

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

Original Application No. 680 OF 2024

IN THE MATTER OF:

Vaishali Rana & Ors.

...Applicant(s)

VS


State of Haryana & Ors.

...Respondent(s)

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New Delhi
Dated: 17.01.2025



(BIHU SHARMA)

Advocate for the Respondent No. 6
D- 85 (LGF) Panchsheel Enclave
New Delhi - 110017
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Email Id- bihusharma@gmail.com

1

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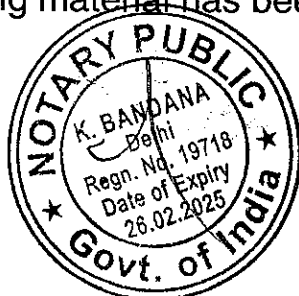
VERSUS

State of Haryana &
Ors.

.....Respondent(s)

**AFFIDAVIT ON BEHALF OF THE MINISTRY OF ENVIRONMENT,
FOREST AND CLIMATE CHANGE (RESPONDENT NO.6)**

1. I, Ravinder Singh, S/o Shri B.R. Singh, aged about 58 years working as the Assistant Commissioner of Forest (Forestry) in the Ministry of Environment, Forest and Climate Change (hereinafter referred to as MoEFCC) at New Delhi do hereby solemnly affirm and say on oath that, I am competent and authorized to swear this affidavit for and on behalf of the Respondent No.- 6.
2. That, I have read and understood the contents of the present Affidavit, the contents thereof are true, and no part of it is false, and nothing material has been concealed therefrom.



[Handwritten Signature]

3. That, I have read and understood the contents of the present Affidavit, the contents thereof are true, and no part of it is false, and nothing material has been concealed therefrom.
4. That, in the instant case, the applicant has raised the grievance against the illegal and large scale felling of trees in the urban areas of District Gurugram, Haryana.
5. In this regard, it is humbly submitted that the MoEFCC deals with policy and regulatory issues at a broader level. The role of the MoEFCC is to frame policy, provide directions and guidance in an advisory capacity, as well as to provide necessary approvals under the provisions of the relevant Central Acts so far as the protection and conservation of forest, wildlife, and other environmental resources are concerned.
6. 5. That the 'land' is a subject matter of the State Government. The forest areas and the legal boundaries thereof are determined and maintained by the concerned State Government. That being the repository of land records, the State Government has the primary responsibility to determine the status of any parcel of land, giving due regard to gazette notifications, provisions under State and Central Acts, and concerned judgments and directions of the Hon'ble Supreme Court.

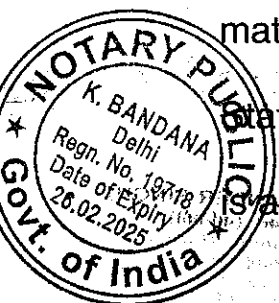


A handwritten signature in black ink, appearing to be "K. Bandana", written over a horizontal line.

6. It is submitted that the felling of trees in non-forest land is regulated by the respective State Government /UT Administration as per the provisions of various State Acts and Rules made thereunder. Many States have specific Tree Preservation Acts / Tree Felling Acts including guidelines for regulating the felling of trees on revenue lands and penal provisions for the violations. The implementation of these rules is supervised by designated authorities in the State Government whose permission is necessary for the felling of reserved trees in Non-Forest Land, under such rules.

7. That, prior approval of the Central Government under Section 2 of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 is required for carrying out any non-forest activity on forest land. Any contravention of the above provision would amount to a violation of the Act and attract the penal provisions in it.

8. It is submitted that the Ministry through its letter dated 20.12.2023 has requested the State Government of Haryana to review the issue raised by the applicant and take action as per the provisions of extant Acts, Rules and Regulations. The Ministry has sought an action taken report from the State Government of Haryana on this matter. However, till date, no information has been received from the State Government in this regard. A copy of the letter dated 20.12.2023 is annexed hereto as **Annexure-1**.



9. It is submitted that the Ministry has been providing technical and financial assistance besides issuing guidelines to State/Union Territory Forest Departments regarding the protection and conservation of forests and wildlife.
10. That, the answering respondent reserves the right to file additional information before the Hon'ble Tribunal, if required till Pendente-lite.
11. 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.



DEPONENT

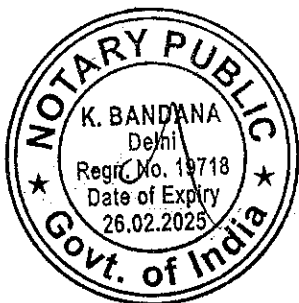
(रविन्द्र सिंह/RAVINDER SINGH)
सहायक आयुक्त (वानिकी)
Asstt. Commissioner (Forestry)
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
M/o Environment, Forest and Climate Change
भारत सरकार, नई दिल्ली
Govt. of India, New Delhi

Verification

17 JAN 2025

Verified at New Delhi on this Day of, 2025, that the contents of this affidavit are true and correct to my knowledge based on the official record maintained in the daily course of its business, no part of this affidavit is false and nothing material has been concealed therefrom.

17 JAN 2025



ATTESTED
NOTARY PUBLIC DELHI
Govt. of India
Mob.: 9654768498

4



DEPONENT

(रविन्द्र सिंह/RAVINDER SINGH)
सहायक आयुक्त (वानिकी)
Asstt. Commissioner (Forestry)
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय
M/o Environment, Forest and Climate Change
भारत सरकार, नई दिल्ली
Govt. of India, New Delhi

IDENTIFIED
2/15734/2003

File No. 17/54/2022-FPD
Government of India
Ministry of Environment, Forest & Climate Change
(Forest Protection Division)

Agni Wing, 5th Floor
Indira Paryavaran Bhawan
Jor Bagh Road, Ali Ganj
New Delhi - 110003
Dated: 20.12.2023

To

The Principal Chief Conservator of Forests & HoFF,
Haryana Forest Department,
Van Bhavan Secotr-6,
Plot No. C-18
Panchkula-134109(Haryana)

Sub: -Felling of trees in urban areas of Gurugram, Haryana; grant of permissions without justification, without ensuring compensatory afforestation; & felling of 7 specific species allowed without permission in urban areas, necessitating TREE ACT in NCR, like Delhi-reg.

Sir,

Please find enclosed herewith a copy of e-mail dated 14.12.2023 received from Smt. Vaishali Rana, Haryana on the subject mentioned above.

It is requested to examine the matter and take action as per the provisions of extant Acts, Rules and Regulations. The action taken report in this regard may please be communicated to this Ministry and the applicant at the earliest.

Yours faithfully,

Encl: -As above

(Dr. Shobhita Agarwal)
Assistant Inspector General of Forest
Email:-fpd-moefcc@gov.in
Tel No. 011-20819406

Copy to:

Smt. Vaishali Rana, Haryana for information.

Email

Forest Protection Division (MoEF&CC)

Fwd: With reference to felling of trees in urban areas of Gurugram, Haryana; grant of permissions without justification, without ensuring compensatory afforestation; & felling of 7 specific species allowed without permission in urban areas, necessitating TREE ACT in NCR, like Delhi

From : R Raghu Prasad <raghu.prasad@gov.in>

Sat, Dec 16, 2023 08:29 AM

Subject : Fwd: With reference to felling of trees in urban areas of Gurugram, Haryana; grant of permissions without justification, without ensuring compensatory afforestation; & felling of 7 specific species allowed without permission in urban areas, necessitating TREE ACT in NCR, like Delhi

3 attachments

To : DR. SHOBHITA AGARWAL <gj198@ifs.nic.in>, Forest Protection Division (MoEF&CC) <fpd-moefcc@gov.in>

From: "Shri Chandra Prakash Goyal" <dgfindia@nic.in>

To: "R Raghu Prasad" <raghu.prasad@gov.in>

Sent: Friday, December 15, 2023 12:10:01 PM

Subject: Fwd: With reference to felling of trees in urban areas of Gurugram, Haryana; grant of permissions without justification, without ensuring compensatory afforestation; & felling of 7 specific species allowed without permission in urban areas, necessitating TREE ACT in NCR, like Delhi

From: "Ms Leena Nandan" <secy-moef@nic.in>

To: "Shri Chandra Prakash Goyal" <dgfindia@nic.in>, "BIVASH RANJAN" <adgwl-mef@nic.in>

Sent: Friday, December 15, 2023 9:31:19 AM

Subject: Fwd: With reference to felling of trees in urban areas of Gurugram, Haryana; grant of permissions without justification, without ensuring compensatory afforestation; & felling of 7 specific species allowed without permission in urban areas, necessitating TREE ACT in NCR, like Delhi

Office of Secretary
Ministry of Environment, Forest and Climate Change
4th Floor, Prithvi Wing
Indira Paryavaran Bhawan
Jor Bagh Road, New Delhi - 110003
Tel.No.: +91-11-20819308
 +91-11-20819408
Fax No.: +91-11-20819238

From: "zorawar vrc2015" <zorawar.vrc2015@gmail.com>

To: "Jagdish Chander" <pccf-hry@nic.in>, "Sanjeev Kaushal, IAS" <cs@hry.nic.in>, "Ms Leena Nandan" <secy-moef@nic.in>

Cc: pspccf@gmail.com, papccf@gmail.com, "V Rajagopalan Iyer" <vrg.iyer@nic.in>, "Regional Officer MoEF IRO Chandigarh" <ronz.chd-mef@nic.in>, kanwarpal666@gmail.com, cmharyana14@gmail.com, "Chief Minister Government of Haryana" <cmharyana@nic.in>, "DC Gurugram" <dcgrg@hry.nic.in>

Sent: Thursday, December 14, 2023 11:23:50 PM

Subject: With reference to felling of trees in urban areas of Gurugram, Haryana; grant of permissions without justification, without ensuring compensatory afforestation; & felling of 7 specific species allowed without permission in urban areas, necessitating TREE ACT in NCR, like Delhi

To,

1. The Principal Chief Conservator of Forests (HoFF),

Van Bhawan, C-18, Sector 6,

Haryana, Panchkula- 134109

2. Chief Secretary, Government of Haryana,

4th Floor, Haryana Civil Secretariat, Sector-1, Chandigarh

3. The Secretary, MoEF&CC, Govt. of India

Paryavaran Bhawan, Jor Bagh, New Delhi

Sub.: With reference to felling of trees in urban areas of Gurugram, Haryana; grant of permissions without justification, without ensuring compensatory afforestation; & felling of 7 specific species allowed without permission in urban areas, necessitating TREE ACT in NCR, like Delhi

Dear Sir/Ma'am,

The undersigned are residents of Gurugram, Haryana and are concerned about the environment, ecology and the air pollution level in the area. This letter is to seek your kind attention towards the felling of trees within the urban areas of Gurgaon as well as permission granted without application of mind and justification for felling trees. It is against the legal provisions and various judgments passed by the Hon'ble National Green Tribunal and Supreme Court and in disregard to various

orders of the High Courts which have granted protection to the trees in urban spaces against mindless and illegal felling.

The undersigned submitted RTI application to obtain the information on status of felling of trees and to obtain the copies of permit given by the DFO, the Forest Offence Report and chalan (penalty) copies in case of trees felled without permission of the DFO. The RTI response dated 02.08.2022 by the office of Divisional Forest Officer (DFO), Gurugram, Haryana shows that the total number of trees felled from April 2021 till July 2022 is 6715.

It is known from the multiple mails written by the applicants, 2020 onwards, that there has been mindless felling of urban trees without permission as well from the District Forest Officer (DFO), in the past 3 years. In these cases the DFO levies post-clearance penalty of merely 500 rupees per tree without charging the compensation for the felled tree and without ensuring compensatory afforestation after the felling. Moreover, where permissions are granted by the DFO, they are without application of mind on the necessity of the tree to be felled and without ensuring compensatory afforestation to be done prior to felling of tree.

The RTI response also shows that the number of trees planted as compensation is 51 in the period from 2021 till 02.08.2022, out of 7615 trees felled in the same period. Hence, compensatory afforestation, which should have been approximately 76000, is much lesser than the number of trees felled. This is indicative of the fact that while the ecology has been harmed on a large scale, hardly any of the ecological value lost by felling trees have been taken care of through CA/transplantation. Apart from this, maximum number of trees have been felled without any permission from the authority, therefore, indicating that there is no accountability of the compensatory afforestation done for such trees.

As per the India State of Forest Report, Chapter 13, Table 13.9.1, the current forest cover in Gurgaon district is 9.04% of its geographical area and shows a reduction of 2.47 sq. kms approximately since 2019. Gurgaon is already devoid of appropriate green cover and such unaccounted felling of trees without adequate replantation and maintenance, in violation of law is making the situation worse. It is in violation due to the following reasons:

1. Granting permission for felling of urban trees is against the National Forest Policy, 1988 and the Haryana State Forest Policy, 2006.

The India State of Forest Report 2021 shows the current forest cover in the state of Haryana to be 3.63 % of the geographical area of the state (Chapter 2, Table 2.4 of ISFR 2021). As per the National Forest Policy, 1988, and the Haryana State Forest Policy, 2006, existing forests and forest lands should be fully protected and their productivity improved.

The Haryana Forest Policy states that "to increase green cover in the State, it is necessary to encourage the planting of trees alongside roads, railway lines, canals, rivers, rivulets and streams, and other unutilised lands under Central Government and corporate, institutional or private ownership. Green belts should be raised in urban/ industrial areas as well as in arid tracts. Such a programme will help to check erosion and desertification as well as improve Industrial and Urban environment".

In a State where there is already very less forest cover, grant of permission of further clearance of trees in urban areas without ensuring compensatory afforestation or enforcing deterrence from felling the trees under the appropriate legislations is against the objectives and targets of National Forest Policy and the State Forest Policy.

The National Forest Policy is to be read as a part of the provisions of the Environment Protection Act, 1986 read together with the Forest (Conservation) Act, 1980. The Hon'ble Supreme Court, in the matter of *Lafarge Umiam Mining (P) Ltd. v. Union of India*, (2011), I.A. Nos. 1868, 2091, 2225-2227, 2380, 2568 and 2937 in Writ Petition (C) No. 202 of 1995., held the following:

"122 (i)Time has come for this Court to declare and we hereby declare that the National Forest Policy, 1988 which lays down far-reaching principles must necessarily govern the grant of permissions under Section 2 of the Forest (Conservation) Act, 1980 as the same provides the road map to ecological protection and improvement under the Environment (Protection) Act, 1986. The principles/guidelines mentioned in the National Forest Policy, 1988 should be read as part of the provisions of the Environment (Protection) Act, 1986 read together with the Forest (Conservation) Act, 1980. This direction is required to be given because there is no machinery even today established for implementation of the said National Forest Policy, 1988 read with the Forest (Conservation) Act, 1980."

Therefore, any act that is contrary and against the principles of the National Forest Policy is a violation of the Environment Protection Act, 1986.

2. Trees in urban spaces cannot be felled without permission.

That, as per the permit copies obtained by the undersigned, the permission for felling trees in areas notified under Section 4 of the Punjab Land Preservation Act, 1900 (PLPA) is granted by the DFO, Forest and Wildlife Department, Haryana government. According to the general notification under section 4 of PLPA, where the government thinks it fit to preserve the land or the sub-soil of the land, can restrict, regulate or prohibit certain activities, out of which one of the activities to be restricted,

regulated or prohibited is felling of tree in the area for purposes as specified in Section 4(c) and 5(c) of PLPA.

That the areas in question identified in the permit copies are in urban areas. However, they fall within the areas notified under Sections 4 of the PLPA. As seen from the permit copies obtained from the RTI response, these areas are given general protection under Section 4 of the PLPA. Therefore, there cannot be mindless felling of trees. The trees in such areas cannot be felled without taking the permission as per the Notification under Section 4 of PLPA. As per the judgment dated 01.07.2022 in **Green Earth v Dy. Commissioner** [O.A. No. 374/2022], by the Principal Bench of the Hon'ble National Green Tribunal, trees outside the forest area cannot be felled without regulation and has to be protected even in the absence of a regulatory mechanism. The relevant portion of the order is mentioned below:

"9. It is undisputed that no permission has been granted for cutting of trees by any competent authority. Learned Counsel for the respondents submitted that there is no regulatory mechanism in Haryana on the pattern of Delhi Tree Preservation Act, 1994 and thus, no permission for cutting trees outside forest area is required.

10. We have considered the rival submissions. Having regard to environmental significance of trees, it is difficult to accept that trees should be allowed to be cut without any regulation or approval. If there is no regulatory mechanism, the State is bound by public trust doctrine to lay down an appropriate regulatory mechanism on the subject. Environmental concerns may be addressed as per laid down mechanism.

11. Accordingly, we direct that thee Chief Secretary, Haryana to look into the matter and if no regulation exists, the same be laid down within a month. Regulatory mechanism be complied before cutting the trees in question."

Felling trees without taking the permission from the DFO as mandated by the notification under Section 4 of PLPA means that they are being felled without any regulation and approval. Therefore, it is in violation of the order of the Hon'ble Tribunal.

3. Permission granted for felling trees is without reason and application of mind.

That the tree felling permit issued by the DFO, as obtained with the RTI response by the undersigned, do not cite reasons and justification for granting permission. The permits merely lays

down a list of conditions to be followed for felling the trees and states that the permit will be cancelled in case the facts given in the application for permit are found incorrect.

The necessity for felling trees is not recorded in the permit. As per the order dated 28.04.2022 of the Hon'ble High Court of Delhi in *Neeraj Sharma v Vinay Sheel Saxena [CONT. CAS(C) 851/2021 of Delhi High Court]*, the permission for cutting trees should be based on necessity and that a site visit by the tree officer granting the permission is prudent. The relevant portion of the order is mentioned below:

"7. The statutory duty cast upon the Tree Officer necessarily requires assessment of the necessity to cut a tree for the project for which the permission is sought. A site visit would be prudent.... Compensatory afforestation if at all carried out, on the fringes of the city, far-removed from the congested areas of human habitation, where the sole decades-old-tree once stood as a carbon-sump-cum-fresh oxygen generator-cum-shade provider-cum-visual respite from the ever increasing concretization; the geographically distant and nascent compensatory plantation can hardly be of any respite or actual compensation.

8. In the circumstances, it would be appropriate that the Tree Officer(s) give due consideration to transplantation of each tree which is sought to be cut, before granting any further permission for cutting of trees. This would entail inspection of the trees which are sought. The reason for grant or denial of permission would have to be spelt out in the order of the Tree Officer along with photographs of each tree."

Therefore, they are in violation of the above-mentioned directions of the Hon'ble Delhi High Court.

4. Penalty charged for trees felled without taking permission is not equal to its ecological value.

That the chalan copies, as obtained by the undersigned, for illegally felled trees mention two types of compensation- firstly, the penalty to cut trees without permission and secondly, the ecological compensation for felled trees. Section 19 of the PLPA describes violation of Section 4 of PLPA as an offence for which the penalty is either a fine up to one hundred rupees or imprisonment up to one month, or both. The copies of Forest Offence Report show that the trees have been felled in areas notified under Section 4 of PLPA without permission.

It is seen in the present case, as per the chalan copies, that the Forest Conservator is uniformly charging an amount of rupees 500 per tree as penalty against the forest offence committed by

offenders for such illegal felling of trees irrespective of the tree species. In no case the offenders have been sentenced to imprisonment even when there is a provision for the same under Section 19 of PLPA against the offence of violation of Section 4 of PLPA. In fact the standard text of the chalan copies shows that charging of penalty is in lieu of handing over the offenders to the Criminal Court for the offence committed under PLPA.

The chalan copies show that the amount charged is merely in the form of fine for the offence and that no amount is levied for the lost tree based on its value, and chalan copies indicate "NIL" for the same. This means that no compensation is charged for the value of the felled tree based on its species, age, girth and other ecological factors. The chalan copies do not mention any other details to show that such factors are given any consideration while deciding the penalty amount. Moreover, the Forest Offence Report prepared along with the compensation chalan copy also do not mention any other details about deciding the amount.

However, it is important that the ecological value of the felled tree is compensated for. In the judgment of **Association for Protection of Democratic Rights & Anr. vs. The State of West Bengal** [Civil Appeal No. 25047 of 2018-] the Hon'ble Supreme Court in its order dated 25.03.2021 held the following:

"One of the moot questions often involved wherever there is need to fell trees to develop a project is how just and fair compensation can be calculated for felling of trees by any authority or organisation which proposes such felling. We have no doubt that such compensation should be calculated and paid as a part of the project cost of the project which necessitates the felling of trees and such compensation must be utilized in an expert manner to create a better environment and, most importantly, increase afforestation. It is, therefore, imperative to make a realistic assessment of the economic value of a tree, which may be permitted to fell, with reference to its value to environment and its longevity, with regard to factors such as production of oxygen and carbon sequestration, soil conservation, protection of flora/fauna, its role in habitat and ecosystem integrity and any other ecologically relevant factor, distinct from timber/wood."

That mere collection of penalty amount of Rupees 500 doesn't suffice for the damage done to the ecology by felling the trees. It is important that the value of the tree is also obtained from the offenders. This shows that the Forest Conservator Officer is not following the procedure in imposing the penalty and levying the compensation for each felled tree, in total disregard to the order of the Hon'ble Supreme Court.

5. Compensatory afforestation has not been ensured against felling of trees by the authorities.

Compensatory afforestation is a crucial pre-condition for granting permission for tree felling. This means that the trees have to be planted prior to the proposal for felling trees as well as for trees that have already been felled without permission. It was held by the Hon'ble National Green Tribunal in its order dated 14.03.2017 in the matter of **T.N. Godavarman v Union of India** [O.A. 167 of 2016] as below:

“All the persons felling, cutting the trees in the Forest area or even on the private land are hereby prohibited from cutting the trees unless and until they plant before cutting, 10 trees for each tree cut or felled from and/or proposed to be felled or cut. Further they shall deposit the sufficient money with the Forest Department to ensure that the trees are duly cared for and due protection, provided to them at least for a period of 5 years from the day of planting. The place of planting should be on that land itself or in the nearby land as determined by the Forest Department subject to these conditions.”

However, in the present matter, compensatory afforestation is provided as a condition in the permit itself, rather than ensuring it prior to granting permission. This is in disregard to the order of the Hon'ble Tribunal which specifically lays out compensatory afforestation of 10 times to be ensured prior to felling of trees. Secondly, as per the chalan copies, only penalty is levied for the trees felled without permission and there is no enforcement of the compensatory afforestation condition for such felled trees.

Point to be highlighted is that even govt agencies like MCG themselves are not doing CA for the trees felled by them, despite multiple reminders by Forest dept (RTI attached...CA for approx. 3500 trees not done by MCG in 3 years).

It was also held by the Hon'ble Tribunal that the felled trees have to be compensated with trees in the same land itself or in a nearby land. However, no specification of location has been mentioned in the permit by the authority.

Further, the felled trees have to be compensated with trees of equivalent ecological value. The Hon'ble High Court of Sikkim held in its order dated 10.01.2022 in the matter of **In Re: Recent Felling of Trees in Gangtok** [WP (PIL) No. 04/2020] as below:

“24. Compensatory Plantation is the next point that needs to be addressed... Necessarily ought to replace the felled trees by planting trees of equivalent value

and other relevant ecological factors. Surely a felled tree cannot be replaced by shrubs or bushes, it has to be replaced by a tree."

The grant of permit is in disregard to this order of the Hon'ble HC of Sikkim. The condition given in the permit for compensatory plantation does not specify the kind or species of trees to be planted to replace the trees for which permission has been granted.

6. Felling of 7 specific species allowed without permission in urban/Municipal areas.

Despite applicability of PLPA sec 4, general, in March 2011, as per amended Haryana Gazette, 7 trees species were exempted, and now can be felled without seeking any permission. From 2 species, the number was increased to 7 (Ailanthas, Shahtoot, Guava, Bakain, Bamboo were added to Poplar & Eucalyptus). *What is the logic of this notification in towns & cities? In Municipal areas (unlike agricultural lands) species of trees is inconsequential, and should be valued for the benefits (oxygen & cooling effect being the least) any tree offers to mankind irrespective of the species!!* Relevant copy of March 2011 Gazette attached.

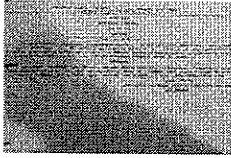
In view of the above, it is clear that the permission granting authority and the entire Haryana Forest and Wildlife Department under the Government of Haryana is not serious about its duties and obligations to follow the procedure for granting permission for cutting trees in urban areas, for keeping a check on trees felled without permission and for ensuring compensatory afforestation.

Therefore WE, the undersigned, request you to take steps to

- formulate HARYANA TREE ACT especially for NCR (Gurgaon, Faridabad), like Delhi, since the pollution levels of NCR are the same as Delhi, or maybe more;
- check the illegal felling of trees without permission along with recovery of appropriate amount of compensation for the loss of trees;
- instruct the DFO to ensure compensatory afforestation before granting the permit to fell trees and while granting the permission keeping in mind the law as established by the Hon'ble High courts and the National Green Tribunal;
- and to ensure that the permission is not granted without compensatory afforestation.


Vaishali Rana (9899078299)


Vivek Kamboj (98110 05511)



2011 Haryana Gazette

62 KB

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