

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

Original Application No. 135/2024

IN THE MATTER OF:

Khusbu Singh

...Applicant

Versus

State of U.P. & Ors.

...Respondent

N.D.O.H. – 24.10.2024

INDEX

S.No.	Particulars	Page No.
1.	Affidavit on behalf of the Ministry of Environment, Forest, and Climate Change (Respondent No. 6)	1-10
2.	Annexure R6/1: A true copy of the order dated 03.06.2022 passed by the Hon'ble Supreme Court in WP(Civil) No. 202 of 1995.	11-71
3.	Annexure R6/2: A true copy of the Guidelines issued by Ministry of Environment and Forests dated 09.02.2011.	72-83
4.	Annexure R6/3: A true copy of the order dated 26.04.2023 passed by the Hon'ble Supreme Court in WP(Civil) No. 202 of 1995.	84-135
5.	Annexure R6/4: A true copy of the letter dated 09.07.2024 issued by Ministry of Environment, Forests and Climate Change.	136-137
6.	Annexure R6/5: A true copy of the Ministry of Environment, Forests and Climate Change's Notification S.O. 1886 (E) dated 20.04.2022.	138-143

7.	Annexure R6/6: A true copy of the Ministry of Environment and Forests' notification S.O. 637 (E) dated 28.02.2014.	144-145
----	---	---------

THROUGH

A handwritten signature in blue ink, appearing to read 'Suhasini', is written over a faint, illegible background.

SUHASINI SEN
(COUNSEL FOR MOEF&CC)
R289B, LGF, GREATER KAILASH I NEW DELHI- 110048
TEL: +91-96500 96066, +91-9953049776,
suhasini@rschambers.net, office@rschambers.net

New Delhi

Date: 23.10.2024

BEFORE THE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Original Application No. 135/2024

**IN THE MATTER OF:**

Khusbu Singh

...Applicant

Versus

State of U.P. & Ors.

...Respondent

AFFIDAVIT ON BEHALF OF THE MINISTRY OF ENVIRONMENT,**FOREST AND CLIMATE CHANGE (RESPONDENT No. 6)****MOST RESPECTFULLY SHOWETH:**

I, Dr. A.K. Gupta, currently working as Scientist 'E' in the Ministry of Environment, Forest and Climate Change (MoEF&CC), Regional Office, Lucknow, do hereby solemnly affirm and state as under:-



1. That I, in my official capacity of Scientist 'E' in the Ministry Environment, Forest and Climate Change, Regional Office, Lucknow i.e. Respondent No. 6 in the above mentioned matter, am conversant with the facts and circumstances of the case on the basis of official records, and as such authorized and competent to swear this affidavit.
2. It is submitted that a short affidavit is being filed by the answering respondent at this stage and craves leave and liberty to file a detailed Counter Affidavit to the aforesaid application, as and when required.
3. That, the applicant herein has stated before the Hon'ble Tribunal that, the damage to the breeding ground of Turtle Wildlife Sanctuary and aquatic life at Prayagraj, Mirzapur and Sant Ravidas nagar Bhadohi is being carried out by large scale illegal sand mining using heavy pokland machines dumper, tractor and motor boats causing noise pollution.
4. The applicant has further stated that, the turtle wildlife sanctuary was earlier located at Ramnagar Kashi, Varanasi till year 2020, but with the increase in concretized river bank, religious, tourism, commercial activities and increase in number of boats, the Turtle sanctuary was de-notified and shifted by demarcating 30 km area of River Ganga at Prayagraj, Mirzapur and Sant Ravidas nagar Bhadohi, where maximum habitat of turtles was observed. In this regard 60 Forest officers were trained and survey was



carried out by experts of Turtle survival alliances, Lucknow. Survey team observed breeding grounds of turtle beyond 30 km on both banks within 10 km distance by observing their eggs on the sand.

5. Most respectfully, it is submitted that, with a view to ensure the ecological and environmental security and for the conservation, protection and management of wild life of the Country, the Wild Life (Protection) Act, 1972 came into force.
6. It is further submitted that, Section 18 A of the Wild Life (Protection) Act, 1972, (herein after as 'WLPA') provides the protection to Wildlife Sanctuaries. Further, Section 27 of the WLPA provides the restriction on entry in Sanctuary and states as:

"Section 27, Restriction on entry in sanctuary. -

(1) No person other than, -

(a) a public servant on duty;

(b) a person who has been permitted by the Chief Wild Life Warden or the authorised officer to reside within the limits of the sanctuary;

(c) a person who has any right over immovable property within the limits of the sanctuary;



(d) a person passing through the sanctuary along a public highway;

and

(e) the dependents of the person referred to in clause (a), clause (b) or clause (c), shall enter or reside in the sanctuary, except under and in accordance with the conditions of a permit granted under section 28.

(2) Every person shall, so long as he resides in the sanctuary, be bound-

(a) to prevent the commission, in the sanctuary, of an offence against this Act;

(b) where there is reason to believe that any such offence against this Act has been committed in such sanctuary, to help in discovering and arresting the offender;

(c) to report the death of any wild animal and to safeguard its remains until the Chief Wild Life Warden or the authorised officer takes charge thereof;

(d) to extinguish any fire in such sanctuary of which he has knowledge or information and to prevent from spreading, by any lawful means in his power, any fire within the vicinity of such sanctuary of which he has knowledge or information; and

(e) to assist any Forest Officer, Chief Wild Life Warden, Wild Life Warden or Police Officer demanding his aid for preventing the



commission of any offence against this Act or in the investigation of any such offence.

(3) No person shall, with intent to cause damage to any boundary-mark of a sanctuary or to cause wrongful gain as defined in the Indian Penal Code (45 of 1860, alter, destroy, move or deface such boundary-mark.

(4) No person shall tease or molest any wild animal or litter the grounds of sanctuary.”

7. It is submitted that, the provisions of Section 28 of WLPA states that, the Chief Wildlife Warden may grant permit to any person to enter or reside in a sanctuary for certain purposes. Further, in accordance with the provisions of Section 29 of the WLPA, Destruction etc. in a Sanctuary is prohibited without a permit and it states as follows;

“Section 29, Destruction, etc., in a sanctuary prohibited without a permit.

No person shall destroy, exploit or remove any wild life including forest produce from a sanctuary or destroy or damage or divert the habitat of any wild animal by any act whatsoever or divert, stop or enhance the flow of water into or outside the sanctuary, except under and in accordance with a permit granted by the Chief Wild Life Warden, and



no such permit shall be granted unless the State Government being satisfied in consultation with the [National Board] that such removal of wild life from the sanctuary or the change in the flow of water into or outside the sanctuary is necessary for the improvement and better management of wild life therein, authorises the issue of such permit."

8. It is further submitted that, Section 33 of the WLPA provides the Control of Sanctuaries by the Chief Wild Life Warden, who shall be the authority to control, manage and protect all Sanctuaries. It is further submitted that the Wild Life (Protection) Act, 1972, mandates strict protection of wildlife habitats, and any form of encroachment or illegal construction within or near protected areas constitutes a grave violation of the Act. Further, in the case of unauthorised construction or illegal encroachments, the State Government is itself empowered to take action and initiate proceeding against the wrongdoers.
9. That, the Hon'ble Supreme Court of India vide order dated 03.06.2022 in IA No. 1000 of 2003 in W.P. (C) no. 202 of 1995 directed that "...in respect of sanctuaries or national parks for which the proposal of a State or Union Territory has not been given, the 10 kilometres buffer zone as ESZ, as indicated in the order passed by this Court on 4th December 2006

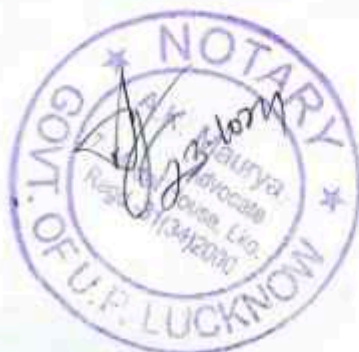


in the case of Goa Foundation (supra) and also contained in the Guidelines of 9th February 2011 shall be implemented. Within that area, the entire set of restrictions concerning an ESZ shall operate till a final decision in that regard is arrived at..." The Mining is categorised as a prohibited activity in the guidelines. A copy of the order dated 03.06.2022 is marked and annexed herein as **Annexure R6/1**. A copy of the Guidelines dated 09.02.2011 is marked and annexed herein as **Annexure R6/2**.

10. It is humbly submitted that, the Hon'ble Supreme Court of India vide order dated 26.04.2023 in IA 131377 of 2022 in W.P. (C) no. 202 of 1995 directed that mining within the National Park and Wildlife Sanctuary and within an area of one kilometer from the boundary of such National Park and Wildlife Sanctuary shall not be permissible. A copy of the order dated 26.04.2023 is marked and annexed herein as **Annexure R6/3**.

11. It is humbly submitted that, the proposal for declaration of ESZ around the newly notified Turtle Sanctuary in 2020 has not yet been received from the State Government of Uttar Pradesh. The State Government has been reminded by the Ministry vide letter dated 09.07.2024. A copy of the letter dated 09.07.2024 is marked and annexed herein as **Annexure R6/4**.

12. That, the State Department of Mines and Geology is the Nodal Authority in the State for dealing with the allotment of mining leases under the Mines



and Minerals (Development and Regulation) Act (MMDR Act) and is entrusted with the enforcement and regulation of mining operations in a State including illegal mining. Further, the State Government is empowered under Section 23 C of the Mines and Minerals (Development and Regulation) Act 1957(MMDR Act) to make rules for prevention of illegal mining, transportation and storage of minerals.

13. It is submitted that, the Ministry issued Environmental Impact Assessment (herein after referred as "EIA") Notification dated 14th September, 2006 which requires certain projects to obtain prior Environmental Clearance ("EC") before any construction work in case of new projects or expansion and modernization of existing projects or activities. The Schedule to the Notification details the categories or Projects or Activities which require prior environmental clearance.

14. It is further submitted that all projects and activities are broadly categorized into two categories - Category "A" and Category "B", based on the spatial extent of potential impacts and potential impacts on human health and natural and man made resources. All projects or activities included as Category 'A' in the Schedule, including expansion and modernization of existing projects or activities and change in product mix, require prior environmental clearance from the Central Government in the Ministry of



Environment, Forest and Climate Change (MoEF&CC) and all projects or activities included as Category 'B' in the Schedule require prior environmental clearance from the State/Union territory Environment Impact Assessment Authority (SEIAA).

15. That, in exercise of the powers conferred upon the Central Government under sub section (3) of section 3 of the Environment (Protection) Act, 1986 and in accordance with the procedures specified in the EIA Notification, 2006, SEIAAs have been constituted in different States/UTs to discharge the functions of the regulatory authorities for the respective States/UTs.
16. That, the Ministry issued a notification S.O. 1886 (E) vide dated 20.04.2022 wherein, the Ministry has delegated the power to the State Level Environment Impact Assessment Authority (SEIAA) to grant Environmental Clearances to all minor mineral mining projects, irrespective of mine lease area and ≤ 250 ha mining lease area in respect of major mineral mining lease other than coal. A Copy of the Ministry's Notification S.O. 1886 (E) dated 20.04.2022 is marked and annexed herein as **ANNEXURE R6/5**.
17. That, the Ministry vide notification no. S.O. 637 (E) dated 28.02.2014 delegated the power to SEIAA to issue show cause notice to project



proponents in case of violation of the conditions of the Environmental Clearances (EC) issued by the said Authorities to projects or activities within their jurisdiction and to issue directions to the said project proponents for keeping such EC in abeyance or withdrawing them, if required, for violations. A copy of the notification S.O. 637 (E) dated 28.02.2014 are marked and annexed herein as ANNEXURE R6/6.

18. That, in view of the aforementioned facts and circumstances, this Hon'ble Tribunal may kindly be pleased to pass appropriate order(s)/directions as the Hon'ble Tribunal may deem fit and proper in the interest of justice.

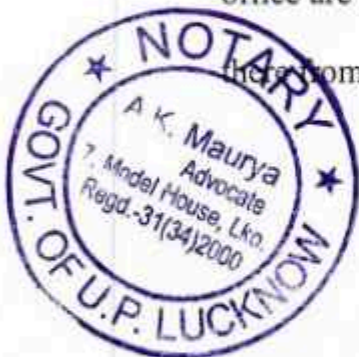
[Signature]
DEPONENT

VERIFICATION

Verified at Lucknow on this day 23rd of October, 2024 that the contents of this affidavit based on official record(s) maintained and information available in the office are true and correct, no part of it is false and nothing has been concealed

herefrom.

[Signature]
DEPONENT



ATTESTED
[Signature]
A. K. Maurya
Advocate Notary
7, Model House, Lucknow

I identify the deponent/executor who has signed/signed before me
[Signature]
NOTARY

REPORTABLEIN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

I.A. No.1000 of 2003
(Recommendation of CEC dated 20.11.2003)

WITH

I.A. Nos.982-984 of 2003ANDI.A. Nos.1026-1028 of 2004ANDI.A. Nos. 1123-1124 of 2004ANDI.A. Nos.1197-1199 of 2004ANDI.A. Nos. 1210-1211 of 2004ANDI.A. Nos.1250-1251 of 2004ANDI.A. No. 1412 of 2005ANDI.A. No.1512 of 2006ANDI.A. No. 1992 of 2007AND

I.A. No. 3880 of 2015

AND

I.A. No. 96949 of 2019

AND

I.A. No. 117831 of 2019

AND

I.A. NO. 65571 of 2021

In the Matter of:

WRIT PETITION (CIVIL) NO. 202 of 1995

In Re: T.N. Godavarman ThirumulpadPetitioner(s)

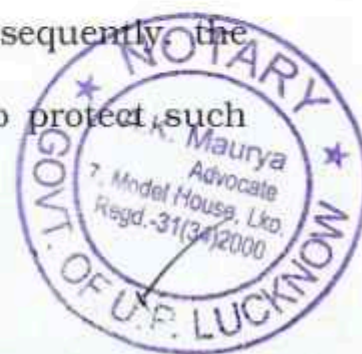
Versus

Union of India and Ors.Respondent(s)

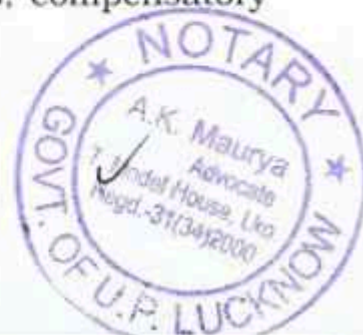
J U D G M E N T

ANIRUDDHA BOSE, J.

These proceedings originate from the Writ Petition under Article 32 of the Constitution of India registered as W.P. (Civil) No. 202 of 1995 (T.N. Godavarman Thirumulpad v. Union of India and Ors.), which is in the nature of a public interest litigation. It was instituted for protection of forest lands in the Nilgiris district of the State of Tamil Nadu. Subsequently the scope of that writ petition was enlarged so as to protect such



natural resources throughout the country. The original writ petitioner has since passed away (on 1st June 2016) but in an order passed on 3rd February 2017, this Court opined that being a public interest litigation, there was no requirement for bringing on record the legal representatives of the deceased petitioner. The writ petition, in substance, continued with the cause title "in Re: T.N. Godavarman Thirumulpad v. Union of India & Ors". Various Orders have been passed from time to time in this writ petition to ensure preservation of forest resources of this country in balance with economic activities. By an Order of this Court dated 9th May 2002, a Central Empowered Committee ("CEC") was directed to be formed primarily for monitoring implementation of this Court's orders and to place the incidents of non-compliance before us. Subsequently, by a notification issued on 17th September 2002 by the Ministry of Environment and Forest in exercise of power under Section 3(3) of the Environment (Protection) Act, 1986, this committee was constituted under statutory provisions. CEC has been bringing to the notice of this Court the steps taken for removal of encroachment, implementation of working plans, compensatory



afforestation, plantation and other conservation issues. In this order, we shall be mainly dealing with two sets of issues. The first set relates to mining activities in and around a wildlife sanctuary in the State of Rajasthan- known as "Jamua Ramgarh" (also spelt as Jamwa Ramgarh). The second set of issues is wider in scope, and involves prescribing eco-sensitive zones (ESZ) surrounding the wildlife sanctuaries and national parks. The subject of mining and other commercial activities within the wildlife sanctuaries and national parks (protected forests) shall also be dealt by us in this order. The applications before us require examination in the perspective of a set of recommendations made by the CEC and we have been urged by a set of applicants to make certain modifications of this Court's earlier directions concerning steps to be taken for protection of forest resources. The applicants seeking modifications of our earlier orders include a set of miners, and, in some cases, the State Governments asking for opening up of the protected forest areas and their buffer zones, on which restrictions have been placed in by our earlier orders, for commercial exploitation. There is dispute as to what would constitute the buffer zones on

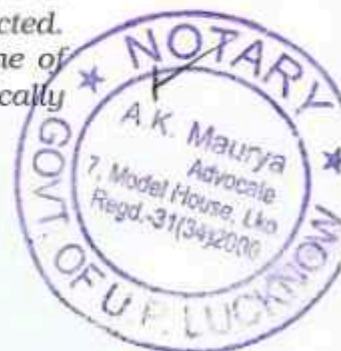


ESZ in respect of national parks and wildlife sanctuaries, as there are divergence of views among the various stakeholders.

2. The present set of applications arise out of a report of the CEC dated 20th November 2003. This report specifically pertains to Jamua Ramgarh wildlife sanctuary. This sanctuary covers an area of about 300 square kilometres. The said report gives a horrific picture of ravaging of a protected forest mainly by private miners mostly with temporary working permits obtained from the Governmental agencies. Following recommendations were made in this report:-

"17..... (i) all mining leases which wholly or partly fall within the forest area inside the Jamua Ramgarh Sanctuary and also within the safety zone, should be immediately cancelled. The mining activity can be allowed to be resumed only after the new/amended mining leases, after excluding the forest area and the safety zone are sanctioned by the competent authority and the conditions mentioned herein under are fully complied with;

(ii) presently a safety zone of twenty five meter has been fixed for Jamua Ramgarh Sanctuary and other sanctuaries in Rajasthan as against 500 meter for Ranthambhore National Park in Rajasthan itself. In Madhya Pradesh safety zone of 250 meter for all the 20 forest area has been fixed. The CEC is of the view that minimum 500 meter safety zone around National Parks and Sanctuaries is necessary where no mining, construction and other projects should be allowed. Without a reasonable safety zone the habitat and wild life in the National Parks and Sanctuaries are adversely affected. Although stringent conditions are imposed at the time of the sanction of the mining leases, none are practically

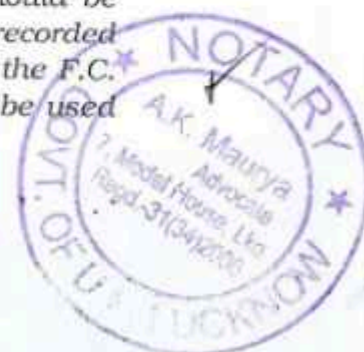


complied with due to weak enforcement of the laws. The mining causes heavy disturbance in the area due to blasting, removal of over burden, chiseling, transportation, flying debris and movement of a large number of labourers and other persons. The safety zone of twenty five meter presently prescribed by the Rajasthan Forest Department is totally inadequate as the rocks torn apart during blasting can travel much beyond the present safety zone. However, increasing the safety zone to the desired level of 500 meter will result in closure of large number of mines. Taking a holistic overall view of the situation, the CEC recommends that for the Jamua Ramgarh wild life sanctuary, for the "existing" mines the safety zone may be fixed as 100 meter wherein no mining should be permitted. "For new" mining leases the safety zone may be fixed as 500 meter.

(iii) reclamation and rehabilitation of the area mined inside the sanctuary should be carried out in a time bound manner at the cost of the user agency for which a detailed reclamation and rehabilitation plan along with various items of work, cost involved and time frame should be prepared and implemented on priority basis. The plan presently prepared by the State Government is totally inadequate. It does not provide for reclamation and rehabilitation of the mining pits at all. No provision for removal of stones and rocks scattered in the sanctuary has been made. Intensive plantations and protection has not been provided. The revised plan should incorporate the above and other necessary measures to provide a congenial habitat for wild life. In the event adequate funds for this purpose cannot be recovered from the erstwhile mine lease owners, the same should be made available by the State Government:

(iv) mining around the sanctuary should be allowed to restart only after a fool proof mechanism is put in place to ensure recovery of funds for implementation of reclamation and rehabilitation plan by the State Government;

(v) exemplary compensation equivalent to the present market value of the entire mineral removed by the respective mine owners by mining inside the sanctuary in violation of the F.C. Act and/or the W. P. Act should be recovered from them on the basis of the recorded production or the estimated figures mentioned in the F.C. Act applications. The money so recovered should be used



for protection and development of the sanctuary to its full potential;

(vi) the left over minerals scattered inside the sanctuary should be directed to be removed immediately.

(vii) the left over mining equipments such as cranes etc. should be confiscated and removed outside the sanctuary at the cost of the erstwhile mine lease holders;

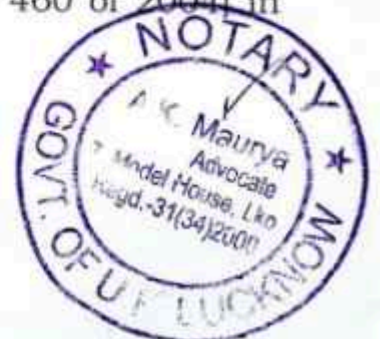
(viii) no mining should be permitted adjoining the sanctuary till the boundary of the sanctuary is demarcated on the ground and the boundary pillars are verified with the fixed reference points;

(ix) disciplinary action should be taken in a time bound manner against the erring officials in the Mines and the Forest Departments of the State of Rajasthan and the MoEF for allowing mining in violation of the F.C. Act, the W. P. Act and/or this Hon'ble Court's order;"

(quoted verbatim from paperbook)

3. This Court had converted this report with its set of recommendations into an Interlocutory Application and was allocated registration number I.A. 1000 of 2003.

4. On 20th September 2012, a second report was submitted by the CEC. The recommendations made in the second report went beyond the Jamua Ramgarh Sanctuary and dealt with creation of identification and declaration of safety zones around protected forests all across the country. The question of having ESZ around the protected forests was examined by this Court earlier in another Writ Petition [W.P. (Civil) No. 460 of 2004] in



Goa Foundation v. Union of India. In the said writ petition, the following order was passed on 4th December 2006 [reported in (2011) 15 SCC 791]: -

"4. The Ministry is directed to give a final opportunity to all States/Union Territories to respond to its letter dated 27-5-2005. The State of Goa also is permitted to give appropriate proposal in addition to what is said to have already been sent to the Central Government. The communication sent to the States/Union Territories shall make it clear that if the proposals are not sent even now within a period of four weeks of receipt of the communication from the Ministry, this Court may have to consider passing orders for implementation of the decision that was taken on 21-1-2002, namely, notification of the areas within 10 km. of the boundaries of the sanctuaries and national parks as eco-sensitive areas with a view to conserve the forest, wildlife and environment, and having regard to the precautionary principles. If the States/Union Territories now fail to respond, they would do so at their own risk and peril".

5. Two writ petitions have been instituted titled as **Goa Foundation v. Union of India** [W.P. (Civil) No.460 of 2004] and **Goa Foundation v. Union of India and Others** [W.P. (Civil) No.435 of 2012], in relation enforcement of various circulars issued for enforcement of environmental laws and to prevent illegal mining in different States including the State of Goa. There are certain overlapping issues involved in the present writ petition and the cases of **Goa Foundation** (supra). The directions



which we propose to issue in this judgment/order shall take into account the orders passed in the cases of **Goa Foundation** (supra) and such directions shall be supplemental to the orders passed in any of the aforesaid two writ petitions if our directions passed in this order relate to areas or subjects covered by any mandate passed in the said two writ petitions.

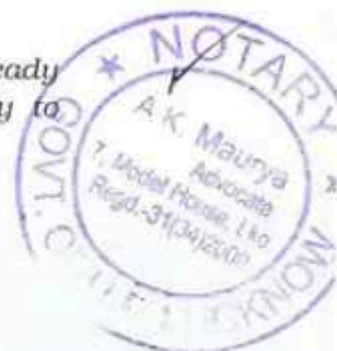
6. A set of Guidelines for Declaration of Eco-Sensitive Zones (ESZ) around National Park and Wildlife Sanctuaries had been formulated by the Ministry of Environment, Forest and Climate Change (MoEF&CC) of the Government of India on 9th February 2011 [F. No.1-9/2007 WL - I (pt)]. These Guidelines deal with the process and procedures to be adopted for declaring ESZ. In Clauses 3 and 4 of these Guidelines, it has been stipulated: -

"3. Purpose for declaring Eco-Sensitive Zones:

The purpose of declaring Eco-sensitive Zones around National Parks and Sanctuaries is to create some kind of "Shock Absorber" for the Protected Areas. They would also act as a transition zone from areas of high protection to areas involving lesser protection. As has been decided by the National Board for Wildlife, the activities in the Eco-sensitive zones would be of a regulatory nature rather than prohibitive nature, unless and otherwise so required.

4. Extent of Eco-Sensitive Zones:

4.1 Many of the existing Protected Areas have already undergone tremendous development in close vicinity to



their boundaries. Some of the Protected Areas actually lying in the urban setup (Eg. Guindy National Park, Tamil Nadu, Sanjay Gandhi National Park, Maharashtra, etc). Therefore, defining the extent of eco-sensitive zones around Protected Areas will have to be kept flexible and Protected Area specific. The width of the Eco-sensitive Zone and type of regulations will differ from Protected Area to Protected Area. However, as a general principle the width of the Eco-sensitive Zone could go up to 10 Kms around a Protected Area as provided in the Wildlife Conservation Strategy-2002.

4.2 In case where sensitive corridors, connectivity and ecologically important patches, crucial for landscape linkage, are even beyond 10 kms width, these should be included in the Eco-sensitive Zone.

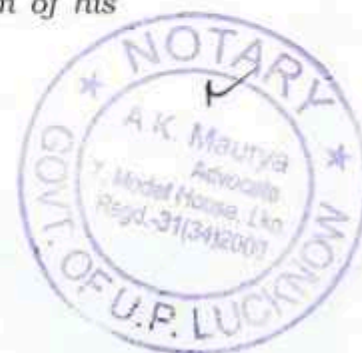
4.3 Further, even in context of a particular Protected Area, the distribution of an area of Eco-sensitive Zone and the extent of regulation may not be uniform all around and it could be of variable width and extent."

(quoted verbatim from paperback)

7. In Clauses 6 and 7 of the said Guidelines, it has been specified:-

"6. The procedure to be adopted:

6.1 As has been indicated in the forgoing paras, the basic aim is to regulate certain activities around National Park and Wildlife Sanctuary so as to minimize the negative impacts of such activities on the fragile ecosystem encompassing the Protected Area. As a first step towards achieving this goal, it is a pre-requisite that an inventory of the different land use patterns and the different types of activities, types and number of industries operating around each of the Protected Area (National Parks, Sanctuaries) as well as important Corridors be made. The inventory could be done by the concerned Range Officers, who can take a stock of activities within 10 km of his range.



157

6.2 For the above purpose, a small committee comprising the concerned Wildlife Warden, an Ecologist, an official from the Local Self Government and an official of the Revenue Department of the concerned area, could be formed. The said committee could suggest the:

- (i) Extent of eco-sensitive zones for the Protected Area being considered.
- (ii) The requirement of such a zone to act as a shock absorber.
- (iii) To suggest the best methods for management of the eco-sensitive zones, so suggested.
- (iv) To suggest broad based thematic activities to be included in the Master Plan for the region.

6.3 Based on the above, the Chief Wildlife Warden could group the activities under the following categories (an indicative list of such activities is attached as **ANNEXURE-1**):-

- (i) Prohibited
- (ii) Restricted with safeguards.
- (iii) Permissible

6.4 Once the proposal for Eco-sensitive zones has been finalized, the same may be forwarded to the Ministry of Environment and Forests for further processing and notification. Here, it may be noted that, the State/ Union Territory Forest Department could forward the proposals to the respective authority in the State Government with copy to the Ministry of Environment and Forests, as and when the proposals (even if it is for single Protected Area) are complete. An indicative list of details that need to be submitted along with the proposals is at **ANNEXURE-2**.

6.5 It is to mention here that in cases where the boundary of a Protected Area abuts the boundary of another State/Union Territory where it does not form part of any Protected Area, it shall be the endeavour of both the State/ Union Territory Governments to have a mutual consultation and decide upon the width of the ecosensitive zone around the Protected Area in question.

6.6 The State Government should endeavour to convey a very strong message to the public that ESZ are not meant



to hamper their day to day activities, but instead, is meant to protect the precious forests/Protected Areas in their locality from any negative impact, and also to refine the environment around the Protected Areas. A copy of the notification of the Sultanpur Eco-sensitive Zone issued by the Ministry is attached herewith at ANNEXURE-3 for reference and guidance.

7. These guidelines are indicative in nature and the State / Union Territory Governments may use these as basic framework to develop specific guidelines applicable in the context of their National Parks, Wildlife Sanctuaries, important corridors, etc. with a view to minimizing and preferably eliminating any negative impact on protected areas."

(quoted verbatim from paperbook)

8. As per the said Guidelines, commercial mining, setting up of saw mills and industries causing pollution, commercial use of firewood, establishment of major hydro-electric projects, use of production of any hazardous substances, undertaking activities related to tourism like over-flying the national park area by any aircraft, hot-air balloons, discharge of effluents and solid waste in natural water bodies or terrestrial areas have been proposed to be made prohibited activities. Certain other activities having lesser environment damaging potential have been proposed to be regulated.

9. By an order passed on 4th August 2006, this Court had, inter-alia, restrained grant of temporary working permits for



mining within safety zones around any national park/wildlife sanctuary declared under Sections 18, 26-A or 35 of the Wild Life (Protection) Act, 1972. As an interim measure, direction was issued to maintain one kilometre safety zone, which was subject to the orders that may be made in the present IA (I.A. No.1000 of 2003).

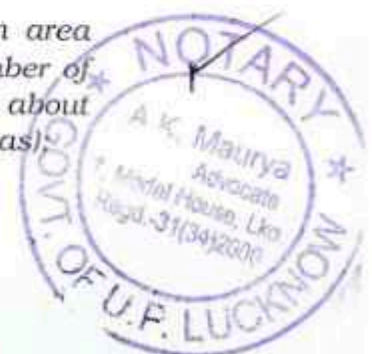
10. The second report of the CEC dated 20th September 2012 makes the following recommendations as regards identification and declaration of ESZ. This report entitled **"Note regarding safety zones (Eco-sensitive zones) around National Parks and Wildlife Sanctuaries"** makes the following recommendations:-

"10. After considering that during the last ten years no significant progress has been made regarding identification and declaration of Safety Zones around protected areas and considering the matter in its totality, an implementable scheme has been prepared by the CEC and which has been dealt with in subsequent paragraphs.

11. For the purpose of identification and declaration of the Safety Zones around National Parks/Wildlife Sanctuaries (hereinafter referred to as protected areas), the protected areas based on their areas, are classified into four categories:

*i) **CATEGORY-A** - the protected areas having an area of 500 sq. km. or more. The total number of such protected areas is 73 and their total area is about 1,01,389 sq. km (63.44 % of total area of protected areas);*

*ii) **CATEGORY-B** - the protected areas having an area between 200 sq. km. to 500 sq. km. The total number of such protected areas is 115 and their total area is about 38942 sq. km. (24.37 % of total area of protected areas);*



iii) **CATEGORY-C** - the protected areas having an area between 100 sq. km. to 200 sq. km. The total number of such protected areas is 85 and their total area is about 12,066 sq. km (about 7.55 % of total area of protected areas); and

iv) **CATEGORY-D** - the protected areas having an area up to 100 sq. km. The total number of such protected areas is 344 and their total area is about 7,422 sq. km (about 4.65 % of total area of all protected areas).

12. Wherever two or more protected areas are contiguous to each other, such protected areas will be placed in the appropriate category based on the sum total of their areas (and not on the basis of area of individual protected area). The details of some of the contiguous protected areas are given below:

i) Corbett National Park (520 sq. km.) and Sonanadi Sanctuary (301 sq. km) - total area is 821 sq. km and therefore both will fall in Category-A;

ii) Gir National Park (258 sq. km.) and Gir Sanctuary (1,153 sq. km.) - total area is 1,411 sq. km. and therefore both will fall in Category-A;

iii) Periyar National Park (350 sq. km.) and Periyar Sanctuary (427 sq. km.) - total area is 777 sq. km. and therefore both will fall in Category-A;

iv) Satpura National Park (585 sq. km.), Bori Sanctuary (485 sq. km.) and Pachmarhi Sanctuary (417 sq. km.) - total area is 1488 sq. km. and therefore all three will fall in Category-A;

v) Valmiki National Park (335 sq. km.) and Valmiki Sanctuary (545 sq. km.) - total area is 880 sq. km. and therefore both will fall in Category-A;

vi) Tadoba National Park (116 sq. km.) and Andhari Wildlife Sanctuary (509 sq. km.) - total



area is 625 sq. km. and therefore both will fall in Category-A; and

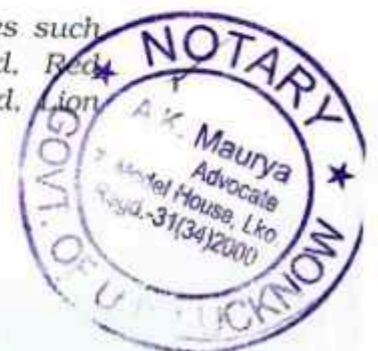
vii) Sariska National Park (273 sq. km.) and Sariska Sanctuary (219 sq. km.) - total area is 492 sq. km. and therefore both will fall in Category-B;

13. The Safety Zone, in respect of protected areas falling in 'Category-A and Category-B, may comprise of all the areas including non-forest areas falling within a distance of two kilometers and one kilometer respectively from the boundaries of the protected area. Such distances, in respect of protected areas falling within Category-C and Category-D, may be kept at 500 meter and 100 meter respectively.

14. The grant/renewal of mining leases (excluding for collection of boulders, gravel and sand from river beds), setting up of hazardous industries, brick kilns, wood based industries (except MDF/Particle Boards Plants) will be treated as prohibited activities within the Safety Zone (eco-sensitive zones). The activities such as setting up of industries (other than those included in the list of prohibited activities), hotels and restaurants including resorts, commercial helicopter services, hydel projects, irrigations projects, canals, laying of transmission lines and distribution lines above 33 KV, roads of more than five meter width and collection of boulders, gravel and sand from the river beds will be treated as regulated activities and which will be permissible only after obtaining environment clearance and clearance of the Standing Committee, National Board for Wildlife. All other activities which are not prescribed as prohibited activities or regulated activities will be treated as permissible activities.

15. The concerned State/UT will be at liberty to shift a protected area from a lower category to higher category (say from Category-C to Category-B) after considering the importance of the protected area on account of:

i) presence of flagship species/endangered species such as Tiger, Lion, Elephant, Rhino, Snow Leopard, Red Panda, Hangul, Musk deer, Great Indian Bustard, Lion Tailed Macaque, floricans;



ii) fragile eco-system such as Western Ghats, North Eastern States, areas having high altitude flora and fauna, rain forest, mangroves, marine eco-system;

iii) World Heritage sites; and

iv) Wetland eco-systems

16. The concerned State/UT Governments may after detailed examination of the status of habitation, existing industries and other activities and other relevant factors, and, if found degradable and in public interest forward the proposal(s) for shifting a protected area from a higher category to a lower category. They may also forward the proposal(s) for exclusion of the areas of cities falling within the Safety Zone. The MoEF thereafter will examine such proposals and place such proposals before the Standing Committee of the National Board for Wildlife for its consideration. The proposals cleared by the Standing Committee of the NBWL will be placed before this Hon'ble Court for seeking its permission. It is only after obtaining the permission of this Hon'ble Court that a protected area may be shifted from a higher category to a lower category.

17. The Safety Zones (eco-sensitive zones) around National Parks and Wildlife Sanctuaries will be in addition to the following eco-sensitive zones notified by the MoEF (and by other notifications, if any):

i) S.O. 20(E), (6/1/1989) - Prohibiting industries on Murud-Janjira, District Raigadh, Maharashtra;

ii) S.O. 102(E), (1/2/1989) - Restricting location of industries, mining & other activities in Doon Valley (UP);

iii) S.O. 416(E), (20/6/1991) - Dahanu Taluka, District Thane (Maharashtra) to declare as Ecologically Fragile Area, amended 1999;

iv) S.O.319(E), (7/5/1992) - Restricting certain activities causing environmental degradation at Aravalli Range;

v) S.O. 481 (E), (5/7/1996) - No Development Zone at Numaligarh, East of Kaziranga;



vi) S.O. 884(E), (19/12/1996) - Dahanu Taluka Environment Protection Authority, 1996, amended 2001 :

vii) S.O. 350(E), (13/5/1998) - Order constituting the Taj Trapezium Zone Pollution (Prevent and Control) Authority;

viii) S.O. 825(E), (17.9.1998) - Pachmarhi Region as an Eco-Sensitive Zone;

ix) S.O. 52(E), (17/1/2001) Mahabaleswar Panchgani Region as an Eco-Sensitive Zone;

x) S.O. 133 (E), (4/2/2003) - Matheran and surrounding region as an Eco-Sensitive Zone

1. S.O. 83 (E), (16/01/2004) - Amendments to S.O. 133(E) dated 4/2/2003;

xi) S.O. 1545(E), (25/06/2009), Mount Abu as Eco-Sensitive Zone.

xii) S.O. 1260(E), (31/05/2012) - Girnar Reserve Forest as Eco-Sensitive Zone.

18. It is respectfully submitted that the above proposals are submitted in the back-drop of inordinate delay that has taken place in the identification and declaration of Safety Zones around National Parks/ Wildlife Sanctuaries and so as to ensure that the process of such declarations do not remain pending indefinitely."

(quoted verbatim from paperbook)

11. To the said report, another supplementary note dated 18th January 2013 has been submitted. This report is also in connection with notifying the ESZ around protected forests. The following passage from this report is relevant: -

"4. After considering the inordinate delay which has already taken place in notifying the safety zone around National Parks/ Wildlife Sanctuaries and considering the ground situation as it exists, the CEC is of the considered



view that it may be appropriate that an early decision is taken regarding the safety zones around National Park/ Sanctuaries. The proposal submitted by the CEC while ensuring that effective restrictions and regulations are put in place immediately and implemented in an objective manner also, after detailed examination, provides for adequate flexibility to modify the areas of the safety zones."

(quoted verbatim from paperback)

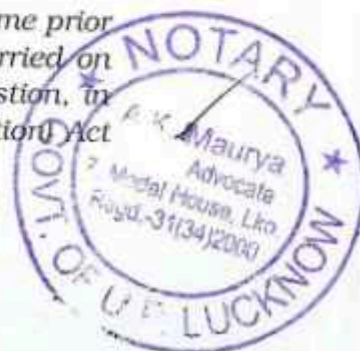
12. In connection with the I.A. No.1000 of 2003, several other applications have been filed, mainly by miners concerning the Jamua Ramgarh wildlife sanctuary. The order passed on 4th August 2006 by this Court [reported in (2010) 13 SCC 740] in relation to grant of temporary working permits was made subjecting them to compliance of certain pre conditions. These preconditions, inter-alia, were: -

"19. (i) TWPs 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;

(iii) The grant of TWP would not result in any mining activity within the safety zone around such areas referred to in Precondition (ii) above (as an interim measure, one kilometre safety zone shall be maintained subject to the orders that may be made in IA No. 1000 regarding Jamua Ramgarh Sanctuary);

(iv) The user agency who has broken up the area of the mine (in respect of which TWP is being sought) has or had the requisite environmental clearances and at no time prior to the grant of the TWP was any mining being carried on by the user agency in relation to the mine in question, in violation of the provisions of the Forest (Conservation) Act



(for short "the FC Act"). In cases involving violation of the FC Act, a formal decision on merit should be taken under the FC Act after considering the gravity of the violation. However, the grant of a TWP may be considered where past violations have been regularised by the Ministry of Environment and Forests (for short "MoEF") by the grant of an approval under the FC Act with retrospective effect;

(v) The conditions attached to the approval under the FC Act for the grant of the mining lease (or the renewal of the mining lease) have been fulfilled, particularly those in respect of (but not limited to) compensatory afforestation, reclamation plan and overburden dumping on the specified site;

(vi) The user agency has, within the stipulated time, already filed a proposal in conformity with the Forest (Conservation) Rules, 1980 for seeking an approval under the FC Act along with the complete details as are required to be furnished. An application for the grant of TWP in favour of the user agencies, who have either not filed a proper proposal and/or have not provided complete information, particularly in respect of (but not limited to) compensatory afforestation, phased reclamation plan, felling of trees, details of minerals extracted in the past, etc. should not be entertained;

(vii) A TWP shall be granted only limited to working in the area broken up legally and during the validity of the lease. No TWP can be granted in respect of, or extending to either unbroken area or the areas which have been broken after the expiry of the mining lease or have been broken in violation of the FC Act or any other law for the time being in force;

(viii) In no circumstances can the duration of a TWP extend beyond the period of one year. Where an application for the grant of permission under the FC Act is not disposed of during the currency of TWP, the applicant, on the strength of the same TWP, may continue to operate for a period not exceeding three months unless specific orders are obtained from this Court; and

(ix) A valid lease under the MMRD Act exists [including by way of a deemed extension in terms of Rule 24-A(6) of the Mineral Concession Rules] in respect of the area of the TWP."



13. We shall now briefly refer to the individual I.A.s filed in connection with I.A No. 1000 of 2003:-

(i) Applicants in I.A. Nos. 982-984 of 2003, 1026-1028 of 2004, 1123-1124 of 2004, 1197-1199 of 2004, 1210-1211 of 2004, 1250-1251 of 2004 and 1512 of 2006 are firms who claim to be mining lease holders or their representative bodies seeking impleadment in I.A. No. 1000 of 2003 as also other reliefs. All these applicants (barring the applicant in I.A. No.1512, i.e. M/s. Andhi Marbles) seek impleadment in the present proceeding. All of them also seek certain direction that might allow them to carry on mining activities. Among them, M/s. Jaipur Mineral Development Syndical Private Limited (I.A. Nos.1123-1124 of 2004) has taken a plea that Section 66(4) of the Wild Life (Protection) Act, 1972 was not applicable to it and in that regard a pending Writ Petition instituted by them in the High Court of Rajasthan (Writ Petition No. 570 of 2002) has been cited. In the said application permission has been sought for restarting the mining activities in non-forest area.



Directions have also been asked to prevent initiation of penal proceedings against the applicant under the Wild Life (Protection) Act, 1972.

(ii) The applicant in I.A. Nos.982-984 of 2003 is one Smt. Magan Devi Meena. Her case is that she was allotted mining area which is outside the reserve forest/sanctuary in Thali village and falls outside Pillar no. 407 (the demarcation point of forest/sanctuary area). She essentially questions legality of the letter dated 30th May 2003 issued by the Mining Engineer Jaipur, office of Mining Engineer & Geology Department, Jaipur, Rajasthan stopping mining operation in the disputed area of Jamua Ramgarh Wildlife Sanctuary and pending completion of demarcation.

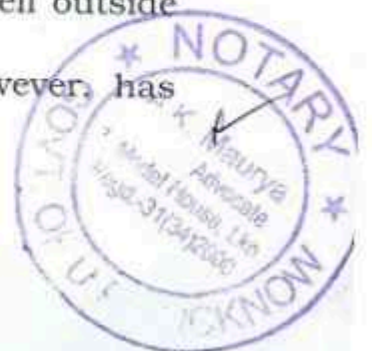
(iii) In I.A. Nos. 1210-1211 of 2004, the applicant is Madhu Agarwal. Her prayer is for fresh demarcation of the Pillar no.1 to Pillar no.428 around the said sanctuary and she has also sought directions on the State Government to release the excess land from the reserve forest area after fresh demarcation. The applicant in this



47

case has been involved in mining of dolomite in Jamua Ramgarh Tehsil in the area known as Rayanwala of Digota Forest Block 61.

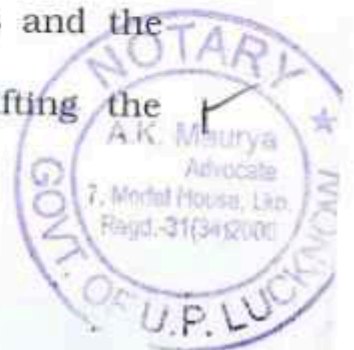
(iv) I.A. Nos. 1250-1251 of 2004 has been taken out by Bhushan Sharma, successor in interest of one Sharda Devi, who was the original allottee of mining around the Jamua Ramgarh Wildlife Sanctuary. It is the case of the applicant that his operations have been stopped by letter dated 30th May 2003 issued by the Mining Engineer Jaipur, office of Mining Engineer & Geology Department, Jaipur, Rajasthan in the disputed area of Jamua Ramgarh Sanctuary. Survey had revealed that mining activities were being carried on inside the wildlife sanctuary. The report of CEC dated 27th May 2003 found number of mines operating around or in two villages, Sankotda and Thali, which were within the sanctuary and the CEC also found that the earlier finding of a Committee could not be taken as conclusive proof that the area involved was a non-forest land and fell outside the sanctuary. The State of Rajasthan, however, has



taken a stand in their affidavit affirmed on 15th April 2004 that delineation and demarcation of the boundaries have already been done.

(v) In I.A. No. 1512 of 2006, M/s. Andhi Marbles Pvt. Ltd are the applicants. They have prayed for permission to resume mining operations excluding the land to the extent of 100 metres from the forest/sanctuary.

(vi) In I.A. No. 3880 of 2015, the applicant is the State of Rajasthan. Prayer has been made in this application for appropriate direction for issuing the ESZ of wildlife sanctuaries and national parks and to keep in abeyance a letter issued by CEC on 21st October 2014 by which one kilometre distance has been required to be maintained in respect of mining activities from the boundaries of the National Parks and Wildlife Sanctuaries. Certain other clarifications have also been sought as regards the order of this Court passed on 4th August 2006 and we shall deal with the said issues later in this judgment. The State of Rajasthan has filed several other affidavits and the common theme of these affidavits is for lifting the



restrictions and permit mining activities in and around the protected forests to energise the economy of the State. The State seeks permission for subsisting mining activities to operate outside the protected forests and ESZ. It is also their stand that most of the mining areas in Jamua Ramgarh Sanctuary were sanctioned prior to coming into operation of Forest (Conservation) Act, 1980 and declaration of the said sanctuary on 31st May 1982.

14. Apart from mining activities in the Jamua Ramgarh Sanctuary, applications have also been taken out in relation to the CEC reports as the said reports deal with protected forests all across the country and contemplate uniform ESZ norms for their protection. On 14th July 2003, the recommendations of CEC dated 27th December 2002 were accepted by this Court in I.A. No.887 of 2003. The said application related to wood based industries in the State of Maharashtra, and, inter-alia, concerned 64 saw mills. That application was disposed of with a direction for consideration of their cases within a period of two months and if they were found eligible, their applications were directed to be sent to the CEC. The latter was to submit a report



and the State of Maharashtra was directed to abide by the aforesaid recommendations.

(i) In I.A. No.1412 of 2005, the applicants are Maharashtra Timber Laghu Udyog Mahasangha alongwith the Poona Timber Merchant (owners of saw mills in the State of Maharashtra). They want clarification of the order of this Court passed in I.A. No.887 of 2003 for consideration of the cases of 64 saw mill owners for grant for grant of license as per notification dated 16th July 1981 issued by the State of Maharashtra amending the Bombay Forest Rules, 1942. This Court had directed in the aforesaid order (of 14th July 2003) that the cases of the applicants may be examined by the State Government within a period of two months and if they are found eligible, their applications could be sent to the CEC who might submit a report to this Court. In the present application the applicants want grant of license considering condition no.3 of the Government's Notification dated 16th July 1981.

(ii) Applicants in I.A. No. 117831 of 2019 are Maharashtra Timber Laghu Udyog Mahasangha alongwith the Poona



Timber Merchant (64 saw mills owners) in connection with grant of licenses for operating saw mills. In the present order, we are confining our examination of proceedings arising out of I.A. No.1000 of 2003. As such, the aforesaid applications ought to be listed independently before the appropriate Bench.

15. The applicant in I.A. No. 96949 of 2019 is the State of Maharashtra. On 11th December 2018, this Court had passed an order in respect of 21 National Parks and Wildlife Sanctuaries, which included Thane Creek Flamingo Sanctuary.

This order, inter-alia, records and directs: -

"It is submitted by the learned Amicus that this issue has been pending since sometime in December, 2006. 12 years have gone-by but no effective steps have been taken by the State Governments in respect of the National Parks and Wildlife Sanctuaries mentioned above.

Under the circumstances, we direct that an area of 10 Kms around these 21 National Parks and Wildlife Sanctuaries be declared as Eco Sensitive Zone by the MoEF. The declaration be made by the MoEF at the earliest.

Liberty is granted to the State Governments to move an application for modification of this order along with proposal only two weeks after submission of the proposals to the MoEF.

List the matters at the end of February, 2019.

In the meanwhile, interim order to continue."

(quoted verbatim from paperbook)



The prayer of the State of Maharashtra in this application is to the following effect: -

"A) This Hon'ble Court be pleased to modify its order dated 11.12.2018 directing that an area of 10 kilometers around Thane Creek Flamingo Sanctuary situated in the State of Maharashtra be declared as Eco Sensitive Zone by the Ministry of Environment and Forest; and

B) That this Hon'ble Court be pleased to direct that the area of 0-3.5 kilometers as proposed in the proposal submitted by the State Government on 22.05.2019 to the Ministry of Environment and Forest be declared as Eco Sensitive Zone in respect of the Thane Creek Flamingo Sanctuary; and

C) Pass any other order and or directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

(quoted verbatim from paperbook)

16. The other applications in respect of the same sanctuary is by an association of real estate developers, CREDAI-MCHI registered as I.A. No.65571 of 2021. The main prayer in I.A. No.65571 of 2021 is:-

"(a) Modify the order dated 11.12.2018 passed by this Hon'ble Court in I.A. No. 1000 in W.P. (C) No. 202 of 1995 inasmuch as it relates to the Thane Creek Flamingo Sanctuary and direct that the Eco Sensitive Zone around the said Sanctuary shall be in terms of the proposal dated 10.03.2021 submitted by the State Government and the Draft Notification dated 08.04.2021 published by the Ministry of Environment & Forests, Government of India; and / or

(b) Pass such other order(s) as this Hon'ble Court may deem fit and proper in the circumstances of the case."

(quoted verbatim from paperbook)



17. The order on 11th December 2018 was passed by this Court as the proposals in respect of 21 National Parks and Wildlife Sanctuaries had not yet been received by the Ministry of Environment, Forest and Climate Change. Recommendations of CEC as regards maintaining ESZ were made in relation to wildlife sanctuaries and national parks on 20th September 2012. As per the order passed on 11th December 2018, the proposal of the State Government was to be made before the MoEF&CC and it appears that a draft notification dated 8th April 2021 concerning Thane Creek Flamingo Sanctuary has already been published by the MoEF&CC. Let the MoEF&CC take final decision in relation to such draft notification as per the provisions of law. Such decision, if already taken, may be placed before this Court one week after reopening of the Court on conclusion of the summer vacation. If such decision is not taken, then the decision may be taken as per law within a period of six weeks and be placed before us within the same timeframe. This Court shall consider passing appropriate direction thereafter, upon going through such decision.



18. In I.A. No.1992 of 2007, the M.P. State Mining Corporation Limited has applied for the following reliefs:-

"i. grant permission to file present Application for Clarification;

ii. clarify that the directions as contained in interim Order dated 4.8.2006 of this Hon'ble Court in I.A. Nos.1413, 1414, 1454 in I.A. Nos. 1413, 1426, 1428, 1440, 1439, 1441, 1444-1445, 1459 and 1460 in Writ Petition (C) No.202 of 1995 (T.N. Godavarman Thirumulpad Vs. UOI & Ors. Pertains only to mining activity in Temporary Working Permission (TWP) cases requiring approval under Forest Conservation Act, 1980 and that the said directions do not apply to the regular quarry lease on a revenue land particularly when such quarry lease is granted to the State owned Mining Corporation by the State Government itself."

(quoted verbatim from paperback)

19. So far as this application is concerned, we repeat that in this order, we are dealing with the issues arising out of IA No.1000 of 2003. The scope of this application relates to mining and other activities within the national parks and wildlife sanctuaries and maintaining ESZ around individual protected forests. The reliefs asked for by the MP State Mining Corporation Limited in IA No. 1992 of 2007 do not come within the ambit of the subject we are addressing in this judgment/order. This application of the Mining Corporation company is in connection



with temporary working permits in non-forest areas. This application will also have to be addressed separately.

20. There are two affidavits of M/s. Andhi Marbles Pvt. Ltd affirmed on 19th February 2004 and 29th July 2004 pertaining to Jamua Ramgarh Sanctuary. Complaint against said M/s. Andhi Marbles is in relation to mining leases granted and operated by them. In the CEC report which has been transformed into I.A. No.1000 of 2003, it has been recorded that they were granted mining leases in violation of the Forest (Conservation) Act, 1980 as well as the Wild Life (Protection) Act, 1972. They had continued working on the temporary permits after the order of this Court dated 12th December 1996. In the Order of this Court reported in [(1997) 2 SCC 267] it has been inter-alia observed:-

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



purpose of Section 2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof. This aspect has been made abundantly clear in the decisions of this Court in *Ambica Quarry Works v. State of Gujarat* [(1987) 1 SCC 213], *Rural Litigation and Entitlement Kendra v. State of U.P.* [1989 Supp (1) SCC 504] and recently in the order dated 29-11-1996 (*Supreme Court Monitoring Committee v. Mussoorie Dehradun Development Authority* [WP (C) No 749 of 1995 decided on 29-11-1996]). The earlier decision of this Court in *State of Bihar v. Banshi Ram Modi* [(1985) 3 SCC 643] has, therefore, to be understood in the light of these subsequent decisions. We consider it necessary to reiterate this settled position emerging from the decisions of this Court to dispel the doubt, if any, in the perception of any State Government or authority. This has become necessary also because of the stand taken on behalf of the State of Rajasthan, even at this late stage, relating to permissions granted for mining in such area which is clearly contrary to the decisions of this Court. It is reasonable to assume that any State Government which has failed to appreciate the correct position in law so far, will forthwith correct its stance and take the necessary remedial measures without any further delay."

21. The CEC's observation in I.A. No.1000 of 2003 is that no mining activity was permissible inside the sanctuary as per this Court's Order dated 14th February 2000 and the temporary working permits were granted in violation of the applicable statutory provisions and guidelines as the area involved fell inside the sanctuary. M/s. Andhi Marbles Pvt. Ltd. have taken a defence that their mining activities were in terms of the temporary working permit issued and in compliance with the



specified conditions laid down by the MoEF&CC. A point has also been taken that the limits of the sanctuary was not notified and no notification under Section 26A of the Wild Life (Protection) Act, 1972 was issued to declare the said area as sanctuary. They have also taken a point that the mining lease covering forest has been deleted from the lease document and they seek to operate two quarries, on non-forest land beyond the safety zone of 25 metres, which has been specified as part of the Mineral Policy, 1994 of the State of Rajasthan. They also, in effect, seek resumption of mining activities in the area beyond 25 metres from the forest boundary.

22. As regards the Guidelines of 9th February 2011, which has been referred to in the affidavit of MoEF&CC affirmed/verified by Dr. Subrata Bose, Scientist 'F' Ministry of Environment, Forest and Climate Change, Government of India, stand of M/s. Andhi Marbles Pvt. Ltd. is that no consensus has been reached as regards notifying the areas within 10 kilometres of the boundaries of National Parks and Wildlife Sanctuaries as ESZ.



23. In the affidavit filed on behalf of MoEF&CC, which we have referred to in the preceding paragraph, it has been stated that the Guidelines for Declaration of ESZ have been notified by the Ministry of Environment, Forest and Climate Change, Government of India. For the purpose of formulation of ESZ in relation of individual protected forest area, Para 6 of the said Guidelines has been brought to our notice. A detailed hierarchy has been prescribed for declaration of ESZ. Referring to the case of the **Goa Foundation** (W.P. (C) No.435/2012), it has been stated in this affidavit that mining activity is prohibited within a distance of 1 kilometre or the specified ESZ, whichever is higher.

24. On the pleas of M/s. Andhi Marbles Pvt. Ltd. and another leaseholder, Munni Devi, in subsequent affidavit verified on 29th April 2004 the MoEF&CC had justified granting of working permit to the said firms.

25. The next affidavit of MoEF&CC was verified on 14th September 2005 and this affidavit deals with fixing of buffer zones for activities outside sanctuaries/forests. In this affidavit, it has been admitted that with respect to the details given in the earlier affidavit dated 29th April 2004 the decision taken by the



2/2

Ministry at that point of time while granting temporary working permission on already broken up area in Jamua Ramgarh could not incorporate all factual details and thus might not have been strictly compatible with the principles of the environmental conservation. It has further been stated in this affidavit that the Ministry directed the State Government to ensure phased closure of mines.

26. Altogether seven affidavits dated 15th April 2004, 17th September 2004, 9th December 2004, 13th October 2006, 10th May 2007, 12th August 2008 and 1st November 2012 filed by the State of Rajasthan are on record before us. The stand of the State of Rajasthan as reflected in these affidavits are primarily in relation to the creation of ESZ. It is their case that the decision of 25 metres safety zone in relation to Jamua Ramgarh sanctuary has been conceived by the State and the State Government has also taken a decision that in the vicinity of sanctuaries, national parks and reserve forests, mining activities should not be undertaken within 25 metres. As regards other forest areas, their position is that mining ought to be undertaken in the immediate vicinity of the forest areas. They



have expressed difficulties over taking over or acquisition of land around any sanctuary or other protected forest and their ESZ without proper proceeding. As regards mining operations within sanctuary area of Jamua Ramgarh, it has been stated that all mining activities within the sanctuary have been stopped. In their affidavit dated 12th August 2008, it has been disclosed by the State that mining activities in non-forest areas within 100 metres of the Jamua Ramgarh sanctuary has been closed. Their plea is for allowing mining activity in non-forest areas within protected forests and beyond the ESZ of 100 metres for economic activities, in the interest of local population as also the State's economy.

27. It has also been highlighted by the State that 25 sanctuaries, 2 national parks have been declared by the State comprising of a total area of 9,07,070 hectares and an area of 23,29,659 hectares of area as forest area or deemed forest is already existing as eco-sensitive/eco fragile/buffer/safety zones in that State within which no non-forest activities is allowed without proper permission under the Forest (Conservation) Act, 1980. The State of Rajasthan has opposed the proposal for

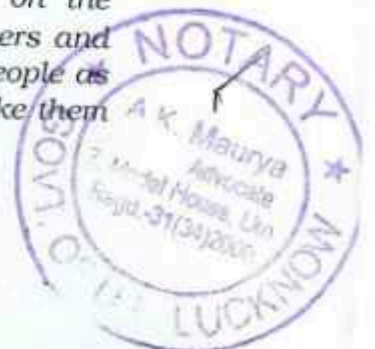


declaring 10 kilometres beyond the boundary of sanctuaries and national parks being declared as ESZ.

28. The role of the State cannot be confined to that of a facilitator or generator of economic activities for immediate upliftment of the fortunes of the State. The State also has to act as a trustee for the benefit of the general public in relation to the natural resources so that sustainable development can be achieved in the long term. Such role of the State is more relevant today, than, possibly, at any point of time in history with the threat of climate catastrophe resulting from global warming looming large. This Court has highlighted the Public Trust Doctrine in the case of **M.C. Mehta v. Kamal Nath and Others** [(1997) 1 SCC 388] and opined that the Public Trust Doctrine is part of the law of land. In Paragraph 25 of the said judgment, as reported, this doctrine has been explained with reference to writings of Joseph L. Sax, Professor of Law, University of Michigan, the proponent of Modern Public Trust Doctrine:-

"25. The Public Trust Doctrine primarily rests on the principle that certain resources like air, sea, waters and the forests have such a great importance to the people as a whole that it would be wholly unjustified to make them

36



a subject of private ownership. The said resources being a gift of nature, they should be made freely available to everyone irrespective of the status in life. The doctrine enjoins upon the Government to protect the resources for the enjoyment of the general public rather than to permit their use for private ownership or commercial purposes. According to Professor Sax the Public Trust Doctrine imposes the following restrictions on governmental authority:

"Three types of restrictions on governmental authority are often thought to be imposed by the public trust: first, the property subject to the trust must not only be used for a public purpose, but it must be held available for use by the general public; second, the property may not be sold, even for a fair cash equivalent; and third the property must be maintained for particular types of uses."

29. Reliance has been placed on the said doctrine in earlier orders of this Court in this very writ petition, passed on 30th October 2002, 26th September 2005 and 13th February 2012. So far as the views of the State of Rajasthan is concerned, as reflected in their affidavits and written notes, their consideration for justifying mining in Jamua Ramgarh and its periphery primarily stems from the prospect of immediate economic gains and their role as a trustee of natural resources of the land has been largely overlooked.

30. The Ministry of Environment, Forest and Climate Change (MoEF&CC) is against having a uniform ESZ for all national parks and reserved forests. Their view is that the ESZ area ought to be site-specific. Our attention has been drawn to the



Comprehensive Guidelines formulated, to which we have referred earlier in this Order. In the case of **Goa Foundation v. Union of India and Others** [(2014) 6 SCC 590], the order passed in this proceeding [IA 1000 of 2003] on 4th August 2006 has also been referred to and relied upon. Affidavits have been filed by the State of Goa affirmed on 19th September 2012 and 31st October 2012. Main concern of the State of Goa is over creation of ESZ of 10 kilometres from the boundaries of protected forests as buffer zone and it is also contended on their behalf that such buffer zones should be site-specific. It is highlighted that in the State of Goa vegetative aerial cover of Goa is more than 59.99% (as per the Indian State Forest Report of 2011) and protected forest areas constitute over 20% of the total geographic area. On this basis, they seek appropriate directions. It has also been brought to our notice that notifications have been issued in respect of several sanctuaries stipulating the ESZ boundaries. Written submissions have also been filed by Goa Foundation [the petitioners in W.P. (C) 460/2004] and W.P. (C) 435/2012 in which it has been urged that minimum extent of ESZ ought to be as per the CEC recommendations incorporating



therein the modifications/suggestions by the learned Amicus Curiae. So far as State of Goa is concerned, the scope of mining activities is being dealt with in the case of **Goa Foundation** (supra). In the present I.A., we would not address issues specific to the said case. But the directives we shall make, as we have already indicated, which are not covered by the issues involved in the case of **Goa Foundation** (supra) shall apply to the protected forest and adjacent areas.

31. On the point of buffer zone for activities outside the sanctuaries/national parks, the National Board of Wildlife in its 21st meeting held on 21st January 2002 adopted National Wildlife Conservation Strategy. Paragraph 9 of the Strategy document concerns the buffer areas around the national parks and sanctuaries. It has been recorded therein:-

"Lands falling within 10 kms of the boundaries of National Parks and Sanctuaries should be notified as Eco-fragile Zones under Section 3(v) of the Environment (Protection) Act and Rule 5, Sub-rule 5(viii) and (x) of the Environment (Protection) Rules."

(quoted verbatim from paperback)

But it does not appear from the said affidavit that said proposal of notifying 10 kilometres as boundaries of the national parks and sanctuaries as Eco-fragile zone was finalised.



32. The MoEF&CC essentially has argued in favour of having ESZ to be site-specific and for that purpose they have invited proposals from individual State Government in the aforesaid Guidelines. In cases where such proposals have not come, they want 10 kilometres periphery of protected forests to be preserved as ESZ. As regards activities permissible within the buffer zone, certain works have been proposed to be regulated and certain activities to be permitted within the ESZ. This has been stipulated in Annexure-I to the Guidelines. We have already referred to the prohibited activities. Among the regulated activities, as per these Guidelines are:-

- (i) Felling of trees with permission from appropriate authority.
- (ii) Establishment of hotels and resort as per approved master plan, which takes care of habitats allowing no restriction on movement of wild animals.
- (iii) Drastic change in agricultural systems.
- (iv) Commercial use of natural water resources including ground water harvesting as per approved master plan, which takes care of habitats allowing no restriction on movement of wild animals.
- (v) Erection of electrical cables with stress on promoting underground cabling.
- (vi) Fencing of premises of hotels and lodges.
- (vii) Use of polythene bags by shopkeepers.



- (viii) Widening of roads with proper environmental impact assessment.
- (ix) Movement of vehicular traffic at night for commercial purposes.
- (x) Introduction of exotic species.
- (xi) Protection of hill slopes and river banks.
- (xii) Regulation of any form of air and vehicular pollution.
- (xiii) Putting up of sign boards and hoardings.

Within permissible activities fall:-

- (i) Ongoing agricultural and horticulture practices by local communities.
- (ii) Rain water harvesting
- (iii) Organic farming
- (iv) Use of renewable energy sources
- (v) Adoption of green technology for all activities.

33. In the affidavit of the Standing Committee of National Board of Wildlife, the views of the non-official members of the Standing Committee have been placed on record, which essentially contemplates continuation of the 10 kilometres buffer zone. Order passed by this Court on 4th December 2006 in the case of **Goa Foundation** (W.P. (C) 460/2004) proposes following such a course if there is delay in site-specific preparation of ESZ for individual States/Union Territories. On the aspect of having site-specific ESZ under the Environment (Protection) Act, 1986, the view of the National Board of Wildlife, appears to be



unanimous. It is their opinion that some protected areas, because of their smaller size, may require larger safety zone around it.

34. We shall deal first with the question of impleadment of firms and individuals who had some kind of permission for carrying on mining activities in Jamua Ramgarh sanctuary. The Interlocutory Applications which we are dealing with arise out of a public interest litigation and there is no doubt that orders passed in litigation of this nature could affect a large body of persons who may not be included in the array of parties at the time of institution of the proceeding. To an extent, litigations of this nature assume an *In-rem* character. Ideally, for such a public interest litigation, the procedure contemplated in Rule VIII of Order 1 of the Code of Civil Procedure, 1908 could be followed to the extent of issue of public notice or general intimation to public in such mode as the Court may consider fit and proper, having regard to the nature and scope of the proceeding. But in cases where such a course has not been taken, persons affected or likely to be affected by any order passed in the litigation would be entitled to join or participate in



the proceeding. Thus, the impleadment prayers in I.A. No. 984 of 2003, I.A. No. 1026 of 2004, I.A. No. 1123 of 2004, I.A. No. 1197 of 2004 and I.A. No. 1251 of 2004 are allowed.

35. The approach of the Court in dealing with complaints of environmental degradation has been laid down by this very Bench in this Writ Petition itself in an order passed on 9th May 2022 in connection with another set of applications. In this Order, it has been observed and held:-

"15. Adherence to the principle of sustainable development is a constitutional requirement. While applying the principle of sustainable development one must bear in mind that development which meets the needs of the present without compromising the ability of the future generations to meet their own needs. Therefore, Courts are required to balance development needs with the protection of the environment and ecology. It is the duty of the State under our Constitution to devise and implement a coherent and coordinated programme to meet its obligation of sustainable development based on inter-generational equity. While economic development should not be allowed to take place at the cost of ecology or by causing widespread environment destruction and violation; at the same time, the necessity to preserve ecology and environment should not hamper economic and other developments. Both development and environment must go hand in hand. In other words, there should not be development at the cost of environment and vice versa, but there should be development while taking due care and ensuring the protection of environment.



16. In *Vellore Citizens' Welfare Forum v. Union of India*, this Court held that the 'Precautionary Principle' is an essential feature of the principle of 'Sustainable Development'. It went on to explain the precautionary principle in the following terms: -

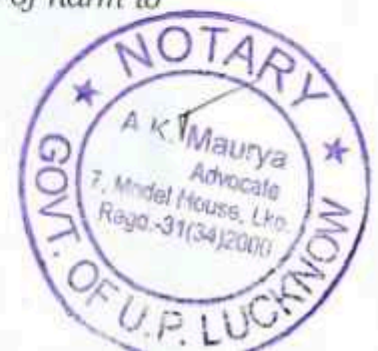
(i) Environmental measures — by the State Government and the statutory authorities — must anticipate, prevent and attack the causes of environmental degradation.

(ii) Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

(iii) The "onus of proof" is on the actor or the developer/industrialist to show that his action is environmentally benign.

17. The principle of precaution involves the anticipation of environmental harm and taking measures to avoid it or to choose the least environmentally harmful activity. It is based on scientific uncertainty. Environmental protection should not only aim at protecting health, property and economic interest but also protect the environment for its own sake. Precautionary duties must not only be triggered by the suspicion of concrete danger but also by justified concern or risk potential.

18. A situation may arise where there may be irreparable damage to the environment after an activity is allowed to go ahead and if it is stopped, there may be irreparable damage to economic interest. This Court held that in case of a doubt, protection of environment would have precedence over the economic interest. It was further held that precautionary principle requires anticipatory action to be taken to prevent harm and that harm can be prevented even on a reasonable suspicion. Further, this Court emphasises in the said judgment that it is not always necessary that there should be direct evidence of harm to the environment."



While dealing with the applications in the present set of proceedings, we shall follow the same principles.

36. We shall now examine the prayers of the applicants for continuing their mining activities within sanctuary. This relief has been asked for by Smt. Magan Devi Meena (IA Nos. 982-984 of 2003), M/s. Agarwal Marbles Centre Pvt. Ltd. & Ors. (IA Nos. 1026-1028 of 2004), M/s. Jaipur Mineral Development Syndicate Private Limited (IA Nos. 1123-1124 of 2004), Federation of Mining Associations of Rajasthan (IA Nos. 1197-1199 of 2004), Bhushan Sharma (IA Nos. 1250-1251 of 2004) and M/s. Andhi Marbles Pvt Ltd. (IA No. 1512 of 2006). We must point out here that in the affidavit of the State of Rajasthan, it has been stated that they had formulated a policy of maintaining a distance of 25 metre from the vicinity of important forest areas like game sanctuary, reserved forest, mining activities to be prohibited. In other forest areas, mining could be undertaken in the immediate vicinity of the forest area as per the policy. This has been stated in the affidavit of the State of Rajasthan filed on 9th December 2004 and such a stand appears to have had been taken from the Mineral Policy of 1994. It, however, appears that



a new Mineral Policy had been adopted by the State of Rajasthan in 2015.

37. There are also pleas for permitting some of the miners to continue mining activities within 25 metre zone conceived by the State of Rajasthan as Buffer Zone. In three applications, I.A. Nos.1123-1124 of 2004, I.A.Nos.1197-1199 of 2004 and I.A.Nos.1210-1211 of 2004, M/s. Jaipur Mineral Development Syndicate Pvt. Ltd., Federation of Mining Association of Rajasthan and Smt. Madhu Agarwal have taken a point that there was improper declaration of Jamua Ramgarh as a sanctuary. The notification made under Section 18 of the Wild Life (Protection) Act, 1972 bearing No. F.11(19) Raj.-8/81 Jaipur dated 31st May 1982 has been annexed to the I.A. Nos. 982-984 of 2003 the applicant therein, being Magan Devi Meena. Initially, there was declaration of the said sanctuary as reserved forest under the Rajasthan Forest Act, 1953. Thereafter, the notification of 31st May 1982 came into operation under the Wild Life (Protection) Act, 1972.

38. In I.A. No.1000 of 2003, it has been disclosed that the settlement of rights were completed by the District Collector



Jaipur under Sections 19 to 26 of the Wild Life (Protection) Act, 1972. So far as Section 26A is concerned, which deals with declaration of area as sanctuary the said provision was incorporated in the statute with effect from 2nd October 1991. That amendment came by way of Act 44 of 1991. After amendment, Section 18 of the Act stipulates:-

"18. Declaration of sanctuary:—

(1) The State Government may, by notification, declare its intention to constitute any area other than an area comprised within any reserve forest or the territorial waters as a sanctuary if it considers that such area is of adequate ecological, faunal, floral, geomorphological, natural or zoological significance, for the purpose of protecting, propagating or developing wild life or its environment.

(2) The notification referred to in sub-section (1) shall specify, as nearly as possible, the situation and limits of such area.

Explanation.—For the purposes of this section it shall be sufficient to describe the area by roads, rivers, ridges or other well-known or readily intelligible boundaries."

Section 26A of the Act, which, again, was introduced by Act 44 of 1991 contemplates further declaration after compliance of certain formalities. No other amendment has been brought to our notice. Section 18 of the Wild Life (Protection) Act, 1972 as it originally stood, reads:-

"18. (1) The State Government may, by notification, declare any area to be a sanctuary if it considers



such area is of adequate ecological, faunal, floral, geomorphological, natural or zoological significance, for the purpose of protecting, propagating or developing wild life or its environment.

(2) The notification referred to in sub-section (1) shall specify, as nearly as possible, the situation and limits of such area.

Explanation.—For the purposes of this section, it shall be sufficient to describe the area by roads, rivers, ridges or other well-known or readily intelligible boundaries."

39. The declaration was made by the State of Rajasthan in 1982 and we do not find any flaw in such declaration. The amended provisions, thus, could not apply to the Jamua Ramgarh Wildlife Sanctuary. The plea taken that it did not have the status of a sanctuary because no declaration was there under Section 26A of the Wild Life (Protection) Act, 1972 is without any basis. We shall proceed in this order on the basis that Jamua Ramgarh is a subsisting sanctuary.

40. We have already indicated that CEC in I.A. No.1000 of 2003 has given a dreadful account of the condition of the sanctuary, ravaged by mining activities. CEC in the same document has also outlined the importance of the said sanctuary. These would appear from paragraphs 4 and 5 of the said I.A which read:-



137

"4. In stark contrast to the above during the site visits to the Jamua Ramgarh Sanctuary the CEC came across a horrible and unbelievable picture of devastated eco - system due to indiscriminate mining activity in blatant violation of the Forest (Conservation) Act, Wild Life (Protection) Act and even this Hon'ble Court's orders. The sanctuary is littered with hundreds of deep mining pits, randomly scattered "over burdens", scores of cranes and mined boulders and stones scattered all over the place. It is rare to see such a destruction even in a non forest area, least of all inside a sanctuary. It is a horror story that has to be seen to be believed. This is a site where all the laws and conventions that govern the natural world have been violated for commercial gains. Instead of being managed as a wild life sanctuary, it appears to have been managed as a mining sanctuary. In the present form it may be more appropriate to rename the area as "Jamua Ramgarh Wild Life Graveyard". A photographic report is appended hereto at

ANNEXURE-A graphically showing the ground situation.

5. The forest of Jamua Ramgarh forms the critical catchment area of the lake which is the main source of water supply to the city of Jaipur. Notwithstanding this 69 mining leases were sanctioned from time to time in Jamua Ramgarh after enactment of the Forest (Conservation) Act 1980 i.e. 25.10.1980. Each and every mine was sanctioned in violation of the provisions of the F.C. Act as well as the Wild Life (Protection) Act. No perceptible attempt was made to regulate the mines as per the provisions of the F.C. Act and the W.P. Act. No valid and satisfactory explanation was given by the State Government for allowing the mining leases to operate for years together except that it was a common practice to allow mining leases in the forest area / sanctuary without obtaining specific approvals under the F.C.Act or the W.P.Act. The details of these mines are given in ANNEXURE-B."

(quoted verbatim from paperback)

45/ 41. In their affidavits, the State of Rajasthan had referred to the Mining Policy of 1994 which stipulated 25 metres to be



safety zone around the periphery of Jamua Ramgarh Wildlife Sanctuary but subsequent thereto the Mining Policy of 2015 for the State of Rajasthan has come and they do not seem to have any specified safety zone. Moreover, in view of the order of this Court passed on 4th August 2006, 1 kilometre safety zone has been directed to be maintained as regards Jamua Ramgarh Wildlife Sanctuary. Beyond Jamua Ramgarh Wildlife Sanctuary, CEC itself has given its view on eco sensitive zone in their report dated 20th September 2012. The recommendations have been quoted in the earlier part of this order. In the affidavit of Standing Committee of National Board of Wildlife filed on 26th November 2012, the views of said Committee was expressed and the Committee was of unanimous opinion that each State ought to delineate the outer limits of ESZ on a site-specific, case by case basis, keeping in view the ecological imperatives and the grounds realities of the protected area. It was also the view of the said Committee that expert opinion and scientific inputs ought to be obtained from individuals and institutions in that regard. In substance the view of the Committee is that there should not be uniform ESZ. We have also referred to the

afv



Guidelines dated 9th February 2011 which gives a detailed procedure for evolving ESZ and identification of activities that could be carried on in such zones. The order of this Court in the case of **Goa Foundation** [W.P. (C) No.460 of 2004] passed on 4th December 2006 also contemplated issue of direction for maintaining a 10 kilometre wide safety zone from the boundaries in respect of sanctuaries and national parks as there was lack of response from the States and Union territories in relation to queries on various aspects in respect of wildlife conservation. The proposal for having an ESZ of 10 kms from the boundaries of the national parks and wildlife sanctuaries was originally mooted on 21st January 2002 in the meeting of the Indian Board for Wildlife, as it appears from the order passed by this Court in the case of **Goa Foundation** [W.P. (C) No.460 of 2004] on 30th January 2006. We have to collate the views of these experts' bodies including the CEC, who have been assisting this Court through the different stages of this litigation.

43/ 42. In our opinion, the Guidelines framed on 9th February 2011 appears to be reasonable and we accept the view of the Standing Committee that uniform Guidelines may not



possible in respect of each sanctuary or national parks for maintaining ESZ. We are of the opinion, however, that a minimum width of 1 kilometre ESZ ought to be maintained in respect of the protected forests, which forms part of the recommendations of the CEC in relation to Category B protected forests. This would be the standard formula, subject to changes in special circumstances. We have considered CEC's recommendation that the ESZ should be relatable to the area covered by a protected forest but the Standing Committee's view that the area of a protected forest may not always be a reasonable criteria also merits consideration. It was argued before us that the 1 km wide "no-development-zone" may not be feasible in all cases and specific instances were given for Sanjay Gandhi National Park and Guindy National Park in Mumbai and Chennai metropolis respectively which have urban activities in very close proximity. These sanctuaries shall form special cases.

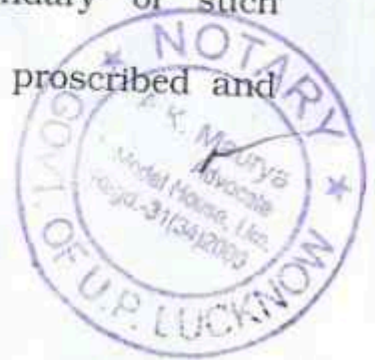
43. Turning specifically to Jamua Ramgarh Sanctuary, the first report of the CEC proposed 100 metres as ESZ. In the second report, however, one kilometre width has been recommended for all protected forests falling under category



Having regard to its area, the said sanctuary comes in that category. In the order of this Court passed on 4th August 2006, the same margin, i.e. one kilometre as buffer zone has been prescribed. In the given facts concerning the Jamua Ramgarh Sanctuary, in our opinion the margin of 25 metres as contemplated in the 1994 Mineral Policy of the State of Rajasthan is grossly inadequate. We, however, treat Jamua Ramgarh sanctuary as a special case for fixing the ESZ as in the past, the buffer zone varied from 25 metres to 100 metres. In our opinion, ESZ of 500 metres would be a reasonable buffer zone, within which subsisting activities which does not come within the prohibited list as per the Guidelines of 9th February 2011 could be carried on. But for commencing of any new activity which would be otherwise permissible, the ESZ norm of one kilometre shall be maintained for Jamua Ramgarh sanctuary.

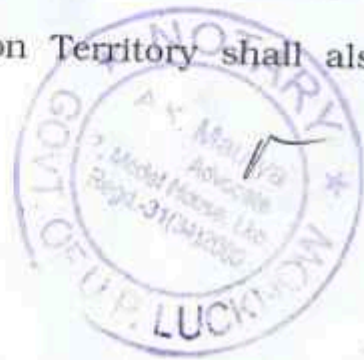
44. We accordingly direct:-

- (a) Each protected forest, that is national park or wildlife sanctuary must have an ESZ of minimum one kilometre measured from the demarcated boundary of such protected forest in which the activities proscribed and



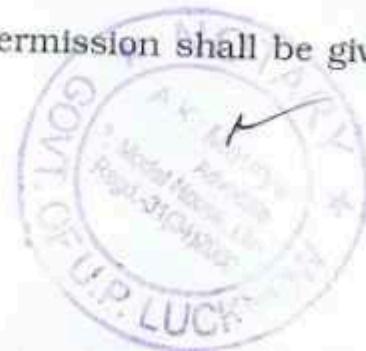
prescribed in the Guidelines of 9th February 2011 shall be strictly adhered to. For Jamua Ramgarh wildlife sanctuary, it shall be 500 metres so far as subsisting activities are concerned.

- (b) In the event, however, the ESZ is already prescribed as per law that goes beyond one kilometre buffer zone, the wider margin as ESZ shall prevail. If such wider buffer zone beyond one kilometre is proposed under any statutory instrument for a particular national park or wildlife sanctuary awaiting final decision in that regard, then till such final decision is taken, the ESZ covering the area beyond one kilometre as proposed shall be maintained.
- (c) The Principal Chief Conservator of Forests as also the Home Secretary of each State and Union Territory shall remain responsible for proper compliance of the said Guidelines as regards nature of use within the ESZ of all national parks and sanctuaries within a particular State or Union Territory. The Principal Chief Conservator of Forests for each State and Union Territory shall also



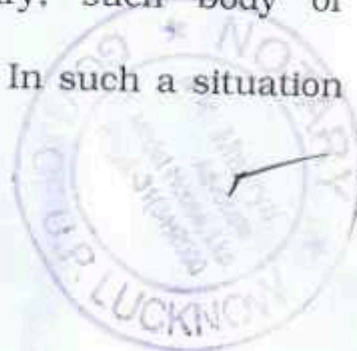
arrange to make a list of subsisting structures and other relevant details within the respective ESZs forthwith and a report shall be furnished before this Court by the Principal Chief Conservator of Forests of each State and Union Territory within a period of three months. For this purpose, such authority shall be entitled to take assistance of any governmental agency for satellite imaging or photography using drones.

- (d) Mining within the national parks and wildlife sanctuaries shall not be permitted.
- (e) In the event any activity is already being undertaken within the one kilometre or extended buffer zone (ESZ), as the case may be, of any wildlife sanctuary or national park which does not come within the ambit of prohibited activities as per the 9th February 2011 Guidelines, such activities may continue with permission of the Principal Chief Conservator of Forests of each State or Union Territory and the person responsible for such activities in such a situation shall obtain necessary permission within a period of six months. Such permission shall be given



once the Principal Chief Conservator of Forests is satisfied that the activities concerned do not come within the prohibited list and were continuing prior to passing of this order in a legitimate manner. No new permanent structure shall be permitted to come up for whatsoever purpose within the ESZ.

- (f) The minimum width of the ESZ may be diluted in overwhelming public interest but for that purpose the State or Union Territory concerned shall approach the CEC and MoEF&CC and both these bodies shall give their respective opinions/recommendations before this Court. On that basis, this Court shall pass appropriate order.
- (g) In the event the CEC, MoEF&CC, the Standing Committee of National Board of Wildlife or any other body of persons or individual having special interest in environmental issues consider it necessary for maintaining a wider or larger ESZ in respect of any national park or wildlife sanctuary, such body or individual shall approach the CEC. In such a situation



the CEC shall be at liberty to examine the need of a wider ESZ in respect of any national park or wildlife sanctuary in consultation with all the stakeholders including the State or Union Territory concerned, MoEF&CC as also the Standing Committee of National Board of Wildlife and then approach this Court with its recommendations.

- (h) In respect of sanctuaries or national parks for which the proposal of a State or Union Territory has not been given, the 10 kilometres buffer zone as ESZ, as indicated in the order passed by this Court on 4th December 2006 in the case of **Goa Foundation** (supra) and also contained in the Guidelines of 9th February 2011 shall be implemented. Within that area, the entire set of restrictions concerning an ESZ shall operate till a final decision in that regard is arrived at.
- (i) I.A. No. 1412 of 2005 and I.A.No.117831 of 2019 do not relate to the issues involved in I.A. No.1000 of 2003. These applications may be placed before the appropriate Bench to be heard independently.



- (j) For the same reason, I.A. No.1992 of 2007 shall also be dealt with independently by the appropriate Bench and no order is being passed concerning this application at this stage.
- (k) The application of the State of Rajasthan registered as I.A. No.3880 of 2015 relates to clarification of an order passed in the case of **Goa Foundation** (W.P.(C) No.460 of 2004). Let this application be placed before the Bench taking up the case of **Goa Foundation**.
- (l) I.A.No.96949 of 2019 and I.A.No.65571 of 2021 are disposed of with directions that the MoEF&CC as also CEC shall proceed to take a decision in regard to the draft proposal for ESZ made by the State of Maharashtra to the extent of 0-3.89 kilometres and the MoEF&CC shall take final decision on that basis within a period of three months, if said decision has not already been taken.
- (m) Prayers for impleadment of the applicants in I.A. Nos. 984 of 2003, 1026 of 2004, 1123 of 2004, 1197 of 2004



and 1251 of 2004 are allowed. Necessary amendments may be carried out in these regards.

- (n) For the reasons already given, however, prayers of the applicants in I.A. Nos.982 of 2003, 1027 of 2004, 1124 of 2004, 1198 of 2004, 1210 of 2004, 1250 of 2004 and 1512 of 2006 are rejected.
- (o) The CEC shall quantify the compensation to be recovered from each miner indulging in mining activities within the Jamua Ramgarh sanctuary in violation of any statutory provision or order of this Court. Specific recommendations for compensatory afforestation, reclamation, clearing overburden dumping as also compensation in monetary units for degradation of forest resources shall also be made. A further set of recommendations concerning confiscation of earth moving equipments and other machineries lying within or in the periphery of the said sanctuary shall be made by the CEC. Recommendations shall be made within a period of four months before this Court in the form of an application. This Court shall consider passing



appropriate order upon going through such application. The exercise concerning such reparation, including quantifying compensation shall be undertaken upon giving the mining operator, State and MoEF&CC opportunity of hearing.

- (p) In the event there is any subsisting order of any High Court or any Court subordinate to such High Court covering any of the issues dealt with by this Court in this order, this order shall prevail over any such order which may be contrary to these directions.
- (q) We have already observed that there are certain overlapping issues involved in this writ petition and the cases of **Goa Foundation** (Writ Petition (C) No.460 of 2004) and (Writ Petition (C) No.435 of 2012). We request the Hon'ble the Chief Justice of India to consider having the present writ petition i.e. **In Re: T.N. Godavarman Thirumulpad v. Union of India & Ors.**, W.P.(C) No.460 of 2004 (**Goa Foundation v. Union of India**) as also W.P. (C) No.435 of 2012 (**Goa Foundation v. Union of India &**



Ors.) be heard together before the same Bench. The registry may place this order before the Hon'ble the Chief Justice of India.

45. This order disposes of I.A. No.1000 of 2003 in the above terms.
46. Pending application(s), if any, shall stand disposed of.

....., J.
(L. NAGESWARA RAO)

....., J.
(B.R. GAVAI)

....., J.
(ANIRUDDHA BOSE)

NEW DELHI;
3rd JUNE, 2022



**GUIDELINES FOR
DECLARATION OF ECO-
SENSITIVE ZONES AROUND
NATIONAL PARKS AND WILDLIFE
SANCTUARIES**



**GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT AND FORESTS**



25/



Government of India
Ministry of Environment and Forests
(Wildlife Division)

Paryavaran Bhawan,
CGO Complex, Lodi Road,
New Delhi - 110003.

F. No. 1-9/2007 WL-1(pt)
Dated: 9th February, 2011

To,
The Chief Wildlife Warden
All States/Union Territories

Sub: Guidelines for Declaration of Eco-Sensitive Zones around National Parks and Wildlife Sanctuaries.

Sir

In pursuance to the decision taken by the National Board for Wildlife, all the States/Union Territory Governments were requested for forwarding site specific proposals for declaration of Eco Sensitive Zones around National Parks and Wildlife Sanctuaries. Several reminders in this connection were also sent. Hon'ble Supreme Court had also take note of this decision had directed States/ Union Territory Governments to forward proposals this Ministry. However, only very few States have forwarded proposals in this regard.

This Ministry after careful consideration, has therefore, decided to frame guidelines to facilitate the States/Union Territory Governments for declaration of Eco-Sensitive Zones around National Parks and Wildlife Sanctuaries. Kindly find enclosed a copy of the said Guidelines. It is requested to kindly take necessary action in this regard at the earliest

Yours faithfully,

(Prakriti Srivastava)

Deputy Inspector General (WL)

Telefax: 01-24360704

E-mail: digwl-mef@nic.in

Encl: As above

Copy to:

1. Principal Secretary (Forests), all States/Union Territories.
2. Principal Chief Conservator of Forests, all States/ Union Territories.
3. NIC Cell- with a request to upload the enclosed guidelines on the official website of MoEF.



35

INDEX

Sl.No.	Agenda item	Page No.
1	Background	3
2	Statutory Provisions	4
3	Purpose for declaring Eco-Sensitive Zones	5
4	Extent of Eco-Sensitive Zones	5
5	Need for guidelines	5
6	The procedure to be adopted	6



32

**GUIDELINES FOR DECLARATION OF ECO-SENSITIVE ZONES AROUND
NATIONAL PARKS AND WILDLIFE SANCTUARIES**

1. Background:

1.1. IBWL Decision:

1.1.1 During the XXI meeting of the Indian Board for Wildlife held on 21st January 2002, a 'Wildlife Conservation Strategy-2002' was adopted wherein point no.9 envisaged that "lands falling within 10 Kms of the boundaries of National Parks and Sanctuaries should be notified as eco-fragile zones under section 3 (v) of the Environment (Protection) Act and Rule 5 Sub rule (viii) & (x) of the Environment (Protection) Rules."

1.1.2 The Additional Director General of Forests (WL), vide letter dated 6th February 2002, had requested all the Chief Wildlife Wardens for listing out such areas within 10 Kms of the boundaries of National Parks and Sanctuaries and furnish detailed proposals for their notification as eco-sensitive areas under the Environment (Protection) Act, 1986.

1.1.3 In response, some of the State Governments had raised concern over applicability of the 10 Kms range from the Protected Area boundary and informed that most of the human habitation and other areas including important cities in these States would come under the purview of eco-sensitive zone and will adversely affect the development.

1.2. National Wildlife Action Plan (2002-2016)

1.2.1 The National Wildlife Action Plan (NWAP) 2002-2016 indicates that *"Areas outside the protected area network are often vital ecological corridor links and must be protected to prevent isolation of fragments of biodiversity which will not survive in the long run. Land and water use policies will need to accept the imperative of strictly protecting ecologically fragile habitats and regulating use elsewhere."*

1.2.2 The Action Plan also indicates that *"All identified areas around Protected Areas and wildlife corridors to be declared as ecologically fragile under the Environment (Protection) Act, 1986."*

1.3. Decision of National Board for Wildlife:

1.3.1 Considering the constraints communicated by the states, the proposal was re-examined by the National Board for Wildlife in its 2nd meeting held on 17th March 2005 and it was decided that the 'delineation of eco-sensitive



38

zones would have to be site specific and relate to regulation, rather than prohibition, of specific activities'. The decision was communicated to all the State Governments for compliance vide letter dated 27th May 2005. Thereafter, it was further communicated with subsequent reminders.

1.4. Hon'ble Supreme Court's decision:

1.4.1 A Public Interest Litigation was also filed by the Goa Foundation vide their Writ Petition No. 460/2004 before the Hon'ble Supreme Court regarding the issue of declaration of eco-sensitive zones.

1.4.2 Vide their order dated 4th December 2006, Hon'ble Supreme Court had directed the Ministry of Environment & Forests to give a final opportunity to all States/Union territories to respond to the letter dated 27.5.2005 and that the State Governments send their proposals within four weeks, to the Ministry. It was also directed that all cases where environmental clearances were granted where activities are within 10 Kms zone, be referred to Standing Committee of NBWL.

2. Statutory Provisions

2.1 Section 5 C(1) of the Wildlife (Protection) Act, 1972 states that it shall be the duty of the National Board for Wildlife to promote the conservation and development of Wildlife and forests by such measures as it thinks fit.

2.2 Section 3 of the Environment (Protection) Act 1986 (EPA) gives power to the Central Government i.e. the Union Ministry of Environment and Forests to take all measures that it feels are necessary for protecting and improving the quality of the environment and to prevent and control environmental pollution. To meet this objective, the Central Government can restrict areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards [Section 3(2)(v)]

2.3 Section 5(1) of the Environment (Protection) Rules, 1986 (EPR), states that the central government can prohibit or restrict the location of industries and carrying on certain operations or processes on the basis of considerations like the biological diversity of an area (clause v) maximum allowable limits of concentration of pollutants for an area (clause ii) environmentally compatible land use (clause vi) proximity to protected areas (clause viii).



37

3. Purpose for declaring Eco-Sensitive Zones:

The purpose of declaring Eco-sensitive Zones around National Parks and Sanctuaries is to create some kind of "Shock Absorber" for the Protected Areas. They would also act as a transition zone from areas of high protection to areas involving lesser protection. As has been decided by the National Board for Wildlife, the activities in the Eco-sensitive zones would be of a regulatory nature rather than prohibitive nature, unless and otherwise so required.

4. Extent of Eco-Sensitive Zones:

4.1 Many of the existing Protected Areas have already undergone tremendous development in close vicinity to their boundaries. Some of the Protected Areas actually lying in the urban setup (Fig. Guindy National Park, Tamil Nadu, Sanjay Gandhi National Park, Maharashtra, etc). Therefore, defining the extent of eco-sensitive zones around Protected Areas will have to be kept flexible and Protected Area specific. The width of the Eco-sensitive Zone and type of regulations will differ from Protected Area to Protected Area. However, as a general principle the width of the Eco-sensitive Zone could go upto 10 Kms around a Protected Area as provided in the Wildlife Conservation Strategy-2002.

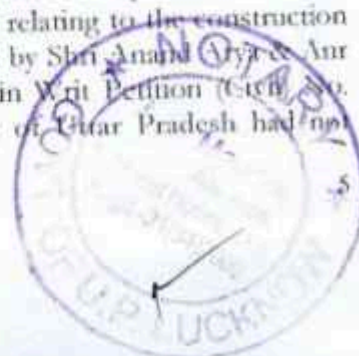
4.2 In case where sensitive corridors, connectivity and ecologically important patches, crucial for landscape linkage, are even beyond 10 kms width, these should be included in the Eco-sensitive Zone.

4.3 Further, even in context of a particular Protected Area, the distribution of an area of Eco-sensitive Zone and the extent of regulation may not be uniform all around and it could be of variable width and extent.

5. Need for guidelines:

5.1 As has been indicated vide para 1.4 above, Hon'ble Supreme Court has vide their order dated 4th December 2006 directed all the State/Union Territory Governments to forward proposals for declaration of eco-sensitive zones around its Protected Areas. However, only States like Haryana, Gujarat, Mizoram, Meghalaya, Assam, Goa have forwarded proposals. However, several other States/Union Territories have not come forward, perhaps for want of guidelines in this regard.

5.2 In this context, it is pertinent to note here that Hon'ble Supreme Court vide their judgment dated 3rd December 2010 in the case relating to the construction of park at NOIDA near Okhla Bird Sanctuary filed by Shri Anand Dyaal Anr vs. Union of India (I.A. Nos 2609-2610 of 2009) in Writ Petition (Civil) No. 202/1995, had noted that the State Government of Uttar Pradesh had (no)



declared Eco-sensitive zones around its Protected Areas as the Government of India had not issued any guidelines in this regard.

5.3 The Ministry of Environment & Forests had set up a committee under the Chairmanship of Shri Pranab Sen for identifying parameters for designating Ecologically Sensitive Areas in India. The said Committee had identified parameters for declaration of specific units of land/water etc as Ecologically Sensitive Zones based on parameters like richness of flora & fauna; slope, rarity & endemism of species in the area; origins of rivers etc. However, these parameters do not basically apply to the Eco-sensitive zones in the instant context, i.e around Protected Areas. In the instant case, the Eco-sensitive zones are meant to act as a "Shock absorbers"/ "transition zone" to the Protected Areas by regulating and managing the activities around such Protected Areas.

6. The procedure to be adopted :

6.1 As has been indicated in the forgoing paras, the basic aim is to regulate certain activities around National Park and Wildlife Sanctuary so as to minimize the negative impacts of such activities on the fragile ecosystem encompassing the Protected Area. As a first step towards achieving this goal, it is a pre-requisite that an inventory of the different land use patterns and the different types of activities, types and number of industries operating around each of the Protected Area (National Parks, Sanctuaries) as well as important Corridors be made. The inventory could be done by the concerned Range Officers, who can take a stock of activities within 10 km of his range.

6.2 For the above purpose, a small committee comprising the concerned Wildlife Warden, an Ecologist, an official from the Local Self Government and an official of the Revenue Department of the concerned area, could be formed. The said committee could suggest the:

- (i) Extent of eco-sensitive zones for the Protected Area being considered.
- (ii) The requirement of such a zone to act as a shock absorber
- (iii) To suggest the best methods for management of the eco-sensitive zones, so suggested.
- (iv) To suggest broad based thematic activities to be included in the Master Plan for the region.

6.3 Based on the above, the Chief Wildlife Warden could group the activities under the following categories (an indicative list of such activities is attached as ANNEXURE-1):-

- (i) Prohibited
- (ii) Restricted with safeguards.
- (iii) Permissible



6.4 Once the proposal for Eco-sensitive zones has been finalized, the same may be forwarded to the Ministry of Environment and Forests for further processing and notification. Here, it may be noted that, the State/Union Territory Forest Department could forward the proposals to the respective authority in the State Government with copy to the Ministry of Environment and Forests, as and when the proposals (even if it is for single Protected Area) are complete. An indicative list of details that need to be submitted along with the proposals is at ANNEXURE-2.

6.5 It is to mention here that in cases where the boundary of a Protected Area abuts the boundary of another State/Union Territory where it does not form part of any Protected Area, it shall be the endeavour of both the State/Union Territory Governments to have a mutual consultation and decide upon the width of the eco-sensitive zone around the Protected Area in question.

6.6 The State Government should endeavour to convey a very strong message to the public that ESZ are not meant to hamper their day to day activities, but instead, is meant to protect the precious forests/Protected Areas in their locality from any negative impact, and also to refine the environment around the Protected Areas. A copy of the notification of the Sultanpur Eco-sensitive Zone issued by the Ministry is attached herewith at ANNEXURE-3 for reference and guidance.

7. These guidelines are indicative in nature and the State / Union Territory Governments may use these as basic framework to develop specific guidelines applicable in the context of their National Parks, Wildlife Sanctuaries, important corridors, etc. with a view to minimizing and preferably eliminating any negative impact on protected areas.



ANNEXURE-1

Identification of Activities

While some of the activities could be allowed in all the eco-sensitive areas, others will need to be regulated / prohibited. However, which activity can be regulated or prohibited and to what extent, would have to be PA specific. A broad list of activities (this may need supplementation) which could be allowed, promoted, regulated or prohibited is given in the table below:

Sl. No.	Activity	Prohibited	Regulated	Permitted	Remarks
1.	Commercial Mining	Y			Regulation will not prohibit the digging of earth for construction or repair of houses and for manufacture of country tiles or bricks for housing for personal consumption
2.	Felling of trees		Y		With permission from appropriate authority
3.	Setting of saw mills	Y			
4.	Setting of industries causing pollution (Water, Air, Soil, Noise, etc.)	Y			
5.	Establishment of hotels and resorts		Y		As per approved master plan, which takes care of habitats allowing no restriction on movement of wild animals
6.	Commercial use of firewood	Y			For hotels and other business related establishment



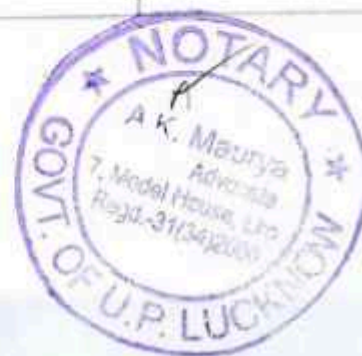
35

Prohibited Regulated Permitted

7.	Drastic change of agriculture systems		Y		
8.	Commercial use of natural water resources including ground water harvesting		Y		As per approved master plan, which takes care of habitats allowing no restriction on movement of wild animals.
9.	Establishment of major hydroelectric projects	Y			
10.	Erection of electrical cables		Y		Promote underground cabling
11.	Ongoing agriculture and horticulture practices by local communities			Y	However, excessive expansion of some of these activities should be regulated as per the master plan
12.	Rain Water harvesting			Y	Should be actively promoted
13.	Fencing of premises of hotels and lodges		Y		
14.	Organic farming			Y	Should be actively promoted
15.	Use of polythene bags by shopkeepers		Y		
16.	Use of renewable energy sources			Y	Should be actively promoted
17.	Widening of roads		Y		This should be done with proper EIA



					and mitigation measures
18.	Movement of vehicular traffic at night		Y		For commercial purpose
19.	Introduction of exotic species		Y		
20.	Use or production of any hazardous substances	Y			
21.	Undertaking activities related to tourism like over-flying the National Park area by any aircraft, hot-air balloons	Y			
22.	Protection of hill slopes and river banks		Y		As per the master plan
23.	Discharge of effluents and solid waste in natural water bodies or terrestrial area	Y			
24.	Air and vehicular pollution		Y		
25.	Sign boards & hoardings		Y		As per the master plan
26.	Adoption of green technology for all activities			Y	Should be actively promoted



ANNEXURE-2**GENERIC INFORMATION TO BE INCORPORATED IN THE
PROPOSALS FOR DECLARATION OF ECO-SENSITIVE ZONE
AROUND PROTECTED AREAS**

- (i) Delineation of the physical boundaries on a topo-sheet with precise description in geographic terms together with a description of the significant features/attributes that would potentially qualify the area as eco-sensitive zone. A description of the boundaries alongwith the list of villages with exception and exemption in the delineated buffer zone area.
- (ii) An inventory of the existing legal status of rights, entitlements, privileges and obligations of the local communities.
- (iii) A description of bio-diversity values including bio-geographical representatives, endemism, species richness, geo-morphological characteristics, and unique land use practices including aesthetic and cultural values.
- (iv) A description of the resource base indicating the economic potential and livelihood implication for the people residing in and around the proposed eco-sensitive area.
- (v) An inventory of activities to be regulated and/ or prohibited in the proposed eco-sensitive zone.
- (vi) List of the protected areas for declaring eco-sensitive zone.



REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

**I.A. NOS. 131377, 147102, 195467, 195468,
205092 OF 2022,**

I.A. NOS. 162283 AND 162284 OF 2022

IN

I.A. D. NO. 125746 OF 2022

WITH

**I.A. NOS. 118604, 118606, 119400, 119401, 119404,
137132, 137138, 137140 AND 137143 OF 2022**

I.A. NOS. 5764, 6804 AND 10911 OF 2023

IN THE MATTER OF:

WRIT PETITION (CIVIL) NO. 202 OF 1995

IN RE: T.N. GODAVARMAN THIRUMULPAD

...PETITIONER(S)

VERSUS

UNION OF INDIA AND OTHERS

...RESPONDENT(S)

J U D G M E N T

B.R. GAVAL, J.

I.A. NO. 131377 OF 2022:



1. The present I.A. is filed by the Union of India praying for modification/clarification of the order passed by this Court



dated 3rd June 2022¹ in I.A. No. 1000 of 2003 in WP(C) No. 202 of 1995.

2. The applicant specifically seeks modification of the directions contained in paragraphs 56.1 and 56.5 of the order dated 3rd June 2022 (supra). The said paragraphs are reproduced hereinbelow:

56.1. Each protected forest, that is, national park or wildlife sanctuary must have an ESZ of minimum one kilometre measured from the demarcated boundary of such protected forest in which the activities proscribed and prescribed in the Guidelines of 9-2-2011 shall be strictly adhered to. For Jamua Ramgarh Wildlife Sanctuary, it shall be 500 m so far as subsisting activities are concerned.

.....

56.5. In the event any activity is already being undertaken within the one kilometre or extended buffer zone (ESZ), as the case may be, of any wildlife sanctuary or national park which does not come within the ambit of prohibited activities as per the 9-2-2011 Guidelines, such activities may continue with permission of the Principal Chief Conservator of Forests of each State or Union Territory and the person responsible for such activities in such a situation shall obtain necessary permission within a period of six months. Such permission shall be given once the Principal Chief Conservator of Forests is satisfied that the activities concerned do not come within the prohibited list and were

¹(2022) 10 SCC 544



38

well as Senior Counsel appearing on behalf of various State Governments.

5. It is submitted that the Government of India has already issued Guidelines on 9th February 2011 (hereinafter referred to as the "said Guidelines") for declaration of ESZs around National Parks and Wildlife Sanctuaries. The said Guidelines were framed after consulting the National Board for Wildlife (hereinafter referred to as "NBWL"), and all the State and Union Territory Governments. The said Guidelines provide a detailed procedure for submitting a proposal for declaration of the areas around National Parks and Wildlife Sanctuaries as ESZs. It is further submitted that the said Guidelines itself contain various activities which have been categorized as prohibited, regulated and permitted.

6. It is further submitted that the direction as contained in paragraph 56.5 of the order dated 3rd June 2022 (supra) is likely to cause great hardship to the citizens residing in the ESZs. It is further submitted that the said directions provide that if any activity is already being undertaken within one kilometre or extended buffer zone (ESZ), and which does not



35

come within the ambit of prohibited activities as per the said Guidelines, such activities may continue with the permission of the Principal Chief Conservator of Forests (for short, "PCCF") of each State or Union Territory and the person responsible for such activities in such a situation shall obtain necessary permission within a period of six months. The said Guidelines further provide that such permission shall be given once the PCCF is satisfied that the activities concerned do not come within the prohibited list and were continuing prior to passing of this Court's order dated 3rd June 2022 (supra) in a legitimate manner. It is further submitted that the direction that no new permanent structure shall be permitted to come up for whatsoever purpose within the ESZs would also cause great hardship.

7. It is further submitted that insofar as the direction in paragraph 56.1 of the order dated 3rd June 2022 (supra) is concerned, it mandates that each protected forest, that is, National Park or Wildlife Sanctuary, must have an ESZ of minimum one kilometre measured from the demarcated boundary of such protected forest in which the activities

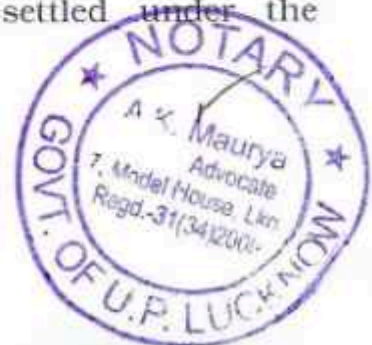


proscribed and prescribed in the said Guidelines shall be strictly adhered to. Insofar as Jamua Ramgarh Wildlife Sanctuary is concerned, it is directed that the ESZ shall be 500 meters so far as subsisting activities are concerned.

8. The learned ASG, *amicus curiae* and Senior Counsel appearing on behalf of various States submitted that in respect of various National Parks and Wildlife Sanctuaries, already final notifications had been issued, prescribing the boundaries for the ESZs. In some cases, the draft notifications are pending and in some other cases, the proposals for issuance of draft and final notifications are pending with the Government of India.

9. It is submitted that there cannot be a uniform boundary for all the National Parks and Wildlife Sanctuaries. It is further submitted that there cannot also be a uniform boundary for a particular National Park or Wildlife Sanctuary. At times, it may be longer on one side and shorter on the other side depending on various circumstances.

10. It is submitted that the rights of the citizens who are residing in the Protected Areas are settled under the



38

provisions of Sections 18 to 25A of the Wild Life (Protection) Act, 1972 (hereinafter referred to as "1972 Act") whereas there is no settlement of rights of citizens residing in ESZs. The citizens therein continue to reside and are also continuing with their daily avocation like farming etc. It is submitted that various developmental activities like construction of schools, dispensaries, anganwadis, public health centres etc. are required to be undertaken in such areas. Not only that, but if the direction not to make any construction is continued, the persons residing therein would not be in a position to construct or reconstruct houses on their own land. It is submitted that the procedure prescribed for obtaining the permission of the PCCF is very tedious. If such a direction is issued, the PCCF would be left with no other work but to consider the applications for continuation of such activities.

11. It is further submitted that though this Court has observed in paragraph 54 of the order dated 3rd June 2022 (supra) that the said Guidelines are reasonable, it has

3/2



nevertheless issued directions which are in conflict with the said Guidelines.

12. It is further contended that the issue in I.A. No. 1000 of 2003 was restricted to prohibition of mining activities in and around Jamua Ramgarh Wildlife Sanctuary and prescribing ESZs for the said Wildlife Sanctuary only. As such, various State Governments did not have an opportunity to address this Court.

13. Having considered the rival submissions, we find it appropriate to refer to various orders passed by this Court on the issue of ESZs/Buffer Zones.

14. The first of such orders was passed by this Court on 16th September 2005². It will be relevant to refer to paragraph 13 of the said order, which reads thus:

“13. We have perused the affidavit dated 14-9-2005 filed by Mr Anurag Bajpai on behalf of MoEF and the statement showing the grant of temporary working permit in the last two years i.e. from 1-1-2003 to 31-12-2004 in the national parks, sanctuaries and forest area. This is despite the order passed by this Court restraining the mining activities in these areas. Learned amicus curiae submits that the inspection of the government record shows a

² (2006) 5 SCC 25



32

dismal picture and he would shortly file an application for taking appropriate action against the persons concerned. Pending filing of the said application and further orders, we again reiterate that without compliance with the environmental laws, in particular the permission under the Forest (Conservation) Act, 1980, no temporary working permission or temporary permit or any other permission by whatever name called shall be granted for mining activities in the aforesaid areas. **We further direct that no mining activity would continue under any temporary working permit or permission which may have been granted. It appears from the chart filed with the affidavit of Mr Anurag Bajpai that no temporary working permission is in operation as of today. If it is otherwise, an affidavit to that effect shall be filed within two weeks giving the particulars of such permission.**

[emphasis supplied]

15. It can thus clearly be seen that this Court directed that no mining activity would be permitted to continue under any temporary working permit or permission which may have been granted.

16. It will further be relevant to refer paragraph 15 of the said order, which reads thus:

“15. MoEF is directed to place on record within three weeks its viewpoint on the question of area of buffer zone and other related matters such as should it be universal or place specific.



This should be done after also obtaining the viewpoint of the National Board of Wildlife.”

17. It can thus be seen from the said paragraph that this Court directed MoEF to place on record within three weeks its viewpoint on the question of area of buffer zone and other related matters such as should it be universal or place specific. The Court further directed that this should be done after obtaining the viewpoint of the NBWL.

18. The second of such orders is passed on 4th August 2006³. The said order basically pertains to banning the mining activities in the National Parks, Sanctuaries and forest areas. The Court laid down various pre-conditions wherein temporary working permits could be granted.

19. The next order is passed on 4th December 2006⁴. In the said order, the Court expressed its anguish towards the various State Governments for not responding to the letter issued by MoEF dated 27th May 2005 requiring them to initiate measures for identification of suitable areas and submit detailed proposals at the earliest. It will be relevant

³ (2010) 13 SCC 740
⁴ (2011) 15 SCC 791



to refer to paragraphs 3 and 4 of the said order, which read thus:

"3. The order earlier passed on 30-1-2006 [*Goa Foundation v. Union of India*, (2011) 15 SCC 793] refers to the decision which was taken on 21-1-2002 to notify the areas within 10 km of the boundaries of national parks and sanctuaries as eco-sensitive areas. The Letter dated 27-5-2005 is a departure from the decision of 21-1-2002. For the present, in this case, we are not considering the correctness of this departure. That is being examined in another case separately. Be that as it may, it is evident that the States/Union Territories have not given the importance that is required to be given to most of the laws to protect environment made after Rio Declaration, 1992.

4. The Ministry is directed to give a final opportunity to all States/Union Territories to respond to its Letter dated 27-5-2005. The State of Goa also is permitted to give appropriate proposal in addition to what is said to have already been sent to the Central Government. The communication sent to the States/Union Territories shall make it clear that if the proposals are not sent even now within a period of four weeks of receipt of the communication from the Ministry, this Court may have to consider passing orders for implementation of the decision that was taken on 21-1-2002, namely, notification of the areas within 10 km of the boundaries of the sanctuaries and national parks as eco-sensitive areas with a view to conserve the forest, wildlife and environment, and having



regard to the precautionary principles. If the States/Union Territories now fail to respond, they would do so at their own risk and peril."

20. It can be seen that this Court refers to its earlier order dated 30th January 2006 wherein a reference is made to the decision dated 21st January 2002 to notify the areas within 10 kilometres of the boundaries of National Parks and Sanctuaries as ESZs. Though the order records that the letter dated 27th May 2005 is a departure from the decision taken on 21st January 2002, the Court observes that, in the said case, the Court was not considering the correctness of the said departure. The Court therefore directed the Ministry to give a final opportunity to all States/Union Territories to respond to its Letter dated 27th May 2005. The said order states that the communication should mention that if the proposals were not sent within a period of four weeks from the receipt of the communication from the Ministry, this Court may have to consider passing orders for implementation of the decision that was taken on 21st January 2002, i.e., notification of the areas within 10



kilometres of the boundaries of the sanctuaries and National Parks as ESZs.

21. The next order of this Court is dated 21st April 2014 in the case of ***Goa Foundation v. Union of India and Others***⁵.

It will be relevant to refer to the following observations of this Court in the said order:

"49.The result is that the order passed by this Court saying that there will be no mining activity within one kilometre safety zone around national park or wildlife sanctuary has to be enforced and there can be no mining activities within this area of one kilometre from the boundaries of national parks and wildlife sanctuaries in the State of Goa."

22. The Court has clarified that there shall be no mining activity within one kilometre of the safety zone around National Park or Wildlife Sanctuary and that this has to be enforced. It is also reiterated that there can be no mining activities within this area of one kilometre from the boundaries of National Parks and Wildlife Sanctuaries in the State of Goa.

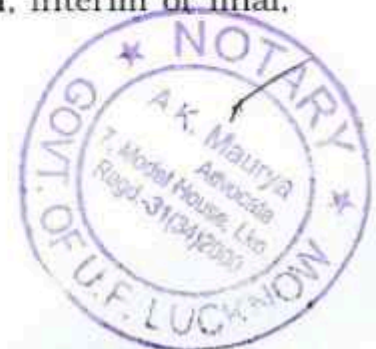
23. The Court thereafter refers to the earlier order dated 4th December 2006 (supra) in the said case and observed thus:

⁵ (2014) 6 SCC 590



"50.It will be clear from the order dated 4-12-2006 [*Goa Foundation v. Union of India*, (2011) 15 SCC 791] of this Court that this Court has not passed any orders for implementation of the decision taken on 21-1-2002 to notify areas within 10 km of the boundaries of national parks or wildlife sanctuaries as eco-sensitive areas with a view to conserve the forest, wildlife and environment. By the order dated 4-12-2006 [*Goa Foundation v. Union of India*, (2011) 15 SCC 791] of this Court, however, the Ministry of Environment and Forests, Government of India, was directed to give a final opportunity to all States/Union Territories to respond to the proposal and also to refer to the Standing Committee of the National Board for Wildlife the cases in which environment clearance has already been granted in respect of activities within the 10 km zone from the boundaries of the wildlife sanctuaries and national parks. There is, therefore, no direction, interim or final, of this Court prohibiting mining activities within 10 km of the boundaries of national parks or wildlife sanctuaries."

24. It could thus be seen that the Court has specifically observed that this Court had not passed any orders for implementation of the decision taken on 21st January 2002 to notify areas within 10 kilometres of the boundaries of National Parks or Wildlife Sanctuaries as ESZs with a view to conserve the forest, wildlife and environment. The Court therefore clarified that there is no direction, interim or final,



prohibiting mining activities within 10 kilometres of the boundaries of National Parks or Wildlife Sanctuaries.

25. It will be relevant to refer to paragraphs 87.3 and 88.1 of the said order, which read thus:

87.3. Until the order dated 4-8-2006 [*T.N. Godavarman Thirumulpad v. Union of India*, (2010) 13 SCC 740] of this Court is modified by this Court in IA No. 1000 in *T.N. Godavarman Thirumulpad v. Union of India*, there can be no mining activities within one kilometre from the boundaries of national parks and sanctuaries in Goa.

88.1. MoEF will issue the notification of eco-sensitive zones around the national park and wildlife sanctuaries of Goa after following the procedure discussed in this judgment within a period of six months from today."

26. It can thus be seen that this Court has held that until the order dated 4th August 2006 (supra) is modified by this Court in IA No. 1000 of 2003 in the case of **T.N. Godavarman Thirumulpad v. Union of India**, there can be no mining activities within one kilometre from the boundaries of National Parks and Sanctuaries in Goa. The Court further directed MoEF to issue the notification of ESZs around the National Park and Wildlife Sanctuaries of Goa after following the procedure discussed in the said judgment.



The same was directed to be done within a period of six months from the date of the said order.

27. The next relevant order would be dated 11th December 2018. It will be relevant to refer to the following part of the said order:

"The learned ASG has informed us that there are 104 National Parks and 558 Wildlife Sanctuaries making a total of 662 National Parks and Wildlife Sanctuaries in the country.

The proposals for declaring areas around these National Parks and Wildlife Sanctuaries as Eco Sensitive Zone have been received from State Governments / UT Administrations for 641 National Parks and Wildlife Sanctuaries. No proposals have been received in respect of 21 National Parks and Wildlife Sanctuaries.

The proposals have been accepted and Notification has been issued in respect of 289 National Parks and Wildlife Sanctuaries as on 26.11.2018 and draft Notification has been prepared in respect of 206 National Parks and Wildlife Sanctuaries.

The declaration with regard to Eco Sensitive Zone is under process with the Ministry of Environment, Forests and Climate Change (MoEF) as well as with the State Governments in respect of 4 146 National Parks and Wildlife Sanctuaries.

We expect the Ministry of Environment, Forests and Climate Change to actively pursue the preparation of the draft Notification and to issue a final Notification at the earliest.



25

The proposals for 21 National Parks and Wildlife Sanctuaries in respect of which proposals have not yet been received by the MOEF are as follows:-

.....

It is submitted by the learned Amicus that this issue has been pending since sometime in December, 2006. 12 years have gone-by but no effective steps have been taken by the State Governments in respect of the National Parks and Wildlife Sanctuaries mentioned above.

Under the circumstances, we direct that an area of 10 Kms around these 21 National Parks and Wildlife Sanctuaries be declared as Eco Sensitive Zone by the MoEF. The declaration be made by the MoEF at the earliest.

Liberty is granted to the State Governments to move an application for modification of this order along with proposal only two weeks after submission of the proposals to the MoEF."

28. It can be seen that this Court has recorded the submissions of the learned ASG that there were 104 National Parks and 558 Wildlife Sanctuaries making a total of 662 National Parks and Wildlife Sanctuaries in the country. It was further recorded that the proposals for declaring areas around these National Parks and Wildlife Sanctuaries as ESZs had been received from the State Governments/Union



Territories. It can further be seen that no proposals have been received in respect of 21 National Parks and Wildlife Sanctuaries. It further recorded that the proposals had been accepted and notification had been issued in respect of 289 National Parks and Wildlife Sanctuaries as on 26th November 2018 and draft notification had been prepared in respect of 206 National Parks and Wildlife Sanctuaries. The Court therefore expected the MoEF & CC to actively pursue the preparation of the draft Notification and to issue a final Notification at the earliest. The Court then recorded 21 National Parks and Wildlife Sanctuaries in respect of which proposals have not yet been received by the MoEF & CC alongside its anguish that though 12 years had been passed, no effective steps have been taken by the State Governments in respect of the National Parks and Wildlife Sanctuaries named in the said order. Therefore, the Court directed that an area of 10 kilometres around these 21 National Parks and Wildlife Sanctuaries be declared as ESZs by the MoEF & CC. Liberty was granted to the State Governments to move an application for modification of the said order. However, it



further directed that the application should be along with the proposal for declaration of ESZs.

29. It is to be noted that the learned Judges of this Court, in the case of **Goa Foundation**⁶, had directed that the MoEF & CC shall follow the procedure and issue notification of ESZs under Rule 5 of the Environment (Protection) Rules, 1986 (hereinafter referred to as "1986 Rules"). The relevant provisions of the 1986 Rules are reproduced hereinbelow:

"5. Prohibition and restriction on the location of industries and the carrying on of processes and operations in different areas.—(1) The Central Government may take into consideration the following factors while prohibiting or restricting the location of industries and carrying on of processes and operations in different areas:

(i) Standards for quality of environment in its various aspects laid down for an area.

(ii) The maximum allowable limits of concentration of various environmental pollutants (including noise) for an area.

(iii) The likely emission or discharge of environmental pollutants from an industry, process or operation proposed to be prohibited or restricted.

⁶(2014) 6 SCC 590



(iv) The topographic and climatic features of an area.

(v) The biological diversity of the area which, in the opinion of the Central Government needs to be preserved.

(vi) Environmentally compatible land use.

(vii) Net adverse environmental impact likely to be caused by an industry, process or operation proposed to be prohibited or restricted.

(viii) Proximity to a protected area under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 or a sanctuary, National Park, game reserve or closed area notified as such under the Wild Life (Protection) Act, 1972 or places protected under any treaty, agreement or convention with any other country or countries or in pursuance of any decision made in any international conference, association or other body.

(ix) Proximity to human settlements.

(x) Any other factor as may be considered by the Central Government to be relevant to the protection of the environment in an area.

(2) While prohibiting or restricting the location of industries and carrying on of processes and operations in an area, the Central Government shall follow the procedure hereinafter laid down.



(3) (a) Whenever it appears to the Central Government that it is expedient to impose prohibition or restrictions on the location of an industry or the carrying on of processes and operations in an area, it may, by notification in the Official Gazette and in such other manner as the Central Government may deem necessary from time to time, give notice of its intention to do so.

(b) Every notification under clause (a) shall give a brief description of the area, the industries, operations, processes in that area about which such notification pertains and also specify the reasons for the imposition of prohibition or restrictions on the location of the industries and carrying on of processes or operations in that area.

(c) Any person interested in filing an objection against the imposition of prohibition or restrictions on carrying on of processes or operations as notified under clause (a) may do so in writing to the Central Government within sixty days from the date of publication in the notification in the Official Gazette.

(d) The Central Government shall within a period of one hundred and twenty days from the date of publication of the notification in the Official Gazette consider all the objections received against such notification and may [within [seven hundred and twenty-five days [, and in respect of the States of Assam, Meghalaya, Arunachal Pradesh, Mizoram, Manipur, Nagaland,



Tripura, Sikkim and Jammu and Kashmir in exceptional circumstance and for sufficient reasons within a further period of one hundred and eighty days.]) from such date of publication] impose prohibition or restrictions on location of such industries and the carrying on of any process or operation in an area:

[Provided that on account of COVID-19 pandemic, for the purpose of this clause, the period of validity of the notification expiring in the financial year 2020-2021 and 2021-2022 shall be extended up to [30th June, 2022] or six months from the end of the month when the relevant notification would have expired without any extension, whichever is later.]

[(4) Notwithstanding anything contained in sub-rule (3), whenever it appears to the Central Government that it is in public interest to do so, it may dispense with the requirement of notice under clause (a) of sub-rule (3).]"

30. It is to be noted that Rule 5 of the 1986 Rules prescribes a detailed procedure for issuing notification prohibiting or restricting various activities in the specified areas. The said power flows from Sections 3(v) of the Environment (Protection) Act, 1986 (hereinafter referred to as "1986 Act").



31. A perusal of clause (viii) of sub-rule (1) of Rule 5 of the 1986 Rules would reveal that one of the factors that has to be taken into consideration for declaring ESZ is the proximity to a sanctuary, National Park, game reserve or closed area notified, as such under the 1972 Act. Sub-rule 3(a) of Rule 5 of the 1986 Rules requires that whenever it appears to the Central Government that it is expedient to impose prohibition or restrictions, it is required to give notice of its intention to do so by notification in the Official Gazette and in such other manner as the Central Government may deem necessary from time to time. As per sub-rule 3(b) of Rule 5, every such notification is required to give a brief description of the area, the industries, operations processes in that area about which such notification pertains and also specify the reasons for the imposition of prohibition or restrictions on the location of the industries on carrying out of the processes or operations in that area. Accordingly, as per sub-rule 3(c) of Rule 5, any person interested in filing an objection is entitled to file an objection to the Central Government within sixty days from the date of publication in the notification in the Official



CFY

Gazette. The Central Government thereafter within the prescribed period provided under clause (d) of sub-rule (3) of Rule 5 of the 1986 Rules is required to issue a notification in the Official Gazette imposing such prohibition or restrictions in an area. This is required to be done only after considering all the objections received under clause (c) of sub-rule (3) of Rule 5 of the 1986 Rules. It can thus be seen that a detailed procedure is prescribed under the 1986 Rules for notifying ESZs.

32. It is to be noted that MoEF & CC has issued the said Guidelines for declaration of ESZs around the National Parks and Wildlife Sanctuaries.

33. The said Guidelines refer to a meeting of the Indian Board for Wildlife held on 21st January 2002, in which "Wildlife Conservation Strategy-2002" was adopted. Point No. 9 of the said Strategy envisaged that lands falling within 10 kilometres of the boundaries of National Parks and Sanctuaries should be notified as eco-fragile zones under Section 3(v) of the 1972 Act and clause (viii) of sub-rule (1) of Rule 5 of the 1986 Rules. It further states that when the



views were obtained from all the State Governments, some of the State Governments had raised concern over applicability of 10 kilometres range from the Protected Area boundary and informed that most of the human habitation and other areas including important cities in these States would come under the purview of ESZs and will adversely affect the development. The said Guidelines also refer to the National Wildlife Action Plan (2002-2016). The NBWL, in its meeting held on 17th March 2005, decided that the delineation of ESZs would have to be site specific and relate to regulation rather than prohibition of specific activities. The said decision was communicated to all the State Governments for compliance vide letter dated 27th May 2005.

34. The said Guidelines thereafter refer to the directions of this Court dated 4th December 2006. It also refers to the statutory provisions as contained in Section 5C (1) of the 1972 Act, Section 3 of the 1986 Act and Rule 5 of the 1986 Rules. The said Guidelines state that the purpose of declaring ESZs around National Parks and Sanctuaries is to create some kind of Shock Absorber for the Protected Areas.



They would also act as a transition zone from areas of high protection to areas involving lesser protection. It also reiterates the decision of the NBWL that the activities in the ESZs would be of a regulatory nature rather than prohibitive nature unless and otherwise so required. Paragraph 4 of the said Guidelines notes that many of the existing Protected Areas have already undergone tremendous development in close vicinity to their boundaries. It refers to the Guindy National Park, Tamil Nadu, Sanjay Gandhi National Park, Maharashtra, etc. and notes that the Protected Areas are lying in the urban set up. It therefore observes that defining the extent of ESZs around Protected Areas will have to be kept flexible and Protected Area specific. It notes that the width of ESZs and type of regulations will differ from one Protected Area to another Protected Area. It however notes that, as a general principle, the width of the ESZs could go up to 10 kilometres around a Protected Area as provided in the Wildlife Conservation Strategy-2002. It further notes that in case where sensitive corridors, connectivity and ecologically important patches, crucial for landscape linkage, are even beyond 10 kilometres width, these should be



included in the ESZs. It further notes that even in context of a particular Protected Area, the distribution of an area of the ESZ and the extent of regulation may not be uniform all around and it could be of variable width and extent. The said Guidelines notes that though the directions were issued by this Court to all the States/Union Territories, except a few States, several other States/Union Territories have not come forward with the proposals for declaration of ESZs. It was observed that this could be perhaps for want of guidelines in this regard. It further notes that this Court in its judgment and order dated 3rd December 2010 in a case relating to construction of park at Noida near Okhla Bird Sanctuary, observed that the ESZs around the Protected Areas had not been notified as the Government of India had not issued any guidelines in this regard.

35. It thereafter refers to the Committee under the Chairmanship of Shri Pronab Sen for identifying parameters for designating Ecologically Sensitive Areas in India.

36. The said Guidelines thereafter state in paragraph 6 that the basic aim of notifying ESZs is to regulate certain



activities around National Park and Wildlife Sanctuary so as to minimize the negative impact of such activities on the fragile ecosystem encompassing the Protected Area. It states that the first step towards it is to prepare an inventory of the different land use patterns and the different types of activities, types and number of industries operating around each of the Protected Area as well as important Corridors. It states that the inventory could be done by the concerned Range Officers, who can take a stock of activities within 10 kilometres of the range. It further notes that a Committee comprising of the concerned Wildlife Warden, an Ecologist, an official from the Local Self Government and an official of the Revenue Department of the concerned area, could be formed to suggest the following:

- (i) Extent of eco-sensitive zones for the Protected Area being considered.
- (ii) The requirement of such a zone to act as a shock absorber
- (iii) To suggest the best methods for management of the eco-sensitive zones, so suggested.



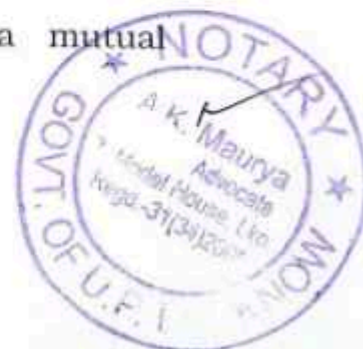
- (iv) To suggest broad based thematic activities to be included in the Master Plan for the region.

37. It further notes that based on the above, the Chief Wildlife Warden could group the activities under the following categories:-

- (i) Prohibited
- (ii) Restricted with safeguards.
- (iii) Permissible

38. The said Guidelines thereafter note that once the proposal for ESZs has been finalized, the same should be forwarded to the MoEF & CC for further processing and notification. An indicative list of details that need to be submitted along with the proposals is also appended to the said Guidelines.

39. The said Guidelines further note that where the boundary of a Protected Area abuts the boundary of another State/Union Territory where it does not form part of any Protected Area, it should be the endeavour of both the State/Union Territory Governments to have a mutual



consultation and decide upon the width of the ESZs around the Protected Area in question. The said Guidelines emphasize that the State Government should endeavour to convey a very strong message to the public that ESZs are not meant to hamper their day to day activities, but instead, are meant to protect the precious forests/Protected Areas in their locality from any negative impact, and also to refine the environment around the Protected Areas. It further notes that these guidelines are indicative in nature and the State/Union Territory Governments may use these as basic framework to develop specific guidelines applicable in the context of their National Parks, Wildlife Sanctuaries, important corridors etc. with a view to minimizing and preferably eliminating any negative impact on Protected Areas.

40. A list of the activities which are prohibited, regulated and permitted is contained in Annexure-I of the said Guidelines, which reads thus:

Sl. No.	Activity	Prohibited	Regulated	Permitted	Remarks
1.	Commercial mining	Y			Regulation will not



					prohibit the digging of earth for construction or repair of houses for manufacture of country tiles or bricks for housing for personal
2.	Felling of trees		Y		With permission from appropriate authority
3.	Setting of saw mills	Y			
4.	Setting of industries causing pollution (Water, Air, Soil., Noise, etc.)	Y			
5.	Establishment of hotels and resorts		Y		As per approved master plan, which takes care of habitats allowing no restriction on movement of wild animals
6.	Commercial use of firewood	Y			For hotels and other business related establishment



7.	Drastic change of agriculture systems		Y		
8.	Commercial use of natural water resources including ground water harvesting		Y		As per approved master plan, which takes care of habitats allowing no restriction on movement of wild animals.
9.	Establishment of major hydroelectric projects	Y			
10.	Erection of electrical cable		Y		Promote underground cabling
11.	Ongoing agriculture and horticulture practices local communities			Y	However, excessive expansion of some of these activities should be regulated as per the master plan
12.	Rain Water harvesting			Y	Should be actively promoted
13.	Fencing of premises of hotels and lodges		Y		
14.	Organic farming			Y	Should be actively promoted



15.	Use of polythene bags by shopkeepers		Y		
16.	Use of renewable energy sources			Y	Should be actively promoted
17.	Widening of roads		Y		This should be done with proper EIA and mitigation measures
18.	Movement of vehicular traffic at night		Y		For commercial purpose
19.	Introduction of exotic species		Y		
20.	Use of production of any hazardous substances	Y			
21.	Undertaking activities related to tourism like over-flying the National Park are by any aircraft, hot-air balloons				
22.	Protection of hill slopes and river banks		Y		As per the master plan



23.	Discharge of effluents and solid waste in natural water bodies or terrestrial are	Y			
24.	Air and vehicular pollution		Y		
25.	Sign board & hoardings		Y		As per the master plan
26.	Adoption of green technology for all activities			Y	Should be actively promoted.

41. It is to be noted that this Court in paragraph 54 of the order dated 3rd June 2022 (supra) has, in fact, held the said Guidelines to be reasonable and also accepted the view of the Standing Committee of the NBWL that uniform guidelines may not be possible in respect of each sanctuary or National Park for maintaining the ESZs. It is also observed that the sanctuaries like Sanjay Gandhi National Park and Guindy National Park in Mumbai shall form special cases. The said paragraph 54 is reproduced hereinunder:



"54. In our opinion, the Guidelines framed on 9-2-2011 appear to be reasonable and we accept the view of the Standing Committee that uniform guidelines may not be possible in respect of each sanctuary or national park for maintaining ESZ. We are of the opinion, however, that a minimum width of 1 km ESZ ought to be maintained in respect of the protected forests, which forms part of the recommendations of CEC in relation to Category B protected forests. This would be the standard formula, subject to changes in special circumstances. We have considered CEC's recommendation that the ESZ should be relatable to the area covered by a protected forest but the Standing Committee's view that the area of a protected forest may not always be a reasonable criteria also merits consideration. It was argued before us that the 1 km wide "no-development-zone" may not be feasible in all cases and specific instances were given for Sanjay Gandhi National Park and Guindy National Park in Mumbai and Chennai metropolis respectively which have urban activities in very close proximity. These sanctuaries shall form special cases."

42. It is to be noted that an elaborate and exhaustive list has been prepared by MoEF & CC of the activities which shall be prohibited, the activities which shall be regulated and the activities which shall be permitted.

43. In the application, it is stated that after the proposals are received from the State Governments/Union Territory



Administrations, they are scrutinized in consultation with the Wildlife Institute of India, Dehradun, and in case of tiger reserves, with the National Tiger Conservation Authority. They are thereafter published in the Official Gazette of the Central Government in both Hindi and English. They are also placed in the public domain for 60 days for seeking comments of concerned stakeholders. The comments so received are compiled and scrutinized and observation of the concerned State Government/Union Territory Administration is sought on the same. The aforesaid requirements are in tune with the provisions of Rule 5 of 1986 Rules.

44. The application further states that the proposal is thereafter placed before an Expert Committee constituted for ESZ within the MoEF & CC. The said Committee comprises of the following:

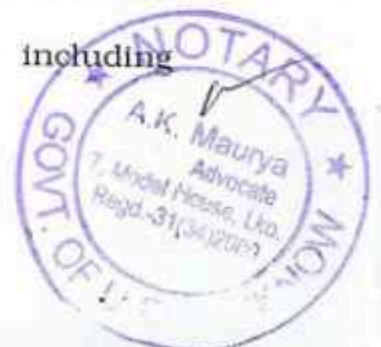
- (i) Indian Institute of Remote Sensing/Indian Space Research Organization,
- (ii) Ministry of Jal Shakti,
- (iii) Ministry of Rural Development,



- (iv) Forest Survey of India,
- (v) Town & Country Planning Organization,
Government of India,
- (vi) National Tiger Conservation Authority,
- (vii) Wildlife Institute of India,
- (viii) GB Pant Institute of Himalayan
Environment & Development,
- (ix) Indian Council of Forestry Research and
Education,
- (x) World Wildlife Fund,
- (xi) Zoological Survey of India,
- (xii) Botanical Survey of India,
- (xiii) Salim Ali Centre for Ornithology and
Natural History (SACON).

35

45. It is further stated in the application that based on the recommendation of the Expert Committee (ESZ), the Ministry finalizes the notification of ESZs and after due legal vetting by the Ministry of Law & Justice, final notifications specifying the ESZs around the Protected Areas are notified. It could thus be seen that an elaborate procedure including



consideration by a Committee of Experts coming from 13 organizations having expertise in wildlife ecology, forest etc. is followed before a final notification prescribing ESZs is notified.

46. In the application filed by the Union of India, various illustrations have been given to point out as to how if the directions issued in paragraph 56.5 of the order dated 3rd June 2022 (supra) are not modified, a severe hardship would be caused to the millions of people. We refer to the same hereunder:

- (i) "The ESZ around Nagarjunasagar Srisaillam Tiger Reserve in Andhra Pradesh extends from 0 to 26 kilometres and 100 villages are situated within it (*Zero extent of ESZ is due to Krishna River and interstate boundary with Telangana*);
- (ii) The ESZ around Valmiki Wildlife Sanctuary, Valmiki National Park and Valmiki Tiger Reserve in Bihar extends from 0 to 9 kilometres and 323 villages are situated within it (*zero extent of ESZ is towards Western side sharing inter-state boundaries with Uttar Pradesh and*



towards Northern side sharing international boundary with Nepal);

- (iii) The ESZ around Betla National Park, Palamau Wildlife Sanctuary, and Mahuadanr Wolf Sanctuary in Jharkhand extends from 0 to 9 kilometres and 382 villages are situated within it (*Zero extent of ESZ is due to Inter-State boundary*);
- (iv) The ESZ around Cauvery Wildlife Sanctuary in Karnataka extends from 1 to 14.5 kilometres and 107 villages are situated within it;
- (v) The ESZ around Kanha National Park and Phen Wildlife Sanctuary in Madhya Pradesh extends from 0 to 30 kilometres and 168 villages are situated within it (*Zero extent of Eco-sensitive Zone is towards the eastern side having interstate boundary with Chhattisgarh*);
- (vi) The ESZ around Tadoba-Andhari Tiger Reserve in Maharashtra extends from 3 to 6 kilometres and 150 villages are situated within it;
- (vii) The ESZ around Jaisamand Wildlife Sanctuary in Rajasthan extends from 1.6



to 8.9 kilometres and 83 villages are situated in it;

- (viii) Even a small ESZ such as the one around Keoladeo National Park in Rajasthan which extends from 0.5 to 1.5 kilometres has 22 villages situated in it."

47. It would thus reveal that in the ESZ around Nagarjunasagar Srisaillam Tiger Reserve in Andhra Pradesh, 100 villages are situated within it. In the ESZ around Valmiki Wildlife Sanctuary, Valmiki National Park and Valmiki Tiger Reserve in Bihar, 323 villages are situated within it. In the ESZ around Betla National Park, Palamau Wildlife Sanctuary, and Mahuadanr Wolf Sanctuary in Jharkhand, 382 villages are situated within it. In the ESZ around Cauvery Wildlife Sanctuary in Karnataka, 107 villages are situated within it. In the ESZ around Kanha National Park and Phen Wildlife Sanctuary in Madhya Pradesh, 168 villages are situated within it. In the ESZ around Tadoba-Andhari Tiger Reserve in Maharashtra, 150 villages are situated within it. In the ESZ around Jaisamand Wildlife Sanctuary in Rajasthan, 83 villages are situated in it.



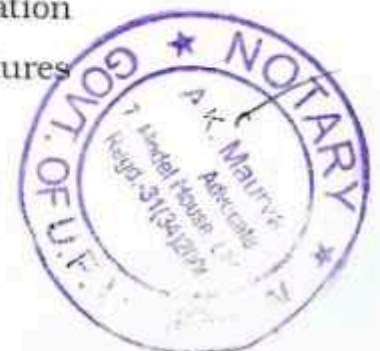
Even in a small ESZ around Keoladeo National Park in Rajasthan, 22 villages situated in it.

48. If the direction as issued by this Court in paragraph 56.5 of the order dated 3rd June 2022 (supra) is continued, then no permanent structure would be permitted to come up for whatsoever purpose in the aforesaid ESZs. As already pointed out from the aforesaid examples, hundreds of villages are situated within the ESZs in the country. If no permanent construction is to be permitted for any purpose, a villager who is desirous to reconstruct his house would not be permitted. Similarly, if there is an extension in their family and some additional construction is required for accommodating the enlarged family, the same would also not be permitted. Similarly, if the Government decides to construct schools, dispensaries, anganwadis, village stores, water tanks and other basic structures for improvement of the life of the villagers, the same would also not be permitted. The effect of the order will be to prevent the State or the Central Government from constructing roads and provide other facilities to the villagers.



49. If the order dated 3rd June 2022 (supra) is not modified, it will also be impossible for the Forest Departments to conduct eco-development activities around National Parks and Sanctuaries. The said activities are required with the dual objectives of protection of wildlife and provision of benefits for the local communities. MoEF & CC provides financial assistance to the States under the Centrally Sponsored Scheme-Integrated Development of Wildlife Habitats, which includes assistance for eco-development activities. These activities often involve construction of small structures which are permanent in nature in areas including ESZs. For example, the said activities which are likely to be prohibited are thus:

- (i) The construction of community halls, bridges, threshing floors, fish-drying platforms, drinking water storage, etc., for the benefit of local communities/villages;
- (ii) The construction of forest chowkies, watch towers, and other structures for protection of wildlife and forests;
- (iii) The construction of interpretation centres, toilets and other basic structures



for the environmental education of visitors to National Parks and sanctuaries.

50. It is further to be noted that there are various regulated and permissible activities. There are also certain projects of national and strategic importance such as construction of National Highways, Railways, Defence related infrastructure etc. The effect of the direction in 56.5 of the order dated 3rd June 2022 (supra) is that all such activities will be permanently prohibited. In this respect, it is to be noted that MoEF & CC has issued an Office Memorandum dated 17th May 2022 which required that any activity listed in Schedule of the EIA Notification 2006, when conducted in a notified ESZs, or in the case of National Parks and Sanctuaries for which no ESZ has been finally notified, when conducted within 10 kilometres of such National Park or Sanctuary, requires the consideration and recommendation of the NBWL or its Standing Committee in addition to the Environment Clearance under the 1986 Act. Additionally, activities which are regulated as per the specific ESZ notification, require



approval as per that notification. As such, we find that there are inbuilt safeguards for preventing rampant construction and abuse of process which may be detrimental to the development and maintenance of wildlife habitats. It is further to be noted that if the direction as contained in paragraph 56.5 of the order dated 3rd June 2022 (supra) that even for continuation of existing activities, the permission of the PCCF of each State or Union Territory would be necessary, remains unmodified, taking into consideration that in each State or Union Territory there will be hundreds of villages wherein millions of people would be residing, the PCCF would be left with no other job except to consider such applications for permission to continue such activities. Even a farmer desirous to continue farming activities would be required to seek such permission. We find that such a direction is impossible to be implemented.

51. We are of the view that if such a direction is continued, rather than avoiding man-animal conflict, it will intensify the same. As observed in the said Guidelines, the requirement of declaring ESZs is not to hamper day to day activities of the



citizens but is meant to protect the precious forests/Protected Areas from any negative impact, and to refine the environment around the Protected Areas.

52. As already discussed hereinabove, the necessity to have ESZs is to provide a buffer zone around the Protected Areas. The rights of the villagers residing in the Protected Areas are required to be settled in accordance with the provisions contained in the 1972 Act and such villagers are rehabilitated outside the Protected Areas. However, no such settlement of rights is available to the villagers residing in the ESZs areas. As stated in the said Guidelines, the purpose of declaring ESZs is not to hamper the day to day activities of the citizens. If the direction as issued is continued, it would certainly hamper the day to day activities of the citizens residing in ESZs. As such, we find that the said direction needs to be modified.

53. It is further to be noted that the NBWL, in its meeting dated 17th March 2005, has also recommended that the delineation of ESZs should project as regulation rather than prohibition of activities.



54. As was pointed out by the counsel for one of the States, the entire municipal area of the Sulthan Bathery Block Panchayat is situated within the ESZ area.

55. Insofar as direction in paragraph 56.1 of the order dated 3rd June 2022 (supra) is concerned, a perusal of various orders would reveal that this Court has not directed any minimum area from the demarcated boundary of such Protected Areas. The area to be declared as ESZ cannot be uniform and will be Protected Area specific. In some cases, it may be 10 kilometres on one side and 500 meters on the other side. In certain cases, it may not be possible to have a uniform minimum area by virtue of inter-state boundaries or a sea or a river beyond one side of the Protected Area. In any case, a detailed procedure is required to be followed as prescribed under Rule 5 of the 1986 Rules which we have already referred hereinabove. We find that once such a notification is issued after following the procedure prescribed under the 1986 Rules, the ESZs will have to be as per the said notification.



56. It is further to be noted that, as required under sub-rule (3) of Rule 5 of the 1986 Rules, before any final notification is issued, a draft notification is required to be published in the Official Gazette and in such other manner as the Central Government may deem necessary from time to time. Any person interested in filing any objection to such a draft notification is entitled to file objection within a period of 60 days from the date of publication of the draft notification in the Official Gazette. We find that the Central Government can be directed to give a wide publicity to the draft notification so that all persons interested have knowledge about issuance of such draft notification.

57. It is pertinent to note that after following the aforesaid procedure, the matter is placed before the Expert Committee consisting of 13 organizations having expertise in the relative field. As such, before an ESZ area is specified, various factors are taken into consideration. There are various factors which will determine the ESZs for a particular Protected Area. The circumstances may differ from one Protected Area to another Protected Area. As such, we find that the direction which



prescribes a uniform one kilometre ESZ requires to be modified.

58. It is further to be noted that on the date of filing of the present application, final notifications have been issued in respect of 474 Protected Areas whereas draft notifications have been issued in respect of 102 Protected Areas. 73 proposals are pending. As already discussed hereinabove, this Court has already found the said Guidelines to be reasonable and has accepted the same. The Court has also accepted the view of the Standing Committee of the NBWL that uniform guidelines may not be possible in respect of each Sanctuary or National Park for maintaining ESZs. Though the Court has observed that a minimum width of one kilometre in ESZ ought to be maintained, in paragraph 56.6 of the order dated 3rd June 2022 (supra) itself, it has observed that minimum width of the ESZ may be diluted in overwhelming public interest but for that purpose the State or Union Territory concerned is required to approach Central Empowered Committee (CEC) and MoEF & CC. It has further observed that both these bodies shall give their respective

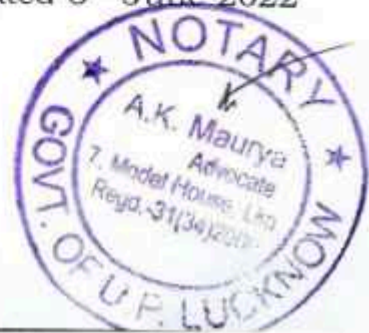


recommendations before this Court and on that basis, the Court should pass appropriate order.

59. As already discussed hereinabove, the ESZs are required to be notified after following the procedure as prescribed under the 1986 Rules and the said Guidelines. Such notifications cannot be issued unless a close scrutiny at various levels including the scrutiny by Expert Committee consisting of experts from 13 organizations. As such, we find that the direction as contained in paragraph 56.6 of the order dated 3rd June 2022 (supra) also needs to be modified.

60. Insofar as the restriction on mining is concerned, we are of the considered view that it has been the consistent view of this Court that the mining activities within an area of one kilometre of the boundary of the Protected Areas will be hazardous for the wildlife. Though in the case of **Goa Foundation** (supra), the said directions were issued in respect of State of Goa, we find that such directions need to be issued on Pan-India basis.

61. We are therefore inclined to allow the present I.A. The direction in paragraph 56.1 of the order dated 3rd June 2022



(supra) is modified and clarified that the directions contained therein would not be applicable to the ESZs in respect of which a draft and final notification has been issued by the MoEF & CC and in respect of the proposals which have been received by the Ministry.

62. We, however, direct the Central Government that wide publicity should be given to the draft notification which is required to be published under the provisions of clause (a) of sub-rule (3) of Rule 5 of the 1986 Rules. We further direct that the final notification to be published under clause (d) of sub-rule (3) of Rule 5 of the 1986 Rules shall not be given effect for a period of 30 days from the date of issuance thereof.

63. It is further directed that any person who is aggrieved with such a final notification would be entitled to approach this Court directly by filing an application in the present proceedings.

64. We further clarify that the direction contained in paragraph 56.1 of the order dated 3rd June 2022 (supra) would not be applicable where the National Parks and



38

Sanctuaries are located on inter-State borders and/or share common boundaries.

65. We also modify the direction contained in paragraph 56.4 of the order dated 3rd June 2022 (supra) and direct that mining within the National Park and Wildlife Sanctuary and within an area of one kilometre from the boundary of such National Park and Wildlife Sanctuary shall not be permissible.

66. We also modify the directions contained in paragraph 56.5 of the order dated 3rd June 2022 (supra) and replace the same as under:

- (i) The MoEF & CC and all the State/Union Territory Governments shall strictly follow the provisions in the said Guidelines dated 9th February 2011 and so also the provisions contained in the ESZs notifications pertaining to the respective Protected Areas with regard to prohibited activities, regulated activities and permissible activities;



(ii) We further direct that while granting Environmental and Forest Clearances for project activities in ESZ and other areas outside the Protected Areas, the Union of India as well as various State/Union Territory Governments shall strictly follow the provisions contained in the Office Memorandum dated 17th May 2022 issued by MoEF & CC.

67. All the other present I.As shall stand disposed of in terms of the above. No costs.

.....J.
[B.R. GAVAI]

.....J.
[VIKRAM NATH]

.....J.
[SANJAY KAROL]

NEW DELHI;
APRIL 26, 2023



REMINDER

F. No. 10-4/2014-WL (pt)
Government of India
Ministry of Environment, Forests and Climate Change
(Wildlife Division)

6th Floor, Vayu Wing,
Indira Paryavaran Bhawan,
Jorbagh Road, New Delhi-110003.

Dated: 9th July, 2024.

To,

The Additional Chief Secretary /Principal Secretary,
Forest Department,
Govt. of Andaman & Nicobar Island, Arunachal Pradesh, Assam, Jammu &
Kashmir, Ladakh, Maharashtra, Manipur, Mizoram, Nagaland, Tamil Nadu, Uttar
Pradesh and West Bengal.

Sub: Request to submit fresh proposals for declaration of ESZ around National
Parks and Sanctuaries-reg.

Sir/Madam,

Reference is invited on the above subject and letter of even no. dated
18.05.2023. In this context, the list of Sanctuaries and National Parks, for which the fresh
proposals for declaration of ESZ have not yet been received in the Ministry are enclosed
at **Annexure**.

Since the proposals for declaration of ESZ around the National Parks and Wildlife
Sanctuaries mentioned in the Annexure have not yet been submitted by the State/ UT
Governments, the undersigned is directed to request you to kindly submit the proposals
for necessary action to the Ministry **urgently**. A model Template for ESZ proposals and
check list is also enclosed for kind perusal.

Signed by Yours faithfully,

Rakesh Kumar Jagenia

(Rakesh Kumar Jagenia)

Deputy Inspector General of Forests (WL)

E-mail: digwl-mefcc@gov.in

Encl: as above.

Copy to (For information and necessary action):

- PCCF Govt. of Andaman & Nicobar Island, Arunachal Pradesh, Assam, Jammu &
Kashmir, Ladakh, Maharashtra, Manipur, Mizoram, Nagaland, Tamil Nadu, Uttar
Pradesh and West Bengal.
- Chief Wild Life Warden Govt. of Andaman & Nicobar Island, Arunachal
Pradesh, Assam, Jammu & Kashmir, Ladakh, Maharashtra, Manipur, Mizoram,
Nagaland, Tamil Nadu, Uttar Pradesh and West Bengal.



35

Annexure

FRESH PROPSALS AWAITED

S.No.	Name of the State/UT	Name of the Sanctuary/National Park
1	Andaman & Nicobar Islands	Coral Sanctuary
2		Leatherback Turtle Sanctuary
3	Arunachal Pradesh	Kamala Sanctuary
4		Ringba-Roba Sanctuary
5	Assam	Porbitora Sanctuary
6		Raimona National Park
7	Jammu and Kashmir	City Forest (Salim Ali) National Park
8	Ladakh	Changthang Sanctuary
9	Maharashtra	Malvan Marine Sanctuary
10		Godazi Sanctuary
11		Kanhargaon Sanctuary
12	Manipur	Siroi National Park
13		Thinungei Bird Sanctuary
14	Mizoram	Buhvum Sanctuary
15	Nagaland	Puliebadze Sanctuary
16		Rangapahar Sanctuary
17		Singphan Sanctuary
18	Tamil Nadu	Kazhuveli Wetland Bird Sanctuary
19	Uttar Pradesh	Dr. Bhimrao Ambedkar Bird Sanctuary
20		Turtle Sanctuary
21	West Bengal	Pakhi Bitan Bird Sanctuary

35



रजिस्ट्री सं. बी.एल.- 33004/99

REGD. No. D. L.-33004/99



भारत का राजपत्र

The Gazette of India

सी.जी.-डी.एल.-अ.-20042022-235241
CG-DL-E-20042022-235241

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 1795]
No. 1795]

नई दिल्ली, बुधवार, अप्रैल 20, 2022/चैत्र 30, 1944
NEW DELHI, WEDNESDAY, APRIL 20, 2022/CHAITRA 30, 1944

पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय
अधिसूचना

नई दिल्ली, 20 अप्रैल, 2022

का.आ. 1886(अ).—केंद्रीय सरकार पर्यावरण और वन विभाग के पूर्ववर्ती मंत्रालय में पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा (3) की उप-धारा (1) और उप-धारा (2) के खंड (v) के अधीन प्रदत्त शक्तियों का प्रयोग करते हुए, पर्यावरण समाघात निर्धारण अधिसूचना, 2006 (जिसे इसमें इसके पश्चात ईआईए अधिसूचना, 2006 कहा गया है), परियोजनाओं की कतिपय प्रवर्ग के लिए पूर्व पर्यावरणीय मंजूरी आजापक बनाने के लिए, संख्या का.आ.1533(अ), तारीख 14 मितंबर, 2006 द्वारा प्रकाशित की है।

और राज्य पर्यावरण समाघात निर्धारण प्राधिकरण (एसईआईए) का गठन प्रवर्ग ख के अधीन सभी प्रस्तावों के लिए पर्यावरण मंजूरी (ईसी) पर विचार और अनुदान के लिए प्रत्यायोजित शक्तियों का प्रयोग करने हेतु राज्य स्तर पर ईआईए अधिसूचना, 2006 के कार्यान्वयन के लिए पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा 3 की उप-धारा (3) के अधीन किया गया है;

और राज्य पर्यावरण समाघात निर्धारण प्राधिकरण ने पर्यावरण मंजूरी मूल्यांकन प्रक्रिया में पिछले पंद्रह वर्षों में पर्याय अनुभव प्राप्त किया है और राज्य स्तर पर पर्यावरण मंजूरी प्रस्तावों के कुशल और पारदर्शी निपटान के लिए परिवेश पोर्टल के माध्यम से पूरी तरह से ऑनलाइन कर दिया गया है;

और केंद्रीय सरकार राज्य स्तर पर मंजूरी की प्रसुविधा के लिए पर्यावरण मंजूरी प्रक्रिया को और विकेंद्रीकृत करना आवश्यक समझती है;

और आज की तारीख में, सुरक्षा भागीदारी के महत्वपूर्ण तत्वों के साथ राष्ट्रीय रक्षा और सामरिक मजबूत से संबंधित प्रवर्ग ख की परियोजनाओं का राज्य स्तर पर भी मूल्यांकन किया जा रहा है, जिसे केंद्रीय सरकार पर्यावरण मंजूरी प्रक्रिया के चिंतनों को ध्यान में रखते हुए केंद्रीय रूप से मूल्यांकन करना आवश्यक समझती है;

2770 GI/2022

(1)



अतः अब, केंद्रीय सरकार, पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उप-नियम (4) के साथ पठित पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3 की उप-धारा (1) और उप-धारा (2) के खंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त नियमों के नियम 5 के उप-नियम (3) के खंड (क) के अधीन नोटिस की अपेक्षा को समाप्त करने के पश्चात्, लोकहित में भारत सरकार की तत्कालीन पर्यावरण एवं वन मंत्रालय की अधिमूचना संख्यांक का.आ. 1533(अ), तारीख 14 सितम्बर, 2006, की अधिमूचना में निम्नलिखित और संशोधन करती है अर्थात्:-

उक्त अधिमूचना में-

(1) पैरा 4 में, उप-पैरा (iii) क) के स्थान पर, निम्नलिखित रखा जाएगा, अर्थात् -

(iii) क) राष्ट्रीय रक्षा या सामरिक या सुरक्षा महत्व से संबंधित हैं या जिन्हें केंद्रीय सरकार द्वारा संकटकाल जैसे महामारी, प्राकृतिक आपदाओं जैसी अत्यावश्यकताओं के कारण ऐसी प्रवर्ग 'ख' परियोजनाओं को अधिनूचित किया गया है या राष्ट्रीय कार्यक्रमों या स्कीमों या मिशन या ऐसी परियोजनाओं के अधीन पर्यावरण के अनुकूल क्रियाकलापों का संवर्धन करने के लिए जो इस अधिमूचना में यथा अधिकथित समय-सीमा से अधिक विलंबित हैं और समय-नमय पर इस संबंध में यथा-अधिकथित मानदंडों को पूरा करती हैं, उन्हें केंद्रीय स्तर पर प्रवर्ग 'ख' परियोजनाओं के रूप में विचार किया जाएगा;

(2) अनुसूची में, -

(i) मद 1(क) के सामने, -

(क) स्तंभ (3) में, -

(क) गैर-कोयला खनन पट्टे के संबंध में "> 100 हेक्टेयर खनन पट्टा क्षेत्र" के स्थान पर, निम्नलिखित रखा जाएगा, अर्थात् -

"कोयले के अलावा अन्य प्रमुख खनिज खनन पट्टे के संबंध में >250 हेक्टेयर खनन पट्टा क्षेत्र";

(ख) ">150 हेक्टेयर" प्रतीक, अंक और अक्षर के स्थान पर, "> 500 हेक्टेयर" प्रतीक, आंकड़े और अक्षर रखे जाएंगे;

(ख) स्तंभ (4) में, -

(क) गैर-कोयला खनन के संबंध में <100 हेक्टेयर खनन पट्टा क्षेत्र के स्थान पर, पट्टा", निम्नलिखित रखा जाएगा, अर्थात् -

"नथु खनिज खनन पट्टों के संबंध में सभी खनन पट्टा क्षेत्र और कोयले के अलावा अन्य प्रमुख खनिज खनन पट्टे के संबंध में <250 हेक्टेयर खनन पट्टा क्षेत्र";

(ख) "<150 हेक्टेयर" के प्रतीकों, अंकों और अक्षरों के स्थान पर "<500 हेक्टेयर" के प्रतीक, अंक और अक्षर रखे जाएंगे;

(ii) मद 1(ग) के सामने, -

(क) स्तंभ (3) में, -

(क) क्रम संख्या (i) में, "> 50 मेगावाट, प्रतीकों, अंकों और अक्षरों के स्थान पर "> 100 मेगावाट" प्रतीक, आंकड़े और अक्षर रखे जाएंगे;

(ख) क्रम संख्या (ii) और उससे संबंधित प्रविष्टियों का लोप किया जाएगा;

(ख) स्तंभ (4) में, -

(क) क्रम संख्या (i) में, "<50 मेगावाट" प्रतीक, अंक और अक्षर के स्थान पर, "<100 मेगावाट" प्रतीक, आंकड़े और अक्षर रखे जाएंगे;

(ख) क्रम संख्या (ii) में, -

(I) "और <50,000 हेक्टेयर" शब्द, प्रतीक और अंक का लोप किया जाएगा;

(II) बिंदु (ग) में सारणी में, "से <50,000" शब्द, प्रतीक और अंक का लोप किया जाएगा; ।



(ग) स्तंभ (5) में, क्रम संख्या (ii) के पश्चात, निम्नलिखित क्रम संख्या अंतःस्थापित किया जाएगा, अर्थात् :-

"(iii) अंतर-राज्यीय मुद्दों से संबंधित सिंचाई परियोजनाओं का मूल्यांकन केंद्रीय स्तर पर धेणी में परिवर्तन के बिना किया जाएगा";

(iii) मद 1(घ) के सामने,-

(क) स्तंभ (3) में, "> 50 मेगावाट" प्रतीकों, अंकों और अक्षरों के स्थान पर, "> 100 मेगावाट" प्रतीकों, अंकों और अक्षरों को रखा जाएगा;

(ख) स्तंभ (4) में, "<50 मेगावाट" प्रतीक, अंक और अक्षर के स्थान पर, "<100 मेगावाट" प्रतीक, अंक और अक्षर रखे जाएंगे;

(iv) मद 2(क) के सामने, -

(क) स्तंभ (3) में, ">1" प्रतीकों और अंक के स्थान पर, ">2.5" प्रतीकों और अंक को रखा जाएगा;

(ख) स्तंभ (4) में, "<1" प्रतीकों और अंक के स्थान पर, "< 2.5" प्रतीक और अंक रखे जाएंगे;

(ग) स्तंभ (5) में, विद्यमान पैरा के पश्चात, निम्नलिखित पैरा अंतःस्थापित किया जाएगा, अर्थात् :-

"खनन पट्टा क्षेत्र के भीतर स्थित धुलाई मशीनों के साथ एकीकृत कोयला खनन परियोजनाओं को कोयला खनन परियोजनाओं के लिए विद्यमान सीमा के अनुसार केंद्रीय स्तर या राज्य स्तर पर, यथास्थिति, विचार किया जाना जारी रहेगा";

(v) मद 2 (ख) के सामने, -

(क) स्तंभ (3) में, विद्यमान प्रविष्टियों का लोप किया जाएगा;

(ख) स्तंभ (4) में, "<0.5 मिलियन टीपीए का उत्पादन" प्रतीक, अंक, शब्द और अक्षर के स्थान पर, "सभी खनिज परिष्करण परियोजना, परिष्करण की प्रक्रिया पर ध्यान दिए बिना" शब्द रखे जाएंगे;

(ग) स्तंभ (5) में, विद्यमान पैरा के पश्चात, निम्नलिखित पैरा रखा जाएगा,

अर्थात् :-

"भीतर स्थित लाभकारी संयंत्रों के साथ एकीकृत खनन परियोजनाएं खनन पट्टा क्षेत्र पर केंद्रीय स्तर पर विचार किया जाता रहेगा या यथास्थिति, राज्य स्तर, खनन परियोजनाओं के लिए विद्यमान सीमा के अनुसार";

(vi) मद 7 (क) के सामने,-

(क) स्तंभ (3) में, "सभी परियोजनाओं" शब्दों के स्थान पर "सभी नई परियोजनाएं" शब्द रखे जाएंगे;

(ख) स्तंभ (4) में, निम्नलिखित अंतःस्थापित किया जाएगा, अर्थात् :-

"सभी विस्तार परियोजनाएं, जिनमें हवाई पट्टियां भी सम्मिलित हैं, जो वाणिज्यिक उपयोग के लिए हैं।"

[फा. सं. आईए 3-22/10/2022-आईए. III]

डॉ. मुजीब कुमार बाजपेयी, संयुक्त सचिव

टिप्पण : मूल अधिसूचना भारत के राजपत्र, असाधारण, भाग II, खंड III, उप-खंड (ii), संख्या का.आ. 1533(अ), तारीख 14 सितंबर, 2006 द्वारा प्रकाशित की गई थी और अधिसूचना संख्या का.आ. 1807(अ), तारीख 12 अप्रैल, 2022 द्वारा अंतिम संशोधन किया गया था।



MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 20th April, 2022

S.O. 1886(E).—WHEREAS, the Central Government in the erstwhile Ministry of Environment and Forests, in exercise of its powers under sub-section (1) and clause (v) of sub-section (2) of section (3) of the Environment (Protection) Act, 1986 has published the Environment Impact Assessment Notification, 2006 (hereinafter referred to as the EIA Notification, 2006), vide number S.O.1533 (E), dated the 14th September, 2006 for mandating prior environmental clearance for certain category of projects;

And whereas, the State Environment Impact Assessment Authorities (SEIAAs) have been constituted under sub-section (3) of section 3 of the Environment (Protection) Act, 1986 for implementation of the EIA Notification, 2006 at State level for exercising delegated powers to consider and grant Environmental Clearance (EC) for all proposals under Category B;

And whereas, the SEIAAs have gained substantial experience over the past fifteen years in the EC appraisal process and the process at the State level has also been made completely online through the PARIVESH portal for efficient and transparent disposal of EC proposals;

And whereas, the Central Government deems it necessary to further decentralise the EC process for facilitating clearances at State level;

And whereas, as on date, category 'B' projects, relating to national defence and strategic importance with significant element of security involvement are also being appraised at the State level which, the Central Government deems it necessary to be appraised centrally taking into account national security concerns;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), read with sub-rule(4) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government, after having dispensed with the requirement of notice under clause (a) of sub-rule (3) of rule 5 of the said rules, in public interest, hereby makes the following further amendments in the notification of the Government of India, in the erstwhile Ministry of Environment and Forests, number S.O. 1533 (E), dated the 14th September, 2006, namely:-

In the said notification,-

(1) in paragraph 4, for sub-paragraph (iii a), the following shall be substituted, namely:-

(iii a) Such Category 'B' projects, relating to the National defence or strategic or security importance or those as notified by the Central Government on account of exigencies such as pandemics, natural disasters or to promote environmentally friendly activities under National Programmes or Schemes or Missions or such projects which are inordinately delayed beyond the stipulated timeline as laid down in this notification and also meet the criteria as laid down in this regard from time to time, shall be considered at the Central level as Category 'B' projects;

(2) in the Schedule,-

(i) against item 1(a),-

(a) in column (3),-

(A) for ">100 ha. of mining lease area in respect of non-coal mining lease", the following shall be substituted, namely:-

">250 ha mining lease area in respect of major mineral mining lease other than coal";

(B) for the symbol, figures and letters "> 150 ha", the symbol, figures and letters "> 500 ha" shall be substituted;

(b) in column (4),-

(A) for "≤ 100 ha of mining lease area in respect of non-coal mine lease", the following shall be substituted, namely:-

"All mining lease area in respect of minor mineral mining leases and ≤ 250 ha mining lease area in respect of major mineral mining lease other than coal";



35

(B) for the symbols, figures and letters " ≤ 150 ha", the symbols, figures and letters " ≤ 500 ha" shall be substituted;

(ii) against item 1(c),—

(a) in column (3),—

(A) in serial number (i), for the symbols, figures and letters " ≥ 50 MW", the symbols, figures and letters " ≥ 100 MW" shall be substituted;

(B) serial number (ii) and the entries relating thereto shall be omitted;

(b) in column (4),—

(A) in serial number (i), for the symbol, figures and letters " < 50 MW", the symbol, figures and letters " < 100 MW" shall be substituted;

(B) in serial number (ii),—

(I) the word, symbol and figures "and $< 50,000$ ha." shall be omitted;

(II) in point (c) in the table, the word, symbol and figures "to $< 50,000$ " shall be omitted;

(c) in column (5), after serial number (ii), the following serial number shall be inserted, namely:—

"(iii) Irrigation projects involving Inter-State issues shall be appraised at Central level without change in category.";

(iii) against item 1(d),—

(a) in column (3), for the symbols, figures and letters " ≥ 50 MW", the symbols, figures and letters " ≥ 100 MW" shall be substituted;

(b) in column (4), for the symbol, figures and letters " < 50 MW", the symbol, figures and letters " < 100 MW" shall be substituted;

(iv) against item 2(a),—

(a) in column (3), for the symbols and figure " ≥ 1 ", the symbols and figures " ≥ 2.5 " shall be substituted;

(b) in column (4), for the symbols and figure " < 1 ", the symbols and figures " < 2.5 " shall be substituted;

(c) in column (5), after the existing paragraph, the following paragraph shall be inserted, namely:—

"Integrated coal mining projects with washeries located within mining lease area shall continue to be considered at Central level or State level, as the case may be, as per the extant threshold for coal mining projects.";

(v) against item 2 (b),—

(a) in column (3), the existing entries shall be omitted;

(b) in column (4), for the symbol, figures, words and letters " < 0.5 million TPA throughput", the words "All mineral beneficiation projects irrespective of the procedure for beneficiation" shall be substituted;

(c) in column (5), after the existing paragraph, the following paragraph shall be inserted, namely:—

"Integrated mining projects with beneficiation plants located within mining lease area shall continue to be considered at Central level or State level, as the case may be, as per the extant threshold for mining projects.";

(vi) against item 7 (a),—

(a) in column (3), for the words "All projects", the words "All new projects" shall be substituted.



(b) in column (4), the following shall be inserted, namely:—

“All expansions projects, including airstrips, which are for commercial use.”

[F. No. IA3-22/10/2022-IA.III]

Dr. SUJIT KUMAR BAJPAYEE, Jt. Secy.

Note : The principal notification was published in the Gazette of India, Extraordinary, Part II, Section III, sub-section (ii), vide, number S.O. 1533(E), dated the 14th September, 2006 and was last amended, vide, the notification number S.O. 1807(E), dated the 12th April, 2022.



राजपत्र सं० डी० एल०-33004/99

REGD. NO. D. L. -33004/99



भारत का राजपत्र

The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 545]

नई दिल्ली, मंगलवार, मार्च 4, 2014/फाल्गुन 13, 1935

No. 545]

NEW DELHI, TUESDAY, MARCH 4, 2014/PHALGUNA 13, 1935

पर्यावरण और वन मंत्रालय

अधिमूचना

नई दिल्ली, 28 फरवरी, 2014

का.आ. 637(अ).—केंद्रीय सरकार, पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 23 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम की धारा 5 के अधीन इसमें निहित शक्तियों को पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा 3 की उप-धारा (3) के अधीन केंद्रीय सरकार द्वारा गठित किए गए सभी राज्य और संघराज्यक्षेत्र पर्यावरण समावात प्राधिकरणों (जिन्हें इसमें इसके पश्चात् उक्त प्राधिकरण कहा गया है) को उक्त प्राधिकरणों द्वारा अपनी अधिकारिता के भीतर परियोजनाओं या क्रिया कलाओं को जारी पर्यावरण अनापत्तियों की शर्तों के अतिक्रमण की दशा में परियोजना प्रस्तावकों को कारण बताओ नोटिस जारी करने तथा इस शर्त के अधीन कि केंद्रीय सरकार शक्तियों के ऐसे प्रत्यायोजन का प्रतिसंहरण कर सकेगी या उक्त अधिनियम की धारा 5 के उपबंधों को स्वयं अवलंब ले सकेगी, यदि केंद्रीय सरकार को राय में लोक हित में ऐसी कार्यवाही आवश्यक है, यदि अपेक्षित हो तो अतिक्रमणों के लिए उक्त परियोजना प्रस्तावकों को ऐसी पर्यावरण अनापत्तियों को उन्हें प्राम्थगित रखने या वापस लिए जाने हेतु निर्देश जारी करने की शक्तियों का प्रत्यायोजन करती है।

[सं. जे-11013/2/2013-आई ए (आई)]

अजय त्यागी, संयुक्त सचिव

MINISTRY OF ENVIRONMENT AND FORESTS

NOTIFICATION

New Delhi, the 28th February, 2014.

S.O. 637(E).—In exercise of the powers conferred by section 23 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government hereby delegates the powers vested in it under section 5 of the said Act to all the State and Union Territory Environment Impact Assessment Authorities (Hereinafter referred to as the said Authorities) constituted by the Central Government under sub-section (3) of section 3 of Environment (Protection) Act, 1986, to issue show cause notice to project proponents in case of violation of the conditions of the environment clearances issued by the said Authorities to projects or activities within their jurisdiction and to issue directions to the said project proponents for keeping such environment clearances in abeyance or withdrawing them, if required, for violations, subject to the condition that the Central Government may revoke such delegations of powers or may itself invoke the provisions of section 5 of the said Act, if in the opinion of the Central Government such a Course of action is necessary in the public interest.

[No. J-11013/2/2013-IA. (I)]

AJAY TYAGI, Jt. Secy.

950 GI/2014



अधिसूचना

नई दिल्ली, 28 फरवरी, 2014

का.आ. 638(अ).—केंद्रीय सरकार, पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 19 के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त की धारा के प्रयोग के लिए इससे उपाबद्ध उस सारणी के स्तंभ (3) में उनमें से प्रत्येक के सामने उल्लिखित अधिकारिता के साथ उस सारणी के स्तंभ (2) में उल्लिखित प्राधिकरण या अधिकारी का प्रातिकृत करती है:

सारणी

क्रम संख्यांक	प्राधिकरण/अधिकारी	अधिकारिता
(1)	(2)	(3)
1.	पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा 3 की उपधारा (3) के अधीन केंद्रीय सरकार द्वारा गठित राज्य या संघ राज्यक्षेत्र स्तर पर्यावरण समाघात प्राधिकरण (एस.ई.आई.ए.ए.)	संपूर्ण राज्य या संघ राज्यक्षेत्र
2.	पर्यावरण और वन मंत्रालय (एम.ओ.ई.एफ.) के किन्हीं प्रादेशिक कार्यालयों में तैनात कोई निदेशक, वन संरक्षक या अपर प्रधान मुख्य वन संरक्षक	पर्यावरण और वन मंत्रालय द्वारा यथा-विनिश्चित प्रादेशिक कार्यालय की अधिकारिता

[सं. जे-11013/2/2013-आई ए (आई)]

अजय त्यागी, संयुक्त सचिव

NOTIFICATION

New Delhi, the 28th February, 2014

S.O. 638(E).—In exercise of the powers conferred by clause (a) of section 19 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government hereby authorises the Authority or officer mentioned in column (2) of the Table hereto for the purpose of the said section with the jurisdiction mentioned against each of them in column (3) of that Table:

TABLE

S. No.	Authority/Officer	Jurisdiction
(1)	(2)	(3)
1.	State or Union Territory level Environment Impact Assessment Authority (SEIAA) constituted by the Central Government under sub-section (3) of section 3 of the Environment (Protection) Act, 1986.	Whole of State or Union Territory
2.	Any Director, Conservator of Forests or Additional Principal Chief Conservator of Forests Posted in any of the Regional Offices of the Ministry of Environment and Forests (MoEF).	Jurisdiction of the Regional Office as decided by the Ministry of Environment and Forests

[No. J-11013/2/2013-IA. (I)]

AJAY TYAGI, Jr. Secy.

