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Registered at Sr.No. 542/2023
& Contains 1704 Pages
on Dated :- 6/9/2023

BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE.

Original Application No.46/2018(WZ)
(U/s 14,15, 18 & 20 of NGT Act 2010)

Joint Forest Management Committee

Village Bhilwad, Mangi Tungi,

Applicants

Tal. Baglan, Dist. Nashik -423302.

Versus

The Principal Secretary,

Revenue & Forest Department (Forest),

Respondents.

Govt. of Maharashtra, Mantralaya,

Mumbai -411032 & Ors.

AFFIDAVIT

I, Shekhar Navnathrao Tanpure, Age 36 years, Occ
: Asstt. Conservator of Forest, (Class I), working plan at
Nashik along with additional charge same of Malegaon
(Respondent No.1, 3 to 10) in pursuance and in
compliance of the order and directions given by this
Hon'ble Tribunal dated 18th July 2023 do hereby submit
to provide the copy of guidelines issued by the Govt. of
India dtd.6th January 2022. With respect to the direction
issued by us contained in para No.6 of the Hon'ble
Tribunal dated 20.04.2023 to the effect that clarification

shall be made about the Preliminary Offence Report No.06/2020 in this regard.

As per the order of Hon'ble Tribunal, I am submitting the copy of guidelines issued by the Govt. of India vide File No.5-3/2011-FC(Vol-I) Govt. of India, Ministry of Environment, Forest and Climate Change (Foreste Conservation Division) dtd.6th January 2022 in respect of Revision of Rates of Net Present Value. The copy of which is attached hereiwth and marked as **ANNEXURE-I.**

I am also clarifying the Preliminary Offence Report No.06/2020 as under.

The village Mouje Bhilvad, Tal. Baglan, Dist. Nashik has Forest area and it is identified as Compartment No.148. The legal status of the land is Reserve Forest. The Incharge of the said forest area had found that, over 0.0134 Hector, there is mining, removal of stones and there is construction of cement concrete with teen shed. The said activity is an offence under the Provisions of Sec. 26(1) d, h of Indian Forest Act 1927 and this activity had registered as a POR i.e. Preliminary Offence Report on 14.09.2020 by the incharge of that forest area. The copy of which is attached hereiwth and marked as **ANNEXURE-II** and it had been booked against accused Surajmal Ganeshmal Jain who is committee member of Siddh Kshetra, Mangi-Tungi, Digambar Jain Devasthan, Old Trust. The registration Number of the said offence is 06/2020. This action is done by the Forest officials as per

the provisions of **PARA 6.12 OF VOLUME 2 OF THE MAHARASHTRA FOREST MANUAL 2020** and in this regard Additional Principal Chief Conservator of Forest (Protection) Maharashtra State, Nagpur issued the Circular dated 14th Dec. 2020, copy of which is attached herewith and marked as **ANNEXURE-III**.

Hence this affidavit.

Solemnly affirmed at Malegaon
on 06th september 2023

Hayre
Deponent

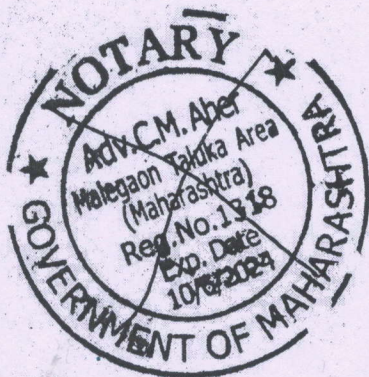
Identified by :

Pravin G. Mahale

(Adv. Pravin G. Mahale)
Malegaon Court.

Signature identified
by Adv. P. G. Mahale
w/o Malegaon Court
Whom I Know Personally

~~This Document Noted &
Registered at Sr.No. _____
& Contains _____ Pages
on Dated :- / /20~~



C.M. Aher
C. M. AHER
Advocate & Notary

Government of India
Ministry of Environment, Forest and Climate Change
(Forest Conservation Division)

Indira
Paryavaran Bhavan, Aliganj, Jorbagh Road
New Delhi-110 003
Date: 6th January, 2022

To

The Additional Chief Secretary (Forest)/Principal Secretary (Forest),
All States Governments/ Union Territory Administration

Sub: Revision of rates of Net Present Value – reg

Sir,

I am directed to invite your attention to Hon'ble Supreme Court's order dated 28.03.2008 in Writ Petition (Civil) No. 202 of 1996 in the matter of T. N. Godavarman Thirumalpad vs. Union of India and Ministry' guidelines dated 05.02.2009 wherein rates to Net Present Value (NPV) to be realized in lieu of diversion of forest land have been fixed based on the outcome scientific assessment of ecosystem goods and services. Hon'ble Supreme Court in the said order has also directed the MoEF&CC for upward revision of the NPV rates.

2. In compliance of order dated 28.03.2008 of Hon'ble Court and with the approval of the competent authority, the following revised NPV rates have been prescribed for levying NPV in lieu of diversion of forest land:

Table: Revised NPV rates based on fitment factor of 1.53

(in Rs.)

Eco-Class	Very Dense	Dense	Open
Class-I	1595790	1436670	1116900
Class-II	1595790	1436670	1116900
Class-III	1357110	1228590	957780
Class-IV	957780	861390	670140
Class-V	1436670	1292850	1005210
Class-VI	1516230	1372410	1069470

Chayler
संरक्षक वनसंरक्षक

File No.5-3/2011-FC(Vol-I)

Eco-Class-I:	Tropical Wet Evergreen Forests, Tropical Semi-evergreen Forests and Tropical Moist Deciduous Forests
Eco-Class-II:	Littoral and Swamp Forests
Eco-Class-III:	Tropical Dry Deciduous Forests
Eco-Class-IV:	Tropical Torn Forests and Tropical Dry Evergreen Forests
Eco-Class-V:	Sub-tropical Broad-Leaved Hill Forests, Sub-Tropical Pine Forests and Sub-Tropical Dry Evergreen Forests
Eco-Class-VI:	Montane Wet Temperature Forests, Himalayan Moist Temperature Forests, Himalayan Dry Temperature Forests, Sub Alpine Forest, Moist Alpine Scrub and Dry Alpine Scrub

3. NPV shall be charged to the extent of ten times of the normal NPV payable in the case of National Parks and five times in the case of Sanctuaries. The use of non-forest land falling within the National Parks and Wildlife Sanctuaries may be permitted on payment of an amount equal to the NPV payable for the adjoining forest area. In respect of non-forest land falling within marine National Parks / Wildlife Sanctuaries, the amount shall be five times the NPV payable for the adjoining forest area;

4. The proposals under the following categories are exempted from NPV to the extent as mentioned in the list below:

Category	Conditions
i. Schools	Full exemption upto 1 ha. of forest land, provided: a. no felling of trees is involved; b. alternate forest land is not available; c. the project is of non-commercial nature and is part of the Plan/Non-Plan Scheme of Government; and d. the area is outside National Park/ Sanctuary
ii. Hospitals	
iii. Children's playground of non-commercial nature.	
iv. Community centres in rural areas.	
v. Over-head tanks	
vi. Village tanks	
vii. Laying of underground drinking water, irrigation and PNG pipeline upto 4 inch diameter	
viii. Electricity distribution line upto 22 KV in rural areas.	

P. Kumar

ix. Relocation of villages from the National Parks/ Sanctuary to alternate forest land	Full exemption	
x. Collection of boulders/silts from the river belts in the forest area.	<p>Full exemption, provided:-</p> <p>(a) area is outside National Park/ Sanctuary;</p> <p>(b) no mining lease is approved/signed in respect of this area;</p> <p>(c) the works including the sale of boulders/silt are carried out departmentally or through Government undertaking or through the Economic Development Committee or Joint Forest Management Committee;</p> <p>(d) the activity is necessary for conservation and protection of forests; and</p> <p>(e) the sale proceeds are used for protection/conservation of forests.</p>	
xi. Laying of underground optical fiber cable	<p>Full exemption, provided:</p> <p>(a) no felling of trees is involved; and</p> <p>(b) area falls outside National Park / Sanctuary.</p>	
xii. Pre-1980 regularization of encroachments and conversion of forest villages into revenue villages	Full exemption provided these are strictly in accordance with MoEF&CC's Guidelines dated 18.9.1990.	
xiii. Underground mining	Surface strain predicted by 3-D subsidence prediction model	NPV to be paid
	i. Up to 5mm/m	NIL
	ii. 5mm to 10 mm/m	10% of normal rates
	iii. 10mm/m to 15 mm/m	25% of normal rates
	iv. 15 mm/m to 20 mm/m	50% of normal rates
	v. more than 20 mm/m	At Normal rates

Signature

xiv. Wind Power Projects	50% at the minimum NPV rate, provided, minimal tree felling is involved, irrespective of the eco-class in which the project lies.
xv. Hydroelectric Projects up to 25 MW capacity	50% of the applicable rates of the forest land actually diverted for setting up of such projects, provided, the project involves felling of not more than 5 trees per hectare.
xvi. Field Firing Range (FFR) of Defence Ministry not involving felling of trees and no likelihood of destruction of forests	At the rate of 20 % of the normal rates of NPV for the forest areas falling within the impact zone. The forest areas falling within safety zone of FFRs shall be fully exempted from the requirement of payment of NPV
xvii. The area of riverbed in a proposed water reservoir, that is to be under permanent submergence throughout the year	50 per cent of the normal rate applicable to the area.

Yours faithfully,

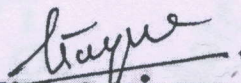
Sd/-

(Sandeep Sharma)

Asst. Inspector General of Forests

Copy to:

1. The Principal Chief Conservator of Forests, All State Governments/UTs
2. The Nodal Officer (FCA), Office of the PCCF, All State Governments/UTs
3. The Regional Officer, All Integrated Regional Offices of the MoEF&CC
4. Monitoring Cell, FC Division, MoEFCC, New Delhi
5. Guard File


 सहायक वनसंरक्षक
 मालेगांव प्रा.

ANNEXURE - II

अतिरिक्ति जाण - अज्ञात

वि.वन अधिकाऱ्यास पाठवापयावे

मंडल अधिकाऱ्यास पाठवापयावे

जा.प.जा 1923 चे कलम

26(1) इ.ह.चे उल्लेख



अपराध सुहिते प्रतिवृत्त

दुसरी प्रत

रिसारी मूळ प्रत अतिक्रमण क्रमा-0.0134

परिमंडल अधिकाऱ्याने द्यावयाचा तपशील

दि. 14-9-2020

दाखल दि. 14-9-2020

रवाना दि. 14-9-2020

वनपरिक्षेत्र अधिकारी
ताहाराबाद (प्र.ग.)

क्र. 6
2020-21

नियतक्षेत्र-
परिमंडल-ताहाराबाद

अपराधाचा तपशील- अज्ञात- तिलावाड रविवी

नये वरिल इसम आर्की विनापरवानगीने अतिक्रमण

२१ अतिक्रमणक्रमांक ०.०१३५ देखर क्षेत्रावर दखल

परिमंडल अधिकाऱ्यास पाठवापयावे

२० वर्षा पूर्वी अतिक्रमण क्रमांक

आपला त्याची व्यवस्था करावी

मुक्काम- ताहाराबाद

दि. 14-9-2020

(सही)

* कार्यालयीन प्रत

दुसरी प्रत

रिसारी मूळ प्रत अतिक्रमण क्रमा-0.0134

परिमंडल अधिकाऱ्याने द्यावयाचा तपशील

दि. 14-9-2020

दाखल दि. 14-9-2020

रवाना दि. 14-9-2020

परिमंडल अपराध अनुक्रमांक- 17-13

2020-21

वनपरिक्षेत्र अधिकारी

ताहाराबाद

क्र. 1/2020-21

(सही)

उपविभागीय वन अधिकारी

ताहाराबाद

* आवश्यक ते देवावे.

प्रधान मुख्य वनसंरक्षक, (वन बल प्रमुख) महाराष्ट्र राज्य, यांचे कार्यालय

वनभवन, रामगिरी रोड, सिव्हील लाईन्स, नागपूर ४४० ००१
दुरध्वनी क्रमांक ०७१२-२५५५६७३, फॅक्स क्रमांक ०७१२-२५५०६७५,
ई-मेल : apccfprotection@mahaforest.gov.in , ccfforestregulation@yahoo.com website-

क्रमांक:अप्रमुखसं(संरक्षण)/कक्ष१८/प्रक्र.२७/३४६/२०-२१
नागपूर ४४०००१, दिनांक १४ डिसेंबर, २०२०

परिपत्रक


विषय:- वनगुन्हे हाताळण्याबाबतची कार्यपध्दती.

संदर्भ:- शासन निर्णय, महसूल व वनविभाग क्रमांक टीआरएस ०४/२१४/प्रक्र ७२/ फ-६
दिनांक १३/०८/२०१४

संदर्भिय शासन निर्णयात वनसंरक्षणाचे मापदंड विशद करण्यात आले आहे. त्यातील परिच्छेद क्र. ६ ते ९ मध्ये गुन्हे हाताळण्याबाबत निर्देश आहेत.

नुकत्याच प्रसिध्द झालेल्या महाराष्ट्र वनसंहिता २०२० खंड -२ मधील परिच्छेद क्र. ६.१२ मध्ये यासंदर्भात सविरतार कार्यपध्दती नमूद करण्यात आली असून सुलभ संदर्भासाठी त्याची प्रत सहपत्र -१ म्हणून या सोबत सहपत्रित आहे. क्षेत्रीय अधिका-यांच्या सोईसाठी सदर कार्यपध्दतीचा मराठी भाषांतर सुध्दा या परिपत्रकासोबत सहपत्र -२ म्हणून सहपत्रित असून सर्व पातळीवर त्याचे काटेकोरपणे पालन होईल, याची सर्व संबंधितांनी दक्षता घ्यावी.

सहपत्र:- वरील प्रमाणे

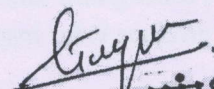

(सजीव गोड)

अपर प्रधान मुख्य वनसंरक्षक (संरक्षण)

प्रति,

प्रधान मुख्य वनसंरक्षक (सर्व)
व्यवस्थापकीय संचालक, वनविकास महामंडळ, नागपूर
अपर प्रधान मुख्य वनसंरक्षक (सर्व)
महाव्यवस्थापक, वनविकास महामंडळ (सर्व)
मुख्य वनसंरक्षक/ वनसंरक्षक (प्रा) (सर्व)
क्षेत्र संचालक, व्याघ्र राखीव (सर्व)
उपवनसंरक्षक/ विभागीय वन अधिकारी (प्रा) (सर्व)
उपवनसंरक्षक/ विभागीय वन अधिकारी (प्रा) (सर्व)
उपसंचालक, व्याघ्र राखीव (सर्व)
विभागीय वन अधिकारी (प्रा) व (वन्यजीव) सर्व
विभागीय व्यवस्थापक, वनविकास महामंडळ (सर्व)
सहाय्यक वनसंरक्षक (सर्व)
वनपरिक्षेत्र अधिकारी (सर्व)

प्रतिलिपी :- प्रधान सचिव (वन), महसूल व वनविभाग, मंत्रालय, मुंबई - ३२


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Annexure-1 of the Circular of the Additional Principal Chief Conservator of Forests (Protection), Maharashtra State, vide No. Desk-18/CR-27/2020-21/346 dated 14.12.2020

PARA 6.12 OF VOLUME 2 OF THE MAHARASHTRA FOREST MANUAL 2020

6.12 Offence Related Procedure—The term, 'Offence' has been defined in section 2(n) of the Code of Criminal Procedure, 1973. The term, 'forest-offence' has been specifically defined under the Indian Forest Act, 1927 in context of offences dealt under that Act. Thus, in absence of specific definition related to offence in the Acts, viz. the Wild Life (Protection) Act, 1972, the Forest (Conservation) Act, 1980 and other Acts, the term 'offence' must be reckoned as it is defined in the Code of Criminal Procedure, 1973. Procedures for dealing such offences and officers to carry out functions and duties viz. arrest, seizure, investigation, inquiry, receiving evidence during such inquiry and investigation, compounding, confiscation, eviction, disposal of property seized in offence, filing complaint in the Court of law etc. are dealt either in the above mentioned Acts or rules made or statutory powers conferred thereunder. In absence of specific provisions in respect of any of such proceedings in any Act, provisions prescribed in the Code of Criminal Procedure, 1973 shall be applicable, as stipulated in section 4 and 5 therein. Relevant statutory provisions, which come across by forest-officers are covered in CHAPTER 3 of this Volume. Administrative functions and duties assigned to officials in Forest-Department are covered in CHAPTER 4 of the Volume I. This segment covers the general procedure for dealing in offences, for the purpose of ensuring uniformity, without any prejudice to statutory provisions.

I-FIRST REPORT

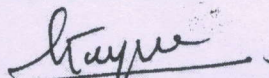
- 6.12.01 FIRST REPORT** Book or more commonly known as POR or FOR (Preliminary Offence Report or First Offence Report) book, containing Forms in quadruplicate (in four copies), prescribed by the State Government from to time in that regard shall be maintained and furnished up to the level of forest-guards.
- 6.12.02** If a forest-guard detects an offence, he shall register the same in his First Report. If the knowledge of the same is obtained from an informer, the forest-guard shall proceed at once to the place, and after verifying the facts, shall make his First Report without delay. He shall thereafter, retain the first copy (Counterfoil) with himself and shall dispatch within 24 hours, the second, third and fourth copy directly to the Round Officer, Division Office and Range Office respectively.
- 6.12.03** If the offence is so registered by any other forest-officer, he shall ensure that authenticated copies of POR so registered, shall reach to officers, mentioned above, without any delay.
- 6.12.04** Forest-guard shall always carry his First Report Book with him and shall produce it for inspection on demand by his official superior.

[Signature]
 महाराष्ट्रक वनसंरक्षक

- 6.12.05 The First Report shall on no account be enclosed in a packet with other papers, and the envelope containing it shall be distinctly marked as "FIRST REPORT".

II-INVESTIGATION REGISTER AND REPORT

- 6.12.06 Every Round Officer shall maintain an "Investigation Register" in the prescribed form and immediately on receipt of a First Report in accordance with para 6.12.02 above, or immediately after recording the offence himself as the case may be, shall fill the Entries to that effect in that Register.
- 6.12.07 He shall thereafter, carry out the investigation into forest-offence and submit his Investigation Report to the RFO within a period of 15 days. He shall also complete the Entries to that effect in the Investigation Register. The Round Officer shall ensure that the fullest possible investigation is made, including the drawing up of the Panchanama, obtaining undertaking in the prescribed form, if the accused person is willing to compound the offence, the recording of statements of the accused person and witnesses concerned, if any. The accused person must always be formally asked to cite witnesses, and should he refuse to do so, it should be recorded as part of the statement.
- 6.12.08 No letter or statement of his own opinion is to accompany the Investigation Report. However, documents to that effect may be embodied in his Statement as a witness for the prosecution and attached to the Report.
- 6.12.09 The above procedure is applicable for Round officers who are entrusted with the duty to carry out Investigation under the Indian Forest Act, 1927.
- 6.12.10 Except for making the investigation, all other procedures mentioned above, shall be applicable to the offences under the Wild Life (Protection) Act, 1972 also. For the purpose of making investigation into offences under the Wild Life (Protection) Act, 1972, powers under section 50(8) of that Act have been conferred to the officers not below the rank of Assistant Conservator of Forests. Clauses (a) to (d) of the said sub-section empower the Investigating Officers with certain other powers also. Thus, investigation into offences under the Wild Life (Protection) Act, 1972, made by any other officer, who is not empowered u/s 50 (8) of that Act, shall not be tenable in the subsequent trial before the Court or in other proceedings before any other Authority. Notwithstanding the above, the forest-officials, below in rank to the officials empowered under section 50(8) are duty-bound to discharge duties cast upon them under sub-sections (1), (3) and (4) of section 50 of the said Act. In fact as per the express provisions contained under sub-section (5), failure in performing duties mentioned under sub-section (4), makes the person concerned guilty of an offence against the said Act.


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enforce the attendance of witnesses, to compel the discovery and production of documents and material objects and to receive and record evidence under section 50(8) are invested with officers not below the rank of the Assistant Conservator of Forests. Thus, offences related to the Wild Life (Protection) Act, 1972 must be dealt by the officers competent in that regard, accordingly.

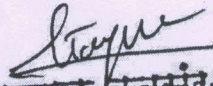
IV- ACF OFFENCE REGISTER

6.12.17 The ACF has been empowered for exercising powers under sections 61-A and 68 of the Indian Forest Act, 1927 and sections 53, 54 of the Maharashtra Land Revenue Code, 1966. He shall therefore examine the case and shall pass appropriate order under the relevant Statute, depending upon the merit of the case in accordance with law and shall forthwith, forward the certified Copies of his Order to concerned Parties, the RFO and DCF / DFO. The certified copy of the order passed under section 61-A shall also be submitted to the Authority under section 61-C. The ACF shall retain and preserve the original case papers with him as they may be required during subsequent proceedings, if any, before the Revision or Appellate Authorities under above mentioned Statutes or in the proceedings before any other statutory authority. However, he shall provide certified copies of such case papers on request from the RFO concerned to that effect.

6.12.18 In respect of offences under the Wild Life (Protection) Act, 1972, after completion of the investigation, if he is of the opinion that the case deserves to be prosecuted in the Court of law, he shall, himself file the Complaint in the Court of Law or shall direct the RFO concerned to do so, under intimation to the DCF/DFO. If he considers that the matter deserves to be dealt u/s 54, he shall submit his Report to that effect to the DCF / DFO accordingly.

V- DIVISIONAL FOREST REGISTER

6.12.19 The DCF / DFO shall maintain a "Divisional Offence Register". Information about each and every First Report, Investigation, Inquiry, Filing of Complaint, Order of Compounding, Confiscation etc. contemplated in the Indian Forest Act, 1927, the Wild Life (Protection) Act, 1972, the Forest (Conservation) Act, 1980 etc. and orders passed u/s 53, 54 of the Maharashtra Land Revenue Code, 1966 and all intermediate stages as reported by the subordinate officials from time to time after registration of offences, shall be entered into this Register promptly from time to time.


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the rank of Conservator of Forests or the concerned forest officer having territorial jurisdiction over the forest land in respect of which the said offence is said to have been committed, to file complaints against the person(s) prima-facie found guilty of offence under the Act or the violation of the rules made thereunder in the court having jurisdiction in the matter. Accordingly, powers to file complaint in the Court have been delegated to the officers in the Regional Office of the Ministry of Environment, Forest and Climate Change under Rule 9 of the Forest (Conservation) Rules, 2003. The DCF / DFO shall personally examine the cases in respect of offences registered under the Forest (Conservation) Act 1980. Thereafter, if he comes to the conclusion that it deserves to be prosecuted before the Court of Law, the formal proposal for filing the complaint under rule 9, complete in all respect along with authenticated copies of case papers, including authenticated English Translation (wherever required) must be submitted to his official superior within 75 days.

6.12.28 It will be noted that this procedure refers exclusively to offences under the Indian Forest Act, 1927, the Wild Life (Protection) Act, 1972 and the Forest (Conservation) Act, 1980. It is on no account to be applied to offences under the I.P.C., or any other Act. Such cases shall be reported forthwith to the police or the Competent Authority under intimation to the official superiors.


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