

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH NEW DELHI.**

O.A. No. 347 of 2016.

IN THE MATTER OF :-

Chandra Bhal Singh

....PETITIONER.

VERSUS.

Union of india and ors.

....RESPONDENTS.

Next Date. 07/10/2020.

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THROUGH


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Date:- 24/09/2020.
Place New Delhi

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,

PRINCIPAL BENCH, NEW DELHI

IA NO. OF 2020

In

Original Application No. 347 of 2016

IN THE MATTER OF

Chandra Bhal Singh

..... Original Applicant

VERSUS.

Union of India & Ors

..... Respondent

Chhattisgarh State Biodiversity Board, Naya Raipur, Chhattisgarh, ...
Respondent

**AFFIDAVIT IN COMPLIANCE OF ORDER DATED 18.03.2020, PASSED BY
HON'BLE NATIONAL GREEN TRIBUNAL, PRINCIPAL BENCH, NEW DELHI**

I, Morice Tushar Nandy, son of Late Shri P. Nandy, aged about 54 years, posted as Member Secretary, Chhattisgarh State Biodiversity Board, Raipur, Chhattisgarh do hereby solemnly affirm and state as under:

1. That I am the Respondent in the above captioned case and am the Member Secretary, Chhattisgarh State Biodiversity Board, Naya Raipur, Chhattisgarh and I am fully conversant with the facts and circumstances based on the available records of the case and am competent to depose this affidavit on behalf of the Chhattisgarh State Biodiversity Board ('Respondent Board') and I hereby state that the factual details have been given based on the available records.
2. I say that the present matter is pending adjudication before this Hon'ble Tribunal. The present affidavit is filed in compliance of the order dated 09.08.2019 and 18.03.2020 passed by this Hon'ble Tribunal in the captioned matter by the Respondent Board.
3. I say that pursuant to aforesaid order of this Hon'ble Tribunal, the National Biodiversity Authority, Chennai has been organizing virtual meetings to review the progress of the implementation of the order of the Hon'ble Tribunal, on a monthly basis. The latest one was on 31.08.2020 under the chairmanship of Dr. V.B Mathur, Chairman, National

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Biodiversity Authority (NBA). Copy of the minutes of the meeting is annexed as **Annexure A-1**.

4. I say that the Respondent Board has been regularly participating in the said meetings, as reflected in the minutes of the said meeting.
5. I say that the said order of the Hon'ble Tribunal directed the states to comply with the provisions of Biological Diversity Act, 2002 and constitute Biodiversity Management Committees (hereinafter referred as **BMC**) in their respective states. It was further directed to prepare People's Biodiversity Register (hereinafter referred as **PBR**).
6. I say that, at present, there are a total of 12004 (twelve thousand and four) local bodies, constituted in the state of Chhattisgarh. Out of these, 703 (seven hundred and three) are newly constituted. It is further stated that Respondent Board has successfully constituted BMCs in 11419 local bodies. The constitution of BMCs in the remaining newly constituted local bodies is in progress, and shall be completed by October, 2020.
7. I further say that, the preparation of 1246 PBRs has been completed and that for 2600 PBRs is in process.
8. It is submitted that the Respondent Board is making all efforts to complete the task of preparation of PBRs. However, because of the spread of nCoVid-19 and the resulting state of lockdown in the state of Chhattisgarh, the process was slowed down. Due to the scare among the citizens, it has not been possible to arrange meetings and field visits, involving stakeholders.
9. It is submitted that the huge costs, required to meet the expenses as per the guidelines of NBA has been a challenge because of the budgetary constraints due to the Covid pandemic.
10. It is also submitted that, as per the discussions of the NBA meetings, in order to prepare interim PBRs with a new model, the Respondent Board has been working to collect secondary data from the line departments, in order to prepare interim PBRs, but such a data is largely not available village panchayat wise or urban bodies wise, which has further slowed down the process of preparation of PBRs. And hence, as per the new model, the process and the efforts are ongoing.
11. That the Respondent Board is committed towards completion of preparation of PBRs in all aspects at the earliest. As was pleaded in the earlier affidavit, filed on behalf of the Chhattisgarh State Biodiversity Board, it is therefore humbly, again prayed before the Hon'ble Tribunal that an extension up to March, 2021 be granted to complete the remaining task.

12. That the present affidavit is being filed for consideration of this Hon'ble Tribunal.

13. I say that the contents of the affidavit and the documents annexed herewith are true and correct to my knowledge and belief and no part is false and nothing material has been concealed therefrom.


~~DEPONENT~~

VERIFICATION:

I, Morice Tushar Nandy, do hereby solemnly affirm and state that the contents of this affidavit from Para 1 to Para 13 are true and correct to the best of my knowledge and belief. No part of the same is false and nothing material has been concealed therefrom.

Verified on this..... day of September, 2020 at

~~DEPONENT~~

ANNEXURE - A-1

Minutes of the 5th meeting to review the progress of establishment of Biodiversity Management Committees (BMCs) and Preparation of People's Biodiversity Registers (PBRs) in different States and Union Territories in pursuance of the Order passed by the Principal Bench of the Hon'ble National Green Tribunal, New Delhi in O. A. 347 of 2016 (I. A. no 471/2019) dated 18.03.2020

A meeting to review and monitor the constitution of Biodiversity Management Committees (BMCs) and preparation of People's Biodiversity Registers (PBRs) in pursuance to the Order of the Hon'ble National Green Tribunal (NGT), Principal Bench, New Delhi (in O.A. No. 347 of 2016, *Chandra Bhal Singh Vs. Union of India & Others*), dated 18.03.2020 was convened by National Biodiversity Authority (NBA) on 31st August, 2020 on a virtual mode under the chairmanship of Dr. V. B. Mathur, Chairperson, National Biodiversity Authority (NBA).

Thirty-nine participants including representatives from 25 State Biodiversity Boards, 5 Union Territories and officials of NBA attended the meeting. The list of participants is enclosed as Annexure I.

Chairman, NBA welcomed all the participants and urged upon the State Biodiversity Boards and Union Territory Biodiversity Councils to fulfil their legal obligations and comply with the directives of the Hon'ble NGT.

Shri. Justin Mohan, Secretary, NBA presented the status of BMCs formed and PBRs prepared in each State and progress of BMC constitution and preparation of PBRs. During the presentation, the Secretary complimented the states which had completed the BMC formation and PBR preparation in all aspects viz. Assam, Goa, Haryana, Jharkhand, Kerala, Madhya Pradesh, Punjab, Sikkim, Tamil Nadu, Tripura, Uttarakhand, Uttar Pradesh. He requested all the states to comply with the Orders of the Hon'ble NGT at the earliest and reiterated the earlier advice of NBA to commence the PBR preparation based on existing data available with line departments considering the prevailing COVID-19 pandemic which has restricted movement of officials and people in different parts of the country. He advised the States and Union territories to take action to comply with the Hon'ble Tribunal at the earliest. Secretary also requested all states and UTs to provide the details of BMCs constituted till date and to complete the Dash Board for projecting the details of BMCs and PBRs.

Secretary, NBA also informed that an online meeting would be convened soon to resolve issues pertaining to Utilization Certificates pending with different SBBs. He also requested the states to provide the shape files for Biodiversity Heritage Sites, which were required for reporting to MoEF&CC.

The following agenda were discussed during the meeting:-

1. Status of progress in BMC formation and PBR preparation including progress in "Dashboard" preparation as on 31/08/2020.
2. Specific constraints faced by the States / UTs to complete the process of BMC formation and PBR preparation within the stipulated deadline, which can be brought to the notice of the Hon'ble NGT while filing the affidavit.
3. Submission of the list of BMCs constituted and PBRs prepared till date should be submitted in soft copy.
4. Update on constitution and operation of PBR quality Monitoring Committee.
5. Details of ABS paid by different entities to the SBBs till date.
6. Pendency of 'Utilization Certificates' from the SBBs.

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The Chairmen, Member Secretaries and other officials representing the SBBs presented the details pertaining to the concerned States / UTs, the constraints faced by them and the efforts taken to comply with the Orders of the Hon'ble Tribunal.

During the course of the meeting, the following decisions were taken:-

1. As reported by the SBBs / UT Biodiversity Councils, **2,65,701** BMCs have been constituted and **1,93,334** PBRs have been prepared till date in 28 states and 4 Union territories (Annexure II). Some SBBs have already achieved the target for formation of the BMCs and preparation of all PBRs in their states and these include Assam, Goa, Haryana, Jharkhand, Kerala, Madhya Pradesh, Punjab, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh and Uttarakhand. Many other states like Himachal Pradesh, Maharashtra, Telangana and West Bengal are on the verge of completion. Action needs to be taken by the remaining States and Union Territories to complete the task at the earliest.
(Action: All SBBs where BMC formation and PBR preparation is yet to be completed)
2. NBA would be filing a Status Report on the BMC formation and PBR preparation in all states and UTs before 30th September 2020.
(Action: Secretary, NBA)
3. The State Governments in consultation with their Advocate General would file a Report pertaining to their states before the Hon'ble NGT informing their status pertaining to BMC formation and PBR preparation. The Hon'ble Tribunal has permitted to file the reports by email to judicial-ngt@gov.in
(Action: All SBBs)
4. SBBs shall complete their dash boards on or before 15th September 2020. If there is any clarification required, the SBBs may contact NBA.
(Action: All SBBs)
5. PBR Monitoring Committee to be constituted in all the SBBs at the earliest.
(Action: All SBBs)
6. UTs where Councils are yet to be constituted shall take urgent action to constitute the UT Biodiversity Council at the earliest to implement the provisions of the BD Act.
(Action: All SBBs)
7. SBBs shall furnish the shape files of Biodiversity Heritage Sites to NBA on or before 11th September 2020.
(Action: All SBBs)

The meeting concluded at 4.30 PM with a vote of thanks to the chair. It was decided to continue with the monthly meeting upto December 2020 for which NBA would soon communicate the dates.

Sushil Kumar
(Secretary, NBA)

01/09/20

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Annexure II

REVIEW MEETING WITH SBBs & UNION TERRITORIES
31st August, 2020

LIST OF PARTICIPANTS			
Sl. No	State	Name	Designation
1	Andhra Pradesh	Dr D. Nalini Mohan, IFS	Member Secretary
2	Arunachal Pradesh	Dr. S. Dinesh Kannan, IFS	Member Secretary
3	Assam	Shri K.S.P.V. Pavan Kumar, IFS	Member Secretary
4	Bihar	Dr. D. K. Shukla, IFS	Chairman
5	Chhattisgarh	Shri. M. T. Nandi, IFS	Member Secretary
6	Gujarat	Shri P. G. Gardi, IFS	Member Secretary
7	Haryana	Dr. Amarinder Kaur, IFS	Chairman
8	Himachal Pradesh	Shri Nishant Thakur	Joint Member Secretary
9		Dr. Subhra Banerjee	Sr. Scientific Officer
10	Jharkhand	Smt. Shailja Singh, IFS	Member Secretary
11	Karnataka	Shri. Virendra Singh, IFS	Member Secretary
12	Kerala	Dr. Sudheesh	Scientific Officer
13	Madhya Pradesh	Shri R Sreenivasa Murthy, IFS	Member Secretary
14		Shri Prakhar Gupta	SBB official
15	Maharashtra	Shri Jeet Singh, IFS	Member Secretary
16	Manipur	Shri. L. Baite, IFS	Member Secretary
17	Meghalaya	Shri N. Luikham, IFS	Member Secretary
18	Mizoram	Dr. Liandawla, IFS	Member Secretary
19	Nagaland	Shri. Supongnukshi Ao, IFS	Member Secretary
20	Odisha	Shri Maloth Mohan, IFS	Chairman
21	Punjab	Dr. Jatinder Kaur Arora	Member Secretary
22	Rajasthan	Shri. G. V. Reddy, IFS	Chairman
23	Sikkim	Dr. D. Manjunatha, IFS	Member Secretary
24	Telangana	Shri. Kalicharan S. Khartade, IAS	Member Secretary
25	Tripura	Dr. D.K. Sharma, IFS	Member Secretary
26	Uttarakhand	Shri S S Rasaily, IFS	Member Secretary
27	Uttar Pradesh	Shri PK Sharma, IFS	Member Secretary
28	West Bengal	Shri Rajeev Sharma, IFS	Member Secretary
Union Territories			
29	Andaman & Nicobar Islands	Shri Kamal Datta, IFS	APCCCF(Wildlife)
30	Chandigarh	Dr. Abdul Gayum, IFS	DCF
31	Jammu & Kashmir	Mr. Tahir Shawl	Director, SFRI
32	Ladakh	Md. Sajid Sultan	Member Secretary
33		Ms. Stanzin Namdol	UNDP representative
34	Lakshadweep	Shri Abdul Raheem	Member Secretary
National Biodiversity Authority			
35		Dr. V. B. Mathur	Chairman
36		Shri J Justin Mohan	Secretary
37		Dr. Sangita Mitra	Sr. Consultant - SBB & BMC
38		Mr. Singaram	System Admin
39		Ms. KP Jancy	Ex. Grade I

STATUS OF BMCS AND PBRs AS ON 31-08-2020

STATES / UT	District Panchayats				Intermediate Panchayats				Village Panchayats				Traditional Panchayats				Urban Local bodies				Overall Total			
	Total local bodies	BMCs constituted	PBRs prepared	PBRs in progress	Total local bodies	BMCs constituted	PBRs prepared	PBRs in progress	Total local bodies	BMCs constituted	PBRs prepared	PBRs in progress	Total local bodies	BMCs constituted	PBRs prepared	PBRs in progress	Total local bodies	BMCs constituted	PBRs prepared	PBRs in progress	Total local bodies	BMCs constituted	PBRs prepared	
Andhra Pradesh	13	12	0	13	661	661	661	0	13418	12931	245	183	0	0	0	0	124	8	0	0	14216	13612	906	
Arunachal Pradesh	25	25	12	13	0	0	0	0	1779	1779	1038	28	0	0	0	0	2	2	0	0	1806	1806	1050	
Assam	26	26	26	0	185	185	185	0	2197	2197	2197	0	40	40	40	0	101	101	101	0	2549	2549	2549	
Bihar	38	22	0	9	534	322	0	135	8386	6661	0	4203	0	0	0	0	143	136	0	80	9101	7141	0	
Chhattisgarh	27	27	0	0	146	146	0	0	10963	10963	1246	2600	0	0	0	0	165	165	0	0	11301	11301	1246	
Goa	0	0	0	0	0	0	0	0	191	191	191	0	0	0	0	0	14	14	14	0	205	205	205	
Gujarat	33	0	0	0	248	9	6	0	14292	10806	1754	50	8	1	0	1	162	3	0	0	14743	10819	1760	
Haryana	22	21	22	0	126	125	126	0	6204	6204	6204	0	0	0	0	0	85	85	85	0	6437	6435	6437	
Himachal Pradesh	12	12	12	0	79	79	79	0	3226	3226	3226	0	0	0	0	0	54	54	54	0	3371	3371	3371	
Jharkhand	24	22	22	2	263	262	262	1	4351	4350	4350	1	0	0	0	0	52	46	46	6	4690	4680	4680	
Karnataka	30	30	3	23	225	178	40	131	6012	6006	5016	400	0	0	0	0	287	279	22	171	6554	6495	5081	
Kerala	14	14	0	0	152	152	0	0	941	941	934	0	0	0	0	0	93	93	93	0	1200	1200	1034	
Madhya Pradesh	52	52	52	0	313	313	313	0	22814	22814	22814	0	0	0	0	0	378	378	378	0	23557	23557	23557	
Maharashtra	34	34	17	0	351	351	164	0	27876	27876	24681	0	0	0	0	0	393	393	393	0	28654	28654	25255	
Manipur	12	12	0	12	0	0	0	0	2243	1868	37	144	0	0	0	0	27	27	0	6	2282	1907	37	
Meghalaya	0	0	0	0	0	0	0	0	6459	4573	1050	0	0	0	0	0	12	0	0	0	6471	4573	1050	
Mizoram	0	0	0	0	0	0	0	0	810	810	810	0	1	1	1	0	83	83	0	83	894	894	810	
Nagaland	0	0	0	0	0	0	0	0	0	0	0	0	1238	1084	1084	0	0	0	0	0	1238	1084	1084	
Odisha	30	12	21	9	314	191	0	0	6798	6773	255	23	0	0	0	0	114	114	0	0	7256	7090	276	
Punjab	22	22	22	0	150	150	150	0	13260	13260	13260	0	0	0	0	0	167	167	167	0	13599	13599	13599	
Rajasthan	33	33	0	0	295	289	0	0	9885	9768	0	12750	0	0	0	0	193	193	0	0	10406	10283	0	
Sikkim	4	4	0	0	0	0	0	0	185	185	30	0	0	0	0	0	7	7	0	0	196	196	196	
Tamil Nadu	31	31	31	0	385	385	385	0	12524	12524	12524	0	0	0	0	0	664	664	664	0	13604	13604	13604	
Telangana	32	32	32	0	539	537	537	0	12750	12750	12750	0	0	0	0	0	140	140	140	0	13461	13461	13461	
Tripura	8	8	8	0	58	58	58	0	591	591	591	0	587	587	587	0	20	20	20	0	1264	1264	1264	
Uttarakhand	13	13	13	0	95	95	95	0	7791	7791	7791	0	0	0	0	0	92	92	92	0	7991	7991	7991	
Uttar Pradesh	0	0	0	0	0	0	0	0	58755	58755	58755	0	0	0	0	0	652	652	652	0	59407	59407	59407	
West Bengal	22	22	0	22	342	342	304	38	3341	3338	3028	310	0	0	0	0	125	125	92	33	3830	3827	3424	
TOTAL	557	486	293	103	5461	4830	3865	305	258042	249931	184777	20692	1874	1713	1712	1	4349	4041	3013	379	270283	261005	193334	
Union Territory																								
Andaman & Nicobar Islands	0	*	*	*	0	*	*	*	70	47	*	*	*	*	*	*	1	*	*	*		71	47	0
Jammu & Kashmir	20	0	0	0	285	274	0	0	4290	4290	0	0	0	0	0	0	78	71	0	14	4673	4635	0	
Ladakh	0	0	0	0	0	0	0	0	190	4	0	0	0	0	0	0	2	0	0	0	192	4	0	
Lakshadweep									10	10											10	10	0	
Total																					275286	265701	193334	

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**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

IA NO. OF 2020

In

Original Application No. 347 of 2016

IN THE MATTER OF

Chandra Bhal Singh

.... Original Applicant

VERSUS.

Union of India & Ors

..... Respondent

Chhattisgarh State Biodiversity Board, Chhattisgarh, ... Respondent

APPLICATION FOR EXEMPTION FOR NOTARIZED AFFIDAVIT

**THE HUMBLE APPLICATION
OF RESPONDENT**

MOST RESPECTFULLY SHOWETH:-

1. The present application forms a part of the affidavit in compliance of the order dated 18.03.2020, passed by Hon'ble National Green Tribunal and is being filed before the Tribunal in the above captioned matter.
2. In the light of prevailing situation concerning the global pandemic nCoV1D-19, there is a state of lockdown in the state's capital, Raipur right now and therefore the affidavit in compliance of the order dated 18.03.2020, passed by Hon'ble National Green Tribunal, is being filed without being notarized. The respondent undertakes to file the notarized affidavit as soon as the lockdown is lifted.
3. The present application is made bonafide and in the interest of justice.

PRAYER

In view of the facts and circumstances of the present application, this Hon'ble Tribunal may be pleased to:

- a. pass an order exempting the respondent from filing the notarized affidavit; and
- b. pass any such order/grant any other relief as the Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

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AND FOR THIS KINDNESS THE RESPONDENT ABOVE NAMED SHALL BE
AS IN DUTY BOUND EVER PRAY.

Filed by

~~Member Secretary~~

Chhattisgarh State Biodiversity Board
Chhattisgarh

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Item No.2

Court No. 1

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

Original Application No. 347/2016
(I.A. No. 471/2019, M.A. No. 15/2020,
M.A. No. 22/2020& M.A. No. 23/2020)

Chandra Bhal Singh

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 18.03.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

For Applicant(s):

Mr. Saurabh Sharma, Advocate

For Respondent(s):

Mr. Sashi Juneja, Advocate for State of J&K
Ms. Aastha Mehta, Advocate for State of
Gujarat
Mr. Mukul Singh, Advocate for MoEF&CC
and NBA
Ms. Amrita Sharma, Advocate for State of
Karnataka

ORDER

1. This order is being passed in continuation of order dated 09.08.2019. The issue for consideration is the remedial action for non-compliance of provisions of the Biological Diversity Act, 2002 (the Act) and Biological Diversity Rules, 2004 (the Rules) in as much as Biodiversity Management Committees (BMCs) have not been constituted as per Section 41 of the Act and People's Bio Diversity Registers (PBRs) have not been maintained, as required under Rule 22(6).

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2. The Act was enacted to provide for conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits and for matters connected therewith or incidental thereto with a view to give effect to the United Nations Convention on Biological Diversity (CBD) which came into force on 29.12.1993. The Act seeks to regulate access to biological resources and fair and equitable sharing of benefits arising out of utilization of biological resources by constituting National Biodiversity Authority (NBA) to advice the Central Government and the State Governments on steps towards conservation of biodiversity, sustainable use of its components, equitable sharing of benefits and allied issues. The Act also contains provision for establishment of State Biodiversity Boards to advice the State Government on the subject. The Central Government has to develop national strategies, plans and programmes for conservation and promotion and sustainable use of biodiversity. At local level, every local body has to constitute BMCs. The Rules based on CBD provide that the BMC is to prepare PBRs containing comprehensive information on availability and knowledge of local biological resources, their medicinal or any other use and Traditional Knowledge (TK) associated with them.

3. This Tribunal issued notices to all the States and Union Territories, Boards and Authorities. The matter has been considered on several dates in the last two years. It is not necessary to refer to all the proceedings. Some State Boards have filed their respective affidavits mentioning the steps taken for enforcement of the Act and the Rules.

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4. Vide order dated 12.04.2019, noticing huge gap in constitution of BMCs and preparation of PBRs, this Tribunal directed the said steps to be completed within three months and a report filed by MoEF&CC. The States which remained non-compliant were asked to furnish their explanation.

5. The matter was thereafter considered on 09.08.2019 in the light of the report of MoEF&CC dated 02.08.2019, the Tribunal observed:-

“ 5. A report dated 02.08.2019 has been filed by the MoEF&CC to the effect that the Principal Secretaries of Panchayat Raj and Rural Development Departments were asked to expedite the setting up of the BMCs and three regional meetings were held with all the States and the State Biodiversity Boards. The statistics show that as against the need to constitute 317519 BMCs, 155838 BMCs have been constituted and 6868 PBRs have been documented, while 1692 PBRs are still in progress. The BMCs constituted are about 50%. The number of PBRs appears to be less than the PBRs reported earlier.

6. Having regard to the laudable objective to meet the necessity of conservation of biological diversity, delay of more than 16 years in complying with the mandate of law is a matter of serious concern.

7. We regretfully note that the matter on PBR progress noted is 'zero' in the States of Arunachal Pradesh, Bihar, Chhattisgarh, Gujarat, Jammu & Kashmir, Karnataka Madhya Pradesh, Manipur, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh and West Bengal. On the subject of BMC, there is zero progress in Bihar and Jammu & Kashmir.

8. This inadequate progress is in spite of repeated directions of this Tribunal. We asked all the learned counsel appearing in the matter to suggest a reasonable mechanism for ensuring compliance of law with a penal consequence for any further defaults.

9. India is one of the recognized mega-diverse countries of the world, harbouring nearly 7-8% of the recorded species of the world, and representing 4 of the 34 globally identified biodiversity hotspots. India 5 is also a vast repository of traditional knowledge associated with biological resources. So far, over 91,200

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species of animals and 45,500 species of plants have been documented in the ten biogeographic regions of the country. 5 The indigenous and local community are a repository of traditional knowledge and their knowledge and practices help in conservation and sustainable development of the biodiversity. In the past, India has already faced biopiracy⁶. There is, thus, urgent need to document the knowledge of the local community in the form of PBR.

10. As per certain studies⁷, PBRs help the State and the local community to become aware of the valuable resources being harvested in their area which can be utilised for the overall social and economic development of the State. Furthermore, PBRs also help in conservation of the traditional practices and knowledge of the local community. Studies on the issue of access and benefit sharing (ABS)⁸, show that non establishment of BMCs and absence of PBRs deprives the local community of the advantage of the biological resources. PBRs not only document the knowledge, they also help in identification of benefit claimers.

11. In above background, having considered the submissions made by the learned counsels, we direct as follows:

(i) The Chief Secretaries of all the States, where the defaults are continuing, may consider giving a warning to the Panchayat Secretaries for their past failures, recording the same in their service record and give direction to the officers who are responsible for the job to ensure compliance with 100% constitution of BMCs and PBRs by 31.01.2020 failing which coercive measures may have to be considered against them. The Chief Secretaries may evolve a mechanism for ensuring a monthly meeting to be attended by the Chairman and Member Secretaries of State Biodiversity Boards, Secretaries, Panchayat, Environment and Forest starting from September, 2019.

(ii) The States will be accountable for the defaults and required to deposit a sum of Rs. 10 lakhs per month each from 01.02.2020 with the CPCB to be utilized for restoration of the environment. The States will be at liberty to recover the said amount from the persons committing the default.

(iii) The MoEF&CC and National Biodiversity Authority may hold a review meeting every



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month from September 2019 till the above task is completed.

(iv) The MoEF&CC may file a compliance report after collecting the necessary data from all the States on or before 15.02.2020. The Monitoring Committee of the MoEF&CC may oversee the quality of PBRs on sample basis by evolving a suitable mechanism.”

6. Accordingly, a final report has been filed by the National Biodiversity Authority, Chennai on behalf of the MoEF&CC giving status of the formation of Biodiversity Management Committees (BMCs) and preparation of Peoples Biodiversity Registers (PBRs) in the local bodies as on 31.2020. The report inter-alia is as follows:

“ As can be seen, there has been an increase of 32.5% in BMC constitution and an increase of 32.7% in PBR formation since the Order of the Hon'ble National Green Tribunal dated 09.08.2019:-

As on 26/07/2016 (when the OA was filed before the Hon'ble Tribunal)	As on 31/07/2020 (Based on which the Tribunal had issued Orders on 09/08/2019)	As on 31/01/2020 (January 2020)		
BMCs formed	BMCs formed	BMCs formed	PBRs prepared	PBRs prepared
9700	1,55,838	2,43,499	6,868	95,252

3. As already informed in the Interim Report, the National Biodiversity Authority had written to the Chief Secretaries of all States on 08/11/2019 to take necessary action to comply with the Orders of the Hon'ble Tribunal to complete the process of BMC formation and PBR preparation within the stipulated time frame as instructed by the Hon'ble Tribunal.

7. PBR is a dynamic document and it has to capture all the biological resources available in the local body in all the four seasons. Besides evaluating the PBRs. The PBR Monitoring Committee constituted by the NBA based on approval by MoEF&CC would be assisting the SBBS to evolve a mechanism to complete the PBRs in an expeditious manner.”

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7. We have also perused the written submissions filed on behalf of the applicant on 16.02.2020 commenting about the compliance as follows:

“4. That a perusal of the Compliance Report dated 13.02.2020 shows that:-

(i) Out of 2,75,220 local bodies, BMCs have been constituted in 2,48,140 local bodies. This implies that present compliance rate is more than 90%. In the following States and Union Territories: Assam, Goa, Himachal Pradesh, Kerala, Maharashtra, Sikkim, Tripura and Lakshadweep the compliance with respect to BMC constitution is 100 %.

(ii) Out of 2,48,140 BMCs, PBRs have been prepared by 95,252 BMCs. This implies that more than 61% of the BMCs are yet to prepare their PBRs. It is important to note that while in the Union Territory of Jammu and Kashmir, State of Bihar and Rajasthan none of the BMCs have prepared their PBRs till date while Uttar Pradesh has achieved 100% target in PBR preparation.”

8. The applicant has also given comments about the quality of the PBRs, status of collection of fees by the BMCs, status of funding of BMCs and status of access and benefit sharing (ABS).

9. We find that since there are still defaults in the constitution of BMCs and preparation of PBRs within the stipulated time fixed by this Tribunal, the defaulting States are liable to pay compensation in terms of order dated 09.08.2019 from 01.02.2020. The Act was enforced in 2002. The Rules came into force in 2004. Any further delay is not conducive to rule of law. The States cannot be allowed to plead incompetence or inability of carrying out mandate of law, undermining public interest. We may note that in absence of PBRs, regulation for conservation of biodiversity is affected. The Tribunal dealt with a matter in O.A. No. 57/2018 wide order dated 30.07.2019 where concretization within the blue line of Krishna river was found hampering biodiversity at the river bed. The

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Hon'ble Supreme Court in Civil Appeal No. 6563/2019, *Wai Municipal Council v. Jeevitnadi Living River Foundation & Ors.*, against the above order of NGT, observed, vide order dated 30.08.2019:-

"We are satisfied that concretization has been done within the prohibited zone, which has hampered the ground seepage and biodiversity at the river bed."

10. There are other similar instances including order of this Tribunal dated 20.02.2020 in O.A. No. 385/2019, *Centre for Wildlife v. UOI* for preservation of great Indian Bustard by removing powerlines from the flight path of the said bird. This matter was also dealt with by the Hon'ble Supreme Court vide order dated 18.02.2019 in Civil Appeal No. 838/2019, *M. K. Ranjitsinh & Ors. V. UOI & Ors.* It is not necessary to multiply similar other instances but the fact remains that the issue is great significance and urgency.

11. In view of the above, we do not find any merit in the applications seeking extension of time. The States may ensure compliance and for the delay, compensation has to be paid as already directed. Only exception which may have to be made is for Jammu & Kashmir and Ladakh on account of developments in the wake of Jammu & Kashmir Reorganization Act, 2019 and peculiar situation which prevailed as mentioned in the affidavit dated 11.02.2020 filed on behalf of the UT of J&K. The time in respect of UTs of J&K and Ladakh will stand extended up to 31.10.2020. For delay beyond the said date, compensation at the same rate as applicable to other States/UTs will be payable from 01.11.2020.

In view of the above, I.A. No. 471/2019, M.A. No. 15/2020, M.A. No. 22/2020 & M.A. No. 23/2020 are dismissed.

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12. We are informed that the National Biodiversity Authority of India has prepared and placed on its website a model PBR for guidance of the States. The said model may be revised in the light of other available models. By way of example, reference is made a model prepared by the State of Nagaland.¹ Other similar models may also need to be looked into. The model so revised may be placed on the website within one month from today.

13. The MoEF&CC may continue to monitor the situation and file an updated status report as on 31.08.2020 before 30.09.2020. The stand of the applicant with regard to quality of the PBRs and other issues may be looked into and response filed before the next date by email at judicial-ngt@gov.in. CPCB may take steps to recover compensation from the defaulting States in terms of earlier orders.

List for further consideration on 07.10.2020.

Adarsh Kumar Goel, CP

Sheo Kumar Singh, JM

Dr. Nagin Nanda, EM

March 18, 2020
Original Application No. 347/2016
(I.A. No. 471/2019, M.A. No. 15/2020,
M.A. No. 22/2020& M.A. No. 23/2020)
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True Copy ✓

¹ <http://gef-satoyama.net/wp/wp-content/uploads/2017/11/Kivikhu-People%E2%80%99s-Biodiversity-Register.pdf>