

## **JOINT VISIT REPORT**

**IN COMPLIANCE OF ORDER DATED 22.12.2022 in NATIONAL GREEN  
TRIBUNAL, CENTRAL ZONAL BENCH, BHOPAL IN OA No. 99/2022**

**Dr. Aditya Upadhyay**

**versus**

**Ministry of Road, Transport and Highways (MoRTH) & Others**

**Dated 31.01..2023**



**Prepared by Joint Committee constituted by Hon'ble National Green  
Tribunal in reference to the OA 99/2022.**

**NGT (CZ) IN OA NO. 99/2022**  
**(DR. ADITYA UPADHAY V. MORTH & OTHERS)**

**Subject:** Committee constituted by Hon'ble National Green Tribunal for submission of report along with ATR as per order dated 22.12.2022.

**Ref:** Order dated 22.12.2022 passed by Hon'ble National Green Tribunal in OA No. 99/2022.

**The Hon'ble NGT in order dated 22.12.2022 had passed following directions:**

- “2. A substantial issue of environment has been raised.*
- 3. Issue notice to the respondents, returnable within six weeks. Respondents are directed to submit their reply within six weeks through E-filing portal, preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF. Applicant is directed to take necessary steps for service to the respondents by both ways and also on available email.*
- 4. We deem it just and proper to call a report on the matter in issue in present Original Applicant, from a Joint Committee consisting of:
  - (i) One representative from District Collector, Betul (M.P.)*
  - (ii) One representative from NHAI.*
  - (iii) One representative from Madhya Pradesh Pollution Control Board.**
- 5. The Committee is directed to visit the place and submit the factual and action taken report within six weeks. The State PCB will be the nodal agency for coordination and logistic support.”*

In compliance of the above orders, the nodal authority, Madhya Pradesh Pollution Control Board informed respective Departments about the nomination of the

members for the committee. Accordingly, following officers of the departments concerned were nominated for the joint committee:-

1. Shri K.N. Katare, Regional Officer, Chhindwara, Madhya Pradesh Pollution Control Board.
2. Shri Anil Soni, SDM Shahpur, District Betul.
3. Shri Akhil Prabhu Soni, Manager (Tech.), NHAI, Project Implementation Unit, Bhopal.

In compliance of the para 5 of the order dated 22.12.2022, the Committee discussed the issues to be addressed during the site visit and subsequent filling of factual report. The committee drew following issues to be addressed from the original petition of the applicant-

1. Definition of a tree is faulty and questionable for Teak wood trees.
2. Tree Felling by the respondent has been done in illegal manner, thousands of age old trees and lacs of intermediate trees/plants were arbitrarily cut.
3. The numbers cut are more than permitted. New Plantation in lieu of the trees felled and Transplantation of the Trees were not performed. No maintenance has been done.
4. Respondent has acquired more than required land for development of highway and Soil Excavation was done on this extra land.
5. No notice was ever served to concerned landowners for transfer of possession as the National Highway Laws (Amendment) Act, 1997.

## BACKGROUND OF OBEDULLAGANJ-ITARSI-BETUL PROJECT SECTION OF NH-69

1. The development of Highway from Obedullaganj to Betul (NH-69) was originally started way back in 2012 in BOT mode as the existing road from Obedullaganj-Betul was highly congested. Therefore it was decided in order to save vehicle operating costs, reduction in air and noise pollution caused by vehicular traffic, saving travel time and boosting connectivity, the existing 2-lane road should be developed further into 4-lane. However, due to slow progress, the same got terminated and the project was then divided into two parts. The details of the 2 parts and their status is as follows-

Project Name	Chainage	Length in km	Date of Start	Actual/Expected date of Completion
Obedullaganj to Itarsi	2+800 to 8+300 20+700 to 61+500	46.300	14.11.2017	07.12.2021
Itarsi to Betul	61+500 to 134+455	73.955	22.02.2018	05.05.2023

2. It is also to apprise regarding the stay on construction by Hon'ble High Court of Madhya Pradesh, Jabalpur Bench in 20.91 km of the project stretch in the case of Advait Keole vs Union of India (WP 28573/2021). The Hon'ble High Court vide order dated 01.04.2022 had stayed the construction of Four Lane Road stretch which passes through the Satpura-Melghat Tiger Corridor.

## SITE VISIT BY COMMITTEE

**Date:** 31.01.2023

**Location:** Shahpur Tehsil from Dhar Village (Km 82) to Padhar Village (Km 124)

**Committee Members:** Shri K.N. Katare, RO-Chhindwara, MPPCB, Shri Anil Soni, SDM Shahpur, District Betul and Shri Akhil Prabhu Soni, Manager (Tech.), NHAI, PIU, Bhopal.



1. As per the Order dated 22.12.2022, the Committee had undertaken the site inspection of the project stretch falling under Shahpur Tehsil from Dhar Village (Km 82) to Padhar Village (Km 124) on 31.01.2023.
2. The Committee had observed the alignment of the road and the fact that only necessary trees were cut down. In Shahpur Tehsil, the permission of tree felling was given for a number of 3954 trees including govt. & private trees. Of which only 3236 trees were cut down by NHAI as reported. The Committee was also apprised of the

fact that all the tree felling has been done under the supervision of Officers of Forest Department. The wood deposition challan was presented to the committee.

3. The Committee had also looked into the progress of plantation done by NHAI in Shahpur Tehsil and was also apprised about the process regarding the maintenance of these plants. It was observed that the process of plantation is in its early stage in some parts and in some parts the plants are around one year old. It would take some time for the plantation to be fully developed. The total number of trees that were planted by NHAI within the Shahpur Tehsil was 18369 of which 11290 were found alive and 7079 trees were found dead. The process of plantation was not carried out by NHAI in the stretch of Tiger Corridor on account of Stay by Hon'ble High Court.



4. NHAI informed due to ongoing construction progress, all the dead plants shall be replaced before completion of the project. The 2nd part of the project from Itarsi to Betul is on the verge of completion and is likely to be completed in May, 2023 and the process of plantation will also be completed by May 2023. Since the construction activities involve mobilization of heavy machinery around the highway, therefore in terms of feasibility and pragmatism the plantation is done only after the construction

of a particular stretch is completed so that the newly planted saplings. The Transplantation process was not a mandate as per the forest clearance and environment clearance granted by MoEF&CC

5. With regards to the issue of deep trench near Shahpur Bypass raised by the petitioner, it was informed that the trench was for the purpose of drainage of water along the highway. Necessary safety arrangements like installation of MBCB (Metal Beam Crash Barrier) where the height of embankment is greater than 3 metre shall be installed by NHAI as per IRC guidelines to safeguard the road users from any untoward accident.
6. The Committee was also informed that the project would be completed by May 2023 and the remaining plantation would be done by May 2023.



**FINDINGS OF THE COMMITTEE ON THE POINTS RAISED BY APPLICANT-**

1. What constitutes a tree is determined by the interpretation of Forest Act, 1927 and the same was followed by the committee for this report.
2. The tree cutting in the project has been done under jurisdictions of two department as follow-
  - a. Cutting of trees in the Forest Area has been done by the Forest Department. Respondent has deposited the requisite amount to the forest department under the heads of Net Present Value and Compensatory Afforestation. With regards to Compensatory Afforestation the respective funds were duly deposited in CAMPA Ad hoc fund as per the directions of the Forest Department. The identification of land for the afforestation has also been done by the Forest Department.
  - b. Cutting of trees in the Revenue Area has been done by the NHAI. Permission of which has been taken from the respective District Collector. The orders passed by respective District Collectors under Section 240 of the Madhya Pradesh Land Revenue Code (MPLRC) and the conditions specified in the orders were to be followed by applicant agency.
3. The actual number of Trees in the revenue area falling under Shahpur Tehsil for which permission was provided by the respective District Collector is 3954. However, as per the conditions laid down in the Forest Clearance Stage-I dated 17.06.2013 the tree felling must be kept to a bare minimum. The same condition was duly complied by the NHAI and therefore only 3236 Trees were cut down within the Shahpur Tehsil. Each and Every Tree has been felled



under supervision of the officers of the MP Forest Department. As per the conditions of the permission, The plantation of about 32360 is to be done in lieu of the 3236 trees which have been felled in the Four Lane of NH-69 (now NH-46) within Shahpur tehsil. In lieu of above, the plantation of 18369 has been completed of which 11290 were found alive and 7079 trees were found dead during the site visit. NHAI informed that replacement of dead plants is continuous process under maintenance, the same shall be carried out and the remaining plantation shall be completed till completion of project. The completed and remaining plantation shall be maintained by NHAI through it's appointed contractor.

4. With respect to extra land being acquired. Committee referred IRC guidelines IRC:SP:84-2014, 2.3 Right of Way which states that "*A minimum Right of Way (ROW) of 60 metres should be available for development of a 4-lane highway*". With regards to soil excavation on extra land acquired, the petitioner has claimed that the deep trench alongside highway would result in severe accidents, however it is necessary to mention that for fulfilling the horizontal alignment as per IRC guidelines and to maintain setback distance on curves, the excavation and tree cutting were done on sides of the highway. The excavation and trench along the highway is also executed for the purpose of highway drainage. Necessary safety arrangements like installation of MBCB (Metal Beam Crash Barrier) where the height of embankment is greater than 3 metre shall be installed by NHAI as per IRC guidelines to safeguard the road users from any untoward accident.
5. The land acquisition was done under NH Act 1956 by Appointing respective SDO (Revenue) as Competent Authority for Land Acquisition. The issue regarding service of notice to land owners is not related to any environment



- issue and it not relevant for the proceedings before National Green Tribunal. Further, the land after acquisition comes within the ownership of MoRT&H.
6. It was found that the trees have been felled as per the due process as informed by NHAI and after in consonance with the conditions mentioned in Forest Clearance and the orders passed by respective District Collectors. It is further necessary to mention that NHAI had taken permissions to cut 21545 trees for the 4-lane work of NH-69 from Obedullaganj to Betul.
  7. Only the trees which were coming in the carriageway and which was required to be cut for sight distance criteria were cut and rest of the trees which were situated in Right of Way were saved to keep the numbers bare minimum as per conditions of Forest Clearance. Only those trees were cut down which was absolutely necessary. The process of tree felling has always been done under the supervision of forest officers. No illegal felling of Trees has taken place with regards to the four-lane work of NH-69. The plantation has been done as median & avenue plantation along the project highway by NHAI in lieu of the trees felled.

## ACTION TAKEN REPORT

### DATA ANALYSIS FOR TREE FELLING

After receiving the communication from Dr. Aditya Upadhyay via email on 11<sup>th</sup> January 2023, the following steps have been taken by Respondent No. 1, NHAI:

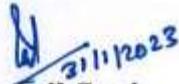
1. The data regarding permission granted for tree felling in revenue area which is granted by District Collector under Section 240 of MPLRC were again examined and the number of trees for which permission was granted was duly calculated for entire stretch from Obedullaganj to Betul. The actual number of Trees in the revenue area for which permission was provided by the respective District Collector is 21545.
2. However, as per the conditions laid down in the Forest Clearance Stage-I dated 17.06.2013 the tree felling must be kept to a bare minimum. The same condition was duly complied by the NHAI and therefore only 10,563 (Ten Thousand Five Hundred Sixty Three) Trees were cut down as reported by the Contractor & Authority Engineer from Obedullaganj to Betul. Each and Every Tree has been felled under supervision of the officers of the MP Forest Department. As per the conditions of the permission.
3. With regards to the trees coming under forest area, the amount for compensatory afforestation alongwith tree cutting charges in forest area was duly deposited in the Govt of India CAMPA ad hoc fund as per the directions of Madhya Pradesh Forest Department way back in the year of 2013.
4. The plantation of about Eighty Two Thousand One Hundred and Fourteen Trees (82,114) is to be done in lieu of the Ten Thousand Five Hundred Sixty Three (10,563) trees which have been felled in the Four Lane of NH-69 (now



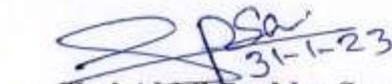
NH-46). In lieu of above, the plantation of 60,635 has been completed and further the remaining plantation shall be completed on completion of project from Obedullaganj to Betul as reported by NHAI. The completed and remaining plantation shall be maintained by NHAI through it's appointed contractor. It is a fact that certain number of plants may not survive however as per the conditions laid down by NHAI, the said dead plants would be replaced by fresh plants to ensure that the number of plants as per the permissions are present along the Highway.



**Shri K.N. Katare**  
RO-Chhindwara  
MPPCB



**Shri Anil Soni**  
SDM Shahpur  
District Betul.



**Shri Akhil Prabhu Soni**  
Manager (Tech.)  
NHAI PIU-Bhopal.