान
Wildlife Institute of India

Wildlife Institute of India (WII) Dehradun

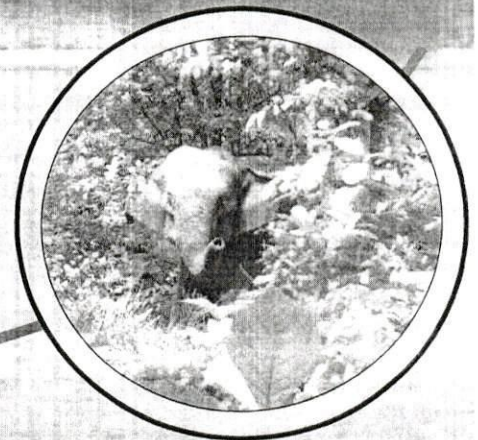
Biodiversity study in the entire Hasdeo-Arand Coalfield comprising of Tara, Parsa, Parsa East & Kanta Basan and Kente Extension coal blocks in Chhattisgarh



Chhattisgarh Forest Department

For

State Forest Department
Government of
Chhattisgarh



By



**Indian Council of Forestry Research and Education
(ICFRE) Dehradun**

In association with



भारतीय वन्यजीव संस्थान
Wildlife Institute of India

Wildlife Institute of India (WII) Dehradun

EXECUTIVE SUMMARY

ES 1. BACKGROUND

The Government of Chhattisgarh *vide* letter dated 28.04.2010 submitted a proposal seeking Forest Clearance (FC) under the Forest (Conservation) Act, 1980 for diversion of 1898.328 ha of forest land under Surguja forest division for a captive coal block i.e., Parsa East & Kanta Basan (PEKB) allotted to M/s. Rajasthan Rajya Vidyut Utpadan Nigam Limited (RVUNL). The Forest Advisory Committee (FAC) considered the proposal during the meeting held on 10.03.2011 and a sub-Committee was constituted with a direction for a field visit to PEKB and submit the report. The sub-committee report was considered during the FAC meeting held on 20.06.2011 & 21.06.2011 and did not recommend for diversion of forest land; however, based on the order of the then Hon'ble Minister of State for Environment & Forests *vide* dated 23.06.2011, permission has been granted for Stage-I Forest Clearance under FC Act *vide* F.No.8-31/201-FC dated 06.07.2011 for **diversion of 1898.328 ha forest land for mining in two phases (Phase-I & II)**. Further, the final Forest Clearance stage-II has been granted by the Ministry *vide* letter No. F 5-4/2010/10-2 dated 28.03.2012. Aggrieved by the stage-II Forest Clearance granted under section 2(ii) of FC Act by the Ministry to RVUNL, Sudiep Shrivastava appellant filed an appeal (No. 73 of 2012) before the National Green Tribunal (NGT) Principal Bench Delhi. The NGT pronounced its judgement on 24.03.2014 and remanded the MoEF&CC with direction to seek advice of the FAC within reasonable time and emphasised for answer to the following questions:

1. *What type of flora and fauna in terms of biodiversity and forest cover existed as on the date of the proposal in PEKB coal blocks*
2. *Is /was the PEKB coal block habitat to endemic or endangered species of flora and fauna*
3. *Whether the migratory route /corridor of any wild animal particularly elephant passes through the area*
4. *Whether the area of PEKB block has that significant conservation /protection value so much so that the area cannot be compromised for coal mining with appropriate conservation /management strategies*
5. *What is their opinion about opening the PEKB coal block for mining as per sequential mining and reclamation methods proposed for regeneration of the flora.*
6. *What is their opinion about the Wildlife Management plan finally prescribed?*
7. *What conditions and restriction do they propose on the mining in question, if they favour such mining?*

Subsequently, the NGT directed the FAC, MoEF&CC to seek advice/ opinion/ specialised knowledge from authoritative sources such as Indian Council of Forestry Research and Education (ICFRE) or Wildlife Institute of India (WII).

Aggrieved by the NGT order, M/s. RVUNL approached the Hon'ble Supreme Court and filed Civil Appeal No. 4395 of 2014 and the Supreme Court has stayed the order of the NGT to the extent that all works commenced by the respondent/ project proponent and the Chhattisgarh State under section 2 of the FC Act, 1980, except the work of conservation of existing flora and fauna, shall stand suspended till further order passed by MoEF&CC in accordance with law for Parsa East & Kanta Basan (PEKB) coal block.

The FAC meeting held on 30.8.2017 directed the Regional Office, MoEF&CC to inspect the PEKB coal block and adjoining area sought for prospecting, in which the user agency is mining in line with the NGT and Hon'ble Supreme Court order (Appeal No 4395 of 2014). Subsequently, the FAC after thorough deliberations and discussion during the meeting held on 26.10.2017 with the user agency, the Nodal officer of the Chhattisgarh State Government and the Regional Office, MoEF&CC Nagpur, recommended in-principal approval for prospecting of coal in Kente Extension Coal Block (KECB) forest area over 1745.883 ha under the section of FC Act 1980 with general and specific conditions that include a biodiversity assessment study to be conducted by the State government through Indian Council of Forestry Research and Education (ICFRE), Dehradun in consultation with Wildlife Institute (WII) for the whole Hasdeo-Arand Coalfield comprising of Tara, Parsa, Parsa East, Kente *vide* F. No 8-46/2017-FC dated 19.12.2017.

Accordingly, the Additional Principal Chief Conservator of Forests (APCCF) (Land Management) and Nodal Officer, Forest Conservation (FC), State Forest Department, Government of Chhattisgarh, Raipur approached the ICFRE *vide* letter क्र./भू-प्रबंध/खनिज/331-228/15 dated 02.01.2018 and *e-mail* dated 03.01.2018 for conducting the above said study in the whole Hasdeo-Arand Coalfield (HAC) comprising of 23 coal blocks that include Tara, Parsa, Parsa East & Kanta Basan and Kente Extension coal blocks. The ICFRE approached WII, Dehradun *vide* letter No. 1-23/2006-ADG(EM) EOI/ICFRE-Vol-II dated 23.01.2018 for a proposal to undertake the studies as directed by the NGT and MoEF&CC. The Dean, Faculty of Wildlife Sciences, WII, Dehradun *vide* letter No. WII/ESM/BP/Chhattisgarh Assessment dated 20.04.2018 submitted the proposal and revised proposal *vide e-mail* dated 07.07.2018. Subsequently, ICFRE submitted the consolidated proposal to APCCF (Land Management) and Nodal Officer, Forest Conservation (FC), Chhattisgarh *vide* letter No.14/1-23/2006-ADG (EM).EOI/ICFRE- Vol-II dated 12.07.2018. Based on the approved Terms of Reference, the Government of Chhattisgarh awarded the study to the ICFRE Dehradun *vide* letter क्र./भू-प्रबंध/खनिज/331-228/374 dated 29.01.2019 and released the first instalment *vide* letter क्र./भू-प्रबंध/खनिज/331-228/890 dated 05.04.2019 for commencement of the study.

ES 2. SCOPE OF THE STUDY

The scope of the study is to assess the floral and faunal biodiversity of the entire Hasdeo-Arand Coalfield (1879.6 sq.km) comprising of 23 coal blocks that include Tara, Parsa, Parsa East & Kanta Basan (PEKB) and Kente Extension (as on the study period 2019-2020) to identify the potential impacts of mining on flora and fauna, to prepare outline for Biodiversity conservation and management plan; to suggest conservation area and mitigation measures for management of the impacts arising out of mining on forest land.

ES 2.1 Objective

1. To conduct comprehensive survey for primary baseline data collection on flora and fauna *viz.*, terrestrial/ wildlife/ avian/ aquatic with special reference to endemic/threatened species, habitat description and ecology. Also, to collect information from secondary sources on:
 - Avifauna studies to assess the likely impacts due to mining activities and to suggest measure for maintaining alternate habitats/home for avifauna including design of artificially made eco-friendly nests.
 - Provide details of Forest cover, migratory routes/corridor of wild animals particularly for elephant within the study area, if any;
 - Assess the socio-economic *vis-a-vis* biodiversity values of the study area.
2. Assess the potential impacts due to on-going and proposed mining and allied activities on biodiversity and suggested mitigation measures to protect/conservate biodiversity.
3. Delineate conservation area.
4. Prepare outline for Integrated Biodiversity and Wildlife Management Plan for wildlife with budgetary provision.
5. Study the efficacy of the mine closure plan, transplanted trees, conservation measure and regeneration proposed in the operational (as envisaged in EC/FC and NGT compliance) / upcoming coal blocks and recommendations, if any.
6. Suggest and highlight measures for conservation of important resources to avoid perceived impacts; and to recommend modifications (if feasible & practical) in specific project activities/ components/ technologies for conservation of the resources.

ES 3. STUDY PERIOD

The study period was eighteen months that include twelve months for three season comprehensive data collection and six months for report writing. The field survey was initiated during May 2019 and the final data collection along with residual data for floral, aquatic diversity; efficacy of mine closure plan & tree translocation and terrestrial faunal aspects including the camera trap was scheduled to be completed in April 2020. However, due to COVID -19 pandemic and country wide lockdown the field visit could not be conducted as scheduled and the same was intimated to the

APCCF (Land Management) and Nodal Officer, Forest Conservation (FC), State Forest Department, Government of Chhattisgarh, Raipur *vide* letter F.No.1-98/2019-ADG(EM)/BAS/RVUNL/Surguja-CH/ICFRE dated 28.08.2020 for rescheduling the field work once the lockdown is over. Subsequently, ICFRE received the reply *vide* letter No. क्र./भू-प्रबंध/खनिज/331-228/1924 dated 28.10.2020 emphasising the importance of comprehensive and complete baseline data. Also, ICFRE intimated the progress of the study to MoEF&CC, GoI *vide* letter No. 1-98/2019-ADG(EM)BAS/RVUNL/Surguja-CH/ICFRE dated 02.09.2020 in response to their letter No. F.No.8-3G/2018FC dated 30.08.2020. The survey was resumed in the month of October 2020 and continued upto February 2021.

ES 4. STUDY AREA

The study area is the whole/entire Hasdeo-Arand Coalfield (HAC) comprising of 23 coal blocks that include coal blocks such as Tara, Parsa, Parsa East & Kanta Basan (PEKB) and Kente Extension (CMPDI, 2012). The area lies between 22°56'37.397" and 22°24'18.359" N latitudes and 82°22'41.579" to 83°8'53.875" E longitudes. The HAC fall partly in Udaipur tehsil of Surguja district; Premnagar tehsil of Surajpur district; and Poudi Uproda and Korba tehsils of Korba district in Chhattisgarh State. The area under forest in HAC falls in Udaipur, Laxmanpur and Mainpat Forest Ranges of South Surguja Forest Division; Lemru, Balco, Korba, Kudmora, Pasarkhet Forest Ranges of Korba Forest Division; Kendai, Atmanagar Forest Ranges of Katghora Forest Division and Ramanujganj nagar Forest Range of Surajpur Forest Division (Figure ES.1).

ES 4.1 Hasdeo-Arand Coalfield and the Coal Mine Blocks

The area under Hasdeo-Arand Coalfield comprises of 1879.6 sq.km and a total of twenty three (23) coal blocks (Based on the CMPDI information published in their website <https://www.cmpdi.co.in/OCBIS/dashboard.php> & shape files provided by Rajasthan Rajya Vidhyut Utpadan Limited) including the coal blocks such as Tara, Parsa, Parsa East & Kanta Basan and Kente extension were considered for the study (Table ES.1 & Figure ES.1). These coal blocks were considered for the study in consultation with the State Nodal officer, Chhattisgarh. Out of 23 coal blocks, Parogia, Sarma, Laxmangarh and Kedma are only regionally promotionally explored block (CMPDI, 2021). Two blocks *i.e.*, PEKB (block No.14) and Chotia (block 2A) are in operation. The remaining two blocks *i.e.*, Parsa (13) and Kente Extension (12) are in the process of obtaining necessary clearance. Detailed information on exploration, mining and mine closure activities envisaged are available for only 04 blocks. However, 05 blocks such as Tara, Madanpur (North), Madanpur (South), Paturia and Gidmuri have only geological, mining and mine closure proposals available. And, very limited information is available for 5 coal blocks such as Morga-II, Morga-III, Morga-IV, Morga South & Saidu and no information is available for remaining nine coal blocks (Putra Parogia, Parogia, Pindraki, Sarma, Laxmangarh, Bhakurma-Matringa, Kedma, Morga-I and Nakiya).

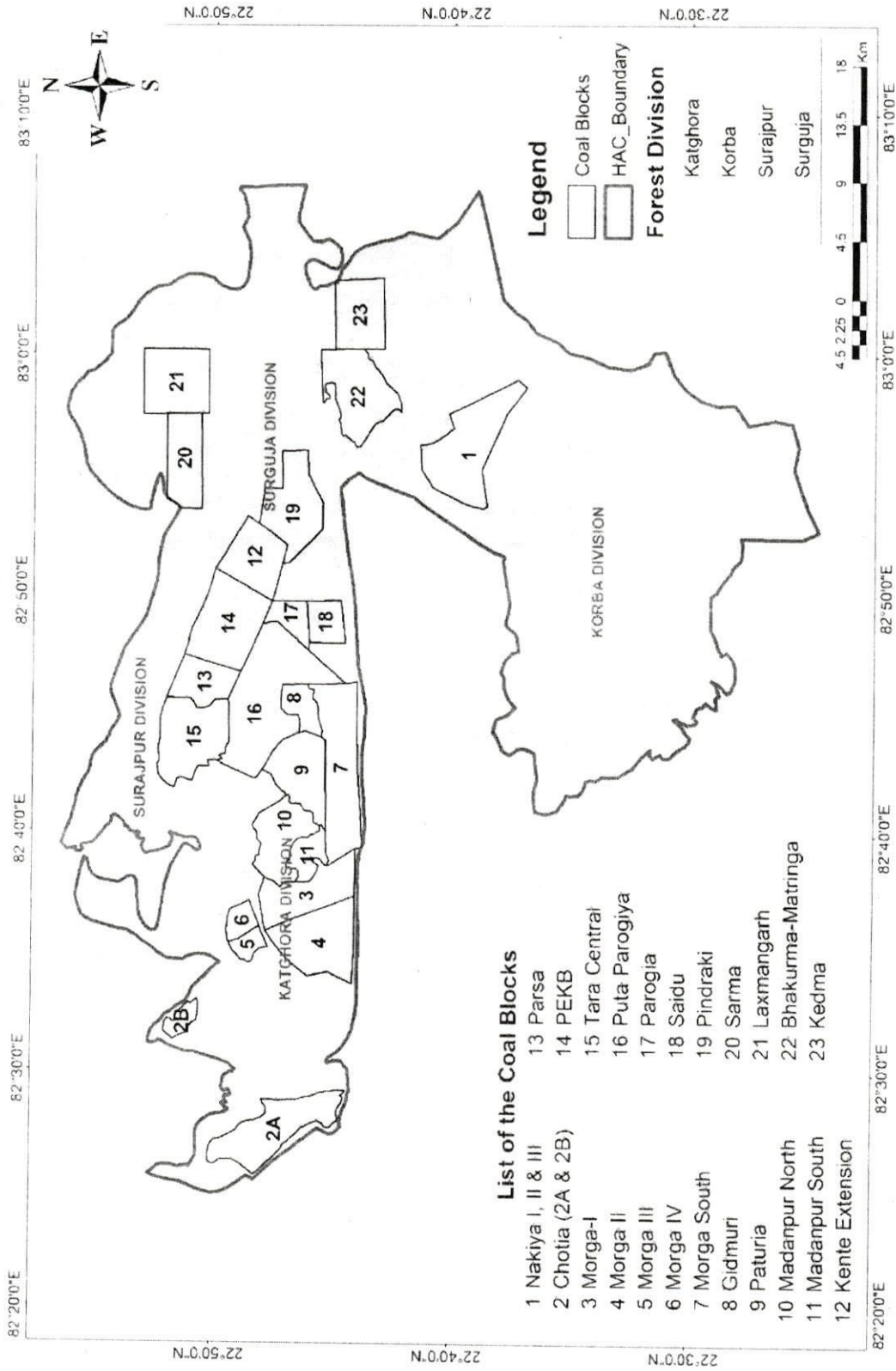


Figure ES.1: Map showing coal blocks in the entire Hasdeo-Arand Coalfield area that falls within Surguja, Surajpur and Korba Districts, Chhattisgarh

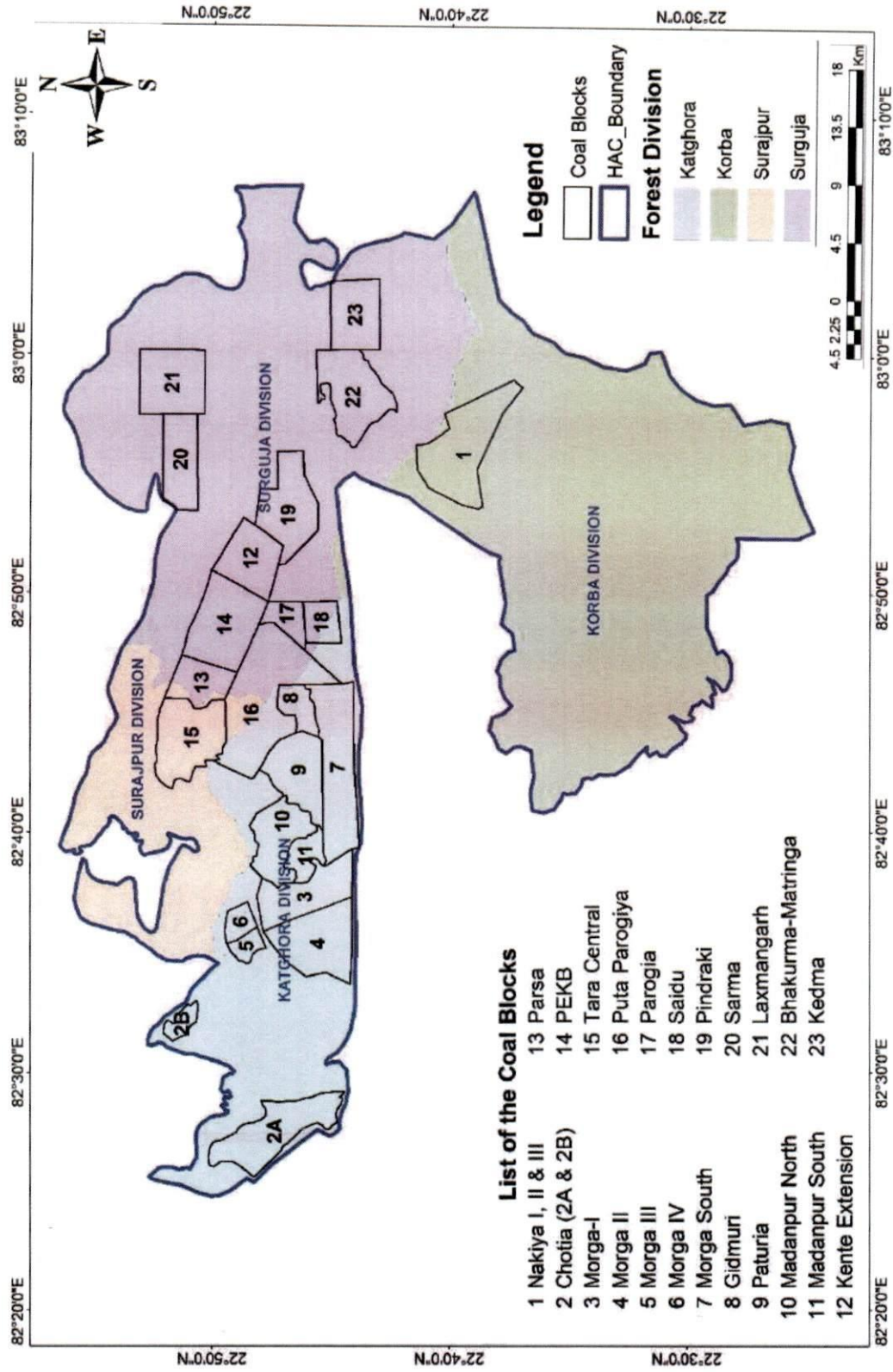


Figure ES.1: Map showing coal blocks in the entire Hasdeo-Arand Coalfield area that falls within Surguja, Surajpur and Korba Districts, Chhattisgarh

Table ES.1: Profiles of the coal block in the entire Hasdeo-Arand Coalfield area that fall within Surguja, Surajpur and Korba Districts of Chhattisgarh

Sl. No.	Name of Coal Block as per coal block allocation rule	Block No.	District	Latitude	Longitude	Allotment status	Extent sq. km.	Geological Reserves in MT	Remarks/Status
Allotted									
1	Parsa East-Kanta Basan - CMSP (OC)	14	Surguja	22°47'38.02"N to 22°51'16.65"N	82°49'39.01"E to 82°47'23.51"E	Allotted to M/s. Rajasthan Rajya Vidyut Utpadan Nigam Limited	26.83	532.86	Mine is in operation in the 1 st Phase
2	Parsa-CMSP (OC)	13	Surguja & Surajpur	22°48'56.76"N to 22°52'00.66"N	82°46'41.08"E to 82°45'35.84"E		12.52	256.40	EC awaited
3	Kente Extension- MMDR (OC)	12	Surguja	22°47'00.72"N to 22°50'01.14"N	82°51'59.32"E to 82°50'58.41"E		17.60	369.22	TOR accorded
4	Chotia - Sub block-2A - CMSP (OC/UG)	02	Korba	22°50'08.23"N to 22°44'24.40"N	82°36'10.87"E to 82°29'10.75"E	Allotted to M/s. Bharat Aluminium Company Ltd. (BALCO) (Vedanta Group).	8.63	29.187	The ML has 2 sub blocks. Sub block 2A is under Fly ash dumping & backfilling.
	3.17						10.832	Sub block 2B is in operation.	
Identified									
5	Tara-CMSP (OC)	15	Surajpur	22°49'25.44"N to 22°52'25.87"N	82°45'21.34"E to 82°42'48.95"E	Identified	24.00	317.33	Block initially allotted to CMDC
6	Madanpur North-CMSP (OC/UG)	10	Surajpur & Korba	22°45'34.81"N to 22°48'23.62"N	82°40'16.79"E to 82°38'36.67"E	Identified	21.39	213.46	Unallocated
7	Madanpur South-CMSP (OC)	11	Korba	22°45'11.15"N to 22°46'58.97"N	82°38'48.11"E to 82°38'32.10"E	Identified	7.14	169.83	APMDC Ltd.
8	Gidmuri-CMSP (OC/UG)	08	Korba	22°45'29.56"N to 22°47'14.87"N	82°44'16.63"E to 82°45'10.66"E	Identified	7.33	80.27	Chhattisgarh State Power generation Co. Ltd.
9	Paturia-CMSP (OC/UG)	09	Korba	22°45'21.64"N to 22°48'00.56"N	82°43'50.93"E to 82°42'37.53"E	Identified	16.14	269.25	NA
10	Morga-II-CMSP	04	Korba	22°47'48.78"N to 22°44'05.68"N	82°35'52.05"E to 82°37'19.42"E	Identified	26.64	350.70	NA
11	Morga-III-CMSP	05	Korba	22°47'42.56"N to 22°49'21.71"N	82°35'10.69"E to 82°35'22.65"E	Identified	6.00	36.00	M.P state Mining Corp. Ltd.,
12	Morga-IV-CMSP	06	Korba	22°48'05.06"N to 22°49'28.05"N	82°36'04.17"E to 82°35'53.02"E	Identified	6.87	34.78	M.P state Mining Corp. Ltd.,
13	Morga South-MMDR	07	Korba	22°43'48.13"N to 22°46'07.89"N	82°39'21.49"E to 82°46'10.17"E	Identified	21.92	432.54	Unallocated
14	Saidu-MMDR	18	Surguja & Korba	22°44'33.17"N to 22°46'10.26"N	82°47'54.65"E to 82°49'38.68"E	Identified	6.72	27.49	Identified Geological Report
15	Puti Parogiya-MMDR	16	Surguja, Surajpur & Korba	22°44'30.66"N to 22°49'56.74"N	82°46'12.32"E to 82°42'58.64"E	Identified	48.04*	NA	Identified
16	Parogiya#	17	Surguja	22°46'03.96"N to 22°48'02.08"N	82°47'56.01"E to 82°48'40.46"E	Regionally promotionally explored block	7.16*	NA	Regionally promotionally explored block
17	Pindraki-MMDR	19	Surguja	22°45'31.36"N to 22°48'11.95"N	82°53'44.75"E to 82°52'50.52"E	Identified	23.94*	NA	Identified
18	Sarma#	20	Surguja	22°50'38.86"N to 22°52'05.64"N	82°57'28.97"E to 82°53'55.90"E	Regionally promotionally explored block	18.18*	NA	Regionally promotionally explored block
19	Laxmangarh#	21	Surguja	22°50'20.31"N to 22°53'04.94"N	83°00'10.39"E to 82°57'27.55"E	Regionally promotionally explored block	23.64*	NA	Regionally promotionally explored block

Sl. No.	Name of Coal Block as per coal block allocation rule	Block No.	District	Latitude	Longitude	Allotment status	Extent sq.km.	Geological Reserves in MT	Remarks/Status
20	Bhakurma- Matringa- MMDR	22	Surguja	22°42'15.26"N to 22°45'34.39"N	82°57'55.95"E to 82°57'58.66"E	explored block	26.00*	NA	Identified
21	Kedma#	23	Surguja	22°43'01.00"N to 22°45'02.19"N	83°03'12.53"E to 83°00'12.67"E	Regionally promotionally explored block	18.95*	NA	Regionally promotionally explored block
22	Morga-I-CMSP	03	Korba	22°48'06.34"N to 22°44'04.24"N	82°37'21.81"E to 82°39'15.02"E	Identified	21.62*	NA	Identified
23	Nakya-I, II & III-MMDR	01	Korba	22°36'57.05"N to 22°41'23.19"N	82°58'39.69"E to 82°55'11.75"E	Identified	34.29*	NA	Identified
Total						434.72			

Sources: The shape files provided by RVUNL, extent of area worked out using GIS by ICFRE

CMPDI- OCBIS four mine, regionally promotionally explored blocks, will be included in HAC only after finalization of block boundary

*No documents available and therefore the area of extent was estimated using GIS & RS

ES 5. APPROACH AND METHODOLOGY

The approach adopted include desk review of relevant documents to generate project related information in detail; series of working group meetings with partner institutions and all other relevant stakeholders to work out the modality of collecting information from the field such as defining study area, sampling size and design ; standardization of methodology and to undertake comprehensive field survey, sharing of project related data /documents/ study area shape files and report finalisation.

Consultative meetings with State Forest Department (SFD) and project proponents were conducted to collect relevant detailed information related to the extent of forests falling within each compartment, ranges, divisions, etc., within the HAC, area shape files, location maps, assistance to conduct the field survey and project intervention information. Comprehensive field surveys were conducted for collection of information/ baseline data under respective components such as terrestrial flora & fauna including avifauna and wildlife, aquatic diversity, socio-economic status, mining and mine management, efficacy of mining plan/progressive mine closure plan, translocated tress and all the conservation measures including surface water/afforestation employing standard methodologies. The faunal aspect was collected by team of experts from Wildlife Institute of India. Thematic maps were generated using remote sensing (RS) and geographical information systems (GIS) with the spatial data collected from various authentic sources. Suitable statistical tools were employed for analysis of data, interpretation and preparation of report for the respective component of the study that are presented under various chapters in Volume – I of the report.

ES 6. LIMITATIONS

Based on the available information, the study considered 23 coal blocks (total extent of 472.21 sq.km put together of all the coal blocks under HAC) and 10km buffer for baseline data generation in the study area of Hasdeo-Arand Coalfield comprising of 1879.57 sq.km. Lack of required documents/reports like mining and mine closure plans, EIA/EMP reports (except for PEKB, Parsa, Kente extension and Chotia coal blocks); non-availability of documents/ reports/information for Morga-I, Nakiya, Kedma, Bhakurma-Matringa, Laxmangarh, Sarma, Pindraki, Parogia, Puta Parogia coal blocks, for which only the provisional coal block boundaries are available, were the major constraints to outline the specific impacts. Available secondary sources of information were also considered wherever applicable. In addition, the shape files of the 23 coal blocks in HAC provided by the M/s. RVUNL were used for generating various maps. Therefore, there may be slight variation with the actual coal block boundary details posted by the CMPDI site. The same may be considered carefully in future. The report prepared by the Wildlife Institute of India is enclosed as Volume -II along with this study report (Volume-I) for reference.

ES 7. GENERAL PROFILE OF THE STUDY AREA

ES 7.1 Approach to the study area

National Highway NH-130 passes through the HAC (Tara-Central). The district headquarters of Surguja (at Ambikapur) and Surajpur are located at about 100 km east and 120 km north respectively whereas that of Korba district is situated at about 50 km south of the PEKB coal block. The nearest Railway station is at Ambikapur and the nearest airport is Swami Vivekananda Airport at Raipur. The State Capital is situated at about 300 km away from the PEKB coalfield.

ES 7.2 Land use Land cover change

The Land Use Land Cover changes (LULC) were estimated using NRSC-ISRO digital data for the year 2011-12 and 2015-16. The entire Hasdeo-Arand Coalfield (1879.6 sq.km) falls under the LULC class (2015-16) such as forests (1526.49 sq.km; 81.20%); agriculture (179.53 sq.km; 9.55%), wasteland (129.45 sq.km; 6.89 %); water bodies (29.97 sq.km; 1.59%) and the built-up area 14.33 sq.km (0.76%).

ES 7.3 River and Drainage

The river basin and drainage map of the study area were prepared using georectification of Survey of India (SOI) topographic sheets as base map using Arc GIS software (version 10.1) and Carto DEM of NRSC (ISRO). It is primarily drained by the Hasdeo River, a tributary of Mahanadi River sub-basin running N-S of the HAC; and Rihand River a tributary of Sone River sub-basin (part of Lower Ganga River basin) running S-N of the HAC. The Hasdeo-Bango Dam, a multipurpose reservoir is built across the Hasdeo River, is the prominent water harvesting structure in the area. Several water courses of up to 6th order leading to the reservoir take origin in the surrounding hillock where mining is active and identified.

ES 7.4 Topography and climate

The topography of HAC is highly rugged dissected by deep gorges ranging from 450 to 550 m above msl in the southern part. Physio-graphically /Geographically, Chhattisgarh state is divided into three distinct land areas/three distinct zones viz., 1. Chhattisgarh Plains, 2. Bastar Plateau and 3. Northern Hill Zones. The study area of HAC falls under northern hill region that occupies parts of Surguja, Surajpur and northern part of Korba, districts. The elevation zone from 410-418 m amsl occupies a maximum area 597.60 km² (31.01 %) where maximum coal blocks are reported to lie in this elevation zone. The study area experiences tropical to semi-tropical climate with three well defined seasons i.e. summer (March to June), monsoon (mid-June to September) and winter (mid-September to February). The entire HAC area falls within the *Zone-7 Eastern plateau and Northern hills region* agro-climatic zone therefore, **the HAC falls under single environmental unit.**

ES 7.5 Soil

The soils in the HAC area are generally of clay loam with sandy loam soil in some areas. The soils developed on moderately steep slopes are marked by severe erosion. The soils have been classified as Ustocherpts/ Ustorthents/ Rhodustalfs/ Haplustalfs/ Haplusterts as per pedological taxonomy. Soils in the Hasdeo River basin are mostly composed of residual soils and the predominant soil type in the basin is fine loamy (55.2%) soil. The area is more prone to soil erosion and gully erosion is one of the prominent physiographic features in most part of the areas.

Considering the importance of soil microorganism that play a key role in nutrient cycling, litter decomposition and maintenance of ecosystem function, the status of different beneficial microbial populations (*viz.*, Bacteria, Fungi, Actinobacteria and symbiotic group of fungi-Mycorrhizal fungi) within the study area were assessed by ICFRE following standard methodologies. In the present investigation, 24 AM fungi belonging to four genera *viz.*, *Acaulospora*, *Gigaspora*, *Glomus* and *Scutellospora* were recorded. The genus *Glomus* spp., was the most abundant AM fungus; and a total of fourteen different Ectomycorrhizal (ECM) fungi (Mushrooms) belong to nine genera such as *Amanita*, *Astraeus*, *Boletus*, *Boletellus*, *Lycoperdon*, *Russula*, *Sclerodrama*, *Suillus* and *Tuber* was recorded. Other beneficial microbes recorded include *Actinobacteria*, *Azospirillum*, *Azotobacter* and Phosphate Solubilizing Bacteria.

ES 7.6 Geology

Geologically, the HAC falls in the south-eastern region of the Chottanagpur plateau and is surrounded all sides by Gondwana litho-units comprise of Talchirs, Barakars, and Kamthi Formations except in the east by Archean rocks. It is a part of Son-Mahanadi master Gondwana basin and has a prominent fault along the major part of its southern periphery bringing Talchair formation and Precambrian rocks in juxtaposition with Barakars, while towards north the coal measures rest conformably on the Talchir sediments.

ES 7.7 Coal Resources

The coal deposits/resources in India are primarily concentrated in the Gondwan sediments occurring mainly in the eastern and central parts of Peninsular India. The total coal resource of India is reported to be 326495 million tons as on 1st April 2019; of which about 59908 million tons (18%) occur in the state of Chhattisgarh, which is the third highest resources base in India followed by that of Jharkhand and Odisha.

- The HAC in Chhattisgarh has third highest coal resources (5529 million tons) that accounts for 9% of total coal reserves of the state next to Mand-Raigarh and Korba coal fields that consists of 530 sq.km area of which 51.25% (271.67 sq.km) has been leased in Korba Coal fields that include 62% of coal bearing area (168 sq. km) for underground mining.

ES 8. PROFILE OF THE COAL BLOCKS

- Details of coal blocks such as mining methods, environmental monitoring, conservation measures, *etc.*, of the 23 coal blocks including that of Parsa East and Kanta Basan (PEKB) and Chotia 2A & 2B including the best practices carried out and gaps identified are provided in detail in the Chapter 3 of the study report Volume-I. However, a general description of the profile of coal blocks is detailed in this Executive summary under sections ES.4.1 and Table ES.1.
- In HAC, four coal blocks *viz.*, Parsa East & Kanta Basan (PEKB), Parsa, Kente Extension and Chotia (2A & 2B) are allotted, of which two *viz.*, PEBK and Chotia are in operation and the other two are in the process of obtaining statutory clearances. These four-coal blocks put together covers an area of 68.75 sq.km *i.e.*, about 4% of HAC coal bearing area having 1198 million tons of coal resources.

ES 9. BIOLOGICAL PROFILE OF THE ENTIRE HASDEO-ARAND COALFIELD AND 23 COAL BLOCKS

The following section highlights the findings on terrestrial flora, fauna (wildlife) and avifauna, aquatic diversity and socio-economic *vis-à-vis* biodiversity values for the entire Hasdeo-Arand Coalfield (HAC) comprising of 23 coal blocks and the perceived impacts as outlined in the ToR. The HAC falls primarily under Deccan biogeographical area, which is characterized by both tropical dry deciduous and tropical moist deciduous forests (Champion & Seth, 1968) with large area under tropical moist deciduous forests, where the tree canopy is not dense and comprises of few species.

ES 9.1 Characterisation of Forest Cover and Forest Types

Characterisation of the entire forest cover class and forest types in HAC and in 23 coal blocks were made using FSI (2017) and FSI (2011) digital data respectively.

Table ES.2: The forest cover classes and their extent in the entire Hasdeo- Arand Coalfield that falls in Korba, Surguja and Surajpur Districts of Chhattisgarh

Forest Cover Class	Entire HAC Area (Sq.km)	23 coal blocks Area (Sq.km)	Relative occupancy (%)
Water body	12.69	0.66	5.20%
Scrub	33.52	11.21	33.44%
Very Dense Forest	126.72	69.18	54.59%
Open Forest	197.57	52.65	26.65%
Non-Forest	351.05	104.16	29.67%
Moderate Dense Forest	1158.04	233.40	20.15%
Total	1879.58	472.13	25.12%

Source: Estimated using 2015 digital format (FSI, 2017)

The study area (both whole HAC & 23 coal blocks) is comprised of six forest cover classes. The forest types in HAC are characterised by tropical moist deciduous forests comprises of five forest types (Table ES.2 – ES.3).

Table ES.3: Forest types and their extent within Hasdeo-Arand Coalfield that falls within Korba, Surguja and Surajpur districts of Chhattisgarh

Forest Type	Area (sq.km) HAC	23 coal blocks area (sq.km)	Relative occupancy (%)
3C/C2e (ii) Moist Peninsular Low-Level Sal Forest	835.61	198.01	23.70%
3B/C2 Southern Moist Mixed Deciduous Forest	314.53	105.71	33.61%
5B/C1c Dry Peninsular Sal Forest	70.22	16.94	24.12%
5/E9 Dry Bamboo Brakes	133.98	7.13	5.132%
5B/C2 Northern Dry Mixed Deciduous Forest	46.61	08.82	18.92%
Total	1400.95	336.61	24.03%
Non-Forest	464.23	133.79	25.22%
Total	1865.19	470.40	23.70%
Plantation/ TOF	0.03	-	-
Water	14.35	1.69	11.78%
Total	1879.57	472.09	25.12%

Source: Estimated using 2011 digital format

The forest cover observed significant area under moderately dense forests followed by very dense forests. The Moderately Dense forest observed lowest 2.06 sq.km in Morga-III (2.06 sq.km) and highest in Nakiya (21.48 sq.km); and Very Dense forest in 15 coal blocks ranging from 0.04 sq.km in Laxmangarh to 16.88 sq.km in Tara. The relative occupancy area of forest cover and forest type in all the 23 coal blocks comprises of 472.13 sq.km and 336.61 sq.km respectively.

Out of the five-forest types observed in HAC, two-forest types *ie.*, 3B/C2e(ii) Moist Peninsular low-level Sal forest occupied the maximum (192.11 sq.km) area in all 23 coal blocks that accounted for 23 % of the entire HAC (835.40 sq.km); followed by 3B/C2 Southern Moist Mixed Deciduous forest (104.38 sq.km) which accounted for 33% of the total forest type in HAC (314.46 sq.km).

A total of 640 plant species belonging to 400 genera, 109 families were recorded from the entire HAC (Table ES.4). The vegetation was dominated by Poaceae family with 72 species followed by Fabaceae (64 species), Rubiaceae (31 species) and Asteraceae (27 species). Thirty-eight families were represented by single species each. Out of the total plant species, 146 species were trees, 363 herbs including grasses and ferns, 66 shrubs, 48 climbing shrubs and 17 woody climbers. Sal was the dominant tree species in the core and buffer areas of entire HAC. The vegetation composition is dominated with five families namely Poaceae, Fabaceae, Rubiaceae, Euphorbiaceae and Asteraceae in HAC.

Table ES.4: Composition of vegetation within Hasdeo-Arand Coalfield comprising of 23 coal blocks that fall within Korba, Surguja and Surajpur districts of Chhattisgarh

Floral Diversity		Resources	
No. of species	640	Medicinal plants	128
No. Genera	400	Timber yielding plants	40
No. families	109	Edible plants	60
No. of Invasive species	9	Fodder plants	65
No. of threatened (RET) species	33	Fuel wood species	75
		Commercial	59

ES 9.1.1 Stand density

A comparative account on the stand density of trees and herbs in and around the coal blocks in HAC were recorded to understand the variation which is attributed to the site quality and climatic conditions. Distribution across different girth classes indicates the occupancy of a site.

- The stand density of trees in the core zone of four contiguous coal blocks (Tara (15), Parsa (13), PEKB (14) & Kente-Extension (12) was low (424 stems/ha) as compared to the respective buffer zone (535.71 stems /ha). This could be due to selective removal of lower girth-class individuals of all tree species within the core zone; while that of the remaining 19 coal blocks in HAC varied between 599.46 stem/ha and 910.55 stem/ha respectively in the core and buffer zones. The difference between core and buffer zone could be attributed to distribution pattern or occurrence of very dense forest in few coal blocks and moderately dense forest in many coal blocks and fringe forest villages.
- The density of shrubs in general found to be low in buffer of all the 19 coal blocks (1966 stems /ha) and around the four-coal blocks (1217 stem/ha). This is perhaps due to removal of vegetation for NTFP collection such as Mahua flowers, Tendu leaves, fuel wood, etc., in around the forest fringe villages (142 revenue villages in the fringe forests). In addition, frequent spontaneous forest fire used to occur in the area, and also the post monsoon vegetation survey was made immediately after the forest fire in some of the sampled areas.

Locations	Stand density (stems/ ha)	Stand basal area (m ² /ha)	Mean Basal area/ plant (m ²)
Core of 4 coal blocks	424.0	21.87	0.052
Buffer of 4 coal blocks	535.7	13.98	0.026
Core of all coal blocks	599.5	19.92	0.033
Buffer of all coal blocks & HAC	910.6	28.87	0.032

Shorea robusta was observed dominant tree species with highest IVI values in all the four category of sampling locations followed by *Diospyros melanoxylon*, *Madhuca*

longifolia var. *latifolia*, *Buchanania lanzan*, *Lagerstroemia parviflora*, *Terminalia elliptica* and *Anogeissus latifolia*.

- Among shrubs, *Phoenix loureirii* was the dominant species common to all blocks and their buffer areas followed by *Ichnocarpus frutescens* and *Hemidesmus indicus*.
- Among herbs, *Elephantopus scaber* was the dominant species common to all coal blocks and their buffer areas followed by *Rungia pectinata*, *Evolvulus nummularius*, *Sida cordata*, *Rungia pectinata*, *Desmodium triflorum* and *Phyllanthus urenaria*.
- In case of HAC and in all coal blocks locations *Shorea robusta* was the dominant tree with highest IVI values (ranging from 87.80 to 120.06). *Diospyros melanoxylon* showed second highest values except in buffer areas of the four contiguous coal blocks.
- The diversity of trees and shrubs (represented by H') ranged from 1.87 to 2.68 and from 1.67 to 2.87 respectively indicating that the area is medium diverse.
- Herbs recorded high diversity i.e., ranged from 3.83 to 4.10.
- In summary, the four contiguous coal blocks (Tara (15), Parsa(13), PEKB(14) & Kente-Extension(12) recorded less plant diversity in both core and buffer areas (Fig 10.9 &10.10), it could be due to the selective removal and impacts of open cast mining and allied activities being carried out in PEKB (15). The comparative account on the diversity index in and around the coal blocks and Hasdeo-Arand coalfield area is presented below:

Life forms	Coal Blocks	H'	λ	E
Trees	Core of 4 Coal blocks	2.28	0.17	0.66
	Buffer of 4 Coal blocks	1.87	0.21	0.65
	Core of all other coal blocks	2.40	0.17	0.63
	Buffer of all other coal blocks	2.68	0.12	0.66
Shrubs	Core of 4 Coal blocks	1.67	0.33	0.62
	Buffer of 4 Coal blocks	1.8	0.25	0.72
	Core of all other coal blocks	2.87	0.08	0.63
	Buffer of all other coal blocks	2.56	0.12	0.68
Herbs	Core of 4 Coal blocks	2.10	0.19	0.66
	Buffer of 4 Coal blocks	3.83	0.04	0.79
	Core of all other coal blocks	3.99	0.03	0.78
	Buffer of all other coal blocks	4.10	0.03	0.79

H'=Shannon Weiner index; λ =Simpson index; E=Buza and Gibson's evenness index

ES 9.1.2 Rare Endangered Threatened and Invasive species

The HAC is very important in terms of its phytogeography and occurrence of 33 Rare, Endangered and Threatened (RET) plant species recorded both from core and buffer areas of coal blocks (Annexure 4.10, Plate 4.5). No detailed inventory is available or undertaken in the past. Based on the survey the significant occurrence of RET both in core and buffer zone indicates the nice and amplitude of RET species in HAC.

A total of nine invasive and weedy plant species having high potential to produce numerous propagules were recorded from the entire HAC region/study area, (Ref Table 4.11 of Chapter-4) having high potential to produce numerous propagules.

Sl. No	Name of the Plant species
1	<i>Ageratum conyzoides</i> L.
2	<i>Argemonemexicana</i> L.
3	<i>Chromolaena odorata</i> (L.) King & Robins
4	<i>Hyptissuaveolens</i> (L.) Poit.
5	<i>Ipomoea carnea</i> Jacq.
6	<i>Lantana camara</i> L.
7	<i>Parthenium hysterophorus</i> L.
8	<i>Pennisetum pedicellatum</i> Trin.
9	<i>Xanthium strumarium</i> L.

ES 9.1.3 Likely impacts on forest and flora

Out of the total coal bearing area in HAC, 1502 sq.km falls in the forest, which is reported to be the largest un-fragmented forests in Central India consisting of pristine Sal (*Shorea robusta*) and teak forests outside the official protected area system which is an important corridor for movement of flagship species like elephants and tigers in Chhattisgarh. Mining related land use changes will have negative impact on forest cover/density, forest type, forest fragmentation. In addition, forest fragmentation will contribute to decreased patch/corridor connectivity, increased edge effect, change in micro climate and promote invasive species if not taken adequate mitigation measures.

ES 9.2 Terrestrial and Avi Faunal Diveristy

- A total of 25 mammalian vertebrates were recorded in and around the Parsa, Parsa East & Kanta Basan (PEKB), Kente Extension and Tara coal blocks. Among the mammal species recorded in the HAC, **nine species are listed in the Schedule – I.**

Wildlife (Protection) Act, 1972	IUCN Red list
Schedule-I = 9 species	Endangered=2
Schedule-II = 10 species	Vulnerable=5
Schedule-III = 4 species	Near Threatened=3
Schedule-IV = 2 species	Threatened=15

- SDM model were developed to assess the distribution probabilities of mammalian species occurrence using camera trap and sign survey for each functional guild of large carnivore, meso-carnivore, ungulates and overall species richness suggested relatively high habitat-use in the Tara, Parsa, PEKB and Kente Extension coal blocks, in the surrounding for meso-carnivores; and in the vicinity of the villages.
- A total of 92 species of birds belonging to 44 families were recorded of which six species are protected under the schedule I of Indian Wildlife (Protection)

Act, 1972 and 19 species range restricted to the only Indian subcontinent. A total of 74 resident; 4 summer migrants; 14 winter migrants; 12 endemics to Indian subcontinent. This represents the importance of the landscape in providing the suitable habitat to these critical species. All the coal blocks, particularly the Morga II, Saidu and Pindraki and the surrounding habitats support high species richness and diversity of birds. Among the winter migrants' species, many are insectivores and probably migrated from the Himalayas to avoid harsh cold winter.

- The entire HAC landscape comprise of 649 forest compartments spread over 12 forest ranges in 4 forest divisions. As reported by the State Forest Department, the elephant occurrence is recorded in 148 out of 647 compartments during 2018-2020 in all the 12 forest ranges.
- Wildlife Institute of India (WII) in collaboration with Chhattisgarh Forest Department have established that, the elephants have large home ranges. A conservative estimate revealed that about 40 to 50 elephants use HAC and the surrounding landscape at different times of the year as the habitat use by elephants is not limited to any specific area, but is spread across the entire landscape. In addition, home range polygons of some of the elephants that were monitored using satellite collars also fall within the landscape.
- Chhattisgarh human-elephant conflict (HEC) situation is relatively low in number (<300, which is <1% of India's wild elephant population), but significant levels of HEC with over 60 human lives are lost every year due to conflict (>15% of the reported human deaths due to HEC) from HAC. In addition to loss of human lives, crop loss and damage to property due to HEC are severe.
- There is continuous dispersal of elephant herds from the neighbouring states of Jharkhand and Odisha. The forests that elephants currently occur are highly fragmented and degraded due to incompatible land-use resulting in reduced home range of good quality therefore the home range in HAC is large and scattered.
- The forest department at Korba Forest Division has recorded tiger presence in a few locations within Hasdeo-Arand area. *Circuitscape* models to establish habitat connectivity of tiger between Kanha-Boramdeo-Achanakmar (KBA) and HAC landscape recorded a higher conductance values indicating a strong connectivity.

ES 9.2.1 Likely impacts on terrestrial and avi fauna

Major disturbances to habitats such as that in the case of mining will not only cause habitat loss and fragmentation (as understood generally), but can affect avi faunal habitat, wild fauna including large mammals and individual herd's home ranges. Such disturbances can lead to abandonment of habitats as threats to home ranges have a threshold limits.. Infrastructure development and mining will have negative impact on quality habitat available due to fragmentation and mitigation will be a huge challenge.

The effect of mining on elephant habitat may not reflect in the same habitat, but could be a silent trigger for Human Elephant Conflict (HEC) in some other area within the landscape.

ES 9.3 Drainage Pattern and Aquatic Diversity

ES 9.3.1 Drainage and location of the coal blocks

The study area of HAC and its 10 km buffer falls under eleven watersheds viz., Gej, Jhink, Bamni, Anjan, Ton, Teti, Chornai, Hasdeo, Mand, Chuiya and Rehar. While, all the watersheds are part of the Hasdeo drainages that contribute to the Mahanadi River, Rihar watershed forms part of the lower Ganga River basin. Of all the watersheds falling within the Mahanadi River sub-basin, mainly four viz., Bamni-Anjan, Ton-Teti, Gej-Jhink and Chornai are contributing to the flow in the Hasdeo River and the Hasdeo-Bango Reservoir. The Chornai watershed spreads across almost half the area of HAC and the Chornai Nadi is an important and the largest drainage system that occupies nearly one fourth of the HAC.

The Atem Nadi falls within the Gej-Jhink watershed and is joined by two streams viz., **Salhi Nala** and **Garjan Nala**. The area under both the streams together forms the core and buffer zone of the four coal blocks viz., Tara-Central (15), Parsa (13), PEKB (14) and Kente Extension (12), of which the PEKB (No. 14) is active/ operating coal mine. Overall, these coal blocks area forms part of the Atem River system, which runs towards north from the HAC and joins the Hasdeo River at north.

- **Salhi Nala** – The area drained by Salhi Nala forms part of the core and buffer of the Parsa (13), PEKB (14) & Tara (15) coal blocks, of which PEKB is the only active/ operating mine. Salhi Nala and its primary feeder streams drains the core/buffer area of the PEKB coal block (14). The Salhi Nala joins the Atem Nadi at Shivnagar.

Before the PEKB (14) coal block came into operation, the Salhi Nala drained the area upto Kete, Basen, Ghatbarra, etc. Presently, the open cast coal mining and related land use land cover changes in the core/buffer area of the PEKB is observed to have significant *influence on the Atem Nadi mainly through the Salhi Nala*.

- Besides PEKB (14), the core/buffer area of Sarma (20) and Laxmangarh (21) coal blocks is also drained by the Salhi Nala at its origin. Overall, the Salhi Nala is most likely to be influenced by the **Kente Extension (12), Parsa (13), Tara (15), Sarma (20) and Laxmangarh (21)** coal blocks, in addition to the active coal block i.e., PEKB.

Chornai Nadi: It is an important sixth order drainage systems that spreads across almost half the area of the entire HAC. It is fed by two fifth order streams (i) the **Chornai Nala** (ii) the **Rapta Nala (Lemru)**.

- **Chornai Nala:** This stream drains the area falling under the influence zone of 12 coal blocks Nos. 7-9, 12-19 and 21 viz., **Morga South (7), Gidmuri (8), Paturia (9) Kente Extension (12), Parsa (13), PEKB (14), Tara-Central (15), Puta Parogia (16), Parogia (17), Saidu (18), Pindraki (19), and Laxmangarh (21)**, of which the coal blocks such as Kente Extension (12) , Parsa (13) PEKB (14) and Tara (15) are either active/ advanced stage according statutaory process /ToR approved.

Rapta Nadi (Lemru): The network of streams of Rapta Nadi together with Chornai Nala form one of the major drainage systems that originate and occupies nearly one fourth of the HAC. The main portion of the stream is formed by two fourth order streams - the **Gandher Nala** and **Rapta Nala**. Another fourth order stream joins the main water course of the Rapta Nadi on the left bank downstream near Kuturuwan. The Rapta Nadi, at its origin, drains the area under the coal blocks of **Nakiya-1 (I, II & III)**.

- **Both Gandher Nala and Rapta Nala with its** stream networks namely Lamti Nala and Bimalta Nala drains the core/buffer areas of the Coal Block **Nakiya-1 (I, II & III)**. The are under these stream networks are characterized by rugged mountainous terrain having deep cut valleys and relatively dense mountainous/ riparian forest.
- **Rehar River** originates near the villages Bhakurma and Kedma, **where the proposed two coal blocks Bhakurma-Matringa (22) and Kedma (23) is located**. Two out of the three important tertiary feeder streams (Barka Nala & Balu Nala) of the river drain the core zone of the coal blocks 22 & 23. In addition to these two coal blocks, nearly half of the area of the coal block No. 21 (Laxmangarh) is drained by one of the secondary streams that join the River near Udaipur.

The streams under **Ton-Teti watershed/** other smaller streams viz., **Bisrar Nala/ Dhajag Nala/ Bamni-Manasi Nala/ Maniari Nala** drain the areas that form the core/buffer of as many as nine proposed coal blocks viz., **Morga-I (3) Morga-II (4), Morga-III (5), Morga-IV (6), Morga South (7), Paturia (9), Madanpur north (10), Madanpur south (11) and Puta Parogia (16)** . These streams directly drain into the Hasdeo River at the upstream of the Hasdo-Bango reservoir. The lower reaches of these streams particularly the surrounding area of Dhajag/Manasi Nala are occupied relatively **undisturbed dense forest cover**.

- In general, the physico-chemical water quality parameters of the streams varied within their expected natural ranges characteristic to the general features of the study area. Among the parameters studied, comparatively higher values were recorded for pH, Conductivity and TDS during winter compared to that of the post-monsoon. The surface water temperature varied according to both diurnal and seasonal changes in solar radiation.

- The assessment of community (Biotic) metrics of the aquatic macroinvertebrates, one of the most prominent indicator organisms of water quality of freshwater streams, in different stream networks revealed a total of 9924 individuals of macroinvertebrates belonging to 04 phyla (Platyhelminthes, Annelida, Arthropoda and Mollusca), 06 classes (Rhabditophora, Clitellata, Insecta, Malacostraca, Gastropoda and Bivalvia), 19 orders and 61 families.
- The insect taxa constitute the most dominant taxonomic group in macroinvertebrate assemblages of the entire sampling location with a relative abundance of 86.82% and a total richness of 45 families. The Ephemeroptera (mayflies), Plecoptera (stoneflies), and Trichoptera (caddisflies) with Odonata (*EPT/O*) taxa accounted for nearly half (52.61%) of the abundance of all taxa. The relative abundance of *EPT/O* were high in both Chornai Nadi-Left bank (71.96%) and right bank streams (71.67%) compared to that of all other stream networks sampled, including the Atem Nadi and Salhi-Garjan Nala, where active mining is being undertaken.
- The probable biological water quality of the sampling locations, based on different biotic indices employing aquatic macroinvertebrates *viz.*, ***Taxa Tolerance Score (TTS)***, ***Average Score Per Taxon (ASPT)*** and ***Macroinvertebrate Water Quality Index (MWQI)*** revealed that :
 - Both Chornai Nadi-Right and Left bank streams had high value of *TTS* (>100) with water quality category 'Very Good' (Unpolluted, Un-impacted) compared to that of all the other locations sampled. Also, the *TTS* recorded at Atem Nadi and Salhi-Garjan Nala with water quality category 'Good' (Clean, but Slightly Impacted) were on par with that of locations other than Chornai Nadi-Right and Left bank streams.
 - The Average Score Per Taxon (*ASPT*) indicated 'Good' water quality in five sampling locations *viz.*, Bissar & Maniar Nala, Bamni Nala, Chornai Nadi-Right and Left bank streams and Khadpadi & Parla Nala as well as 'Moderate' water quality in the remaining three locations *viz.*, Atem Nadi, Salhi & Garjan Nala and Rehar River.
 - The Macroinvertebrate Water Quality Index (*MWQI*) indicated 'Very good' water quality with 'Slight organic pollution' for Chornai Nadi-Left bank streams, Chornai Nadi-Right bank streams and Khadpadi & Parla Nala; 'Good' water quality with 'Some organic pollution' for Bamni Nala; 'Fair' water quality with 'Significant pollution' for Atem Nadi and Bissar & Maniar Nala; 'Fairly Poor' water quality with 'Significant organic pollution' for Rehar River and 'Poor' water quality with 'Very significant pollution' for Salhi and Garjan Nala.
- A relatively high diversity (based on indices *viz.*, Shannon and Fisher's alpha) of aquatic macroinvertebrates was observed at two locations (Chornai Nadi-Right

bank streams and Salhi & Garjan Nala) and a low diversity at two locations (Bisrar & Maniar Nala and Bamni Nala).

- It is to note that, in terms of diversity of aquatic invertebrates, Salhi & Garjan Nala followed by Atem Nadi, which are located in the core/buffer area of the active coal block (PEKB), were one of the relatively good/moderate diverse locations. On the contrary, the Taxa Tolerance Score and ASPT indices ascertained that these locations ranked relatively low in terms of the abundance of pollution sensitive aquatic organisms.
- Overall, the biotic metrics, diversity indices and biotic indices of water quality calculated for the aquatic macroinvertebrates revealed that the water quality and the likely impacts of various natural and anthropogenic stresses on aquatic resources at the forested stream locations such as:
 - Chornai Nadi- Right and Left bank streams were not observed to be impacted very significantly.
 - The two prominent sampling locations *i.e.*, core/buffer to the active mining areas *viz.*, Atem Nadi and Salhi & Garjan Nala were more or less similar in all respects of aquatic macroinvertebrate biodiversity, biological water quality and both varied significantly from that of the other sampling locations.
- A total of 13 common indigenous fish species and 02 introduced exotic fish species *viz.*, *Cyprinus carpio carpio* (Common carp), *Oreochromis mossambicus* (Tilapia); few crustaceans that include prawns and crabs were recorded and reported to occur in the streams of the area. Most of the catch hardly consists of few grams to 1-2 kg, which is often utilized for individual consumption, and therefore, do not attract significant commercial value. Of the 13 fish species recorded three fish species (*Garra mullya*; *Cirrhinus reba* and *Channa gachua*) are categorized under Vulnerable (VU) and six species under Lower Risk near threatened (LRnt) category of conservation status (CAMP, 1998).

ES 9.3.2 Likely impacts on the drainage and aquatic diversity

Mining in forested landscape involves significant land use changes that most likely result in geo-morphological/hydrological changes in the river water courses. In the present scenario, mining is being done in a relatively small geographical area as compared to the total extent of the all the coal blocks allotted/re-allotted and identified (23 coal blocks as on date) in the entire HAC; however, the direct and indirect impacts are significantly evident from the observable changes in the forest cover and natural drainages. Deterioration in the quality and quantity of surface water is an important issue and is likely to increase further with the expansion of mining. Majority of the drainage that drains the core and buffer zone of the coal blocks are of primary and secondary feeder streams and therefore, they will be greatly affected due to retention, flow restriction, low discharge, reduced channel morphology, etc.

More importantly, the cumulative impacts perceived out of the mining in the contiguous coal blocks *i.e.*, 12-15 & 19 as well as its adjacent ones 20-21 would perhaps be more severe on the HAC landscape and the drainage system particularly the Atem Nadi, a part of the Gej-Jhink watershed and the Chornai Nadi, a part of the Chornai watershed.

ES 10. SOCIO-ECONOMIC VIS-A-VIS BIODIVERSITY VALUES OF HAC

The HAC is a notified *Scheduled Area* under the 5th Schedule of the Constitution of India due to preponderance of tribal population. The society is dominated with scheduled communities to the extent of 76.33% of total population, comprising of Scheduled Tribes (69.74 %) and Scheduled Castes (3.92 %).

- A total of 142 revenue villages are situated in rural areas and in the fringes of the forest within the landscape Hasdeo-Arand having a total population of 124948 belonging to 28948 households (HHs) with 1.25 million population dependant on forest for fuel wood, fodder, timber and NTFP.
- The average population density is 95 persons per sq.km and the average family/household size of 4.32 individuals with an average sex ratio of 981. Household population is dominated with age group of 6-15 followed by 16-25 years age group.
- Ethnic groups of different religious, social and cultural backgrounds inhabit in the HAC represented by 24 STs, 12 SCs, 23 OBCs amongst the notified ST, SC and OBC communities of Chhattisgarh state and 05 general communities.
- No Particular Vulnerable Tribal Group (PVTG) were recorded or reported within the core zone of any of 23 coal blocks. However, Birhor PVTG were reported from Lalpur village of Lalpur Gram Panchyat of Poundi-Uproda CD block, Korba district; and Pahari Korwa is reported to be inhabited in Kadamjheriya village, a solely Pahrai Korwa inhabited tribal village.
- Household land holding pattern are in the order of marginal>small>semi medium> medium> large. Overall 89.39 % of total working population are engaged in agricultural related activities, 9.46 % as other workers and 1.22 % as household industrial workers.
- Weekly markets locally known as “Hats’ satisfies the daily needs of the local communities and also provides an opportunity to sell their minor farm produce, forest produce and handicrafts to supplement the household income. Surplus paddy production is sold at Primary Co-operative Societies by medium and large farmers.
- Paddy is the main crop and taken as single crop during kharif season besides Maize, Kodo, Kutki *etc.* Wheat is grown as rabi crop in irrigated areas and low laying areas to a limited extent. Average productivity of Paddy is 13 quintal/ha, Maize (18 quintal/ha) and Wheat (13 quintal/ha). Vegetable and fruit production are mainly for subsistence use; however, the surplus vegetable and fruit production, are sold in weekly markets.

- There are about 25,494 priority and 9,831 Antodaya (poorest of poor) eligible ration card holders (HHs) for subsidized ration as on 2020-21 (National Food Security Act 2013) in the study area.
- Area under village forest land use is 798.28 sq.km, nearly 98.57% households are dependent on forest for fuel wood, small timber, non-timber forest produces for their livelihood and sources of income.
- Estimated average annual household fuel wood removal from forest in surveyed villages is 2.47 tonnes with a maximum of 4.12 tonnes by the villagers living in fringes of Lemru forest range under Korba Forest Division and a minimum of 1.7 tonnes by villagers in the fringes of Udaipur forest range under South Surguja Forest Division.
- Estimated annual fuel wood dependence on forest in HAC accounts for 0.07 million tonnes. Estimated annual household dependence on forest for small timber in HAC is 6368.56 cu m.
- There are about 129 Tendu leaves collection centres belonging to 10 Primary Co-operative Societies under 04 district unions in the study area. During the 2019 season Tendu leaves removal from study area was around 20,003 standard bags of value Rs .80 million from HAC. In addition, unregulated trade of Mahua, Chirongi seeds etc also contributes to substantial income to house hold.
- Animal rearing was not a common practice in the HAC in the past however it has become popular for milk, ploughing agricultural fields, cart pulling; and as source of meat in the last decade, which has resulted in increase of livestock. Livestock constitutes cattle (76221), goat (62533), buffalo (14767) and pig (2043).
- A total 128455 Adult Cattle Unit (ACU) are dependent on forests for grazing besides grazing in agricultural fields and road side.
- Majority of the (96.70 percent) households graze their livestock in nearby pasture and forest land. Estimated per capita annual fodder requirement in HAC is 9.10 tonnes/ACU and annual fodder dependence from forest accounts for 1.13 million tonnes.
- Per capita annual fodder requirement is estimated to be 9.10 tonnes/ACU 1.13 million tonnes as annual dependence on fodder from forest.
- Locals practice fishing for subsistence use. Most of the catch hardly consists of few grams to 1-2 kg, which is often utilized for household consumption.
- Estimated average annual household income of sample households is Rs. 86,341/-, of which Rs. 17,195/- from forest; Rs. 28,381/- from cultivation and Rs. 40,763/- and secondary sources of income like manual casual labour in cultivation /agriculture, jobs and business.
- There is no place of religious, cultural, and archaeological importance within core zone of any coal block. However, there are three notified sites by the Archaeological Survey of India (ASI) namely Jogimara caves, Sita Bengra caves and Mahespur Shiva temple falling within influence zone

(i.e., 10 km aerial radius) of PEKB and Laxmangarh Coal blocks respectively.

ES 10.1 Likely Impacts

Hasdeo-Arand Coalfield (HAC) area is a home to socially, economically backward vulnerable schedule population dominated by scheduled tribes and others traditional forest dwellers. Over 90% of the households are dependent on agriculture and forest produce for their livelihoods from forests. The forests also maintain the hydrological and other ecosystem services on which the locals are dependent for agriculture and other allied activities. Cumulative Impact of displacement due to mining operations will have serious impact on community in form of loss of livelihood, identity and culture.

ES 11. RECOMMENDATIONS BASED ON THE FINDINGS OF THE BIODIVERSITY STUDY

The recommendation under respective components include mitigation measures for respective components for the coal block in operation and HAC are detailed in report Volume -I in Chapter- 10.

ES 11.1 Observation on the Conservation Measure and Recommendations - Parsa East & Kanta Basan (PEKB)

The PEKB coal block has been undertaking systematic reclamation and rehabilitation activities including, stabilization of external waste dumps and internal backfilling's with adequate engineering measures (Toe/retaining Wall, Garland drain, gully plugs, miscellaneous drainages alongside haul road/avenue areas, water harvesting structures like settling ponds, catch water drains along coal block boundary to maintain required flow in the natural water courses, check dams, etc.) and biological measures include extensive afforestation with suitable mixed native plant species all over the reclaimed areas that include both within the statutory areas and vacant lands. Except few failures in the implementation/ maintenance of flow arresting structures on the waste dump particularly East External Dump, all measures implemented by the PEKB observed to be adequate enough to protect the mining environment from further damages.

Detailed survey was made based on the environmental compliance conditions in the PEKB open cast coal block. Observation and the recommendation under respective components such as Geological Reserve, mining and transportation, environmental measures, efficacy of mine closure plan, Reclamation and Rehabilitation and safety zone are provided in detail in the in Chapter-8 and Chapter-10.

ES 11.2 Observation about opening the PEKB Coal Block for mining as per the Sequential Mining– NGT Query

As proposed in the mining plan, the mine pit has been opened all along the strike length of coal seam for a length of 6.12 km along mine surface with 650 -700 m wide

and up to a depth of 40-45 m depth. The extensive mining operations is being carried out by three contractors confined to their designated area of mining in the entire strike length of coal seams. This has resulted in inadequate bench width in over burden (OB) benches ranging from 8 to 12 m than that of 20 m minimum bench width planned. Height of the benches in OB is below 6 m and well maintained except at cross-section C-1, on dip side three benches have height more than 6 m (534 m to 501.9 m).

- Opening of such a long mine face for extensive mining has seriously impacted the land degradation. Such practice will not only expose huge area but also result in land degradation which is not specific to particular time, but carry further for the entire life of the mine.
- *Therefore, it is suggested that opening of long mine face shall be minimized by undertaking intensive mining i.e. mining in smaller strike length up to the bottom of the ore body with simultaneous backfilling.*
- Mine benches are comparatively clean with not much of blasted/spilled material scattered on the mine faces. *However, seepage water was seen accumulated on lower coal seam (IV) floor at surface miner operational area. Such seepage water may be properly channelized to mine sump for keeping coal seam floor clean.*

ES 12. EFFICACY OF MINE CLOSURE PLAN

There are 23 coal blocks identified by CMPDI; of which four blocks were re-allotted and the remaining 19 blocks are divided into three groups such as Group A, B and C:

GROUP A: Five (05) coal blocks such as Tara, Madanpur (North), Madanpur (South), Paturia and Gidmuri have only geological, mining and mine closure proposals.

Group B: Limited information is available for another 05 coal blocks such as Morga-II, Morga-III, Morga-IV, Morga South and Saidu

GROUP C: Remaining 09 coal blocks (Putra Parogia, Parogia, Pindraki, Sarma, Laxmangarh, Bhakurma-Matringa, Kedma, Morga-I and Nakiya) no information is available.

The detailed information on the Feasibility Report, Mining Plan, Mining Scheme, Mine Closure Plan, EIA/EMP reports for the above mentioned 19 mines were not available.

ES 12.1 Efficacy of Parsa mine closure plan

State of the art technology in respect of coal beneficiation through coal washeries and dispatch of coal through rapid loading system with pit head rail siding is envisaged. Strike length of coal seam along the floor of the pit proposed is 2.95 km (approx.), advancement of mining operations towards dip direction; strike length of the ore body

divided into two and haulage roads of 1 in 16 gradient and conveyer are planned at the middle of the pit. Ultimate depth of the pit envisaged is 275 m from the surface/ground level.

- Assumed life of the mine is 45 years; therefore, dedicated long-term planning, simultaneous reclamation and rehabilitation for stabilizing internal dumps for short and long term should be formulated. Therefore, five yearly reclamation plans with definite target should be incorporated in the mine closure plan.
- One third of area acquired for mining is private land. Proposal may be inbuilt in the mine closure plan to bring back original topography and original land use to the extent possible through reclamation, which may mitigate impact on land use pattern.

ES 12.2 Efficacy of Kente Extension mine closure plan

Kente Extension coal block has been fully explored by drilling 137 boreholes for cumulative meterage of 14388.8 m. Density of bore hole is 8 per sq.km. Total geological reserves estimated is 410.25 million tons, of which 323.70 million tons (79%) are minable. It is reported that coal seam IV A has been developed locally on the northern part has average thickness of 1m with parting of 6 to 8m, however the coal seam has not been considered for estimation of resources.

- *Resources of the coal seam and economic feasibility of mining needs to be assessed in the interest of mineral conservation.*

Open cast and fully mechanized mining proposal are envisaged in Kente Extension Coal Block with envisaged production of 9 million tons per annum and life of the mine envisaged is 49 years with stripping ratio of 3.65 cum.

- *Developing mine pit for entire strike length of 3.7 km over a period of 49 years may result in huge land degradation for longer period. To minimize land degradation intensive mining may be emphasised instead of extensive mining, alternatively life of the mine may be reduced by increasing production level.*

Proposal has been inbuilt to have external dump accommodating 27.67 Mcum mine waste and the proposed height of the dump will be 60 m at the end of the life of the mine, **it appears that external dump will be active for entire life of the mine.**

- *It is suggested to stabilize external dump at the earliest and reclaim, subsequently mine waste may be accommodated in the internal dumps/ back filling alternatively external dump may be planned as retreating dumping method so that simultaneous reclamation can take place.*

ES 12.3 Efficacy of Chotia (sub block 2A and 2B) mine closure plan

Chotia mine has two sub blocks *viz.* Chotia 2A and Chotia 2B and the details are provided in the Chapter-3. These two coal blocks are situated 10 km apart. Mining operations planned in both the blocks through open cast and underground methods. Open cast mining operations in Chotia 2A have been completed and mining operations suspended from September 2016. Exhausted mine pit partly converted into water pond and remaining portion is being backfilled with flyash. However, presently planned to operate some portion of Chotia 2A under opencast mining from 2023-24 onwards.

- *The haul roads do not have one-way traffic, due to limited quarry area and also there is no sufficient width for two-way traffic and movement of light and service vehicles;*
- *Haul road within the pit for OB and coal haulage are quite steep (gradient more than 1 in 15 and at some places as 1 in 12) due to very limited area of operation in the quarry. Ramp/approach road to benches in OB is also found to be quite steep (1 in 10 to 1 in 12). It is to be maintained with relatively flat gradient.*
- *Road surface of approach road to mine benches and haul road is found to be quite rough/bumpy and undulating and need proper grading.*
- *Mine benches are not clearly maintained a lot of loose material is found to be lying on OB bench faces. All such loose material should be lifted/ removed from mine benches to provide sufficient width for deployment of HEMM.*
- *Dust suppression within the mine for OB excavation, haul road for OB and coal and at waste dump (backfilling) is not found to be satisfactory and needs considerable strengthening.*
- Terracing (decking) has been done very systematically in the internal waste dump.
- Use of Personal Protective Equipment (PPE) is quite satisfactory except dust mask, which shall be made mandatory and monitored.
- *Lighting arrangement at the periphery of the pit as well as at operating benches appears to be inadequate as power supply to lighting towers is through DG Set and sufficient numbers of such lighting towers are not provided.*
- Computerized mine planning is adopted at Chotia OC Mine using 'Auto CAD' and 'Minex Software' for mine survey and calculating volume of OB removal, actual coal bench top and floor OB level. It is used by Geology Department for coal seam modelling and revalidation of borehole data earlier provided in geological report. *It is a very good practice and may be further strengthened when underground mining operations are planned.*
- Presently no mine water from the sump/void is discharged outside the ML area even during rainy season both from Chotia 2A (exhausted pit) and

Chotia 2B pit with the result of water quality in the vicinity is not getting adversely affected.

- *Chotia 2A OC Mine has exhausted and it has a very large sump with clean water. The mine area (sub-block area) has been fenced and not the quarry area. To avoid unauthorized entry towards sump area and possible accidents, the quarry area should be protected and fenced.*
- As per recent proposal (mining plan 4th revision) mine is likely to be operated by OC from 2023-24. Chotia 2B mine is likely to get exhausted for open cast mine operation by 2022-23. *Virtually there will be two underground mining in operations (may be connected by a drive/cross cut) in Chotia sub-block 2A and one underground mining operation in Chotia sub-block 2B, which needs to be planned very meticulously.*
- External dumps are close to Bango Reservoir backwaters, no protective measures adopted to arrest wash off and silting. Most of the OB dumps are active and not much attention has made to reclaim the dumps. Since the open cast operation of the Chotia 2B is likely to be completed by 2022-23, *it essential to implement all mine closure activities in respect of waste dump disposal, land reclamation and rehabilitation with suitable environmental protective measures.*
- Overall working condition of Chotia 2B coal block is not satisfactory and needs improvement in bench formation, haul road management and dust suppression system.
- *Chotia 2B coal block is likely to get exhausted for open cast mine operation by 2022-23 and proposed to undertake mining operations by underground mining method, which will less impact on land use and environment, which may be permitted to continue subject to conditions that present external dumps has to be stabilized, reclaimed and prevented from wash offs etc.*

ES 12.4 Other blocks

The detailed information on the Feasibility Report, Mining Plan, Mining Scheme, Mine Closure Plan, EIA/EMP reports for the rest of the 19 coal blocks were not available. **In the absence of technical inputs in field of exploration, mining and mine closure, no comments on these blocks could be offered.**

ES 13. EFFICACY OF TRANSLOCATED TREES

To comply with the FC condition, the PEKB mine authorities have translocated/transplanted mainly Sal saplings/trees falling under the girth class 20-60 cm from forest blocks and few other common species at various sites within mine lease in consultation with the State Forest Department (SFD). A total number of **8177** trees belong to **18** different species have been transplanted during the period i.e., 2012-2020. They have employed modern technology and a dedicated team in the

transplantation process with detailed pre-planning and post care for those trees translocated. The overall cost of transplantation has been worked out to **Rs 4,468/-** per tree excluding cost of technology and maintenance. The cost of nursery for raising the seed-based tree species is **Rs. 30/-** per seedling.

- Sal (*Shorea robusta*) and Mahua (*Madhuca longifolia*) trees having girth class of 20-60 cm together with other tree species having aesthetic & economic values have been transplanted. The Standard Operating Procedure (SoP) followed by the mine lessee is confined to suggestion by the SFD such as specific girth class of trees, site identification for translocation, pre-planning, post care for translocated trees and gap filling to replace dead trees.
- The translocated trees have been planted at random. Lack of documents/records on girth class, site characteristic, systematic translocation symptoms due to transport, damage during transport, growth pattern at translocated sites, new foliage growth, death, insect/termite/disease attack, etc., were the major constraints to assess the efficacy of translocated trees in different sites, except for the survival.
- Translocation sites were within the PEKB mine lease area. Used *Trans-Planter Model-100d* machine along with adequate manpower for uprooting, transport and planting. Only few precautions were followed during transplanting and post-care such as pruning of branch to avoid any damage while transporting, planting of the uprooted trees on the same day, re-planting of the trees in the treated pit with fertilizers/pesticides/fungicides, watering at regular intervals, monitor for survival and gap filling for the dead one at few places either with Sal or *Pongamia* (Safety zone) or Neem (Front of Mahua Dev dump site). This was a major impediment for the team to assess the performance of the transplanted trees.
- Therefore, the efficacy assessment made by ICFRE team is confined to survival and health status of the translocated trees in 16 different translocated sites in PEKB coal mine lease area.

ES 13.1 Recommendations

- The survival rate at few places are significant, however overall, it is poor due to lack of monitoring in terms of follow-up activities after planting like pest/disease surveillance, recording of growth measurements and replacement of dead trees, etc.
- Species and site specific Standard Operating Procedures (SoP) needs to be framed by the State Forest Department (SFD) for local species (Sal, Tendu, Char, Mahua, etc.) for translocation of forest trees species.
- It is further suggested that a long-term site-specific scientific study for suitability assessment of indigenous species of HAC shall be undertaken by the SFD in association with the coal block in operation to assess the success rate and to develop species specific SoP.

ES 14. COAL RESOURCES

India is second highest and largest coal consuming country in the world and consuming about 11% of world production, however the per capita consumption is lowest among top 10 coal consuming countries. The coal production in India was reported with 24% shortage for the year 2017-18; and 26% shortage for the year 2018-19 against the internal demand. Import of coal during the same period substitute to 23% and 24% for the years 2017-18 and 2018-19 respectively indicating for accelerating the production to fill gap between demand and supply. However, it is important to note that USA produces coal about 25% lesser than India but consumes electricity about 40% higher than India. Similarly, Japan is 6th highest coal producer and third highest consumer of electricity.

- It is pertinent to mention that the *coal production and electricity consumption pattern indicates that the worldwide coal alone is not considered as energy mineral, alternately other source of energy like shale gas, green energy (solar and wind energy) and atomic energy are to be tapped to meet energy requirement by 2022. India too is targeting a fivefold expansion of the electricity generated from renewable energy sources by 2030.*

The coal mineralization in Korba Coal Fields exists up to 600 m depth from the surface therefore underground mining for such deep deposits adopted; whereas

- *coal mineralization in Hasdeo-Arand Coalfield persist up to a depth of maximum 250 m from surface and partings between two coal seams do not exceed 25 m, therefore feasibility in terms of economic and environmental stability shall be explored in case of any underground mining is recommended for sustainable development in HAC.*

ES 15. BIODIVERSITY CONSERVATION AREA

To address the concept of sustainable development in Hasdeo-Arand Coalfield (HAC), the present study involving spatio-temporal assessment of important biodiversity attributes conducted during 2019-2021, has contributed to integrate the cumulative impacts of mining due to 23 coal blocks, keeping in view the large-scale changes envisaged in the open cast type of coal mining in the central Indian moist-dry deciduous Sal dominated forest tracts. Under the long-term and high-intensity development of open cast coal mining, biodiversity and ecological integrity is a concern of great importance, as it involves large scale land use land cover changes leading to shrinking of forest quality/quantity and alteration of hydrological regimes.

The spatio-temporal baseline data on biodiversity and ecology of the entire HAC, have therefore, contributed to significant findings in terms of delineating the impacted areas in the face of vulnerability in many respects and identifying the potential areas to be suggested for conservation and management. Based on the cumulative impacts

envisaged out of the study on various environmental attributes, **Biodiversity Conservation Area (BCA)** are suggested in HAC as described below:

ES 15.1 Biodiversity and Social value of HAC

In India, the sub-tropical Sal dominated forest is covering an area of almost 10.57 million ha and that lies in the Himalayan foothill belt in Kangra region of Himachal Pradesh, north-western region in Uttarakhand, Uttar Pradesh, Bihar, Jharkhand, and foothills of north-west Bengal in north-central region; extends up to the Assam valley (including Meghalaya and Tripura) in the north-eastern Himalayas; Madhya Pradesh, Chhattisgarh, and Orissa in central region (Orwa *et al.*, 2009; Adhikari *et al.*, 2017). According to ISFR (2015) the naturally occurring Sal forest in Siwaliks, Gangetic plains and central India occupies about 13.6%, 2.2% and 8.9% of the total geographical area respectively (Figure ES.2). During last three decades, the Sal forests in India have witnessed increasing anthropogenic pressure of various magnitudes, resulted in habitat destruction, fragmentation of its native range, the regeneration problems, etc.

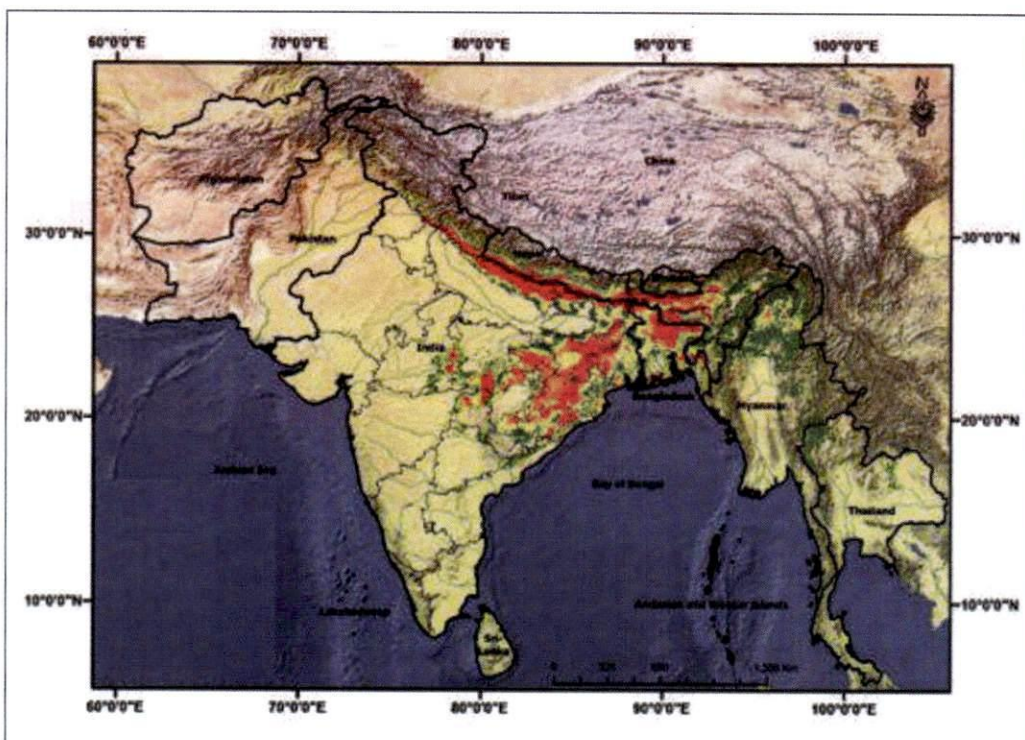


Figure ES.2: The area under Sal (*Shorea robusta*) distribution in the Indian Sub-continent (Source: Mishra *et al.*, 2021)

The area under Sal forest is most affected owing to various developmental efforts and as a result, these forests are considerably fragmented and the fringe effects are well known. In addition, the dependence of traditional forest dwelling communities on Sal forests for their livelihood such as for NTFPs, fuel wood and fodder, forage ground of domestic animals, etc., are well prominent.

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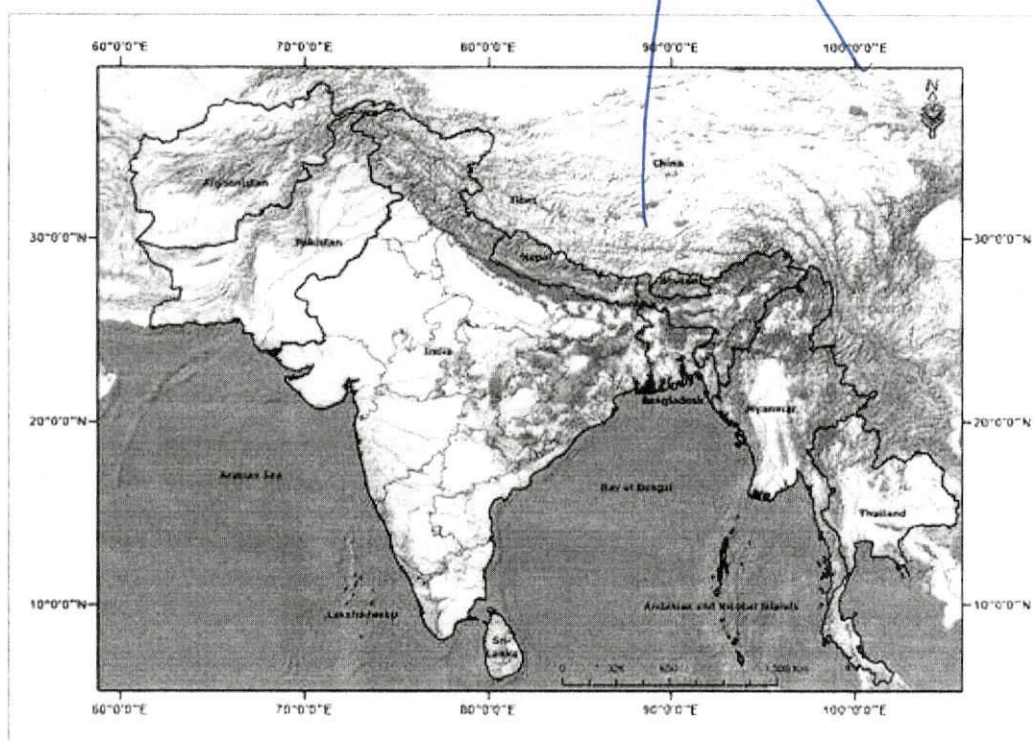


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Ever since the formation of Chhattisgarh state in the year November, 2000, the exploitation/sustainable utilization of mineral rich areas falling within the forests in its jurisdiction reported to face various challenges. The HAC (1879 sq.km) in Chhattisgarh is the third largest coal bearing area (5529 MT) which is about 9% of the coal of the state falling within the largest un-fragmented forests in central India consisting of pristine Sal and teak forests, outside the protected area network, and an important habitat for indigenous forest dwelling tribal communities and large mammals.

The large forest area under HAC with its amalgamated varied landscape/habitats like very dense forests, moderately dense forests, open forests, scrub land and riparian tracts supports rich and diverse floral and faunal components. Out of the total area under HAC (1879.6 sq.km), moderately dense forest occupies about 61.6% (1158.04 sq.km) followed by very dense forests of about 6.74% (126.72 sq.km). There are five forest types under the moist and dry deciduous forests classes observed to occur in the area characteristic to HAC (1400.95 sq.km).

The study observed maximum dominance (based on high IVI) of *Shorea robusta* followed by *Diospyros melanoxylon* and *Madhuca longifolia* var. *latifolia* in HAC indicating the high regeneration capacity and greater ecological amplitude as compared to the operating PEKB and its surrounding coal blocks. Also, the stand density recorded for trees, shrub and herbs in PEKB and surround coal block recorded low as compared to the HAC indicating selective removal of lower girth class individuals in and around the operating PEKB coal block. The area under operating coal block (PEKB) and the other three contiguous coal blocks was observed with medium diverse in case of trees, indicating the overall impact due to opencast mining and allied activities in PEKB.

- Overall, the ecological processes of Sal forest in the HAC area the stand density clearly show rich diversity at the ground level, but decreasing diversity with shrub, and ultimately dominated with Sal at the top canopy. Sal ecology favours a mixture of shrub species and saplings at lower level consisting of NTFPs on which the forest fringe villagers and the large mammals are dependent for livelihood and forage respectively.
- The livelihood of local communities Hasdeo-Arand area is closely dependent on forest resources and therefore the current anthropogenic disturbance is confined to the population living in forest fringe villages for NTFPs from the forests, revenue land /forest and riparian land for agriculture purpose for their sustenance and fuel wood/fodder from forest.
- The HAC landforms are also home for rich avi-fauna and large mammals. Currently the occurrence of elephant in HAC (CSFD, 2018-19) are highly fragmented and degraded due to incompatible land use. In addition, there is continuous dispersal of elephant herd from the neighbouring states of Jharkhand and Odisha. The study carried out by WII in association with

Chhattisgarh Forest Department since 2017 clearly indicates that elephants have large home range based on the quality habitat.

- The whole of HAC landscape comprise of 647 forest compartments spread over 12 forest ranges in 4 forest divisions. Of the 647 forest compartments, elephant occurrence is recorded in 148 compartments during the period 2018 – 2020 in all the 12 forest ranges located within HAC. Elephant occurrence is not limited to any particular part of the landscape, however it spread across in HAC landscape and surrounding.
- Home range size is a function of habitat quality- in areas that support good intact habitats, the elephant home ranges are relatively small. The study conducted by WII in collaboration with Chhattisgarh Forest Department reported that the elephants have large home ranges. Because, the forests where the elephants currently occur are highly fragmented and degraded due to incompatible landuse. Therefore the elephant herds are generally interlinked to home ranges resulting in continuous dispersal of elephant herds from the neighbouring states of Jharkhand, Madhya Pradesh and Odisha.
- The large home range results in human-wildlife conflict – in the form of crop, property and livestock losses is also a major concern.

The estimated average monthly income was Rs. 7195/- out of which Rs. 1432/- from forest, Rs. 2365/- from agriculture and Rs. 3396/- from secondary sources such as labor in agriculture, etc. It is evident that there are 142 revenue fringe villages having 1.25 million population within HAC dependent on agriculture and forest produce for their livelihoods. For example, during the 2019 season Tendu leaves removal from HAC have accounted for Rs. 80 million indicating the rich resources and dependency on the forest produce by the local community.

ES 15.2 Proposed Biodiversity Conservation Area (BCA)

The major part of HAC area forms the watershed of the Hasdeo-Bango reservoir on the Hasdeo River, which is a tributary of the Mahanadi River. A relatively smaller part of the HAC area is drained by Rehar River, part of the lower Ganges Basin. The major streams of HAC are of perennial in nature and are very important in maintaining the ecological services of the landscapes.

The entire HAC falls primarily within the three watersheds viz., **Gej-Jhink (north), Chornai (south) and Ton-Teti (west)**.

- **Chornai watershed** contributes the maximum flow into the **Hasdeo-Bango Dam**. Also, the area under the **Chornai watershed** assumes greater importance particularly of its driange density and forest cover in both upstream/downstream areas where thirteen (13) coal blocks are located. The forest and lanscape within the Chornai watershed observed to contibute significant hydrological flow to the Hasdeo-Bango reservoir. In addition, relatively high rainfall in the area observed to enhance the rich and varied forest as well as riparian ecosystems.

- The cluster of four open cast coal blocks i.e., Kente Extension (12), Parsa (13), PEKB 14 & Tara (15) and other two contiguous blocks i.e., Sarma (20) and Laxmangarh (21) are on the **Gej-Jhink watershed** with Atem Nadi and its headwater feeder streams flowing towards north. The cumulative impact of land use land cover changes due to these coal blocks will have influence of magnitude on the forest ecosystem and the Hydrology considering the quite larger area under peril.
- The area under indetified coal blocks falling within the **Ton-Teti watershed** are quite significant in terms of its proximity to the Hasdeo River, which is running west of these coal block cluster and the Hasdeo-Bango reservoir. In addition, the vegetation density and the stream networks are much significant in the area downstream to these catchments (Figure ES.3).

The proposed coal blocks falling within both the Chornai as well as Ton-Teti watersheds of the Hasdeo-River sub-basin, are as given below:

Sl. No.	Coal Block (No.)	Relative Occupancy (%) in Watersheds (approx.)	
		Chornai	Ton-Teti/Other streams
1	Nakiya-I, II & III (1)	100	--
2	Morga-I (3)	--	100
3	Morga-II (4)	--	100
4	Morga-III (5)	--	100
5	Morga-IV (6)	--	100
6	Morga South (7)	50	50
7	Gidmuri (8)	100	--
8	Paturia (9)	10	90
9	Madanpur North (10)	--	100
10	Madanpur South (11)	--	100
11	Putra Parogia (16)	70	30
12	Parogia (17)	100	--
13	Saidu (18)	100	--
14	Pindraki (19)	100	--

Open cast mining in the moderately dense and very dense sal-forested (moist-dry deciduous) sub-basins of the Hasdeo River in HAC is of great concern. The resultant land use land cover changes on account of open cast coal mining of this magnitude in the relatively moderately dense forest tracts intersected by numerous water courses will most likely to have significant cumulative impacts in terms of alteration of drainages and hydrological regime, *etc.*, mainly due to reduced stream water flow, increased erosion due to high rainfall in the area, increased sediment deposition on the river beds, reservoirs and other related environmental issues.

- Deterioration in the quality and quantity of surface water is of great concern and is most likely to increase further with the expansion of mining. The drainages are mainly comprising of primary and secondary feeder streams that fall within the

core and buffer zone of the coal blocks and are likely to be severely affected due to retention, flow restriction, low discharge, reduced channel morphology, etc.

- Presently, two coal blocks such as Parsa East & Kanta Basan (PEKB 14) and Chotia (2A & 2B) are in operation. The land use land cover changes in terms of forest cover changes due to mining in operational coal blocks of PEBK and Chotia 2A is quite evident. Therefore, cumulatively, mining, if allowed in all the coal blocks identified, will contribute to a total loss of moderately dense forest (233.44 sq.km) and very dense forest (66.30 sq.km).
- In terms of occurrence of coal blocks within HAC, PEBK coal block is in contiguous with Tara (15) and Parsa (13) on the western side (draining to Gej-Jhink watershed); Kente Extension (12) and Pindraki (19) on the eastern side i.e., largely draining to Chornai (Figure ES.4). In addition, it is in contiguous with 10 other coal blocks of a large cluster south-westerly i.e., Morga-I (3), Morga-II (4), Morga South (7), Gidmuri (8), Paturia (9), Madanpur South (11) Madanpur North (10), Puta Parogia (16), Parogia (17), Saidu (18).
- Wildlife Institute of India has reported the occurrence of large mammals especially elephant in some of the prime biodiversity rich locations. It is evident that this area supports rich biodiversity with a multitude of mammalian species including tigers and harbours forest-dependent communities and therefore sustaining the forest cover to maintain its overall ecological integrity are essential pre-requisite for the overall wellbeing of the area. Therefore, WII has suggested:
 - *It is pertinent that the Chhattisgarh State Forest Department may identify the areas for declaration as Conservation Reserves with due consultation and involvement of local communities and all other relevant stakeholders. Under the ambit of a conservation reserve, habitat improvement activities such as restoration of grasslands and degraded forests; improving surface water availability for wildlife in relatively drier tracts during summer, regulating forest fires, and improving overall protection can benefit wildlife.*

Considering the rich forest cover, floral biodiversity (640 plants species), occurrence of 33 Rare, Endangered and Threatened (RET) plant species and the different watersheds contributing the hydrological regime/hydrological flow; habitat for the fauna particularly mammals with large home ranges that is known to have established connectivity with proposed 'Lemru Elephant Reserve' and livelihood dependence on non-wood forest products by the traditional forest dwelling community, the **ICFRE suggests Biodiversity Conservation Area** comprising of 337 forest compartments (938 sq.km) in Chornai watershed ; and 140 forest compartments (330.51 sq.km)in Ton-Teti watershed, where 14 proposed coal blocks are located, for a sustainable development and conservation (Figure ES.5 – ES.7).

Further, keeping in view, the demand for coal and thereby, socio-economic and industrial development of the area under consideration for mining, it suggested that:

- The allotted four contiguous coal blocks falling within the Gej-Jhink watershed viz., Tara (15), Parsa (13) PEKB (14) & Kente Extension (12) that are either already opened or in advance stage of getting the statutory clearances/ToR approved, **can be considered** for mining with strict environmental safeguards including appropriate conservation measures for management of surface water and biodiversity.
- The total extent of 4 coal blocks of Tara, Parsa, PEKB, Kente Extension put together comprises of 80.95 sq.km, having a mineable reserve of 1143.49 MT (geological reserve of 1475.81 MT) to meet the coal requirement from HAC.
- However, mining in Kente Extension (12) **may be decided appropriately** with strict environmental safeguards pertaining to surface water management and biodiversity conservation measures, considering the presence of relatively more very dense, moderately dense forest cover and wildlife occurrence, particularly, elephant movements. In addition, the MoEF&CC vide letter No. J-11015/48/2019.II(M) dated 8.01.2020 issued ToR for conducting EIA/EMP studies as this coal block is allotted through auction process to M/s. Rajasthan Rajya Vidyut Utpadan Nigam Limited (RVUNL) and as per the condition No. 4(i) of the ToR, MoEF&CC has mandated to conduct Carrying Capacity study.
- A total of 337 forest compartments covering an area of 938 sq.km in Chornai watershed and 140 forest compartments covering an area of 330.51 sq.km in Ton-Teti watershed are suggested for **Biodiversity Conservation Area (BCA)** (Annexure 10.1; Individual forest compartment wise details falling within the Biodiversity Conservation Area of Hasdeo-Arand Coalfield, Chhattisgarh are provided in Chapter-10 of main report Volume-I).
 - However, a part of BCA comprising of two forest compartments No. P2114 and P1998 that are falling within PEKB operational mine and allotted Parsa coal block are suggested to be exempted from BCA.
- There are two contiguous coal blocks such as Sarma (20) and Laxmangarh (21) covering a total extent area of 41.82 sq.km with 10.53 sq.km under moderately dense forest (0.91% out of 1158.04 sq.km) and a relatively smaller area of 0.04 sq.km under very dense forest (0.04% out of 1158.04sq.km) falling within the Gaj-Jhink watershed (upstream of Atem Nadi).
- Both Sarma (20) and Laxmangarh (21) coal blocks were observed to have high level of anthropogenic pressures and degraded forest due to extensive agriculture and allied activities and its close affinity/proximity to Udaipur – the tehsil headquarters, under Surguja district.
- Also, the other two contiguous coal blocks i.e., Bhakurma-Martinga (22) and Kedma (23) covering an extent of 44.95 sq.km with 27.15 sq.km area under moderately dense forest (2.34% out of 1158.04 sq.km) and 5.83 sq.km area under very dense forest (5.83% out of 1158.04 sq.km) falling within Rehar watershed (at upstream).

- These four coal blocks viz., **Sarma (20), Laxmangarh (21) falling in Gej-Jhink watersheds; Bhakurma-Martinga (22) and Kedma (23) falling in Rehar watershed**, as per the information received from CMPDI are only regionally promotionally explored and the boundary demarcation is yet to be carried out
- Hence mining in the identified four coal blocks viz., **Sarma (20), Laxmangarh (21), Bhakurma-Martinga (22) and Kedma (23)** may be kept in abeyance till complete exploration and boundary demarcation is finalized; and the detailed assessment of the catchment and drainage networks of the Rehar River as well as the prominent agriculture activity are made to understand the impact.

Overall, 14 projects, falling within both the Chornai (8) and Ton-Teti (9) watershed **may be not recommended** for mining keeping in view of conserving the relatively dense moist-dry deciduous sal dominated forest tracts that provide home range for elephant ; these forest are also intersected by dense stream channels of the higher order characteristic to the Chornai watersheds and considerable area under the coal blocks with relatively dense forests being influenced by the Hasdeo River/ Hasdeo-Bango Dam characteristic to the Ton-Teti watershed.

- Based on the compliance condition stipulated in the Environmental Clearance (vide letter No.J-11015/03/2008-1A.II(M) dated, 21.12.2011) a 75 km dedicated Railway corridor of South East Central Railway (SECR) connecting Surajpur Railway Station on Bilaspur - Ambikapur to pit head of PEKB mine has been commissioned in April 2018. The same may be utilized by the adjacent coal blocks in the cluster. The coal transportation through the dedicated railway corridor from these coal blocks will likely to reduce the impacts of mining and transportation on the environment and human health.
- In addition, it is also recommended that a cumulative impact assessment of all the coal blocks mining on environment or a carrying capacity study involving physical, biological, social environment w.r.t. developmental intervention of the entire HAC shall be carried out for decision making and to achieve sustainable development.

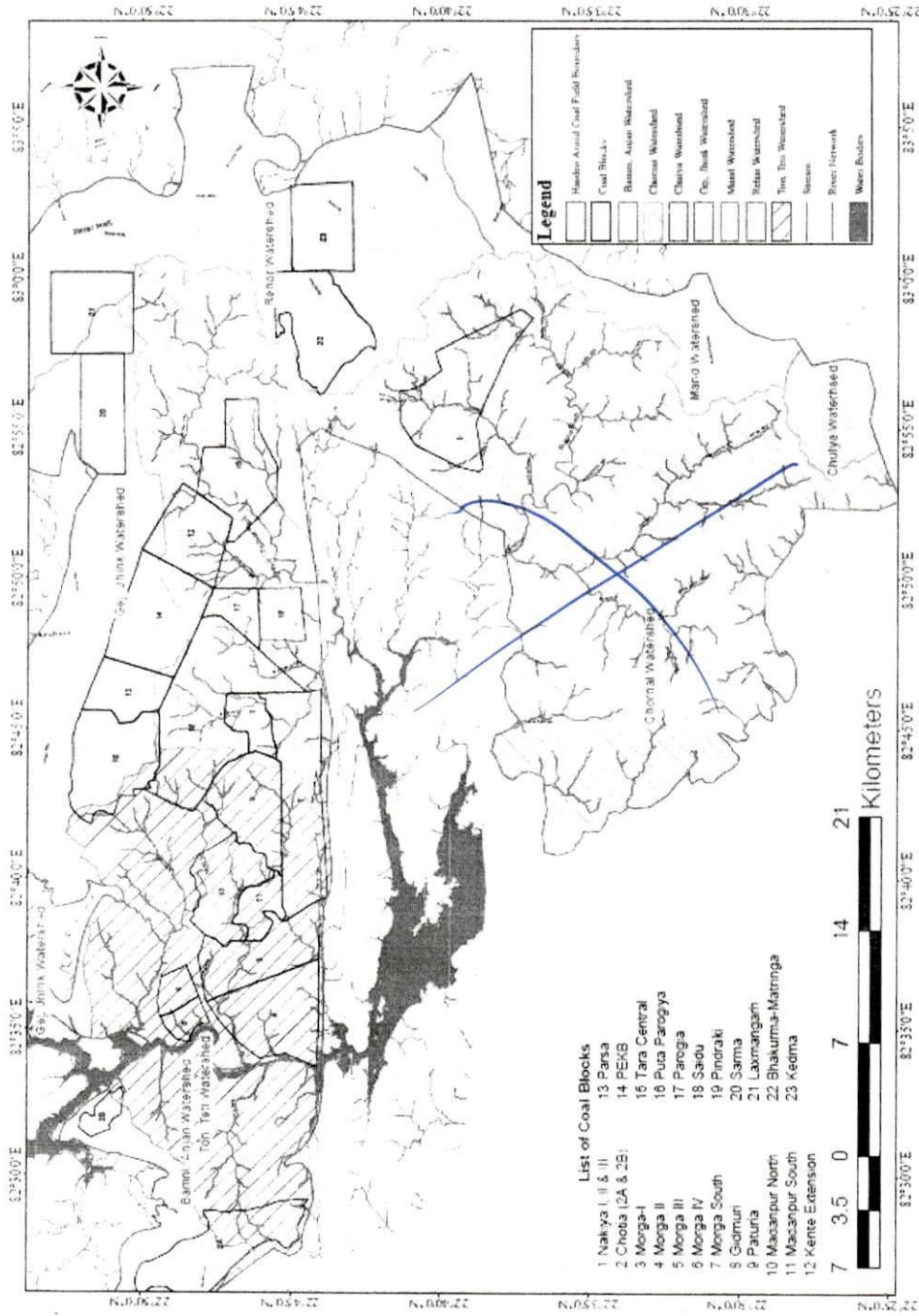


Figure ES.3: Map showing the Chornai and Ton, Teti watershed areas and drainage networks in Hasdeo-Arand Coalfield, Chhattisgarh

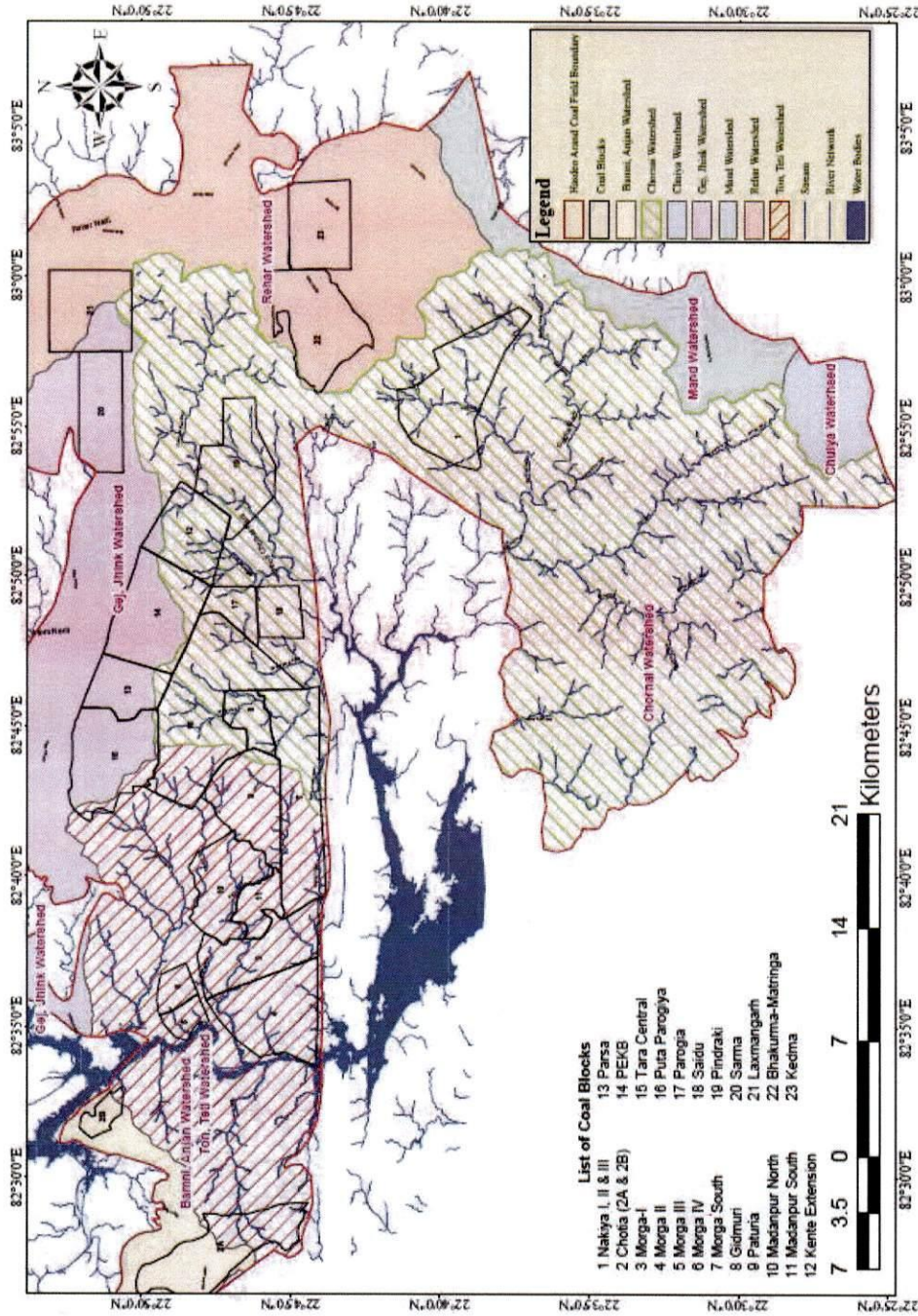


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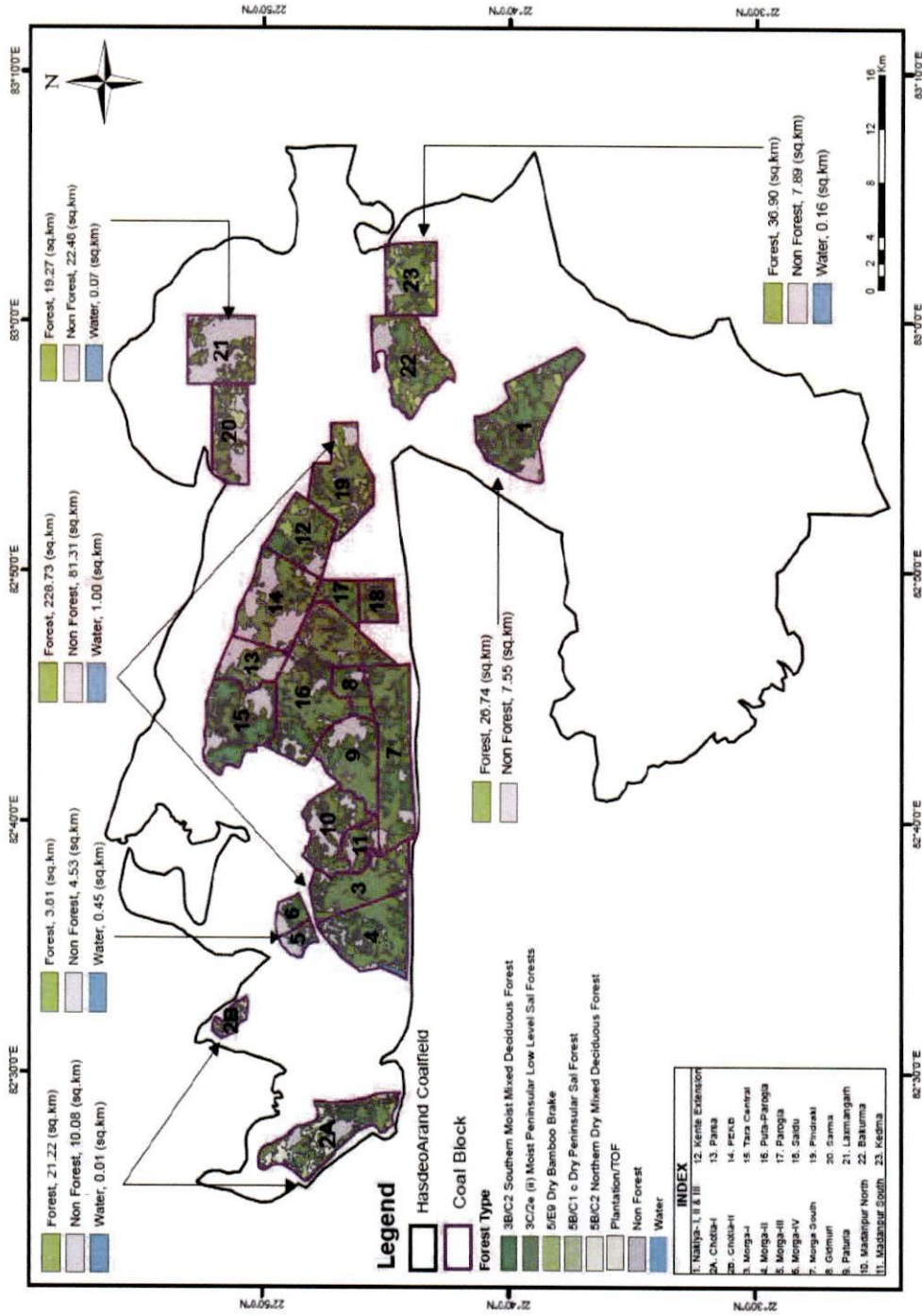


Figure ES.4: Map showing the cluster-wise estimated area of forest type, non-forest, water and to be impacted due to mining in Hasdeo-Arand Coalfield in Chhattisgarh

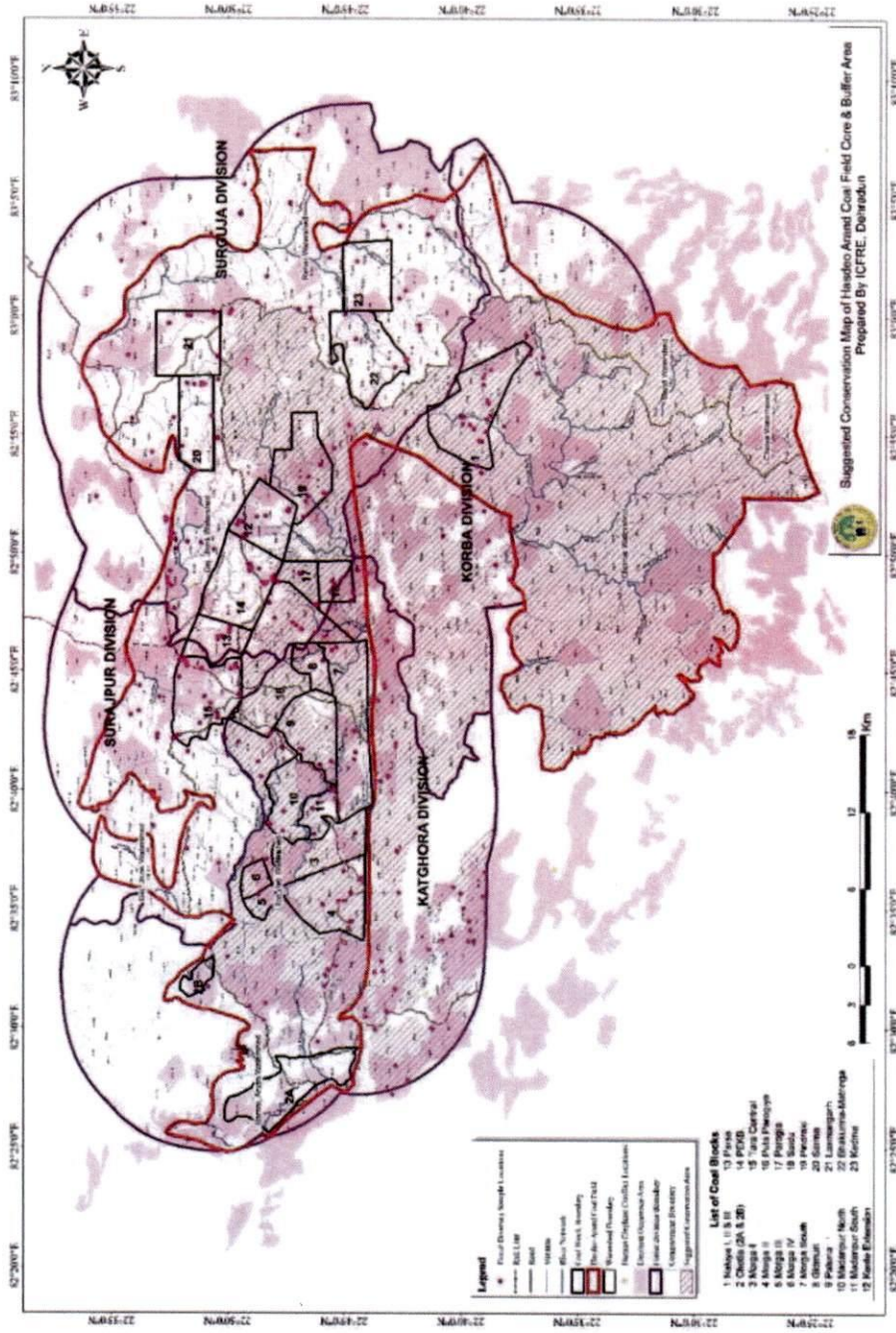


Figure ES.5: Map showing the drainage, elephant occurrence and suggested Biodiversity Conservation Area within the Hasdeo-Arand Coalfield in Chhattisgarh

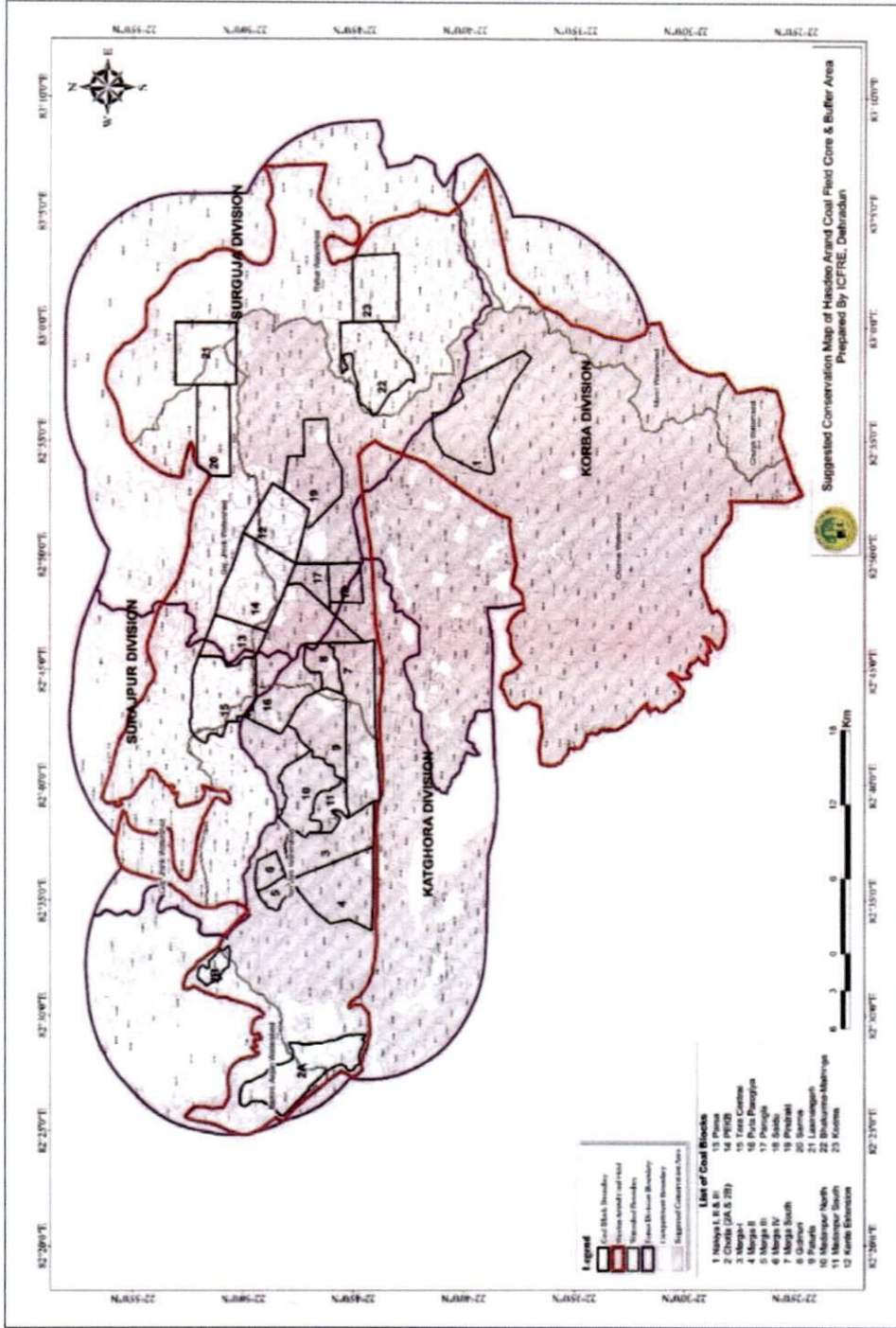


Figure ES.7: Map showing the forest compartments and suggested Biodiversity Conservation Area within the Hasdeo-Arand Coalfield in Chhattisgarh

ES 16. QUERIES OF THE PRINCIPAL BENCH OF NATIONAL GREEN TRIBUNAL (NGT) ALONGWITH THE JUDGMENT ISSUED ON 24.03.2014 TO MOEF&CC

Queries of National Green Tribunal (NGT)	Observation /Comments
1. What type of flora and fauna in terms of biodiversity and forest cover existed as on the date of the proposal in PEKB coal blocks.	<p>The pre-mining data on biodiversity are available in the EIA/EMP study report (as on December, 2016 for the PEKB Coal Block). However, the present study (2019-2021) in terms of floral and faunal biodiversity, forest cover and forest types for buffer area of PEKB and adjacent are detailed under the respective chapters.</p>
2. Is/was the PEKB coal block habitat to endemic or endangered species of flora and fauna.	<p>Yes / was -the PEKB coal block habitat to rare, endangered and threatened flora and fauna.</p> <p>RET floral species observed in PEKB consists of <i>Aegle marmelos</i>, <i>Aristolochia indica</i>, <i>Drosera indica</i>, <i>Drosera burmanni</i>, <i>Uraria picta</i> and <i>Premna herbacea</i></p> <p>RET faunal species - sloth bear (<i>Melursus ursinus</i>), four-horned antelope or Chousingha (<i>Tetracerus quadricornis</i>).</p>
3. Whether the migratory route /corridor of any wild animal particularly elephant passes through the area.	<p>Elephant occurrence was reported in 148 out of 647 forest compartments in HAC and surrounding landscape during the period 2018 to 2020 by the State Forest Department. A conservative estimate of about 40 to 50 elephants could use different parts of the landscape at different times of the year. The HAC and the surrounding landscape are part of the elephant range in northern Chhattisgarh and serves as both habitat and corridor for movement.</p> <p>The Korba Forest Division had reported the occurrence of tigers in the vicinity of HAC and the surrounding landscape. The habitat connectivity between Hasdeo - Arand area and Achanakmar Tiger Reserve, Boramdeo Wildlife Sanctuary and Kanha Tiger Reserve is strong, and may support sporadic tiger dispersal.</p>
4. Whether the area of PEKB Block has that significant conservation /protection value so much so that the area cannot be compromised for coal mining with appropriate conservation /management strategies	<p>Presently as per FSI (2017) the PEKB coal block has 9.11 sq.km area under moderately dense forest and 2.56 sq.km area under very dense forest. <i>Shorea robusta</i> is recorded to be dominant followed by <i>Diospyros melanoxylon</i>, <i>Madhuca longifolia</i>, etc., contributing to the highest IVI values. The diversity index value is low in both core and buffer area due to open cast mining operation disturbance.</p>

	<p>Therefore, it is suggested that the mining in PEKB may be allowed and to be continued with strict compliance / implementation of EC/FC conditions (detailed Reclamation and Rehabilitation plan, compliance to EC/FC and the observations/comments/recommendations made in this report under mine closure plan, sequential mining, biodiversity conservation, etc.)</p>
<p>5. What is their opinion about opening the PEKB coal block for mining as per sequential mining, reclamation methods proposed for regeneration of the flora; efficacy of mine closure plan and the tree translocated:</p>	<p>Detailed observations pertaining to opinion for PEKB coal block is provided in Chapter 8 of this report for sequential mining reclamation and rehabilitation of the flora in the mine lease area and efficacy of tree translocated trees.</p>
<p>6. What is their opinion about the Wildlife Management plan finally prescribed?</p>	<p>The wildlife management plan is a legal document prepared for management of the notified protected areas under the Indian Wildlife (protection) Act, 1972. Since HAC is not a protected area, hence, the term wildlife conservation plan is more appropriate in this context. The wildlife conservation plan of Parsa East and Kanta Basen open cast coal mine and washery project prepared by the project proponent is basic and generic in nature. Due to this, it requires substantial revision and the management prescriptions need to be spatially explicit and closely consider the ecological, behavioural and social dimensions of the landscape. A detailed review of the same was carried out and specific comments to improve the plan have been provided in Annexure I of WII report enclosed as Volume-II.</p>
<p>7. What conditions and restriction do they propose on the mining in question i.e., sequential mining, if they favour such mining?</p>	<p>ICFRE- Suggestion and recommendation for further improving the mining environment in PEKB coal block are detailed in the Chapter 3 and 8 of this report WII- As certain portions of the PEKB coal block has already been opened for mining, the mining operation may only be permitted in the already operational mine of the block.</p>
<p>Answer to the above questions Sl. No. 1 – 3 are addressed in detailed in the Chapter-4, Chapter-5 and Chapter-6; question Sl. No. 4 pertains to compliance are discussed in the Chapter-4 floral diversity, Chapter-5 faunal diversity, Chapter-6 aquatic diversity and chapter -7 socio-economic vis-a-vis biodiversity values, question Sl. No. 5 related to efficacy of mine closure plan are detailed in Chapter-8, efficacy of translocated trees in Chapter-9 and sequential mining in Chapter-8 of this report.</p>	

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

Civil Appeal No 4395 of 2014

Rajasthan Rajya Vidyut Utpadan Nigam Limited

Appellant

Versus

Sudiep Shrivastava and Others

Respondents

W I T H

Special Leave Petition (Civil) No 18103 of 2022

O R D E R

Civil Appeal No 4395 of 2014

1 The appeal has arisen from an order dated 24 March 2014 of the National Green Tribunal¹. The NGT issued the following directions:

1 “NGT”

“1. Order dated 23rd June, 2011 passed by the respondent no.2-MoEF Government of India and consequential order dated 28th March, 2012 passed by the respondent no.1 State of Chhattisgarh under section 2 of the Forest (Conservation) Act 1980 for diversion of forest land of PEKB Coal Blocks are set-aside;

2. The case is remanded to the MoEF with directions to seek fresh advice of the FAC within reasonable time on all aspects of the proposal discussed herein above with emphasis on seeking answers to the following questions: (i) What type of flora and fauna in terms of bio-diversity and forest cover existed as on the date of the proposal in PEKB Coal Blocks in question. (ii) is/was the PEKB Coal Blocks habitat to endemic or endangered species of flora and fauna. (iii) Whether the migratory route/corridor of any wild animal particularly, elephant passes through the area in question and, if yes, its need. (iv) Whether the area of PEKB Block has that significant conservation/protection value so much so that the area cannot be compromised for coal mining with appropriate conservation/management strategies. (v) What, is their opinion about opening the PEKB Coal Blocks for mining as per the sequential mining and reclamation method proposed as well as the efficacy of the translocation of the tree vis-a-vis the gestation period for regeneration of the flora? (vi) What is their opinion about the Wildlife Management plan finally prescribed. (vii) What conditions and restriction do they propose on the mining in question, if they favour such mining? Liberty is granted to the FAC to seek advice/opinion/specialised knowledge from any authoritative source such as Indian Council of Forestry Research and Education Dehradun or Wildlife Institute of India including the sources indicated in the present case by the parties.

3. The MoEF shall pass a reasoned order in light of the advice given by the FAC in accordance with law and pass appropriate order in accordance with law.

4. All work commenced by the respondent no.3 project proponent and respondent no.4 pursuant to the order dated 28th March, 2012 passed by the respondent no.1 State of Chhattisgarh under section 2 of the FC Act 1980, except the work of conservation of existing flora and fauna, shall stand

suspended till such further orders are passed by the MoEF in accordance with law.”

- 2 Since the order of the NGT, the Ministry of Environment, Forest and Climate Change² has granted approval for commencing Phase II mining operation for the Parsa East and Kete Basan (PEKB) Coal Block on 2 February 2022. Thereafter, the State of Chhattisgarh has on 25 March 2022 accorded permission for coal mining and for non-forest activity in respect of the Parsa East and Kete Basan Coal Block comprising 1136 hectares.
- 3 The above facts are not in dispute.
- 4 Since the order of the NGT has resulted in the above orders of MoEF&CC dated 2 February 2022 and of the State of Chhattisgarh dated 25 March 2022, Mr A N S Nadkarni, senior counsel appearing on behalf of the appellant states that the appeal is not pressed.
- 5 The appeal is accordingly disposed of.
- 6 Pending applications, if any, stand disposed of.

Special Leave Petition (Civil) No 18103 of 2022

- 1 The Special Leave Petition arose from an order dated 30 September 2022 of a learned Single Judge in IA No 5 of 2022 in Writ Petition (Civil) No 1346 of
- 2 “MoEF&CC”

2016. The learned Single Judge declined to entertain the prayer for interim relief primarily on the ground that proceedings were pending before this Court in which certain reliefs were claimed in respect the orders dated 2 February 2022, 25 March 2022 and 5 May 2022. The learned Single Judge had also indicated that there was no challenge to the orders at that stage.

2 Mr C U Singh, senior counsel appearing on behalf of the petitioner states that an application for amending the writ petition has been filed before the High Court which is pending.

3 By a separate order passed today, Civil Appeal No 4395 of 2014³ instituted before this Court has been disposed of as not pressed.

4 Since the writ petition under Article 226 of the Constitution is pending before the High Court, it would be appropriate and proper to relegate the petitioners to pursue their rights and remedies in accordance with law. Since the application for interim relief in IA No 5 of 2022 was not considered by the High Court for the reasons which have been indicated above, we clarify that it will be open to the petitioners to move an application for seeking interim relief. The above liberty is subject to such objections which the contesting respondents may have to the grant of interim relief. This Court has not expressed any opinion on the merits of the challenge before the High Court.

3 “Rajasthan Rajya Vidyut Utpadan Nigam Limited vs Sudiep Shrivastava and Others”

- 5 The Special Leave Petition is accordingly disposed of.
- 6 Pending applications, if any, stand disposed of.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[J B Pardiwala]

.....J.
[Manoj Misra]

New Delhi;
October 16, 2023
CKB

ITEM NO.26

COURT NO.1

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.4395/2014

RAJASTHAN RAJYA VIDYUT UTPADAN NIGAM LTD

Appellant

VERSUS

SUDIEP SHRIVASTAVA & ORS.

Respondents

(With IA No.2007/2022 - APPROPRIATE ORDERS/DIRECTIONS, IA No.53863/2019 - CLARIFICATION/DIRECTION, IA No. 53848/2019 - EXEMPTION FROM FILING O.T., IA No.5912/2023 - EXEMPTION FROM FILING O.T., IA No.71319/2022 - EXEMPTION FROM FILING O.T., IA No. 66757/2021 - EXEMPTION FROM FILING O.T., IA No. 134831/2023 - EXEMPTION FROM FILING O.T., IA No. 53864/2019 - EXEMPTION FROM FILING O.T., IA No. 86937/2023 - EXEMPTION FROM FILING O.T., IA No. 86934/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 32860/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 53847/2019 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 71316/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 4/2014 - PERMISSION TO FILE ANNEXURES, IA No. 3/2014 - PERMISSION TO FILE ANNEXURES and IA No.1/2014 - STAY APPLICATION)

WITH W.P.(C) No.371/2019 (PIL-W)

(With IA No.97095/2022 - APPLICATION FOR PERMISSION, IA No.28837/2023 - APPLICATION FOR PERMISSION, IA No.49251/2019 - APPROPRIATE ORDERS/DIRECTIONS, IA No.97098/2022 - EXEMPTION FROM FILING O.T., IA No.49254/2019 - EXEMPTION FROM FILING O.T., IA

No.168205/2019 - INTERVENTION/IMPLEADMENT and IA No.5925/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

S.L.P.(C) No.18103/2022 (IV-C)

(With IA No.24570/2023 - APPLICATION FOR PERMISSION, IA No. 17183/2023 - APPLICATION FOR PERMISSION, IA No.187284/2022 - APPLICATION FOR PERMISSION, IA No.154263/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No.174182/2022 - EXEMPTION FROM FILING O.T., IA No.164370/2022 - EXEMPTION FROM FILING O.T., IA No.154264/2022 - EXEMPTION FROM FILING O.T., IA No.185800/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No.150385/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No.174181/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No.32885/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No.23304/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES and IA No.19260/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

W.P.(C) No.510/2023 (PIL-W)

(With IA No.87170/2023 - CLARIFICATION/DIRECTION and IA No. 87171/2023 - EXEMPTION FROM FILING O.T.)

Date : 16-10-2023 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Appellant(s)	Mr. Atmaram N S Nadkarni, Sr. Adv.
	Mr. S.S. Rebello, Adv.
	Ms. Deepti Arya, Adv.
	Ms. Arzu Paul, Adv.
	Ms. Manisha Gupta, Adv.
	Mr. Siddant Gupta, Adv.
	Mr. Rishikesh Haridas, Adv.
	Lavany Dhawan, Adv.
	Mr. Ritik Gupta, Adv.
	Mr. Kunal Verma, AOR

Ms. Yugandhara Pawar Jha, Adv.
Mr. Ashwin Kumar Nair, Adv.

WPC 371/2019 &
WPC 510/2023

Mr. Prashant Bhushan, Adv.
Ms. Neha Rathi, AOR
Mr. Kamal Kishore, Adv.
Ms. Kajal Giri, Adv.

SLPC 18103/2022

Mr. Chander Uday Singh, Sr. Adv.
Ms. Pyoli, AOR
Ms. Shalini Gera, Adv.
Mr. Archit Krishna, Adv.
Mr. Mayank Gautam, Adv.

For Respondent(s)

Mr. A.M. Singhvi, Sr. Adv.
Mr. Mahesh Agarwal, Adv.
Ms. Aanchal Mullick, Adv.
Mr. Arshit Anand, Adv.
Mr. Nidhiram, Adv.
Mr. E.C. Agrawala, AOR

Mr. Prashant Bhushan, Adv.
Ms. Neha Rathi, AOR
Mr. Kamal Kishore, Adv.
Ms. Kajal Giri, Adv.

Mr. Tushar Mehta, SG
Mr. K.M. Nataraj, ASG
Mr. Gurmeet Singh Makker, AOR
Ms. Ruchi Kohli, Adv.
Ms. Nidhi Khanna, Adv.
Ms. Swarupama Chaturvedi, Adv.
Ms. Archana Pathak Dave, Adv.
Ms. Swati Ghildyal, Adv.
Mr. Shailesh Madiyal, Adv.
Mr. Kanu Agrawal, Adv.
Mr. Mayank Pandey, Adv.
Mr. Madhav Sinhal, Adv.

Mr. Mahesh Kumar, Adv.
Ms. Prachi Mishra, Adv.

Mr. Aman Preet Singh Rahi, Adv.
Mr. Nikhilesh Kumat, Adv.
Mr. Dipesh Singhal, Adv.
Ms. Devika Khanna, Adv.
Ms. Rebecca Mishra, Adv.
Mr. Himanshu Kumar, Adv.
Mrs. V.D. Khanna, Adv.
Mr. Vmz Chambers, AOR

Ms. Pragati Neekhra, AOR
Mr. Aditya Bhanu Neekhra, Adv.
Mr. Aniket Patel, Adv.
Mr. Tushar Mehta, SG
Mr. Kartik Seth, Adv.
Ms. Shriya Gilhotra, Adv.
Mr. Prashanth Dixit, Adv.
Mr. Ankit Gupta, Adv.
Mr. Mahesh Bhati, Adv.
Ms. Arushi Rathore, Adv.
Mr. Saurabh Chaturvedi, Adv.
M/s. Chambers of Kartik Seth

Mr. Kunal Verma, AOR

UPON hearing the counsel the Court made the following
O R D E R

Civil Appeal No 4395 of 2014 & SLP (C) No 18103/2022

- 1 The Civil Appeal and the Special Leave Petition are disposed of in terms of the signed order.
- 2 Pending applications, if any, stand disposed of.

Writ Petition (C) No 371 of 2019 & Writ Petition (C) No 5103 of 2023

1 List the Petitions 20 November 2023.

(CHETAN KUMAR)
A.R. -cum-P.S.

(SAROJ KUMARI GAUR)
Assistant Registrar
(Signed order is placed on the file)



//True Copy//



HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1346 of 2016

1 - Forest Right Committee Ghatbarra through its President Banas kumar S/o Shri Sundar Sai, Aged About 40 years, R/o Village Ghatbarra, Tehsil Udaypur, District Sarguja Chhattisgarh, Chhattisgarh

2 - Hasdeo Arand Bachao Sangharsh Samiti, through its Covenor Umeshwar Singh Armo S/o Shri Siyambar Singh, Aged About 35 Years, R/o Village Jampani, Post Madanpur, Tehsil Podi, District Korba Chhattisgarh, District : Korba, Chhattisgarh

3 - Jainandan Singh Porte S/o Shri Sukalu Ram, Aged About 40 Years, R/o Village Ghatbarra, Tehsil Udaypur, District Sarguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

---- **Petitioners**

Versus

1 - Union of India Through Secretary, Ministry of Environment and Forest, Government of India, Paryawaran Bhawan, C.G.O. Complex Lodhi, Road, New Delhi, 11003, Delhi

2 - Union of India, through Secretary, Ministry of Tribal Affairs, Government of India, Shastri Bhawan, New Delhi, 110001, Delhi

3 - State of Chhattisgarh through Secretary, Department of Forest, Mantralaya, Naya Raipur Chhattisgarh, District : Raipur, Chhattisgarh

4 - District Level Forest Rights Committee (DLC) Sarguja, through O/o. Collector (Tribal Welfare), Ambikapur, District Sarguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

5 - Rajasthan Rajya Vidyut Utpadan Nigam Ltd., Vidyut Bhawan, Jyoti Nagar Janpath, Jaipur Rajasthan,, District : Jaipur, Rajasthan

---- **Respondents**

(Cause-title taken from Case Information System)

02-05-2024	<p>Ms. Shalini Gera, Mr. Amit K. Verma and Ms. Anushri Rajput, Advocates for the petitioners.</p> <p>Mr. Sumit Singh, Advocate for respondents No.1 and 2.</p> <p>Mr. Santosh Bharat, Panel Lawyer for the State/respondents No.3 and 4.</p>



Dr. N.K. Shukla, Senior Advocate with Ms. Priya Mishra, Advocate for respondent No.5.

I.A. No.10/2023 (application for amending the petition)

Learned counsel for the petitioners have submitted that the present petition has been filed against the order dated 08-01-2016 issued by respondent No.4 and for protection of the rights to the petitioners granted under the Scheduled Tribes and Other Forest Dwellers (Recognition of Forest Rights) Act, 2006 (hereinafter called as 'Forest Rights Act').

It is submitted by the petitioners that the village Ghatbarra comprises mostly of triable population and have granted community rights under the provisions of Forest Rights Act, through order No.10378/a-19(1) 2012-13. On 08-01-2016 an order is issued by respondent No.4 that forest rights granted to village Ghabarra is cancelled. To protect the forest and biodiversity and the rights and duty to the villagers they moved their representation on 26-02-2016 to various authorities including organizing protest against the said order and the memorandum were submitted before the various authorities, higher authorities also. When the authorities have not responded, they have filed the instant petition.

In the instant petition application for grant of interim relief has been dismissed by the Coordinate Bench of this Court vide order dated 30-09-2022. Thereafter, the order dated 30-09-2022 was challenged by the petitioners before the Hon'ble Supreme Court by filing Special Leave Petition (Civil) No.18103/2022. The said special leave petition came up for hearing before the Hon'ble Supreme Court on 16-10-2023 and the same is decided along with another petition, i.e. Civil Appeal No.4395/2014 as Rajashan Rajya Vidyut Utpadan Nigam Limited Vs. Sudiep Shrivastava



and others. It has been submitted before the Hon'ble Supreme Court ;that the application for amendment filed before the High Court which is pending. While passing the order dated 16-10-2023 the Hon'ble Supreme Court has observed in para 4 of its judgment that:-

“4. Since the writ petition under Article 226 of the Constitution is pending before the High Court, it would be appropriate and proper to relegate the petitioners to pursue their rights and remedies in accordance with law. Since the application for interim relief in IA No 5 of 2022 was not considered by the High Court for the reasons which have been indicated above, we clarify that it will be open to the petitioners to move an application for seeking interim relief. The above liberty is subject to such objections which the contesting respondents may have to the grant of interim relief. This Court has not expressed any opinion on the merits of the challenge before the High Court.”

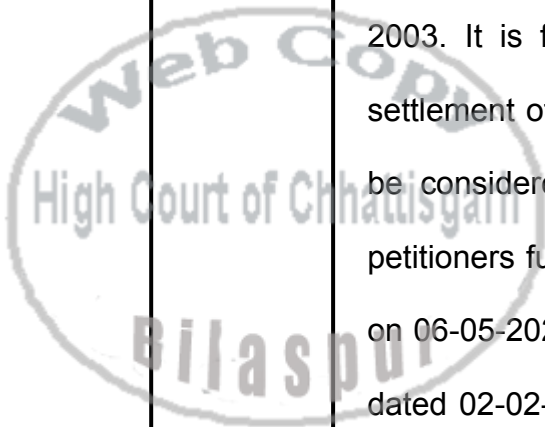
It is further submitted by learned counsel for the petitioners that during pendency of this writ petition and without settlement of any community forest rights of Ghatbarra village respondent No.5 applied for permission to start mining in phase II forest area. The respondent No.1 Ministry of MoEFCC, granted approval to commence Phase II mining operations in the balance forest area of 1136 hectares vide order dated 02-02-2022 (Annexure -P/23) and consequently, respondent No.3/State has also granted permission for diversion of 1136 hectares of forest land to start Phase II mining operations in the remaining forest area, vide order dated 25 -03-2022 (Annexure-P/24). The APCCF granted permission vide





order dated 05-05-2022 to the respondent No.5 to fell 7960 trees in 43.63 hectares of forest land in Phase II mining area which completely overlapped forest area in the CFR Title which is subject to the present writ petition.

It is also submitted by learned counsel for the petitioners the order dated 02-02-2022 passed by the MoEFCC granting permission for Phase II mining in 1136 hectares of forest land and second order of the State Govt. passed on 25-03-2022 and 05-05-2022 has been passed without prior settlement of forest rights in that area which is violation of Section 4(5) of the Forest Right Act as well as the Forest (Conservation) Rules of 2003. It is further submitted that before granting of final approval the settlement of forest rights and approval of Gram Sabhas concerned must be considered before grant of final approval. Learned counsel for the petitioners further submits that by filing the application I.A.No.3/2022 filed on 06-05-2022 the petitioners brought to the notice of this Court the order dated 02-02-2022 and 25-03-2022 passed by the State Government with respect to diversion of 1136 hectares of forest land for mining. He would also submitted that an application for grant of ad-interim relief, I.A. No.4/2022 filed on 06-05-2022 the petitioner have stated that operation of abovementioned orders would destroy the forest rights of the petitioners and it would render the instant writ petition infructuous and prayed for grant of ad-interim relief. In these I.As. no effective hearing could take place and on 27-09-2022 tree felling and forest destruction started. On 28-09-2022 the petitioners filed another I.A. seeking interim relief and prayed that the respondents be restrained from felling of trees and from further destruction of forests of village Ghatbarra. Vide order dated 30-09-2022





the Coordinate Bench of this Court has denied the interim relief and it was pointed out that the petitioners had not challenged the relevant orders permitting mining in the said forest land, viz. orders dated 02-02-2022, 25-03-2022 and 05-05-2022.

The order dated 30-09-2022 was challenged by the petitioners before the Hon'ble Supreme Court by filing Special Leave Petition (Civil) No.18103/2022 which was came up for hearing on 16-10-2023 along with Civil Appeal No.4395/2014 and after hearing the parties the SLP(C) No.18103/2022 is disposed of with certain observations made in para 4 of the order dated 16-10-2023. It was submitted before the Hon'ble Supreme Court during course of the hearing that amendment application filed before this Court is pending. The petitioners are relegated to this Court to pursue their rights and remedies in accordance with law. Since the Coordinate Bench of this Court, while passing the order dated 30-09-2022 observed in its order that the orders dated 02-02-2022, 25-03-2022 and 05-05-2022 have not been challenged and further before the Hon'ble Supreme Court the non-challenge of the aforesaid orders were raised and the parties are relegated to this Court to pursue their remedies, the petitioners are claiming amendment in their writ petition with respect to challenge these three orders and the ground of challenge in the following manners :-

“17. The petitioners prays that in order to challenge the validity of the said orders dated 2.2.2022, 25.3.2022 and 5.5.2022, the following grounds may be incorporated:

“**9(v)** For the reason that the approval of the Central Government u/s 2 of the Forest Conservation Act 1980 dated 15.03.2012 was set aside as a necessary implication of the NGT dated 24.03.2014, as it



sets aside the MoEF order dated 23.06.2011 (Annexure P-27). Till date, there is no new approval u/s 2 of the FCA for the entire forest area of 1898.328 ha. Without such an approval, no mining can be permitted in the forest area under the PEKB coal block, and thus the orders of the R-1 Respondent Ministry, MoEFCC dated 2.2.2022 allowing commencement of Phase II mining in PEKB and consequential orders of the State government dated 25.03.2022 and 5.5.2022 diverting forest land for mining purposes are bad in law and illegal.

9(vi) For the reason that section 4(5) of the FRA 2006 specifically prohibits any eviction or removal of forest dwellers from forest land without the complete settlement of forest rights on that forest land. Since community forest rights have not yet been settled with respect to the claims of the Gram Sabha of village Ghatbarra, the three above orders dated 02.02.2022, 25.03.2022 and 05.05.2022 are in violation of the FRA, and hence, illegal and *non est*.

9(vii) For the reason that the Forest (Conservation) Rules of 2003 (as applicable at the time of the orders dated 02.02.2022, 25.03.2022 and 05.05.2022) clearly stipulate that the final approval of the Central Government for diversion of forest land for non-forestry purposes under section 2 of the FCA can only be made after the settlement of forest rights over the concerned forest land, and the consent of the Gram Sabhas has been obtained. This is evident in the following rules-

Rule 6. *"Submission of proposal seeking approval of the Central Government under section 2 of the Acts*



.....

(3)(e) The District Collector shall-

(i) complete the process of recognition and vesting of forest rights in accordance with the provisions of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007) for the entire forest land indicated in the proposal;

(ii) obtain consent of each Gram Sabha having jurisdiction over the whole or a part of the forest land indicated in the proposal for the diversion of such forest land and compensatory and ameliorative measures, if any, having understood the purposes and details of diversion, wherever required; and

(iii) forward his findings in this regard to the Conservator of Forests;"

Rule 8. "Submission of report on compliance to conditions stipulated in the in-principle approval and grant of final approval

.....

(g) in case the Conservator of Forests finds that the compliance report is complete in all respect, he shall forward such report along with the report on completion of the process of recognition and vesting of forest rights and consent of the each Gram Sabha received from the District Collector referred to in sub-clause (f) of sub-rule (3) of rule 6, to the Nodal Officer within a period of fifteen days of its receipt from the Divisional

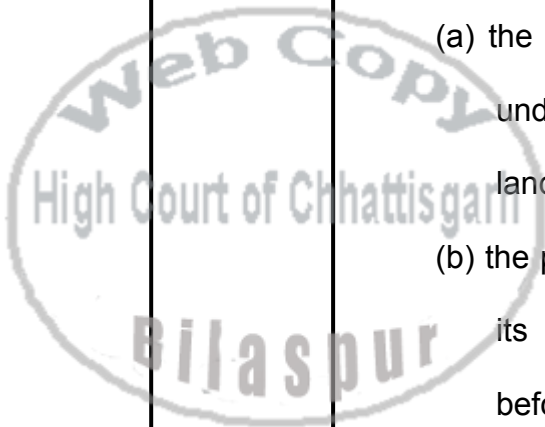




Forest Officer:

Provided that in case the Conservator of Forests finds that the compliance report is incomplete, he shall communicate the shortcoming or shortcomings in the compliance report to the User Agency and the Divisional Forest Officer within a period of fifteen days of its receipt from the Divisional Forest Officer,"

- 9(vii)** For the reason that by way of compliance with Rule 6(3)(e) of the Forest Conservation Rules of 2003, the Handbook issued by the Respondent Ministry R-1 contains detailed set of forms to be filled out by the District Collector (Annexure P-29) that certifies, inter alia, that
- (a) the complete process of recognition and vesting of forest rights under the FRA, 2006 has been carried out for the entire forest land proposed for diversion.
 - (b) the proposal for such diversion (with full details of the project and its implications, vernacular/ local language) have been placed before each concerned Gram Sabha or forest-dwellers, who are eligible under the FRA, 2006;
 - (c) each of the concerned Gram Sabha(s), has certified that all formalities/ processes under the FRA have been carried out, and that they have given their consent to the proposed diversion and the compensation and ameliorative measures, if any, having understood the purpose and details of proposed diversion.
 - (d) the discussion and decisions on such proposals had taken place only when there was a quorum of minimum 50 % of the members of Gram Sabhas present
 - (e) the diversion of forest land for facilities managed by the





Government as required under Section 3 (2) of the FRA have been completed and the Gram Sabhas have given their consent to it.

As no such certificate by the District Collector has been prepared in the instant case, no approval or order for diversion of forest land is valid, and hence, the orders dated 02.02.2022, 25.03.2022 and 05.05.2022 are invalid and illegal.

9(viii) For the reason that the claims of the Ghatbarra Gram Sabha under sections 3(1)(d) with respect to water bodies, 3(1)(i), 3(1)(k) and 3(1)(l) have neither been recognized, nor have they been rejected by the District Level Committee. In respect of 3(1)(i), Rule 12B(3) of the Forest Rights Rules, 2008 specifically entrust the DLC with the responsibility of settling these rights -

"The District Level Committee shall ensure that the forest rights under clause (i) of sub-section (1) of Section 3 relating to protection, regeneration or conservation or management of any community forest resource, which forest dwellers might have traditionally been protecting and conserving for sustainable use, are recognized in all villages with forest dwellers and the titles are issued."

18. The Petitioners pray that in order to challenge the validity of the said orders dated 2.2.2022, 25.3.2022 and 5.5.2022, the Reliefs Prayed may be amended to include the following:

"10(iv). Set aside the order dated 02.02.2022 issued by Respondent R-1, and the consequential orders dated 25.03.2022 and 05.05.2022 issued by Respondent State Government R-3.



10(v). Direct the DLC to expeditiously verify and vest the remaining community forest rights claims of the village Ghatbarra as made in their claim application dated 12.6.2013."

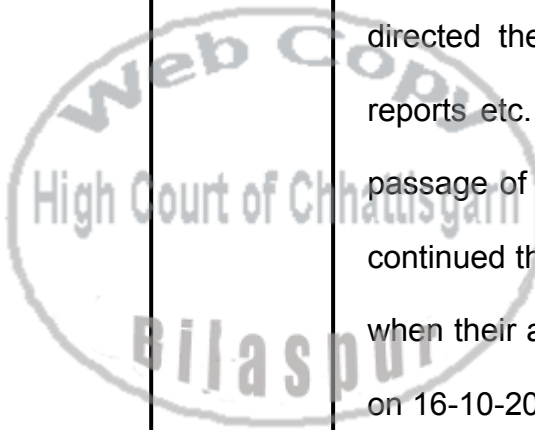
Learned counsel for the petitioners would further submits that the proposed amendments have been necessitated by the subsequent developments and do not change the basic character of the instant writ petition. No prejudice is caused to the respondents since the orders dated 02-02-2022 and 25-03-2022 are sub-judice before the Hon'ble Supreme Court in Civil Appeal No.4395/2014 and WPC No.510/2023. It is further submitted that the amendments sought by the application in the writ petition are clarificatory in nature. The respondents have rights consequential amendment in their reply or to file additional reply if the same is being allowed and they have every right to defend their case and therefore, they may be permitted to carry out the necessary amendment in the writ petition.

Learned counsel for the respondent No.5 would submit that by way of proposed amendments the petitioners seeks to incorporate the documents which has been filed along with I.A. No.3 dated 06-05-2022. Unless the petitioners press that I.A. No.3 and the documents are become the part of the writ petition it cannot be presumed that the documents has been made part of the writ petition. He would further submit that the application I.A. No.3 dated 06-05-2022 is for taking additional facts on record which refers to the document Ex.-P/23 and P/24 which are the orders dated 02-02-2022 and 15-03-2022.

In the earlier hearing Mr. Mukul Rohtagi, learned Senior Advocate would submit that the petitioners got rights of forest dwellers in 2012 that

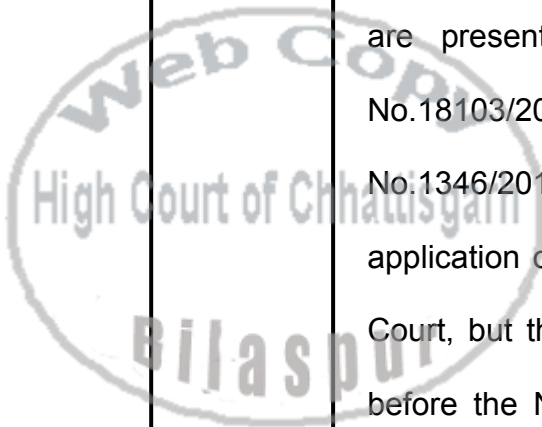


was challenged in the National Green Tribunal (hereinafter called as 'the NGT') and that was set aside by the NGT in the year 2014. The order passed by the NGT was challenged before the Hon'ble Supreme Court in appeal. The Hon'ble Supreme Court by the order dated 28-04-2014 granted interim relief that there will be stay of the orders by which the works which commenced was suspended by the NGT. In other words the stay of the NGT was stayed by the Hon'ble Supreme Court by order dated 28-04-2014. The respondent No.5 commenced mining thereafter under the orders of the Hon'ble Supreme Court. Suffice to say that while the NGT passed the order suspending the mining activities the NGT has directed the respondent to get fresh permission and fresh biodiversity reports etc. then only recommence their mining activities. Though in the passage of 10 years before the Hon'ble Supreme Court the interim order continued the respondent No.5 worked under the direction of the NGT and when their appeal came up for hearing before the Hon'ble Supreme Court on 16-10-2023 the Hon'ble Supreme Court passed the order that since the order of the NGT, the Ministry of Environment, Forest and Climate Change (MoEF&CC) has granted approval for commencing Phase II mining operation for the Parsa East and Kete Basan (PEKB) Coal Block on 2 February 2022. Thereafter, the State of Chhattisgarh has on 25 March 2022 accorded permission for coal mining and for non-forest activity in respect of the Parsa East and Kete Basan Coal Block comprising 1136 hectares. Further observed that the above facts are not in dispute and has ordered that since the order of the NGT has resulted in the above orders of MoEF&CC dated 2 February 2022 and of the State of Chhattisgarh dated 25 March 2022, Mr. A.N.S. Nadkarni, learned Senior counsel





appearing on behalf of the appellant states that the appeal is not pressed and then the appeal was accordingly disposed of. He would further submit that the work of phase-I was exhausted under the cover of the interim order passed by the Hon'ble Supreme Court and thereafter orders dated 02-02-2022 and 25-03-2022 are passed approving the permission of mining for phase II. Since the respondent No.5 has obtained fresh permission for phase II, he did not therefore, prays the appeal before the Hon'ble Supreme Court because the old permission was suspended by the NGT which was suspended by the Hon'ble Supreme Court and then that matter is over. The later part that arose from the present proceeding are present before the Court. The Special Leave Petition (Civil) No.18103/2022 arose against the order dated 30-09-2022 in WPC No.1346/2016, the Single Judge declined to entertain the interim relief application on the ground that the proceedings were pending before this Court, but the order dated 02-02-2022 and 25-03-2022 is challengeable before the NGT and are not challengeable before the High Court. The petitioners have rights to file appeal before the NGT against the order granting fresh approval. The mining is to somehow challenge the order dated 02-02-2022 and 25-03-2022 but these two orders passed MoEFCC granting approval for mining area is challengeable in NGT. He would also submit that respondent No.5 have right to cut trees under the mining plan with the condition to put 10 times plantation of trees. Therefore, their purpose to amend and to challenge these orders in order to obviate the result of the appeal which they should prefer before the NGT. The writ petition is filed in the year 2016 and they are now wanting to amend the writ petition and want to bring two things, i.e., challenge the order dated



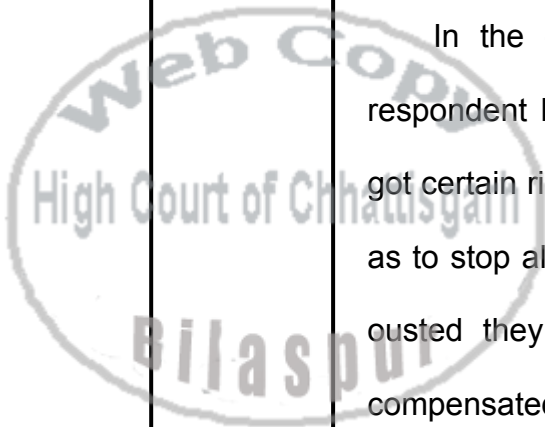


02-02-2022 and 25-03-2022 and vesting of the remaining community forest rights claims for the village Ghatbarra as made in their claim application dated 12-06-2013 and therefore the scope of the writ petition is entirely different from which is now introduced. The amendment would not be granted for the simple reason that the orders which they wish to impugn are orders challengeable before the NGT under Section 16 of the NGT Act 2010 and secondly in the while before the Hon'ble Supreme Court in last so many years the petitioners have not secured any orders and they made innocent statement that they will go and amend their writ petition, therefore the proposed amendments are not liable to be allowed.

In the earlier hearing Mr. Naman Nagarath, learned counsel for respondent No.5 would submit that merely because the petitioners have got certain rights does not act as the perpetual injunction in their favour so as to stop all activities, purpose of act is only even those who have been ousted they also needs to be recognized so that they may also be compensated. The petitioners have claimed in their writ petition that the order dated 08.01.2016 (Annexure-P/1) by which the rights of the petitioners is snatched away ultimately the relief would be that they would be entitled for certain compensation for the reason that they have certain rights over the forest land. The orders dated 02.02.2022 and 25.03.2022 are passed in consequence of the NGT's order.

Before adverting to the rival contentions put-forth by the either sides it would be required to consider the occasion arises for the amendment in the pleadings of the writ petition.

The present writ petition has been filed on 11 May, 2016 with the pleading and prayer to set aside the order dated 08.01.2016 issued by





respondent No.4 and to hold that the rights granted under the Scheduled Tribes and Other Traditional Dwellers (Recognition of Forest Rights Act), 2006 cannot be cancelled or revoked.

In the present case it is the pleading of the petitioners that they have been granted forest rights under the Forest Rights Act by order No.10378/a - 19(1) 2012-13, but vide order dated 08.01.2016 (Annexure-P/1) the forest rights of the petitioners have been cancelled. Thereafter the petitioners have approached before this Court to protect their forest rights. Although there is no interim order in favour of the petitioners, but they are pursuing their remedy by filing various applications either in the Court or before the appropriate authorities for redressal of their grievances. During pendency of the writ petition before this Court on 02.02.2022 the respondent No.1, Ministry of Environment, Forests and Climate Change (MoEFCC) granted approval to commence Phase – II mining operations in the balance forest area of 1136 hectares 6 years ahead of schedule. Subsequently, the State of C.G. has also granted approval for diversion of 1136 hectares of forest land to commence Phase- II mining operations in the remaining forest area vide order dated 25.03.2022. In furtherance thereof the APCCF also granted permission vide order dated 05.05.2022 to respondent No.5 to fell 7960 trees in 43.63 hectares of forest land in Phase – II mining area.

Since these three orders, i.e., orders dated 02.02.2022, 25.03.2022 and 05.05.2022 have been passed during pendency of the writ petition which give cause of action to the petitioners to challenge the orders by carrying out the amendment in the pleadings of the writ petition for which the application for amendment in the writ petition has been filed by the



petitioners.

It is well settled that the Court must be liberal in granting the prayer for amendment, if the court is of the view that if such amendment is not allowed, a party, who has prayed for such an amendment, shall suffer irreparably. It is always open to the Court to allow an amendment if it is of the view that allowing of an amendment shall really sub-serve the ultimate cause of justice and avoid further litigation.

In the matter of **Life Insurance Corporation of India Vs. Sanjeev Builders Private Limited and Another**, reported in 2022 SCC OnLine SC 1128, in para 22, 26, 27 and 29 of the judgment the Hon'ble Supreme Court has held as under :-

"22. It would be useful to also notice the observations of this Court in, *Pirgonda Hongonda Ptil v. Kalgonda Shidgonda Patil*, 1957 SCR 595 : AIR 1957 SC 363, wherein this Court considered an objection to the amendment on the ground that the same amounted to a new case and a new cause of action. In this case, this Court laid down the principles which would govern the exercise of discretion as to whether the court ought to permit an amendment of the pleadings or not. This Court approved the observations of Batchelor, J., in the case of *Kisandas Rupchand v. Rachappa Vithoba Shilwant* reported in ILR (1909) 33 Bom 644, when he laid down the principles thus:

"10. "All amendments ought to be allowed which satisfy the two conditions (a) of not working injustice to the other side, and (b) of being necessary for the purpose of determining the real questions in controversy between the parties but I refrain from citing further authorities, as, in my opinion, they all



lay down precisely the same doctrine. That doctrine, as I understand it, is that amendments should be refused only where the other party cannot be placed in the same position as if the pleading had been originally correct, but the amendment would cause him an injury which could not be compensated in costs. It is merely a particular case of this general rule that where a plaintiff seeks to amend by setting up a fresh claim in respect of a cause of action which since the institution of the suit had become bared by limitation, the amendment must be refused; to allow it would be to cause the defendant an injury which could not be compensated in costs by depriving him of a good defence to the claim. The ultimate test therefore still remains the same : can the amendment be allowed without injustice to the other side, or can it not.""

26. But undoubtedly, every case and every application for amendment has to be tested in the applicable facts and circumstances of the case. As the proposed amendment of the pleadings amounts to only a different or an additional approach to the same facts, this Court has repeatedly laid down the principle that such an amendment would be allowed even after the expiry of statutory period of limitation.

27. In this behalf, in *A.K. Gupta & Sons Ltd. v. Damodar Valley Corporation*, AIR 1967 SC 96 : (1996) 1 SCR 796, this Court held thus:

“7. a new case or a new cause of action particularly when a suit on the new case or cause of action is barred: *Weldon v. Neale* [[L.R.] 19 Q.B. 394]. But it is also well recognised that where the amendment does not constitute the

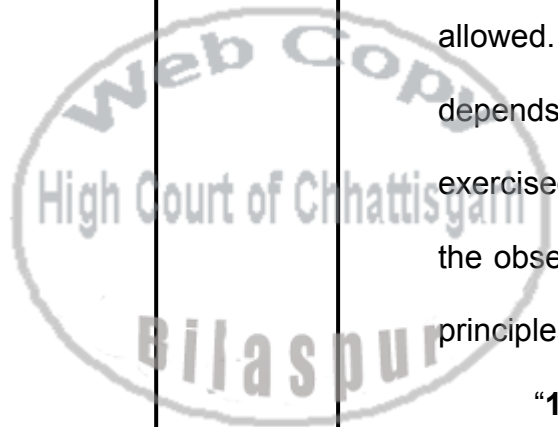


addition of a new cause of action or raise a different case, but amounts to no more than a different or additional approach to the same facts, the amendment will be allowed even after the expiry of the statutory period of limitation:.....”

29. In *Pankaja v. Yellappa (dead) by Irs.*, (2004) 6 SCC 415, this Court held that it was in the discretion of the court to allow an application under Order VI Rule 17 of the CPC seeking amendment of the plaint even where the relief sought to be added by amendment was allegedly barred by limitation. The Court noticed that there was no absolute rule that the amendment in such a case should not be allowed. It was pointed out that the court’s discretion in this regard depends on the facts and circumstances of the case and has to be exercised on a judicial evaluation thereof. It would apposite to notice the observations of this Court in this pronouncement in extenso. The principles were laid down by this Court thus:

“12. So far as the court’s jurisdiction to allow an amendment of pleadings is concerned, there can be no two opinions that the same is wide enough to permit amendments even in cases where there has been substantial delay in filing such amendment applications. This Court in numerous cases has held that the dominant purpose of allowing the amendment is to minimise the litigation, therefore, if the facts of the case so permit, it is always open to the court to allow applications in spite of the delay and laches in moving such amendment application.

13. But the question for our consideration is whether in





cases where the delay has extinguished the right of the party by virtue of expiry of the period of limitation prescribed in law, can the court in the exercise of its discretion take away the right accrued to another party by allowing such belated amendments.

14. The law in this regard is also quite clear and consistent that there is no absolute rule that in every case where a relief is barred because of limitations an amendment should not be allowed. Discretion in such cases depends on the facts and circumstances of the case. The jurisdiction to allow or not allow an amendment being discretionary, the same will have to be exercised on a judicious evaluation of the facts and circumstances in which the amendment is sought. If the granting of an amendment really subserves the ultimate cause of justice and avoids further litigation the same should be allowed. There can be no straitjacket formula for allowing or disallowing an amendment of pleadings. Each case depends on the factual background of that case.

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16. This view of this Court has, since, been followed by a three-Judge Bench of this Court in the case of T.N. Alloy Foundry Co. Ltd. v. T.N. Electricity Board [(2004) 3 SCC 392]. Therefore, an application for amendment of the pleading should not be disallowed merely because it is opposed on the ground that the same is barred by limitation, on the contrary, application will have to be considered bearing in mind the



discretion that is vested with the court in allowing or disallowing such amendment in the interest of justice.

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18. We think that the course adopted by this Court in Ragu Thilak D. John case [(2001) 2 SCC 472] applies appropriately to the facts of this case. The courts below have proceeded on an assumption that the amendment sought for by the appellants is ipso facto barred by the law of limitation and amounts to introduction of different relief than what the plaintiff had asked for in the original plaint. We do not agree with the courts below that the amendment sought for by the plaintiff introduces a different relief so as to bar the grant of prayer for amendment, necessary factual basis has already been laid down in the plaint in regard to the title which, of course, was denied by the respondent in his written statement which will be an issue to be decided in a trial. Therefore, in the facts of this case, it will be incorrect to come to the conclusion that by the amendment the plaintiff will be introducing a different relief.”

Hon'ble the Supreme Court in the matter of **M/s. Estralla Rubber Vs. Dass Estate (Private) Ltd**, reported in 2001 (8) SCC 97 held that mere delay in making the amendment application itself is not enough to reject the application for amendment, unless a new case is made out or serious prejudice is shown to have been caused to the other side so as to take away any accrued right.

The power to allow an amendment is undoubtedly wide and may at any stage be appropriately exercised in the interest of justice, the law of





limitation notwithstanding. But the exercise of such far reaching discretionary powers is governed by judicial considerations and wider the discretion, greater ought to be the care and circumspection on the part of the Court. Where amendment is found to be necessary for promoting the ends of justice and not for defeating the same, the application should be allowed.

As has been held in the matter of **Radhika Devi Vs. Bajrangi Singh and others**, reported in AIR 1996 SC 2358 and **Dondapati Narrayana Reddy Vs. Duggireddy Venkatanarayana Reddy**, reported in (2001) 8 SCC 115 it is settled that if a right accrues in favour of a party as the order impugned has not been challenged in time the said right cannot be taken away by seeking amendment in pleading. Further, normally amendment is not allowed if it changes the cause of action, but where the amendment does not constitute the addition of a new cause of action, or raises a new case, but amounts to not more than adding to the facts already on record, the amendment should be allowed even after the statutory period of limitation.

In **G. Nagamma & Ors. Vs. Siromanamma & Anr.**, reported in JT 1998 (4) SC 484, the Hon'ble Supreme Court observed that in an application for amendment, even an alternative relief can be sought; however, it should not change the cause of action or materially affect the relief claimed earlier. The Court may to certain extent allow the conversion of the nature of the suit provided it does not give rise to an entire new cause of action.

In the matter of **Pithanee Suryanarayana and Another Vs. Repaka**



Venkata Ramana Kishore and Others, reported in (2009) 11 SCC 308 it was held by the Hon'ble Supreme Court that court holds the power to allow such amendment provided: (i) application is bonafide, (ii) does not cause injustice to other side, (iii) does not affect the right(s) already accrued to the other side and the amendment should not change the basic structure of the proceeding.

While allowing the prayer for amendment of pleadings the court should avoid hypertechnical approach.

The respondents raised objection in proposed amendments on the ground that the three orders which the petitioners want to challenge by way of amendment in this petition is appealable before the NGT under Section 16 of the NGT Act would not be hurdle to incorporate the amendment in the present writ petition. The petitioners simply inserting the proposed amendment in their writ petition. The respondents are very well having their right to deny the pleadings and the prayer and may also raise their objection regarding maintainability of the writ petition if the proposed amendment is permitted to be incorporated in the writ petition which ultimately become a part of the pleadings and prayer. It is foreign to consider the merits of the amendment at the stage of considering the amendment application in the pleadings of the writ petition except while it changes the nature of writ petition. The merits of the amendment are to be examined only after incorporating the amendment in the pleadings and replied by the opposite party.

The petitioners would further submit that the rights of the villagers under the Scheduled Tribes and other Forest Dwellers (Recognition of



Forest Rights) Act, 2006 were protected by the statute itself and on their application partial rights were granted which have been withdrawn by the impugned order dated 08-01-2016 but for the remaining rights they are claiming since then by their application dated 12-06-2013 and the authorities have not decided their claim. Therefore, they want to amend the prayer for that also as para 10(v) in prayer column of the writ petition.

The present writ petition is filed on 11-05-2016 and on the date of filing of the writ petition, the cause of action for claim was already exist on that day itself because, the part of the claim which was granted earlier has been withdrawn and therefore, there was a threat on their right on that day itself when their rights have not been granted or when the partially granted rights have been withdrawn, the petitioners may claim at that time itself. In the opinion of this Court, permitting incorporation of new prayer as para 10(v) of prayer clause of writ petition as claimed by the petitioners, would amounts to change the very nature of the petition which take the prayer on the date of filing of the writ petition back under the Doctrine of relation back and entire scenario of the case would be reopened.

One more favourable aspect of the matter in favour of the petitioners is that all these three orders for which the petitioners seeking amendment in the writ petition has come into existence during pendency of the writ petition filed by the petitioners.

Considering the above factual aspects of the case and the law laid down by the Hon'ble Supreme Court, I am of the view that no prejudice will be caused to the opposite side if the petitioners are allowed to carry out the necessary amendments in their writ petition as sought for by them except



the prayer for amendment of prayer **clause 10(v)**. In the opinion of this Court the proposed amendment as sought for by them in 10(v) changes the complex of the writ petition and vary nature of the case. The said proposed amendment in the relief clause would take the matter back in the year 2013, that relief is claimed in the interest of public in general of village Ghatbarra which, if allowed, would certainly change the entire complexion of the writ petition.

For the foregoing reasons I.A. No.10 filed by the petitioners for amendment in the writ petition is partly allowed. The petitioners are entitled to carry out the amendment proposed in the pleadings in the writ petition as claimed in para 17 of the application I.A. No.10 and in para 18 upto the amendment in relief clause No.10(iv) and the prayer for amendment of the writ petition in relief clause by inserting a new prayer, i.e. "10 (v)" is rejected.

The respondents are at liberty to make their consequential amendments in their return/reply and may file necessary documents to rebut the amendment of the writ petition. The respondents are also at liberty to raise their objections available to them in the amended part of the writ petition, if so advised. Consequently, I.A. No.10/2023 is partly allowed.

The petitioners are directed to carry out the necessary amendment in the writ petition and to file the amended copy of writ petition as per rules.

I.A. No.13/2023

This is an application for appropriate orders filed by the petitioners on 21-12-2023.

By way of this application the petitioners prayed for appropriate order



to restrain the respondents from further destruction of forest area in PEKB Phase II mining till disposal of the instant writ petition.

As it has already been considered by the Coordinate Bench of this Court vide order dated 30-09-2022 and the application for grant of interim relief (I.A. No.5) has been rejected. The Coordinate Bench has already considered that the orders dated 02-02-2022, 25-03-2022 and 05-05-2022 have not been challenged in the writ petition. The order dated 30-09-2022 was challenged in the Hon'ble Supreme Court in Special Leave Petition (Civil) No.18103/2022. The said SLP has relegated the petitioners to this Court to pursue their rights and remedies in accordance with law. Since the application for interim relief in I.A. No.5 was not considered by this Court on the ground that the above three orders have not been challenged in the writ petition, the Hon'ble Supreme Court have given liberty to the petitioners to move an application for seeking interim relief and such liberty is subject to such objection which the contesting respondents may have to grant of interim relief.

Since the petitioners' application for amendment in the writ petition is partly allowed and they are permitted to carry out the necessary amendment and therefore, at this stage, this Court is not inclined to pass any orders on the application I.A. No.13 which is an application for appropriate orders and consequently, the same is rejected.

Sd/-
(Ravindra Kumar Agrawal)
Judge

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No 10604 of 2024

(Arising out of SLP (C) No 21759 of 2024 @ SLP (C) Diary No 39671 of 2024)

**Hasdeo Aranya Bachao Sangharsh
Samiti and Another**

Appellants

Versus

Union of India and Others

Respondents

ORDER

- 1 Delay condoned.
- 2 Leave granted.
- 3 The appeal arises from an order dated 2 May 2024 of a Single Judge of the High Court of Chhattisgarh.

proper to relegate the petitioners to pursue their rights and remedies in accordance with law. Since the application for interim relief in IA No 5 of 2022 was not considered by the High Court for the reasons which have been indicated above, we clarify that it will be open to the petitioners to move an application for seeking interim relief. The above liberty is subject to such objections which the contesting respondents may have to the grant of interim relief. This Court has not expressed any opinion on the merits of the challenge before the High Court.”

- 6 The above extract indicates that the application for interim relief (IA No 5 of 2022) was not considered by the High Court. Hence, this Court left it open to the appellants to move an application seeking interim relief before the High Court subject to the objections of the respondents.
- 7 The appellant moved an application for amending the writ petition, IA No 10 of 2023, as well as applications for interim relief - IA Nos 11 and 13 of 2023. The High Court partly allowed the application for amendment. However, the applications for the grant of interim relief were rejected on the ground that a coordinate Bench by its order dated 30 September 2022 had declined the grant of interim relief in IA No 5 of 2022.
- 8 The earlier order of this Court permitted the appellant to move an application for the grant of interim relief since the prior order rejecting IA No 5 of 2023 was on the ground that proceedings were pending before this Court and the orders dated 2 February 2022, 25 March 2022 and 5 May 2022 had not been challenged in the writ petition. The amendment to challenge those orders has been allowed by the High Court. Nonetheless the application for interim

relief has been rejected.

- 9 The rejection of the interim application is not based on any independent reasons, over and above what was already observed in the earlier order passed in IA No 5 of 2022.
- 10 In this backdrop, we are of the view that it would be appropriate to remit the proceedings back to the Single Judge of the High Court for reconsidering the applications for grant of interim relief, namely, IA Nos 11 and 13 of 2023. At this stage, Mr Mukul Rohatgi, senior counsel appearing on behalf of the respondent submitted that the respondent would have no objection if the High Court takes up the writ petition for final disposal within a time bound period.
- 11 Conscious as we are of the exigencies of work, we leave it open to the High Court to take up writ petition itself for final disposal if it is possible for the High Court to do so. In the event that the High Court does not find it possible to dispose of the writ petition expeditiously, we leave it open to the appellants to press the applications for interim relief (IA Nos 11 and 13 of 2023) which shall be considered by the High Court within a month from the date on which a certified copy of this order is placed on the record. We clarify that we have not expressed any opinion on the merits of the rival contentions.

- 12 The appeal is accordingly disposed of.

- 13 Pending applications, if any, stand disposed of.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[J B Pardiwala]

.....J.
[Manoj Misra]

New Delhi;
September 17, 2024
CKB

ITEM NO.22

COURT NO.1

SECTION IV-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CIVIL) Diary No.39671/2024

(Arising out of impugned final judgment and order dated 02-05-2024 in WPC No.1346/2016 passed by the High Court of Chhatisgarh at Bilaspur)

HASDEO ARANYA BACHAO SANGHARSH SAMITI & ANR.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With IA No.202777/2024-CONDONATION OF DELAY IN FILING and IA No.204083/2024-EXEMPTION FROM FILING O.T. and IA No.202776/2024-EXEMPTION FROM FILING O.T. and IA No.204082/2024-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 17-09-2024 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Mr. C.U. Singh, Sr. Adv.
Ms. Pyoli, AOR
Mrs. Shalini Gera, Adv.
Mr. Gautam Bhatia, Adv.
Ms. Bidya Mohanty, Adv.
Mr. Archit Krishna, Adv.

For Respondent(s) Mr. Mukul Rohatgi, Sr. Adv.
Mr. Atmaram Nadkarni, Sr. Adv.

Mr. Kartik Seth, Adv.
Mrs. Shriya Gilhotra, Adv.
Mrs. Maithili Moondra, Adv.
Mr. Raghav Sharma, Adv.
Mr. Chiranjeev Sharma, Adv.
Mr. Saurabh Chaturvedi, Adv.
M/s. Chambers Of Kartik Seth

**UPON hearing the counsel the Court made the following
O R D E R**

- 1 Delay condoned.
- 2 Leave granted.
- 3 The Civil Appeal is disposed of in terms of the signed order.
- 4 Pending applications, if any, stand disposed of.

(CHETAN KUMAR)
A.R.-cum-P.S.

(SAROJ KUMARI GAUR)
Assistant Registrar
(Signed order is placed on the file)



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**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPC No. 1346 of 2016**Forest Right Committee Ghatbarra **versus** Union Of India**Order Sheet**

03.10.2024	<p>Ms. Shalini Gera, Ms. Sameer Uraon & Mr. Akash Kumar Kundu, counsel for petitioners.</p> <p>Mr. Roshan Dubey, counsel for petitioner No.1.</p> <p>Mr. Tushar Dhar Diwan, Central Govt. Counsel for respondents No.1 and 2.</p> <p>Mr. Suyashdhar Badgaiya, Dy.G.A. for State-respondents No.3 and 4</p> <p>Mr. Naman Nagrath, Sr. Advocate with Mr. Shailendra Shukla and Ms. P.S. Nikita, counsel for respondent No.5.</p> <p>Heard on I.A. No.14/2024, which is an application for withdrawal of writ petition on behalf of petitioner No.1.</p> <p>Ms. Shalini Gera submits that though she is appearing on behalf of petitioners since long time, however, before filing this application, the members of the Committee have not approached her showing their intention not to</p>

contest the writ petition on their behalf. She however, submits that once the application is filed and is supported by an affidavit, she is having no objection.

Learned counsel for respondents also submits that they are having no objection on the application for withdrawal of writ petition on behalf of petitioner No.1.

On due consideration on the application and submission of learned counsel for respective parties, I.A. No.14/2024 is allowed. Name of petitioner No.1 be deleted from the array of petitioners from cause title of petition. Office is directed to make necessary correction.

Learned Senior Counsel appearing on behalf of respondent No.5 submits that as substantial amendment has been made in the writ petition, therefore, they may be granted two weeks time to file additional reply to the writ petition.

Learned counsel for petitioners presses upon the application for grant of interim relief in view of the observation made by Hon'ble Supreme Court in its order dated 17.09.2024. However, after arguing for sometime, both the sides agreed to argue the case finally.

In view of the above, I.A. No.15, I.A. No.16 and application for transposition of petitioner No.1 in the array of respondents stands disposed of.

List this case on 20.11.2024.

Sd/-
(Parth Prateem Sahu)
Judge

Balram



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