

BEFORE THE NATIONAL GREEN TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

ORIGINAL APPLICATION NO. 820/2024

IN THE MATTER OF:

TRIBUNAL ON ITS OWN MOTION- SUO MOTO

**BASED ON NEWS ITEM TITLES “22 SAAL SE BAND COMPANY
MENIN KAAT DIYE 1 HAZAAR SE ZYADA PED NOIDA MEIN VAN
VIBHAG NE JABT KIYA KATE PEDO SE BHARA TRUCK”
APPEARING IN NAVBHARAT TIMES DT. 11.06.2024**

.....APPLICANT

VERSUS

STATE OF UTTAR PRADESH & ORS.

.....RESPONDENT(S)

WITH

SAMEER SHARMA

.....APPLICANT

VERSUS

SHAKUNTALAM LANDCRAFT PVT. LTD. & ORS.

.....RESPONDENT(S)

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THROUGH COUNSEL



BHANWAR PAL SINGH JADON
STANDING COUNSEL FOR STATE OF U.P.

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Ph: 9639286572

DATE: 15.09.2025

PLACE: NOIDA

BEFORE THE NATIONAL GREEN TRIBUNAL
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FURTHER AFFIDAVIT ON BEHALF OF DIVISIONAL FOREST OFFICER, GAUTAM BUDH NAGAR IN COMPLIANCE OF THE ORDER DT. 13.05.2025 PASSED BY THE HON'BLE NATIONAL GREEN TRIBUNAL

I. Kamod Kumar, aged about 57... years, S/O Late. Sri. Padam Dhar Singh R/o Bh. 2 of Anandesh Nativre, Sector 52, Noida, Divisional Forest Officer, Gautam Budh Nagar, do hereby solemnly state and affirm as under:

1. That I, the Deponent in the present matter, am fully conversant with the facts of the case and competent and authorized to swear the present affidavit.

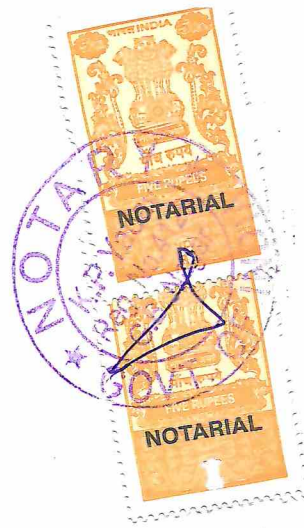
I. BACKGROUND OF THE MATTER

2. That in the present matter *suo motu* has been initiated by the Hon'ble Tribunal based on the news report titled "22 saal se band company mein kaat diye 1 hazaar se jyada ped NOIDA mein Van Vibhag ne jabt kiya kate pedo se bhara truck" published in Navbharat Times dated 11.06.2024.

II. DIRECTIONS OF THE HON'BLE TRIBUNAL VIDE ORDER

DATED 13.05.2025

3. That the above captioned matter last listed for hearing on 13.05.2025, wherein the Hon'ble Tribunal directed as under:



"8. Learned counsel appearing for the State of U.P. has placed reliance upon the notification dated 07.01.2020 (page 134) issued under Section 21 and 23 of the Uttar Pradesh Protection of Trees Act, 1976 and has submitted that 29 species of trees are prohibited species in the State of U.P. and other species not covered by notification are exempted species of trees for which there is no regulation for felling.

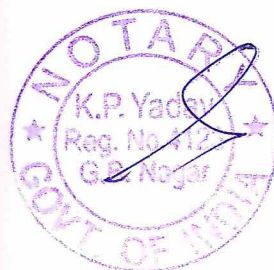
9. In the present case, 980 trees have been cut, and only three trees out of them fall in the prohibited category, meaning thereby the felling of 977 trees in the present case is unregulated, for which no regulatory framework in the State of U.P. has been provided.

10. The submission for the counsel for the State of U.P. is that if the exempted category trees are standing on lands other than Government and Forest land, the same can be cut without any regulation or control.

11. Learned counsel for the applicant in I.A No. 495/2024 and 494/2024 has sought a short adjournment to place on record the relevant orders of the Tribunal and the Hon'ble Supreme Court in this regard.

12. Learned counsel appearing for the newly added respondent no. 6 also seeks four weeks to file the reply.

13. Responding to the submission of the counsel for the applicant in I.A No. 495/2024 and 494/2024 that the entire premises is unguarded and anybody can cut the trees, learned counsel for the State of U.P. has



submitted that State Authorities are vigilant and they will not permit any such incident.”

III. APPLICANT'S UNTENABLE ASSERTION REGARDING NOTIFICATION DATED 07.01.2020

4. That the Applicant, in its affidavit dated 12.09.2025 (refer Judicial Paper Book at Page No. 168), has made an untenable assertion that the Notification dated 07.01.2020 issued by the State of Uttar Pradesh under the provisions of the U.P. Protection of Trees Act, 1976, is *ultra vires*. It is most respectfully submitted that the said assertion is absolutely misconceived, incorrect, and legally unsustainable. The Applicant has erroneously relied upon the order dated 11.09.2018 passed by this Hon'ble Tribunal in *O.A. No. 805/2017 (Kshitij Agnihotri v. Ministry of Environment, Forest & Climate Change & Ors.)*, which dealt with an entirely different notification and circumstances, and therefore has no bearing on the Notification dated 07.01.2020.

IV. FINDINGS OF THE HON'BLE TRIBUNAL IN ORDER DATED 11.09.2018 (O.A. NO. 805/2017)

5. That in the aforesaid order dated 11.09.2018, this Hon'ble Tribunal had inter alia made certain observations in respect of the Notification dated 31.10.2017 issued by the State of U.P., and had expressed concern about



the indiscriminate felling of trees in violation of Article 21 of the Constitution and the law laid down by the Hon'ble Supreme Court. The Tribunal, while examining the Notification dt.11.09.2017, held that omnibus exemption of tree species could not be justified under the guise of promoting agro-forestry and that the State could not permit unregulated tree felling contrary to settled environmental principles.

A Copy of the order dt. 11.09.2018 has been annexed herewith as ANNEXURE R-1.

V. CHALLENGE BY THE STATE OF U.P. BEFORE THE HON'BLE SUPREME COURT (CIVIL APPEAL NO. 421/2020)

6. That it is respectfully submitted that the reliance placed by the Applicant upon the aforesaid order is wholly misplaced, inasmuch as the said order pertained to the Notification dated 31.10.2017, which has since been superseded. That in fact, the State of Uttar Pradesh, through its Principal Secretary (Forest), had challenged the order dated 11.09.2018 before the Hon'ble Supreme Court of India by filing *Civil Appeal No. 421 of 2020, The State of Uttar Pradesh v. Kshitij Agnihotri*. That the prayer clause in the said Civil Appeal categorically sought the setting aside of the order dated 11.09.2018 passed by this Hon'ble Tribunal. That the prayer clause of the said Civil Appeal is herein as under:

"PRAYER



It is, therefore, most respectfully prayed that this Honble Court may graciously be pleased to:-

(a) Admit and allow the present Civil Appeal and set-aside the order dated 11.09.2018 passed by the National Green Tribunal, Principal Bench, New Delhi in Original Application No: 805 of 2017 titled State of U.P. Vs. Kshitij Agnihotri & Other passed by the Ld: National Green Tribunal Principal Bench, New Delhi:

(b) pass any other or further order which this Hon'ble may deem fit and proper in the facts and circumstances of the present case;"

A Copy of the Memo of Parties and prayer clause of Civil Appeal No. 421 of 2020 has been annexed herewith as ANNEXURE R-2.

VI. DIRECTIONS OF HON'BLE SUPREME COURT VIDE ORDER DATED 30.01.2024

7. That State Government has already issued a fresh Notification dated 07.01.2020 in supersession of the earlier Notification dated 31.10.2017. That the Hon'ble Supreme Court vide order dt. 30.01.2024 has acknowledged the validity of the Notification dated 07.01.2020 and has pleased to hold that the Civil Appeal 421 of 2020 had been rendered infructuous. That the relevant portion of the order dt. 30.01.2024 has been reproduced as under:



"2. The National Green Tribunal has by the order impugned herein quashed the notification dated 31.10.2017 issued under U.P. Trees Conservation Act, 1976 as being contrary to the judgment of this Court in "T. N. Godavarman Thirumulpad Vs. Union of India & Ors." reported as (1997) 2 SCC 267. In view of the fact the State Government has subsequently issued a fresh notification dated 07.1.2020 in supersession of the notification dated 31.10.2017, this appeal has become infructuous.

3. The Civil Appeal is dismissed as infructuous."

A Copy of the Order dt. 30.01.2024 has been annexed herewith as ANNEXURE R-3.

A Copy of the Notification dt. 07.01.2020 has been annexed herewith as ANNEXURE R-4.

8. That therefore the allegation of the Applicant that the Notification dated 07.01.2020 is ultra vires is demonstrably false, legally untenable, and contrary to the judicial recognition accorded by the Hon'ble Supreme Court. That the Applicant's attempt to reopen settled issues by relying upon an order pertaining to an earlier and superseded notification is nothing but a deliberate attempt to mislead this Hon'ble Tribunal.

9. That in view of the foregoing facts and circumstances, it is most respectfully submitted that the Notification dated 07.01.2020 issued by the

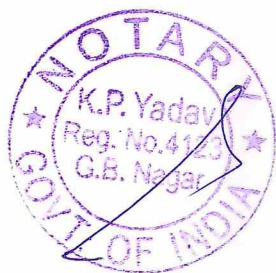


State of Uttar Pradesh under the U.P. Protection of Trees Act, 1976, stands on firm legal footing, having been expressly recognized by the Hon'ble Supreme Court.

10. That the deponent is duty bound to fulfil the obligation which are assigned under the law and directions passed by this Hon'ble Tribunal. The Deponent is fully committed to ensure strict adherence to the orders of this Hon'ble Tribunal and undertakes to faithfully comply with any further directions or instructions that may be issued by this Hon'ble Tribunal, without demur or delay.

11. Hence, the present response is being submitted for the kind perusal of this Hon'ble Tribunal. It is prayed that the same be taken on record.

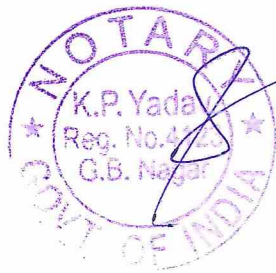

DEPONENT



VERIFICATION

Verified at NOIDA on this 15th day of September, 2025, that the contents of the above affidavit from paragraphs 1 to 11 are believed to be true and correct to the best of my knowledge and belief. No part of it is false and nothing material has been concealed therefrom.


DEPONENT




ATTESTED
K.P. YADAV
NOTARY PUBLIC

15 SEP 2025

	<p>Item No. 11</p> <p>September 11, 2018 dv</p>	<p>and at one point in the future, the level of fresh water resources available will become scarce. Plants absorb Carbon Dioxide CO₂ (a greenhouse gas) from the atmosphere and use it to produce food (carbohydrates, fats etc. that make up trees) and in return, it gives Oxygen. Destroying the forests mean CO₂ will remain in the atmosphere and in addition, destroyed vegetation will give off more CO₂ stored in them as they decompose. This will alter the climate of that region. Cool climates may get a lot hotter. With less trees, humans would not be able to survive because the air would be rendered unsuitable for breathing. If anything, people would have to wear gas masks that filter the air. Big cities like Delhi NCR are facing crisis in winters and the condition of other big cities like Kanpur, Agra, Lucknow are not better. Instead of taking corrective measures, the State is issuing new license to wood-based industry without having availability of timber. This will only encourage illegal cutting of trees. Trees are a crucial part of the Carbon cycle, a global process in which carbon dioxide constantly circulates through the atmosphere into organism and back again. Carbon is the second most valuable element to life after water. Anyway, trees take Carbon from the atmosphere through photosynthesis in order to make energy. This carbon is then either transferred into Oxygen and released into the air by respiration or is stored inside the trees until they decompose into the soil. Therefore, absence of trees would result in significantly higher amounts of Carbon dioxide in the air and lower amounts of oxygen. The filthy air would also be full of airborne particles and</p>
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	<p>Item No. 11</p> <p>September 11, 2018 dv</p>	<p>pollutants like Carbon monoxide, Sulfur dioxide and Nitrogen dioxide. Cutting of trees on large number will dry the atmosphere and arid conditions will surface. Trees regulate and anchor the dirt by releasing water. In short they maintain the ecological balance.</p> <p>3. Reply has been filed on behalf of the State of Uttar Pradesh, defending the impugned Notification. According to the State, the impugned Notification will result in plantation of more and more trees and increase of green cover in the State. The exemption will encourage planting of trees which can be cut without any regulatory regime. The existing regulatory regime discourages the farmers from planting more trees. It is stated that national goal is to have 33% of the geographical area under the forest and tree cover (as per National Forest Policy, 1988). National Agro Forestry Policy, 2014 provides for liberalization of restrictive regulation particularly with regard to agro forestry species. The Regulatory bottlenecks have also been identified in Arun Kumar Bansal Committee Report in the year 2011. The Ministry of Environment, Forest and Climate Change (MoEF&CC) has issued guidelines for Liberalization Felling and Transit Regime for Tree Species Grown on Non-Forest/Private Land on 18.11.2014. Restrictions should only be on felling and transit of timber species and not to agro forestry tree species like Eucalyptus and Poplar. The joint working group of Niti Ayog and the Government of Uttar Pradesh prepared an action plan to promote forestry on private land.</p> <p>4. Agro Forestry Operational Guidelines, 2016 provide subsidy for growing trees by the farmers on their fields.</p>
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	<p>Item No. 11</p> <p>September 11, 2018 dv</p>	<p>The State of Uttar Pradesh has only 8.9% forest cover as against goal of 33%. The guidelines by the Central Government dated 11.11.2016 and 11.09.2017 have been issued in pursuance of order of the Hon'ble Supreme Court dated 05.10.2015 in '<i>T.N. Godavarman Thirumalpad vs. Union of India & Ors.</i>' in I.A. No. 1137 with 1319 in WP (c) No. 202/1995 (2016) 13 SCC 586 and the impugned Notification is consistent with the said guidelines.</p> <p>5. The MoEF&CC in its reply has responded only with regard to the averments concerning the said Ministry. It is stated that the forest cover in the country is 24.16% of the geographical area as against target of 33%. Nine percent forest cover is required outside the forests in the government and private land. Species under agro forestry by farmers should be exempted from transit, permit and felling regulations.</p> <p>6. We have heard the learned Counsel for the parties and perused the record.</p> <p>7. Main contention raised on behalf of the applicant is that the impugned Notification has no nexus to the increase of the forest cover. There is no material to support that the impugned Notification dated 31.10.2017 will have any positive impact on increase of forest cover. The exemption applies even to twenty years old trees and not mere to agro forestry trees. Uncontrolled felling of trees will be highly detrimental to the environment. The object is not to promote agro forestry as claimed but to promote wood based industries. Plea of benefiting the farmers for object of increasing the forest cover are only camouflage and smokescreen to cover up the real object of</p>
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<p>Item No. 11</p> <p>September 11, 2018 dv</p>	<p>promoting wood based industries at the cost of environment. The Notification is contrary to the legislative mandate under the Act.</p> <p>8. Learned Counsel for the State of Uttar Pradesh, supported the stand in the affidavit of the State. He submitted that this Tribunal has no jurisdiction to go into the merits as the 'Trees Act' is not in the Schedule to the National Green Tribunal Act, 2010.</p> <p>9. Question for consideration is whether the Tribunal can go into the question and whether the impugned Notification can be sustained as being consistent with the object of the environment protection and the legislative policy underlying the Trees Protection Act.</p> <p>10. As regards the jurisdiction of this Tribunal, it may be noted that the Tribunal is a special forum for effective and expeditious disposal of civil cases relating to environmental protection and conservation of forest and other natural resources. The National Green Tribunal Act, 2010 has been enacted in the wake of UN Conference on the Human Environment held at Stockholm in June, 1972 to which India is a party and the UN Conference on Environment and Development held at <i>Rio de Janeiro</i> in June, 1992 to which also India is a party. This objective is clearly reflected in the statement of objects and reasons of the Act. The long title of the Act states that the object of establishment of National Green Tribunal is for effective and expeditious disposal of cases relating to environment protection. Once there is a nexus of an issue to the environment protection, it is difficult to understand why this Tribunal will not have a jurisdiction in the matter.</p>
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	<p>Item No. 11</p> <p>September 11, 2018 dv</p>	<p>The definition of 'environment' under Section 2(c) of the NGT Act is wide enough to include the issue of cutting of trees. The Schedule to the Act include Forest (Conservation) Act, 1980. The State Act needs to be read with law declared by the Supreme Court in T. N Godavarman vs. U.O.I (1997) 2 SCC 267 and directions issued against cutting of any trees. Thus, cutting of trees is an issue open to be gone into by the Tribunal even if the State Act is not in the Schedule. Reference may also be made to further directions in the said case, including in (2006) 1 SCC 1 laying down procedure required to be followed for diverting any forest for any other purpose.</p> <p>11. As regards the merits, we are unable to find any nexus in the object of encouraging agro forestry to exempting the cutting of all the trees, except few, from the purview of the regulatory regime under the UP Trees Protection Act. It is well known that naturally growing trees cannot be termed as 'agro forestry' which refers to the trees grown by the agriculturists. There may certainly be need to encourage agro forestry and relax regulatory regime for such species. Such species have to be so specified. Omnibus exemption of all species, except few, can hardly be said to be promotion of agro forestry. Reference to the provisions of UP Trees Protection Act shows that no tree is allowed to be felled except a tree which is completely dead or which has fallen without aid of human agency or unless permission is granted in accordance with the provisions of the said Act which has the safeguards of requiring planting of more trees wherever cutting of a tree, becomes necessary for any</p>
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	<p>Item No. 11</p> <p>September 11, 2018 dv</p>	<p>valid reason. Even without the Uttar Pradesh Trees Protection Act, 1976 felling of trees indiscriminately is not permitted as it violates Article 21 of the Constitution.</p> <p>12. It is well settled that an exemption provision has to be applied to an exceptional situation. General exemption without creating defined category of exception results in defeating the main statute, by arbitrary exercise of power. The legislative mandate is to provide strict regulatory regime with regard to the subject matter covered by the statute. In fact, the agro forestry is not even shown to be covered by the regulatory regime. The definition of tree under Section 3(xi) of the Act is as follows:</p> <p><i>“3(xi) “tree” means any woody plant whose branches spring from and are supported upon an trunk or body and whose trunk or body is not less than five centimeter in diameter at a height of thirty centimeters from the ground level and is not less than one metre in height from the ground level, and the expressions “timber trees” and “fruit trees” means respectively the trees of the species specified in Schedule I and Schedule III, respectively.”</i></p> <p>13. In any case, the agro forestry could be specifically defined in the exemption granted for the purpose. Omnibus exemption from the Act requiring regulation of cutting of trees, with regard to every species of trees, except few, cannot be held to be advancing the need of environment. The impugned notification does not merely restrict the exemption to agro forestry and goes much beyond.</p> <p>14. Though reference has been made to certain figures to buttress the argument that there is increase in the forest cover, the figures do not support such an argument. The Notification is of October 2017. The same has</p>
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	<p>Item No. 11</p> <p>September 11, 2018 dv</p>	<p>remained stayed. If at all there is any increase in the forest cover, as claimed, it cannot be said to be result of the impugned Notification. There is no safeguard in the impugned Notification against destruction of naturally grown trees, outside the forest area.</p> <p>15. There is no impact assessment with regard to the impact of exemption of species of trees covered by the impugned Notification which was a must before such Notification was issued. If the exemption is granted in respect of all the trees in the non-forest areas, it is obvious that the forest cover will get reduced. The plea that impugned Notification will result in increasing the forest cover is without any basis and is an argument only in air.</p> <p>16. Thus, following points emerge from the discussion:</p> <ul style="list-style-type: none"> (i) Unregulated cutting of trees without limitation of specific species of agro forestry is in violation of Forest Conservation Act read with the law laid down in T.N Godavarman (supra). (ii) The Tribunal has jurisdiction to consider challenge to un-regulated cutting of trees. (iii) The impugned notification is not merely restricted to agro forestry, as claimed. (iv) The State of UP has no power to permit unregulated cutting of trees, in violation of law laid down by Hon'ble Supreme Court. (v) Even while permitting agro forestry by exercise of power to exempt regulatory regime against cutting of trees, impact on environment including ground water level must be taken into account. (vi) In the present case, impugned notification is
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		<p>arbitrary exercise of power, adversely impacting the environment.</p> <p>17. We may note that while issuing the impugned Notification was stayed on 15.12.2017 and the stay has been operative till date.</p> <p>18. Accordingly, we allow this application and quash the impugned Notification dated 31.10.2017. However, we leave it open to the State of Uttar Pradesh to carry out a proper impact assessment and thereafter grant any exemption after making inventory of all the agro-forestry produces specifying species of agro forestry. This may be consistent with the requirements of Forest Conservation Act as interpreted in <i>T.N. Godavarman Thirumalpad vs. Union of India & Ors. (supra)</i></p> <p>....., CP (Adarsh Kumar Goel)</p> <p>....., JM (Dr. Jawad Rahim)</p> <p>....., JM (S.P. Wangdi)</p> <p>....., EM (Dr. Nagin Nanda)</p> <p style="text-align: right;">11.09.2018</p>
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IN THE SUPREME COURT OF INDIA

(CIVIL APPELLATE JURISDICTION) 10

CIVIL APPEAL NO. _____ OF 2019

(Under Section 22 of the National Green Tribunal, 2010)

[Against Impugned final judgment and order dated 11.09.2018 passed by the National Green Tribunal, Principal Bench, New Delhi in Original Application No.805 of 2017]

BETWEEN**POSITION OF PARTIES**

State of Uttar Pradesh
Through Principal Secretary,
Forest, 17, Rana Pratap Marg,
Lucknow, (U.P.)-226001

IN THE TRIBUNAL IN THIS
HON'BLE COURT

Respondent Petitioner
No.2

VERSUS

1. Kshitij Agnihotri
Age about 23 years
S/o Shri R.C. Agnihotri
R/o E-1/23, Sushant Golf
City, Sultanpur Road,
Lucknow-226030 U.P.

Applicant Contesting
Respondent
No.1

2. Ministry of Environment Forest
and Climate Change through
Secretary, C.K. Mishra,
Indira Bhavan, Jorbagh,
New Delhi-110003

Respondent Proforma
No.1 Respondent
No.2

3. Uttar Pradesh Environment
Protection & Pollution Control
Board (UPEPPCB)

Building No.TC-12V, Vibhuti

Khand, Gomti Nagar,

Lucknow-226010, U.P.

Through the Member Secretary

Respondent Proforma
No.3 Respondent
No.3

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4. Forest and Wildlife Department,
U.P. through Principal Chief
Conservator of Forests (PCCF),
17, Rana Pratap Marg,
Lucknow, (U.P.)-226001

Respondent
No.4

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Proforma
Respondent
No.4

AND IN THE MATTER OF:

CIVIL APPEAL UNDER SECTION 22 OF
THE NATIONAL GREEN TRIBUNAL ACT,
2010 AGAINST IMPUGNED FINAL
JUDGMENT AND ORDER DATED
11.09.2018 PASSED BY THE NATIONAL
GREEN TRIBUNAL; PRINCIPAL BENCH,
NEW DELHI IN ORIGINAL APPLICATION
NO.805 OF 2017

TO,

THE HON'BLE THE CHIEF JUSTICE OF INDIA AND HIS
COMPANION JUDGES OF THE SUPREME COURT OF
INDIA

THE HUMBLE APPEAL OF THE APPELLANT ABOVE
NAMED-

MOST RESPECTFULLY SHOWETH:-

1. That the instant Civil Appeal is being filed U/s.22 of the National Green Tribunal Act 2010 against the impugned final judgment and order dated 11.09.2018 of the Ld. National Green Tribunal, Principal Bench New Delhi allowing the Original Application No. 805 of 2017 filed by the Respondent No.1.

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2. That it would be relevant to point out the background which led to the framing of the policy:-

2.1 The National Forest Policy, 1988 provides for achieving the national goal of 33% geographical area of the country under forest and tree cover. Thus the National Forest Policy strives for national goal of achieving one third of geographical area under forest cover in order to ensure ecological and environmental security.

2.2 Forests are mainly government owned and its land use is the second largest after agriculture in India. The productivity of forests, in India, is among the lowest in the World, which needs to be addressed by focusing on gradual reduction on drivers of deforestation and degradation. One of the reasons of the low productivity of forest may be attributable to the fact that most of the forested land in high fertility zone like plains of North India and other river valleys has given way to agriculture and habitation.

2.3 India has only 23.81% of the geographical area of the country under forest country cover. In order to

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achieve the target of 33% forest cover the government is encouraging landowners of areas outside of the government forest to utilize the land for the growth of trees.

2.4 That as pointed out here-in-under in detail, there are several species of trees which are planted by farmers in and around their fields as cash crops and felled when the trees become mature and simultaneously new trees are planted by them. It was observed in the state and at the level of Government of India that though the statutory regime existing prior to issuance of the notification under challenge it did not absolutely prohibit felling of such trees but regulated the same by way of several legal/administrative requirements as provided in U.P. Protection of Trees Act, 1976. Such requirements were often found to be cumbersome for the villagers/farmers majority of whom are still not literate enough and it was felt on this account that they were getting disinclined to plant trees in/around their fields.

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2.5 It was felt that after such exemptions, the villagers/farmers were more inclined to plant only such exempted species in/around their fields. Because of such inclination, it was also felt that the number of trees of certain species (excluded from exemption) was decreasing outside the forest area. Maintenance of plant biodiversity, is also of utmost significance from economic as well as ecological viewpoint. Keeping this aspect in view also, several tree species other than five/six mentioned in the notification under challenge, have been exempted in the Districts of U.P. mentioned therein.

2.6 It is worth mentioning that since promulgation of the Act, on number of occasion, the Government of U.P. in exercise of the powers conferred vide Section 21 of the Act has already exempted certain species of trees in certain areas of the State from the provisions of the Act. True copy of the Notification dated January 20, 1982 issued by the State Government is annexed and marked as ANNEXURE: A-1 (Page 46 to 47), true copy of the Notification dated February 7, 1983 issued by the State Government is annexed and marked as

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ANNEXURE: A-2 (Page 48 to _____), true copy

of the Notification dated December 30, 2000 issued by the State Government is annexed and marked as

ANNEXURE: A-3 (Page 49 to 55), true copy

of the Notification dated April 30, 2001 issued by the State Government is annexed and marked as

ANNEXURE: A-4 (Page 56 to 61), true copy

of the Notification dated August 13, 2008 issued by the State Government is annexed and marked as

ANNEXURE: A-5 (Page 62 to 63), true copy

of the Notification dated July 14, 2010 issued by the State Government is annexed and marked as

ANNEXURE: A-6 (Page 64 to _____), true copy

of the Notification dated July 20, 2012 issued by the State Government is annexed and marked as

ANNEXURE: A-7 (Page 65 to 67)

- 2.7 The prevailing regulatory regime was found to be de-motivating as stated above. In pursuance of the National Policy, State Policy, directives of the statutory authorities and in exercise of the statutory powers conferred upon the Government of U.P., the decision in shape of the notification under challenge was taken as much needed step to ensure increase

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in tree cover and enrich plant biodiversity outside the forest area by exempting most of the tree species outside the forest area in major part of the state. Such species are usually planted by farmers in/around their fields.

- 2.8 There has been a long felt need to create enabling environment for massive tree plantation outside the government owned forests. In this regard, the Ministry had earlier issued guidelines on "Felling and Transit Regulation for Trees Species Grown on Non-Forest Private Land" on 15.12.2004. However, it was felt that these guidelines could not deliver the desired results as the people faced difficulty in disposing of trees grown on their lands in view of the provisions of the Act.
- 2.9 That thereafter the National Agro Forestry Policy, 2014 was framed by the Ministry of Agriculture, Government of India In February 2014, which also calls for supportive regulatory framework for felling of trees grown under Agro Forestry and Farm Forestry Systems and transit of timber harvested. In this regard, content of paragraphs Nos.2.3 & 2.4 of

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the National Agro Forestry Policy, 2014 are being reproduced hereunder:-

2.3 Restrictive regulatory regime:-

There are restrictions imposed by the state governments on harvesting and transportation of agro forestry produce, especially those species which are found growing in the nearby forests. These restrictions were basically designed to prevent pilferage from government forests. However, the rationale for such restriction is not very convincing as the species grown in the forest are to be best grown in the nearby private farms because of their suitability to that agro-climatic condition.

Obtaining permits for harvesting and transportation are cumbersome, costly and frustrating and hence, discourage farmers from undertaking tree planting on farm lands.

Multiple agencies, including the State Revenue Department are involved in issuing these permits. Similarly, tax is imposed at various stages of the processing by multiple agencies. These restrictions also negatively impact the in-situ, or on-farm primary processing, jeopardize local employment in these operations and increase transport cost because of the transportation of the entire bulk raw material to the processing centers. As a result, the domestic agro forestry

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produce (raw materials and finished goods) is increasingly losing grounds, against the imported materials, which are cheaper and of better quality. India, having all the natural advantages, should be able to develop agro forestry as a major sector for income and employment generation.

- 2.4 Inadequate attempts at liberalization of restrictive regulations: There are sporadic examples of States taking steps for liberalization of above restrictions, such as, exempting agro-forestry species from the harvesting and transit, but this has not been uniformly done by all the States. Also the extent of liberalization is not widely known to the farmers and thus, their problem continues. It is also learnt that farmers do not take interest in tree planting on the farm land fearing that too many trees on farm may lead to change in their land use. Clearly such apprehensions have no basis; however this does emphasize the lack of awareness that persists on the ground. The 4 Arun Kumar Bansal Committee, appointed by the Ministry of Environment and Forests in 2011 in its report has also identified the regulatory bottlenecks, impeding the growth of the agro-forestry, which need to be acted upon.

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A true copy of the Agro Forestry Policy, 2014 is annexed and marked as ANNEXURE: A-8 (Page 68 to 103)

2.10 In order to achieve the goals set out under National Forest Policy, 1988 and other aforesaid Government Policies, the Ministry further issued Guidelines for Liberalizing Felling and Transit Regime for Tree Species Grown on Non-Forest/Private Land on 18.11.2014.

2.11 The Ministry sent the aforesaid guidelines to all States/Union Territories for simplification of felling of trees species grown on non-forest/private land and regulation of transit of timber. A true copy of the aforesaid guidelines dated 18.11.2014 is annexed and marked as ANNEXURE: A-9 (Page 104 to 120)

2.12 It is also relevant to point out that the relevant portion of the report of A.K. Bansal, Additional Director General of Forests, on the basis of which the aforesaid guidelines were issued, is reproduced here as under:-

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"The National Forest Policy, 1988 lays down that one third of the geographical area of the country should be under forest tree cover. The tenth Five Year Plan mandate is to increase the forest and tree cover in the country to 33% of the geographical area by 2012. This target requires additional 9.97% of the geographical area of the country, i.e. 33.60 million hectare to be brought under forest and tree cover. Since almost 85% of the potential lands for additional tree planting would fall outside the notified forestland, the involvement of non-government sector, including private individuals, is most crucial for achieving the objective. A balance is also needed between regulation and promotion of forestry in private sector. In view of the necessity and importance of Government the targets the matter has been considered by the Central Government and a copy of the guidelines for the simplification of felling and transit regulations of trees grown on Non-Forest private lands is enclosed. The State/UT government is requested to consider the guidelines for augmenting the pace of the tree plantation on private land."

- 2.13 The report of the committee headed by Shri A.K. Bansal Addl. Director General (FC) on the regulatory regime regarding felling and transit regulations for

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tree species grown on non forests/private lands
inter alia includes:-

"3.1 The committee analyzed existing State regulations governing felling and transit of trees grown on private lands and found that there are wide variation in the rules and regulations related to felling of trees and transportation of felled timber across various States especially in a particular region, impacting interstate boundary movement of agro forestry products."

The aforesaid report also includes-

6.1 The Committee in its first meeting deliberated upon the scenario of agro-forestry, farm forestry and community participation in plantation forestry and the Regional/State level initiatives in forestation by farmers and other institutions. It was observed that the Northern State which have forest cover lower than then country average have done well in agro-forestry and farm forestry. The factors which have contributed towards success of Haryana, Punjab and Western Uttar Pradesh are:-

- * Willingness of farmers to experiment with tree crops.

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- * Facilitative role played by Forest Department and the Industries.
- * Enabling policies regarding felling and permit of timber from farm-grown trees.
- * Fertile soil coupled with potential of irrigation and ground water availability."

A true copy of the report of A.K. Bansal, Additional Director General of Forests on the Regulatory Regime Regarding Felling and Transit Regulations for Tree Species Grown on Non Forest/Private Land is annexed and marked as ANNEXURE: A-10 (Page 121 to 239)

2.14 The notification under challenge has been issued in exercise of powers conferred upon Government of Uttar Pradesh vide section 21 of the Act which provides as under:-

"21. Exemption - Subject to such conditions, if any, as may be imposed, the State Government may, if it is considered necessary so to do in the public interest by notification in the gazette, exempt any area or any species of the trees from all or any of the provisions of this Act."

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2.16 As per the above statutory provision, it is undisputed that the State Government by exercising its power may exempt any area or any species of trees from all or any of the provision of the Act.

2.17 In exercise of the powers mentioned above, the State Government issued the notification under challenge for exemption of trees of all the species except five, e.g. Mango, Neem, Sal, Mahua and Khair in 62 districts and six species of the trees, e.g., Mango, Neem, Sal, Mahua, Khair and Teak in other 13 districts of U.P. Thus the petitioner by exercising statutory powers as provided under the Act and in consonance to the guidelines issued by Ministry from time to time, has issued the notification under challenge.

2.18 It is also relevant to mention the contents of Clause 3.8 of Agro Forestry Operational Guidelines provides for subsidy for growing trees by the farmers on their fields and also provides necessity for liberalized transit regulation for transport of timber. A true copy of the relevant portion of Agro Forestry

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Operational Guidelines, 2016 is annexed and marked as ANNEXURE: A-11 (Page 240 to 246)

2.19 It is submitted that as per the data of Forest Survey of India, the Forest cover in the State of U.P. is 8.9% which is much less compared to the goal of 33%. Expansion of government owned forests is not possible to this limit. Hence, the petitioner for encouraging the villagers/farmers to involve themselves in agro forestry, are framing policies and issuing guidelines to support them. Granting exemption from obtaining any permission for felling of trees grown over private lands and exemption from Transit Rules for transporting timber of such trees would motivate people to grow more and more trees and consequently the State of U.P. may advance remarkably towards achieving the target of 33% of forest and tree cover.

2.20 It would be relevant to point out that the notification under challenge is applicable only on the trees grown outside the forest area. Thus the said notification has no correlation with the forest area. However, by virtue of this notification, much

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needed relief has been granted to the ²⁵ villagers/farmers to adopt agro forestry on their lands on a massive scale which would increase the total forest land tree cover in the State. The notification under challenge would facilitate doing of the business relating to timber etc. procured from felling trees grown on private/community lands.

2.21 It is further submitted that the U.P. Forest Policy, 2017 has also been issued by petitioner which also addresses the issue of relaxing the conditions for felling of trees and transit of timber obtained from felling.

2.22 It would be relevant to point out that the notification under challenge does not permit for abrupt felling of trees. However, as stated in the paragraphs above, the applicability of notification under challenge would result in increase of forest and tree cover in the State of U.P.

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2.23: The Government of State of U.P. vide notification No.6/2017/2270/14-5-2017-07/93 dated 31st October, 2017 in exercise of the powers conferred under sub-section (1) of section 23 of the Uttar Pradesh Protection of Trees Act, 1976 (U.P. Act No.45 of 1976) read with Section 21 of the Uttar Pradesh General Clauses Act, 1904 (U.P. Act No.1 of 1904) declared exemption from felling of trees except Mango, Neem, Saal, Mahua and Khair in 62 Districts in areas outside of the Forest Area. The notification also exempted felling of Trees in 13 Districts in areas outside of Forest land except Mango, Neem, Saal, Mahua, Khair and Teak. True translated copy of the Notification dated 31.10.2017 issued by Government of Uttar Pradesh is annexed and marked as ANNEXURE: A-12 (Page 247 to

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2.24 The aforesaid notification was challenged before the National Green Tribunal, Principal Bench, New Delhi by Kshitij Agnihotri/Respondent No.1 alleging apprehension that the purported decision of state authority would cause demolition and destruction of ecological and environmental balance and being

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arbitrary and in breach of Article 14 of the Constitution: In the aforesaid Original Application the prayers sought were as follows:-

- I. Quash the direction/notification/office order granting exemption to cut any trees without permission except Mango Tree, Neem, Saal, Mahua, Sagon (Teek) & Khair in State of U.P. outside the forest area;
- II. Stay the proceeding/initiative taken by the State government for granting permission to new wood based industries,
- III. Pass any such order or further order as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

True copy of the Original Application No.805 of 2017 filed by the Respondent No.1 before the National Green Tribunal, Principal Bench, New Delhi dated 11.12.2017 is annexed and marked as **ANNEXURE: A-13** (Page 251 to 270)

3. That the Tribunal vide order dated 15.12.2017 while issuing notice stayed the Notification dated 31.10.2017.
4. The I.d. Tribunal vide judgment and order dated 11.09.2018 quashed the impugned notification dated

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31.10.2017. In this process Ld. Tribunal has appended that-

"However, we leave it open to the State of Uttar Pradesh to carry out a proper impact assessment and thereafter grant any exemption after making inventory of all the agro-forestry produces specifying species of agro forestry. This may be consistent with the requirements of Forest Conservation Act as interpreted in T.N. Godavarman Thirumalpad vs. Union of India & Ors. (supra)"

(IMPUGNED FINAL ORDER)

5. Being aggrieved by and dissatisfied with the Impugned final order, the present appeal is preferred on the following amongst other:-

GROUNDS

- A. **BECAUSE** the Ld. Tribunal has failed to appreciate that it had no jurisdiction to entertain the said O.A. in view of the following provisions contained in Section-14 of the National Green Tribunal Act, 2010 (here-in-after referred as 'Act, 2010' for the sake of brevity):-

"14. Tribunal to settle disputes.—(1) The Tribunal shall have the jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises

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out of the implementation of the enactments specified in Schedule I.

(2) The Tribunal shall hear the disputes arising from the questions referred to in sub-section (1) and settle such disputes and pass order thereon.

(3) No application for adjudication of dispute under this section shall be entertained by the Tribunal unless it is made within a period of six months from the date on which the cause of action for such dispute first arose:

Provided that the Tribunal may, if it is satisfied that the applicant was prevented by sufficient cause from filing the application within the said period, allow it to be filed within a further period not exceeding sixty days."

Schedule I (here-in-after referred to as 'Schedule' for the sake of brevity) as mentioned in section-14(1) of the Act, 2010 is being reproduced as under:-

SCHEDULE I

[See sections 14(1), 15(1), 17(1)(a), 17(2), 19(4) (j) and 34(1)]

1. The Water (Prevention and Control of Pollution) Act, 1974;
2. The Water (Prevention and Control of Pollution) (Amendment) Act, 1977;
3. The Forest (Conservation) Act, 1980;

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4. *The Air (Prevention and Control of Pollution) Act, 1981;*
5. *The Environment (Protection) Act, 1986;*
6. *The Public Liability Insurance Act, 1991;*
7. *The Biological Diversity Act, 2002.*

It is clear from the above that Uttar Pradesh Protection of Trees Act, 1976 (here-in-after referred as 'Act, 1976' for the sake of brevity) and even Indian Forest Act, 1927 (here-in-after referred as 'Act, 1927' for the sake of brevity) are not included in the Schedule and as such jurisdiction of the Learned Tribunal could not have been invoked for challenging any provisions of these Acts; or Rules made/notifications issued/decision taken thereunder.

- B. **BECAUSE** the Ld. Tribunal in its order dated 11.09.2018 did not consider the aforesaid specific legal situation regarding its jurisdiction and incorporated that "*The long title of the Act states that the object of establishment of National Green Tribunal is for effective and expeditious disposal of cases relating to environment protection. Once there is a nexus of an issue to the environment protection, it is difficult to understand why this Tribunal will not have a jurisdiction in the matter. The definition of 'environment' under Section 2(c) of the NGT Act is wide*

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enough to include the issue of cutting of trees. The Schedule to the Act include Forest (Conservation) Act, 1980. The State Act needs to be read with law declared by the Supreme Court in T. N Godavarman vs. U.O.I (1997) 2 SCC 267 and directions issued against cutting of any trees. Thus, cutting of trees is an issue open to be gone into by the Tribunal even if the State Act is not in the Schedule. Reference may also be made to further directions in the said case, including in (2006) 1 SCC 1 laying down procedure required to be followed for diverting any forest for any other purpose."

C. **BECAUSE** the aforesaid conclusion of the Ld. Tribunal is not correct. Explicit provision in section-14(1) of the Act, 2010 read with Schedule-I appended therewith cannot be interpreted by the Learned Tribunal at its own end referring tangentially in the process to the definition of 'environment' as contained in section-2(C) of the Act, 2010. Moreover, it is also noteworthy that the law declared by the Supreme Court in T.N. Godavarman vs. U.O.I (1997) 2 SCC 267 is not regarding trees outside forests. The directions of the Hon'ble Supreme Court as contained under the caption 'General' in the order dated 12.12.1996 passed by Hon'ble Supreme Court and

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published in (1997) 2 SCC 267 relate exclusively with forests, forest land, felling of trees in the forest etc. but do not relate in any manner with trees outside forests.

D. **BECAUSE** D. Tribunal in its judgment and order has also referred to further directions in the Godavarman's case, laying down procedure required to be followed for diverting any forest for any other purpose. The O.A. adjudicated upon by the Learned Tribunal has no issue of diversion of any forest for any other purpose.

Regarding mention of Forest Conservation Act, 1980, it is worth mentioning that this Act is related with forests and forest lands, and in no manner, with trees outside forests. Section-2 of this Act provides for "*Restriction on the de-reservation of forests or use of forest land for non-forest purpose*".

For trees outside forests the Law prevalent in the State of U.P. is in form of Act, 1976 which is not included in Schedule-I, appended with the Act, 2010. In respect of interpretation of Law by the Learned Tribunal as contained in its order dated 11.09.2018, it is also worth mentioning that it has got no power to interpret any Law. Only Hon'ble High Courts and Hon'ble Supreme Court can

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interpret the Law. Learned Tribunal is to follow the law and the very basic law for its working is the Act, 2010.

- E. **BECAUSE** the notification dated 31.10.2017 had been issued as per the powers conferred upon the State Government u/s 21 of the Act, 1976. Section-21 of the Act, 1976 is being reproduced as under:-

"Exemption.- Subject to such conditions, if any, as may be imposed, the State Government may, if it is considered necessary so to do in the public interest by notification in the official Gazette, exempt any area or any species of trees from all or any of the provisions of this Act".

It is worth mentioning that the aforesaid provisions of section-21 of the Act, 1976 are very much existent and have not been struck down or diluted by any Court of Law till date and as such the said notification dated 31.10.2017 issued by the Government of Uttar Pradesh is very much in accordance with the powers vested through Act, 1976 by the legislature; and hence being totally lawful and valid, Learned Tribunal had no jurisdiction to intervene in the matter.

- F. **BECAUSE** the case presented by the State respondents on merit could not be appreciated too by the Learned

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Tribunal on some or the other logic. Issues raised on merits of the case are included in paragraph nos. 3 and 4 of the judgment to be challenged which are being reproduced as under:-

"3. Reply has been filed on behalf of the State of Uttar Pradesh, defending the impugned Notification. According to the State, the impugned Notification will result in plantation of more and more trees and increase of green cover in the State. The exemption will encourage planting of trees which can be cut without any regulatory regime. The existing regulatory regime discourages the farmers from planting more trees. It is stated that national goal is to have 33% of the geographical area under the forest and tree cover (as per National Forest Policy, 1988). National Agro Forestry Policy, 2014 provides for liberalization of restrictive regulation particularly with regard to agro forestry species. The Regulatory bottlenecks have also been identified in Arun Kumar Bansal Committee Report in the year 2011. The Ministry of Environment, Forest and Climate Change (MoEF&CC) has issued guidelines for Liberalization Felling and Transit Regime for Tree Species Grown on Non-Forest/Private Land on 18.11.2014. Restrictions should only be on felling and transit of timber species and not to agro forestry tree species like Eucalyptus and Poplar. The joint working group of Niti Ayog and the Government of Uttar Pradesh prepared an action plan to promote forestry on private land.

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4. *Agro Forestry Operational Guidelines, 2016* provide subsidy for growing trees by the farmers on their fields. The State of Uttar Pradesh has only 8.9% forest cover as against goal of 33%. The guidelines by the Central Government dated 11.11.2016 and 11.09.2017 have been issued in pursuance of order of the Hon'ble Supreme Court dated 05.10.2015 in 'T.N. Godavarman Thirumalpad vs. Union of India & Ors.' in I.A. No. 1137 with 1319 in WP (c) No. 202/1995 (2016) 13 SCC 586 and the impugned Notification is consistent with the said guidelines."

The Learned Tribunal did not consider the above and other related pertinent versions of the State respondents as included in their replies/arguments.

G. **BECAUSE** before allowing the O.A. and quashing the notification dated 31.10.2017 challenged by the applicants, The Learned Tribunal in paragraph no. 16 of the judgement and order to be challenged observed as under:-

"16. Thus, following points emerge from the discussion:

- (i) *Unregulated cutting of trees without limitation of specific species of agro forestry is in violation of Forest Conservation Act read with the law laid down in T.N Godavarman (supra).*

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- (ii) *The Tribunal has jurisdiction to consider challenge to un-regulated cutting of trees.*
- (iii) *The impugned notification is not merely restricted to agro forestry, as claimed.*
- (iv) *The State of UP has no power to permit unregulated cutting of trees, in violation of law laid down by Hon'ble Supreme Court.*
- (v) *Even while permitting agro forestry by exercise of power to exempt regulatory regime against cutting of trees, impact on environment including ground water level must be taken into account.*
- (vi) *In the present case, impugned notification is arbitrary exercise of power, adversely impacting the environment."*

H. **BECAUSE** the above conclusions are totally unsustainable in the eyes of Law and are also devoid of any merit. It cannot be disputed that more is the restriction on felling of trees of villagers/farmers, more will they be discouraged to plant trees further and that is why the State of U.P. has exempted most of the trees species from felling restrictions. The object was to encourage the villagers/farmers in particular to plant more and more trees and that too of diverse species so that the goal of tree cover as laid down under the National Forest Policy and State Forest Policy as well may be achieved and simultaneously the plant diversity is also

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maintained even outside forests. The farmers' income is also bound to rise with such exemptions besides impetus to the entrepreneurs and reduction in unemployment.

I. **BECAUSE** regarding the issue of exemption given for most of the tree species *vide* the notification dated 31.10.2017, it is worth mentioning that with exemption to limited number of species on previous occasions, it was being experienced that the villagers/farmers were interested in planting only the exempted species. Because of this, the supply of forest produces of different species from trees outside forests was getting restricted and maintenance of plant diversity outside forests was a big question to be resolved. It is also undisputed that different tree species are habitats of different creatures. So the faunal biodiversity conceived was also to result in enrichment of faunal biodiversity and with quashing of the said notification dated 31.10.2017 by the Learned Tribunal, this broad objective is impossible to be achieved.

J. **BECAUSE** it is worth reiterating here that issuance of the notification which is the subject matter challenge in the Tribunal is one more step in furtherance of protection of

environment in as much as it contemplates and seeks to ensure more and more tree plantation which will result into increase in the green cover.

K. **BECAUSE** the provisions of Section 14 (1) of the NGT Act 2010 read with Schedule 1 are exhaustive in nature and are not illustrative at all. The same cannot be interpreted by the NGT in its own manner as has been done by it mainly in para 9 and 10 of the impugned order.

L. **BECAUSE** the Ld. Tribunal had erred in observing as hereunder;

"If the exemption is granted in respect of all the trees in the non forest areas, it is obvious that the Forest Cover will get reduced. The plea that impugned notification will result in increasing the Forest Cover is without any basis and is an argument only in air."

M. **BECAUSE** it cannot be denied that by providing facilitation to the owners of the trees, outside the forest, for felling of these trees, such people shall be encouraged to plant more and more trees as they fetch good prices to them and retain as a reserve asset to be utilized in case of any contingency.

N. **BECAUSE** the restriction for felling trees are very much discouraging and de-motivating to the farmers. The

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Villagers have to spent a lot of their time energy and money (in form of security etc. to be deposited, travelling etc.) for seeking permissions for felling their own trees. This, at places, has given rise to the growth of middlemen, who may little to the poor villagers for their trees, more so because of prevalent illiteracies and ignorance about the legalities involved in obtaining permission for felling of their trees.

O. **BECAUSE** the said notification is likely to result in facilitating felling of trees not literally grown under Agro Forestry. But it true that the farmers grow most of the commercially viable trees species of lesser rotation in the farm of Agro Forestry and such trees species are to be felled at comparatively shorter interval.

P. **BECAUSE** most of the non Agro Forestry species are of environmental value than the commercial value and as such non Agro Forestry Species are not usually felled frequently.

Q. **BECAUSE** the conclusion drawn by the Ld. Tribunal is not correct. The impugned notification dated 31.10.2017 had been issued under the powers derived from law and is likely to result in facilitation to the owners of the trees outside the forest in the process of felling of the same,

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which in turn shall provide much awaited impetus for planting more and more trees outside the forest limits.

R. **BECAUSE** the Ld. Tribunal failed to appreciate the mandate of promoting liberalizing Tree Felling Rules and the Transit Permit Rules as contained in National Agro Forestry Policy 2014.

S. **BECAUSE** the Ld. Tribunal had failed to appreciate the A.K. Bansal Committee Report. The said Committee was specifically constituted for promoting trees outside forest areas and for suggesting measures for Liberalizing the Tree Felling Rules and Transit Permit Rules.

6. It is submitted that the Appellant has not preferred any other Civil Appeal till date against the impugned interim order dated 11.09.2018 passed by the National Green Tribunal, Principal Bench, New Delhi in Original Application No.805 of 2017.

PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to:-

(a) Admit and allow the present Civil Appeal and set-aside the order dated 11.09.2018 passed by the National Green Tribunal, Principal Bench, New Delhi in Original Application No. 805 of 2017 titled State of U.P. Vs. Kshitij

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Agnihotri & Other passed by the Ld. National Green Tribunal (Principal Bench, New Delhi);

(b) pass any other or further order which this Hon'ble may deem fit and proper in the facts and circumstances of the present case;

AND FOR THIS ACT FOR KIDNESS THE APPELLANT SHALL DUTY BOND EVER PRAY.

DRAWN & FILED BY:

[KAMLENDRA MISHRA]
Advocate for the Appellant

Drawn on: 11.3.2019

Filed on: 14.3.2019

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No(s). 421/2020

THE STATE OF UTTAR PRADESH

Appellant(s)

VERSUS

KSHITIJ AGNIHOTRI & ORS.

Respondent(s)

O R D E R

1. Heard learned counsel appearing for the parties.
2. The National Green Tribunal has by the order impugned herein quashed the notification dated 31.10.2017 issued under U.P. Trees Conservation Act, 1976 as being contrary to the judgment of this Court in "*T. N. Godavarman Thirumulpad Vs. Union of India & Ors.*" reported as (1997) 2 SCC 267. In view of the fact the State Government has subsequently issued a fresh notification dated 07.1.2020 in supersession of the notification dated 31.10.2017, this appeal has become infructuous.
3. The Civil Appeal is dismissed as infructuous.

.....J.
(PAMIDIGHANTAM SRI NARASIMHA)

.....J.
(ARAVIND KUMAR)

Signature Not Verified
Digitally signed by
NEETA SARKAR
Date: 2024.02.06
10:31:28 IST
Reason: 

NEW DELHI;
January 30, 2024

ITEM NO.60

COURT NO.16

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 421/2020

THE STATE OF UTTAR PRADESH

Appellant(s)

VERSUS

KSHITIJ AGNIHOTRI & ORS.

Respondent(s)

(I.A. No. 50418/2019 - EXEMPTION FROM FILING O.T.)

Date : 30-01-2024 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE ARAVIND KUMAR

For Appellant(s) Ms. Aishwarya Bhati, Sr., A.S.G.
Mr. Sudeep Kumar, AOR
Ms. Poornima Singh, Adv.

For Respondent(s) Mr. Arvind Kumar Shukla, Adv.
Ms. Reetu Sharma, AOR
Mr. Nihal Ahmad, Adv.
Mr. Shantanu Shukla, Adv.
Ms. Susmita Devi Ghimiray, Adv.
Ms. Shweta Mahajan, Adv.

Mr. Pradeep Misra, AOR
Mr. Daleep Dhyani, Adv.
Mr. Suraj Singh, Adv.
Mr. Manoj Kumar Sharma, Adv.
Mr. Bhuwan Chandra, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Heard learned counsel for the parties.

The civil appeal is dismissed as infructuous in terms of the signed order.

Pending application(s) stands disposed of.

(RASHMI DHYANI PANT)
COURT MASTER (SH)

(NIDHI WASON)
COURT MASTER (NSH)

(signed order is placed on the file)

क्रम-संख्या-3



रजिस्ट्रेशन नम्बर-एस०एस०पी०/एल०-
डब्लू०/एन०पी०-91/2014-16
लाइसेन्स टू पोस्ट ऐट कन्सेशनल रेट

सरकारी गजट, उत्तर प्रदेश

उत्तर प्रदेशीय सरकार द्वारा प्रकाशित

असाधारण

विधायी परिशिष्ट

भाग-4, खण्ड (ख)

(परिनियत आदेश)

लखनऊ, मंगलवार 7 जनवरी, 2020

पौष 17, 1941 शक सम्वत्

उत्तर प्रदेश शासन

पर्यावरण, वन एवं जलवायु परिवर्तन अनुभाग-5

संख्या 24/81-5-2020-07-93

लखनऊ, 7 जनवरी, 2020

अधिसूचना

प०आ०-2

उत्तर प्रदेश साधारण खण्ड अधिनियम, 1904 (उत्तर प्रदेश अधिनियम संख्या 4 सन् 1904) की धारा 21 के साथ पठित उत्तर प्रदेश वृक्ष संरक्षण अधिनियम, 1976 (उत्तर प्रदेश अधिनियम संख्या 45 सन् 1976) की धारा 21 एवं 23 के अधीन शक्तियों का प्रयोग करके और सरकारी अधिसूचना संख्या 2270/14-5-2017-07-93, दिनांक 31 अक्टूबर, 2017 का अधिक्रमण करके राज्यपाल निम्नलिखित प्रजातियों के वृक्षों को निपातित किये जाने का प्रतिषेध करती हैं :-

(1) आम (देशी/तुकमी), (2) नीम, (3) साल, (4) महुआ, (5) बीजासाल, (6) पीपल, (7) बरगद, (8) गूलर, (9) पाकड़, (10) अर्जुन, (11) पलाश, (12) बेल, (13) चिरौंजी, (14) खिरनी, (15) कैंथा, (16) इमली, (17) जामुन, (18) असना, (19) कुसुम, (20) रीठा, (21) भिलावा, (22) तून, (23) सलई, (24) हल्दू, (25) बाकली/करधई, (26) धौ, (27) खैर, (28) शीशम एवं (29) सागौन और व्यक्तिगत कृषित या अकृषित धृति पर स्थित अन्य प्रजातियों को छूट प्रदान करती हैं।

2-प्रतिषिद्ध प्रजातियों के वृक्ष, दिनांक 31 दिसम्बर, 2025 तक अपरिहार्य परिस्थितियों यथा- वृक्ष सूख गया हो या सूख रहा हो या व्यक्ति या सम्पत्ति के लिये खतरा पैदा कर रहा हो या सरकार द्वारा अनुमोदित विकास कार्य के निष्पादन के लिए इसका निपातन किया जाना आवश्यक हो या समुपयोज्य व्यास प्राप्त कर लिया हो अथवा यदि उसकी फलदायी क्षमता सारभूत रूप से क्षीण हो गयी हो और ऐसे वृक्ष को निपातित करने के लिए सक्षम प्राधिकारी से लिखित में अनुज्ञा प्राप्त कर ली गई हो, के सिवाय निपातित नहीं किये जायेंगे। समुपयोज्य व्यास के लिए प्रमुख वन संरक्षक, अनुश्रवण एवं कार्य योजना, उत्तर प्रदेश, जैसा और जब अपेक्षित हो, समय-समय पर मार्गदर्शी सिद्धान्त जारी कर सकता है।

3-निपातित किये जाने वाले वृक्षों और (निपातित किये गये वृक्षों के बदले में) रोपित किये जाने वाले प्रतिपूरक पौधों का अक्षांश एवं देशान्तर सक्षम अधिकारी से निपातन अनुज्ञा प्राप्त करने हेतु आवेदन करते समय आवेदन-पत्र में उल्लिखित किया जायेगा तथा तत्पश्चात् ऑनलाइन अभिलिखित किया जायेगा।

4-वृक्ष स्वामी, निपातित किये गये प्रत्येक वृक्ष के स्थान पर 10 वृक्षों का आरोपण एवं अनुरक्षण करेगा और वृक्ष रोपित न करने की स्थिति में 10 वृक्षों को रोपित किये जाने तथा 05 वर्ष तक उनका अनुरक्षण किये जाने की धनराशि उक्त अधिनियम, सन् 1976 की धारा 5 और 7 के अनुसार वृक्ष स्वामी द्वारा वन विभाग को जमा की जायेगी। वन विभाग इस धनराशि का उपयोग वनीकरण के प्रयोजनार्थ करेगा। इससे ऐसी प्रजातियों का संरक्षण करने तथा वृक्षावरण का विस्तार करने में भी सहायता मिलेगी।

5-उत्तर प्रदेश वन निगम, वृक्ष स्वामी को उसकी कृषि भूमि पर अवस्थित वृक्षों के प्रमाणीकरण की सुविधा प्रदान करेगा।

आज्ञा से,
सुधीर गर्ग,
प्रमुख सचिव।

IN pursuance of the provisions of clause (3) of Article 348 of the Constitution, the Governor is pleased to order the publication of the following English translation of notification no. 24/LXXXI-5-2020-07, 93, dated January 7, 2020 :

No. 24/LXXXI-5-2020-07-93
Dated Lucknow, January 7, 2020

IN exercise of the powers under section 21 and 23 of the Uttar Pradesh Protections of Trees Act, 1976 (U.P. Act no. 45 of 1976) read with section 21 of the Uttar Pradesh General Clauses Act, 1904 (U.P. Act no. 4 of 1904) and in supersession of the Government notification no. 2270/XIV-5-2017-07-93, dated October 31, 2017, the Governor is pleased to prohibit felling of the following trees species:-

(I) Aam (Desi/Tukmi), (II) Neem, (III) Sal, (IV) Mahua, (V) Bijasal, (VI) Pipal, (VII) Bargad, (VIII) Gular, (IX) Pakar, (X) Arjun, (XI) Palash, (XII) Bel, (XIII) Chiraunjee, (XIV) Khirnee, (XV) Kaitha, (XVI) Imli, (XVII) Jamun, (XVIII) Asna, (XIX) Kusum, (XX) Ritha, (XXI) Bhilawa, (XXII) Toon, (XXIII) Salai, (XXIV) Haldu, (XXV) Bakali/Kardhai, (XXVI) Dhau, (XXVII) Khair, (XXVIII) Sheesham and (XXIX) Sagaun and exempt other species situated on individual cultivated and un-cultivated holding.

2. Prohibited tree species shall not be felled till dated 31st December, 2025 except under unavoidable circumstances such as tree is dead or dying or it constitutes danger to person or property or its felling is necessary for executing a development work approved by the Government or after attaining exploitable diameter or if the fruit bearing capacity of such tree has declined substantially and permission to fell such tree has been obtained in writing from the competent authority. For exploitable diameter, Principal Chief Conservator of Forests, Monitoring and Working Plan, Uttar Pradesh may issue guidelines from time to time, as and when required.

3. Longitude and Latitude of trees to be felled and compensatory saplings to be planted (*in lieu of* felled trees) shall be mentioned in the application from while applying for obtaining felling permission from the Competent Authority and subsequently recorded online.

4. The tree owner shall plant and maintain 10 trees in place of each tree felled and in case of not planting trees the amount of money for plantation of 10 trees and their maintenance for 5 years shall be deposited by the tree owner to the Forest Department, as per section 5 and 7 of the said Act of 1976. Forest Department will utilise this amount for afforestation purposes. This will help conserve such species and expansion of tree cover too.

5. Uttar Pradesh Forest Corporation will facilitate the tree owner for certification of standing trees on his farm land.

By order,
SUDHIR GARG,
Pramukh Sachiv.

पी०एस०यू०पी०-ए०पी० 549 राजपत्र-(हिन्दी)-2020-(1335)-599 प्रतियां-(कम्प्यूटर/टी/आफसेट)।

पी०एस०यू०पी०-ए०पी० 1 सा० पर्यावरण-2020-(1336)-1000 प्रतियां-(कम्प्यूटर/टी/आफसेट)।