

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE AT PUNE**

ORIGINAL APPLICATION NO. 06 OF 2020 (WZ)

Shankarlal Gopalbhai Patel Petitioner

Versus

Union of India & Others Respondents

Affidavit-in-Reply on behalf of Respondent no. 2 and 3

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Date: 19/01/2023



Before the Hon'ble National Green Tribunal
Western Zone Bench, Pune

Original Application No.06/2020(WZ)
(I.A.No.11/2020)

Shankarlal Gopalbhai Patel.....,.....Applicant

Versus

Union of India and OrsRespondents

AFFIDAVIT IN REPLY ON BEHALF OF RESPONDENT NO. 2 & 3

I, Yuvrajsinh Jhala, aged 36 years, serving as Deputy Conservator of Forests, Kachchh West Forest Division, Bhuj on behalf of Respondent No.2&3, herein do hereby solemnly affirm on oath and stateas under:

1. It is submitted that the present petitioner had approached the Hon'ble National Green Tribunal (NGT) for appropriate action against Wind Power companies, especially the Green Infra Wind Energy Ltd. In the Sangnara Village of Nakhatrana Taluka of Kachchh District, vide original Application No.06/2020 (WZ) I.A. No. 11/2020, for illegal felling of trees for construction of wind farm. The present application was filed before the Hon'ble NGT pleading for cancellation of the lease to wind power companies under the plea the substantial damage shall come to the flora, fauna and ecology of the Kachchh region particularly in the Sangnara Village due to such rampant felling of trees for construction of wind mills and associated infrastructure during the course of the project.

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"NOTARY" Kachchh District
Bhuj - Kachchh.



2. It is submitted that, the Hon'ble National Green Tribunal (NGT) vide order dated 29.01.2020 in the original application No. 06/2020 (WZ) (I.A. No. 11/2020) had directed the Principal Chief Conservator of Forest (HoFF), Gujarat to conduct an inspection of the area concerned, verify on the factual aspects and submit a report. The Hon'ble NGT had further directed that the District Magistrate, Bhuj, Gujarat shall also assist the PCCF (HoFF) in carrying out the task.
3. It is submitted that, as per the directions of the Hon'ble National Green Tribunal, Inspection of the concerned area was carried out by PCCF, Gujarat on 11th July, 2020 at village Sangnara, Taluka Nakhatrana, Kachchh District, in the presence of the officials of the Revenue & Forest Department of Kachchh District, local Panchayat officials and villagers. Based on the site inspection, interaction with the officials/ persons present during site inspection, perusal of relevant records received from Revenue and Forest Department Officials of District Kachchh, the report was prepared and submitted to the Hon'ble NGT on 13.08.2020.
4. It is further submitted that the State Government had constituted an expert Committee vide its notification on no. S-3096-3577/K Dated 30.12.1996 for identification of Forest areas as per the direction of Hon'ble Supreme court of India in order dated 12.12.1996 in W.P. (Nil) 202/1995 (With W.P. 171/96) Annexure—A. The committee had identified the statutorily notified Forest areas as well as non-statutory Forest areas. A District wise abstract of areas identified as non-statutory Forest and submitted to Hon'ble Supreme Court of India is submitted as Annexure - B for kind consideration of

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 Bhuj - Kachchh.



Hon'ble National Green Tribunal.

5. It is also submitted that a Monitoring Committee was also constituted vide Govt. of Gujarat notification No. FCA-1011-1611-F Dated 25.11.2011 and 30.12.2011, (Annexure-C) which has also considered the above mentioned non-statutory Forests.
6. It is submitted that Government of Gujarat vide letter no :FCA-1014-1090-F, Dated 24.10.2014 of Secretary, Forest and Environment Department, has also proposed the parameters for classification of an area as Forest by dictionary meaning to Government of India, which leads as under.

"Considering all the related issues in totality, the suggestion regarding Recorded forests acceptable whereas following parameters are proposed for the purpose of identification of forest by dictionary meaning. Compact patches of tree species of 20 ha. and more (excluding privately owned areas, grazing lands known as Gauchar lands, all plantations, as also the Prosopis juliflora bearing areas) with crown density of 40% and more are proposed for dictionary meaning of forest. It is felt that the areas proposed as above shall be contribution significantly by way of ecosystem services."

7. It is submitted that the said area of Sanganer Village, Taluka Nakhatrana, District Kachchh has also been analyzed using the Decision Support Systems (DSS) of Forest Survey of India and out of about 1347 Ha of total area, 7 different patches totaling to only 18 ha. Comprise of crown density between 0.4-0.6. Parameters for classification of an area as forest by dictionary meaning does not satisfy in this matter.

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8. It is submitted that the said area is revenue wasteland and Saurashtra felling of Trees (Infliction of Punishment), Act-1951 is applicable for tree cutting without permission of the competent revenue Authorities. In the instant case, Mamlatdar, Nakhtrana, on receipt of complaint from local people of Sangnara Village regarding illegal felling of trees by Green Infra wind Energy Limited, took cognizance of the offence and on investigation imposed a penalty of Rs.3,04,950 for felling of 432 trees vide order dated 30.08.2019, along with an order for planting double the number of trees in consultation with the Gram Panchayat. In another Case, Mamlatdar, Nakhtrana imposed Rs. 47,500 as penalty for cutting of 95 trees along with an order for planting of double the number of trees, vide order dated 23.07.2020.
9. It is respectfully submitted that the answering deponent reserves his right to file further necessary affidavit as and when deemed necessary by this Hon'ble Tribunal.
10. On the facts mentioned here in above, it is prayed by the deponent before this Hon'ble Tribunal to pass appropriate orders in the interest of Sustainable environment security of Kachchh Region.

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 "NOTARY" Kachchh District
 Bhuj - Kachchh.



VERIFICATION

1. What is stated here in above are statement of facts derived from the relevant record and files and are true to the best of my knowledge and I believe the same to be true.
2. All the documents enclosed with the affidavit in reply are the true copies of their originals.

SOLEMNLY AFFIRM AT BHUJ ON 19th DAY OF JANUARY, 2023

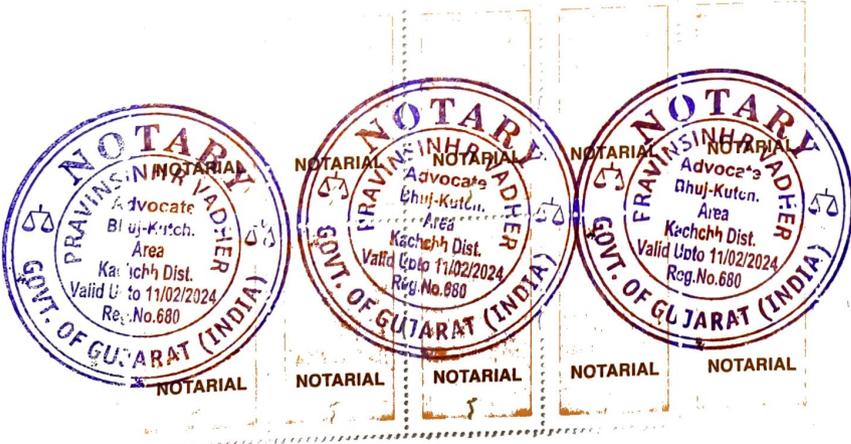
 DEPONENT

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SOLEMNLY AFFIRMED
BEFORE ME

Pravinsinh R. Vadher
"NOTARY" Kachchh District
Bhuj - Kachchh.

19 JAN 2023





Annexure - A

G. 2

Annexure A

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Constitution of an experts Committee for Identification of forest areas and areas covered by plantation.

Government of Gujarat,
Forests and Environment Department,
Resol. No. 6/3577/K,
Sachivalaya, Gandhinagar,
G. L. to: - 30.12.96.

Read :- 1) An order dtd. 12.12.96 of the Supreme Court of India in W.P. (Mil) 202 of 1995 P.P. Vadaverran Thirumulpad V/S. Union of India & Ors. (with W.P. (71/96)

RESOLUTION:-

The Hon. Supreme Court of India vide their order dtd. 12.12.96 in W.P. 202/95 issued at Sr.No. above have directed to constitute an expert committee in para 5 of the order for identifying forest areas. The Committee shall:

- i) Identify areas which are "forests" irrespective of whether they are so notified recognised or classified under any law, and irrespective of the ownership of the land of such forest;
- ii) identify areas which were earlier forest but stand degraded denuded or cleared; and
- iii) identify areas covered by plantation trees belonging to the Govt. and those belonging to private persons.

The State Government has also been directed to file a report within two months regarding:-

- i) the number of saw mills, veneer and plywood mills actually operating within the State with particulars of their real ownership;
- ii) the licensed and actual capacity of these mills for stock and sawing;
- iii) their proximity to the nearest forest;
- iv) their source of timber.

2. Accordingly the Government is pleased to constitute an expert committee comprising of the following members:-



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- 1) Prin. Chief Conservator of Forests
- 2) The Govt (DPM) Chairman
- 3) The Govt (DIPD), Member
- 4) The Govt (WL) Member
- 5) Settlement Commissioner & Director of Land Rewards or his representative.

3. The Committee will give its report (in english) to Government within one month and not later the 31.1.1997.

By order and in the name of Governor of Gujarat,

Sd/-
(.P. S. Vasava)
Deputy Secretary to the Govt. of Gujarat,
Forests & Environment Department.

CC/1.11.1-

- The Secy, Gujarat State, Gandhinagar.
- The Govt (DPM), Gandhinagar.
- The Govt (WL), Gandhinagar.
- The Govt (DIPD), Vadodra.
- Settlement Commissioner & Director of Land Rewards
- Sd/-, Kantiwalaya, Gandhinagar.
- All Branches of Department,
- W. Select file.
- W. Select file.
- All Conservator of Forests for information.

(11)

Annexure-B

Annexure: B

DISTRICTWISE ABSTRACT OF AREAS IDENTIFIED AS "FORESTS".

State: GUJARAT

Area: 1,96,024.59 Km.

Sr. No.	District	Non Statuary Forests	in Sq. km.
1.	2.	3.	
1.	Ahmedabad ✓	56.94 ✓	
2.	Amreli	0.00	
3.	Banaskantha ✓	9.00 ✓	
4.	Bharuch ✓	3.93 ✓	
5.	Bhavnagar	11.03 ✓	
6.	Gandhinagar	0.00	
7.	Jamnagar	30.08 ✓	
8.	Junagadh	4.26 ✓	
9.	Kheda	0.00	
10.	Kachchh	0.00	
11.	Mehsana	0.00	
12.	Panchmahals ✓	14.45 ✓	
13.	Rajkot ✓	50.17 ✓	
14.	Sabarkantha	0.00	
15.	Surat	0.00	
16.	Surentranagar	12.38 ✓	
17.	The Dangs	0.00	
18.	Vadodara	0.00	
19.	Valsad	0.00	
TOTAL		192.24	

Annexure - C

Regarding appointment of Nodal Officer and constitution of monitoring committee for implementation of Supreme Court Judgment for Forest and Environment

Government of Gujarat

Resolution No. FCA-1011-1611/F,
Forest and Environment Department,
Sachivalaya, Gandhinagar
Date : 25th November, 2011

- Reference:** (1) Supreme Court Judgement Dated: 06/07/2011 in Interlocutory Application No.1868, 2019, 2225 to 2227, 2380, 2568 and 2937 in Writ Petition No.202/95
- (2) Demi-Official Letter No.7-31/2007-FC, dated 05/09/2011 of Secretary Ministry of Forests and Environment, Government of India, Written to Chief Secretary, Government of Gujarat.

Preamble

Hon'ble Supreme Court of India has given many directions in its Judgement for Conservation of Forest by reference letter No.(1)

The Central Government has given instructions and Guidelines on the action to be taken for the implementation of the above judgement by reference letter No.(2)

For the implementation of above matter, the Appointment of Nodal Officer and Constitution of Monitoring Committee was under consideration of the State Government.

Resolution

After due consideration, Additional Principal Chief Conservator of Forest (Land), office of the Principal Chief Conservator of Forest, Gujarat State, Gandhinagar has been appointed as Nodal Officer.

The following committee has been constituted for the proper implementation of Guideline and Regulations for the same.

- | | |
|--|-----------------------|
| (1) Additional Principal Chief Conservator of Forest (Land) | - Chairman |
| (2) Chief Information Officer, office of the Principal Chief Conservator of Forest | - Member |
| (3) Additional Principal Chief Conservator of Forest (PPM) | - Member |
| (4) Chief Conservator of Forest (Working Plan) | - Member |
| (5) Conservator of Forest /Chief Conservator of Forest(Wild Life) | - Member |
| (6) Deputy Secretary (Forest & Wild Life) Forest and Environment Dept. | - Member
Secretary |

By Order and in the name of Governor of Gujarat State.

Sd/-
(Paritosh Christian)
Deputy Secretary
Forest and Environment Department

To

- (1) Principal Chief Conservator of Forest, Gujarat State, Gandhinagar
- (2) Chief Information Officer, Office of the Principal Chief Conservator of Forest, Gujarat State, Gandhinagar
- (3) Additional Principal Chief Conservator of Forest (PPM), Office of the Principal Chief Conservator of Forest, Gujarat State, Gandhinagar
- (4) Chief Conservator of Forest (Working Plan), Office of the Principal Chief Conservator of Forest, Gujarat State, Gandhinagar
- (5) Conservator of Forest/ Chief Conservator of Forest (Wild Life), Office of the Principal Chief Conservator of Forest, Gujarat State, Gandhinagar
- (6) Deputy Secretary, Forest and Wild Life, Forest and Environment Department, Sachivalaya, Gandhinagar
- (7) Director (Environment), Forest and Environment Department, Sachivalaya, Gandhinagar
- (8) Select File

Annexure – C

Regarding appointment of Nodal Officer and constitution of monitoring committee for implementation of Supreme Court Judgment for Forest and Environment

Government of Gujarat

Amendment Resolution No. FCA-1011-1611/F,
Sachivalaya, Gandhinagar
Date : 30th December, 2011

Read : The same notification number dated 25.10.2011 of Forest and Environment Department.

Amendment:

In the preamble of the notification of this department, the members mentioned against Sr. No. (2) and (3) namely, Chief Information Officer, Office of the PCCF and APCCF (PPM) have been removed from the member stature of the committee constituted for the implementation of the Judgment of the Hon'ble Supreme Court. The Chief Conservator of Forest (IT) has been appointed as a member in replacement of Sr. No.(2). Now this committee would consist of the following five members :

- | | |
|---|--------------------|
| (1) Additional Principal Chief Conservator of Forest (Land) | - Chairman |
| (2) Chief Conservator of Forest (IT) | - Member |
| (3) Chief Conservator of Forest (Working Plan) | - Member |
| (4) Conservator of Forest /Chief Conservator of Forest(Wild Life) | - Member |
| (5) Deputy Secretary (Forest & Wild Life) | - Member Secretary |

By Order and in the name of Governor of Gujarat State.

Sd/-
(Paritosh Christian)
Deputy Secretary
Forest and Environment Department

To

- (1) Principal Chief Conservator of Forest, Gujarat State, Gandhinagar
- (2) Chief Conservator of Forest (IT), Office of the Principal Chief Conservator of Forest , Gujarat State, Gandhinagar
- (3) Chief Information Officer, Office of the Principal Chief Conservator of Forest , Gujarat State, Gandhinagar
- (4) Additional Principal Chief Conservator of Forest (PPM), Office of the Principal Chief Conservator of Forest , Gujarat State, Gandhinagar
- (5) Conservator of Forest/ Chief Conservator of Forest (Wild Life), Office of the Principal Chief Conservator of Forest , Gujarat State, Gandhinagar
- (6) Deputy Secretary, Forest and Wild Life, Forest and Environment Department, Sachivalaya, Gandhinagar
- (7) Director (Environment), Forest and Environment Department, Sachivalaya, Gandhinagar
- (8) Select File