

BEFORE THE HON'BLE NATIONAL GREEN
TRIBUNAL(WZ) AT PUNE

M.A./11/2024(WZ)

In

Original Application No. 139/2024 (WZ)

Earlier Original Application No. 784/2022(PB)

Alpesh Desai & Anr. Applicants

Versus

1. State of Gujarat & Ors. Respondents

**ADDITIONAL REPLY ON BEHALF OF NEWLY ADDED
RESPONDENT-DFCCIL**

I, Pawan Kumar, working as Deputy Chief Project Manager,
with the DFCCIL, Mumbai/North do hereby on solemn
affirmation and oath state as under:

1. I state that the applicants herein have filed claiming
compensation of Rs. 2,55,78,400/ as damages on
various counts from the year 2019 to 2024. Vide order
dated 3/9/2024, the Hon'ble Bench has directed the
Registry to implead Dedicated Freight Corridor
Corporation of India Ltd. (DFCCIL) and further directed



to serve a copy of the application along with all relevant documents upon all other parties within one week. The deponent has already filed Reply on the basis of the available documents. As the relevant documents are made available subsequently, the deponent is filing this Additional Reply reiterating the fact that there is no violation of environmental norms by the DFCCIL while constructing the DFC tracks at the subject location nor there is any allegation levelled by the applicants in above numbered application against DFCCIL for violating any environmental norms. Therefore, the above numbered application filed by the applicants is not maintainable before this Hon'ble Tribunal.

2. I state and reiterate that no damage has occurred to the trees of the applicants due to construction activity of the deponent on the Railway land resulting to violation of any environmental norms. The personal grievance of the applicants is not tenable at law as per the intent of the NGT Act which is effective and expeditious disposal of cases relating to environmental protection and conservation of forests.
3. I state that the Report of the Joint Committee placed on record from Page No. 166 to 171 also does not indicate any of the environmental violation related to the enactments mentioned in Schedule I of the NGT Act. It only indicates that the lands of the applicants is in low



laying area and water gets accumulated in their land in the case of heavy rain fall. The remedial measures suggested by the Joint Committee Report have also been undertaken by the DFCCIL. In the Report, it is clearly mentioned that DFCCIL has extended all the existing Railway bridges to dispose the rain water. This clear proves that there is no environmental violation by the DFCCIL.

It is relevant to mention here that in the Report it is mentioned that the contractor of DFCCIL is discharging water in the private land. In fact, the water was discharged in the nalla (Balakhadi) but as the applicants' lands are lying in low area, the water discharged in the nalla got into their lands sometimes due to overflow. The Report nowhere indicates that the private land of the applicants is a statutorily recognized Forest recorded in the Government Record.

It is also relevant to mention here that the number of trees (Total 81) mentioned in the letter dated 24/4/2024 placed on record at Page No. 160 also indicates that the lands of the applicants is private lands not recognized as Forest. Therefore, this Hon'ble Court may not entertain this application as the dispute is beyond the scope of Section 14 of the NGT Act.

4. I state that the grievance of the applicants with regard to so called loss or damage due to construction of DFCCIL



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track is required to be proved before the Competent Civil Court by leading of evidences and examining the witnesses. The applicants have instead of filing any Civil Suit before the Competent Court of Law, filed present application before this Hon'ble Tribunal with a view to get expeditious relief which is nothing but misuse of law.

7. I state that the applicants have, in their letter dated 6/5/2024, claimed compensation for total 108 trees despite clear recording of 81 trees in the Joint Committee Report on page No. 161. The applicant has also claimed solatium at the rate of 100% of market value of trees.

At this juncture, it is pertinent to state that solatium at the rate of 100% of market value of trees is admissible when the lands on which the trees are cultivated are acquired by the DFCCIL for execution of the DFC Project. The lands of the applicants are not acquired by the DFCCIL. Therefore, the applicants are neither entitled to any compensation for trees nor to solatium at the rate of 100% of market value of trees.

8. I state that in the earlier Reply, it is clearly stated that the DFCCIL started the construction of DFC track in the year 2021 only that too on the Railway land. At that point of time the trees on the land of the applicants were cut by the applicants themselves for getting N.A. permission of their agricultural land situated at Survey/Block No.



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1993 which were cultivated latter on. And the trees found are on survey numbers not belonging to either of the applicant Alpesh Bharatbhai Desai and his father namely Bharatbhai Desai as they are the owners of S.No. 1993 which has been converted into non-agricultural land in the year 2021.

9. I state and reiterate that the so called grievance raised by the applicant before this Hon'ble Court is not related to any environmental norms. It is a dispute concocted by the applicant which may be decided by a Competent Civil Court. But present application is not maintainable before this Hon'ble Tribunal at all as it is not arising out of any of enactments mentioned in Schedule I of the NGT Act.
10. I state that as can be seen from the case status of the above numbered application, the application is filed under Environment (Protection) Act, 1986 so as to fall within the jurisdiction of this Hon'ble Tribunal. However, the grievance of the applicants revolves around seeking compensation for their trees only without any averment of violation of any of the environmental norms. Hence also, the application is not tenable at law. Annexed hereto and marked as **Annexure R-1** is the copy of case status showing the case details of the above numbered application.



11. I state that the deponent has already filed a Reply raising preliminary objection of maintainability of above numbered application. I crave to refer to and rely upon the said Reply at the time of hearing.
12. In view of what is stated herein above, this Hon'ble Tribunal may kind enough not to entertain the misconceived application of the applicants.

Solemnly Affirmed on _____ day of January of 2025 at Mumbai.



उप. मु. परि. प्रबंधक (सिविल)
डी.एफ.सी.सी.आई.एल. - वलसाड
Dy. Chief Project Manager (Civil)
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DEPONENT


BEFORE ME

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Page No. 44 Sr. No. 298
Date. 20 JAN 2025

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National Green Tribunal



Case Details

Filing Number	270410500619/2024	Filing Date	25-06-2024
Party Name	ALPESH DESAI VS STATE OF GUJARAT THROUGH GUJARAT POLLUTION CONTROL BOARD		
Petitioner Advocate(s)		Respondent Advocate(s)	
Act	ENVIRONMENT (PROTECTION) ACT, 1986		
Case Number	Original Application No. 139/2024	Registered On	25-06-2024
Last Listed		Next Hearing Date	
Case Status	PENDING		

