

Before the Hon'ble Green Tribunal, Principle Bench, New Delhi

Original Application No. 76/2023

**Applicant-Tapeshwar Singh Bhati Vs Respondent- State of Rajasthan
& Others**

May It Please Hon'ble National Green Tribunal, Principle Bench,

Chairperson and members humbly submits as under:-

The CPCB and State PCB were directed for coordination and compliance. And Committee was directed to meet within two weeks, obviously from the communication of the order and appointment of the nodal officer by the SPCB. The Chairperson after receipt of the order dated 03.02.2023 via mail dated 08.02.2023, requested the Chairperson and the Member Secretary, SPCB, Rajasthan to appoint the nodal officer. Nodal officer was appointed by order dated 17.02.2023 but before this official communication, R.O., PCB, Jaisalmer met Chairperson. The Chairperson instructed R.O. to prepare notice, as directed, for the first web meeting. First Committee meeting of the Committee. The meeting was not possible before 23.02.2023 as some of the members were already occupied. Committee's first meeting was held on 23.02.2023. Copy of the Minutes of the meeting dated 23.02.2023 was provided to the members of the Committee and second meeting was convened on 14.03.2023. Due to number of holidays and non-availability of some key members due to holidays and administrative engagements, the committee's last meeting was convened on 17 April, 2023. The report should have been furnished by or before 08.04.2023 but there is delay.

Hence, this report is submitted after some delay. Delay is regretted. Delay may kindly be condoned.

Date: - 24.04.2023

Justice Prakash Tatia (Rtd)

Chairperson,

Committee constituted by Hon'ble NGT, Principle Bench, New Delhi

In Original Application No. 76/2023

Applicant- Tapeshwar Singh Bhati

Vs

Respondent- State of Rajasthan &

Others

Tribunal that, at *Sam* and *Khuhdi* sand dunes near Jaisalmer, close to the *Desert National Park (DNP)*, Jaisalmer and 200-400 meters away from bird sanctuary with endangered *Great Indian Bustard (GIB)*, (also known as *Godawan*), on 4th and 5th February, 2023 after sunset, cultural program will be held which will involve fireworks, laser beams and sound systems at high volume. Ten to fifteen thousand persons are likely to attend the *Maru Mahotsav*. The proposed activities will adversely affect the wildlife, the bird sanctuary and the environment. Deputy Conservator of Forest, Wildlife Forest has also expressed concern about the above issue but the Tourism Department of Rajasthan is going ahead with the same in violation of provisions of the Wildlife Act, 1972. The applicant has annexed copy of letter dated 12.01.2023 addressed to the Collector, Jaisalmer by the Deputy Conservator of Forest, Wildlife Forest, Jaisalmer recommending that fireworks, laser show and sound activities in the area should be avoided.

In response to the notice issued by the Hon'ble NGT, the District Magistrate, Jaisalmer and State PCB and PCCF, Wildlife submitted that, the cultural evenings proposed on 4th and 5th February 2023, have been shifted to *Shahid Poonam Singh Stadium* in Jaisalmer city and no program with light, sound and firecrackers is being held in *Khuhdi* and *Sam Sand Dunes* by Tourism Department and District Administration on any of the festival dates. The Tribunal was also informed that, quarterly meeting of District Environment Committee was held on 25.01.2023 for identifying actions to be taken on use of plastic carry bags, solid waste management and illegal mining. In view of clear stand from the district administration and the other authorities the Tribunal pleased to pass the order that, **"In view of above, no further intervention appears to be necessary at this stage as far as activities of 'Maru Mahotsav 2023' are concerned."**

However, Hon'ble Tribunal found that the here is not the end of the matter because of reasons noted in para 7 of the order dated 03.02.2023. The para 7 of the order is quoted here,

"7. It is well known that the area has fragile eco system. Flora and fauna in the area inter alia includes Desert National Park, rare and endangered birds/animal species, rare vegetation, reducing camel population, loss of biodiversity, heat related issues, reduced water availability, dust and smoke pollution."

After taking note of the importance of the ecosystem of the area in question, the Tribunal noted the threats to the ecosystem in para 8 of the order, referred above, which also needed to be taken note of by the Committee. The par 8 of the order is as under:-

“8. The area has serious challenges of environmental protection and conservation due to unregulated tourism activities. There are about 130 hotels and other such establishments. 1000 camel safaris and 4000 jeep safaris are held per day during the season. Adventurous activities like paragliding, Para-motoring and parasailing also take place. Large number of activities are unregulated and operators lack requisite skills and training. Sanitation and hygiene issues also remain. Regulation and monitoring is inadequate. Environmental norms are violated in absence of environmental impact assessment, consents under Air and Water Acts and environmental clearances, as required, having regard to eco sensitiveness of the area.” (Emphasis supplied)

The Tribunal was very conscious to the ground realities and for sustainable development also, and observed, **“ ‘Sustainable Development’ principle, is part of right to life under Article 21 of the Constitution and is to be statutorily enforced by this Tribunal under Section 20 read with Section 15 of the NGT Act, 2010.** Under public trust doctrine, the State is to protect environment. **Thus, a case is made out for intervention of the Tribunal for remedial action.**” And therefore, took note of the facts relevant for sustainable development of the area and observed that, **“Reportedly 20 villages are dependent for employment on tourism with about 10,000 families.”** As already we have noticed that at present there are about 130 hotels and other such establishments. 1000 camel safaris and 4000 jeep safaris are held per day during the season. This is giving revenue to the government and is means of livelihood of people of the not only this area but this area being international tourist attraction these activates are also important and giving revenue to the other areas and the country also. Therefore, the Tribunal held that, “Desert ecology needs protection in same way as fragile ecology of hills, forests, coastal or other such areas. Such places are tourist attractions. **While tourism generates wealth and employment on one hand, it threatens flora and fauna on the other unless suitable safeguards and regulations are adopted.** Therefore, instead of passing any order and issuing directions, Hon’ble Tribunal found that matter require study, **“....study to balance economic activity with need to**

preserve ecologically fragile and sensitive areas for protection of inter-generational equity.”

This study was necessary because, by that time before Hon’ble Tribunal, there was no impact assessment of such activities on the environment including compliance of scientific waste management norms, air, water and land pollution or other environmental damage was placed/available. The Tribunal found that, “...there are no CCTV cameras nor any mechanism to monitor safety norms in operating paragliding, para-motoring and parasailing activities. There is also no mechanism to take action against those who operate without permission or without requisite consents under the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981. There is no SOP or display board in the area for do’s and don’ts nor are any areas demarcated where movement of vehicles, which may be incompatible for the environment is regulated. Number of vehicles is also not fixed in the light of environmental carrying capacity of the area. Conditions of such vehicles are not laid down or monitored. These thematic areas are not adequately reflected in the District Environment Plan. Regulatory measures, if any, followed at the moment are not placed on any of the website for public information.”

In response to the notice issued to the Applicant Shri Tapeshwar Singh Bhati by the office of the Committee, the Applicant submitted his views by mail dated 25th March 2023, that is, after second meeting of the Committee dated 14th March 2023. The Applicant’s factual matrix, tourism and related activities and consequences thereof have been taken note of by the Hon’ble Tribunal in its order date 3rd Feb. 2023 and Committee has also considered facts stated by the Applicant and incorporated relevant facts in this report. According to the Applicant, the absence of an Environment Impact Assessment (EIA) study allowed to contravene the provisions of *The Environment (Protection) Act, 1986, The Air(Prevention and control of pollution) act,1981, The Water (Prevention and control of pollution) Act,1974 The Noise Pollution(Regulation &Control) Rules, 2000, Solid Waste Management Rules, 2016 and The Wildlife(Protection), 1972*. According to the Applicant, that tourism in and around the Sam and Khuri (Kuhudi) sand dunes be based on the principles of eco-tourism and sustainable development in accordance with the provisions of *The Environment (Protection) Act, 1986, The Air (Prevention and Control of Pollution) Act, 1981, and The Water (Prevention and Control of Pollution) Act, 1974, the (Noise Pollution Regulation and Control) Regulations of 2000, the*

Solid Waste Management Rules of 2016, and the Wildlife (Protection) Rules of 1972, among others. In addition, all types of vehicle access should be prohibited in the specified area.

The Applicant suggested that, the entry of tourists be limited in accordance with Section 28 of the *Wildlife (Protection) Act, 1972* and circular issued by the Chief Wildlife Warden. According to the *Wildlife (Protection) Act of 1972*, the designated area must also have regulated tourist visiting hours from sunrise to sunset only.

Applicant also submitted that, the Desert National Park needs to be financially stronger in order to improve the development of species and its ecosystem. The Applicant suggested for establishing a Desert National Park foundation for the park and the foundation's income would be generated by tourism and related activities in the affected area.

"Sustainable Development" is important, therefore, to train and educate everyone who serves tourists in the specific area how to environmentally preserve the desert ecology. For their trainings, help can be taken from government's skill development programmes such as Rajasthan skill livelihood development (RSLDC), *Pradhan Mantri Kaushal Vikas Yozna (PMKVY)*, and others that provide skill training and knowledge to people involved in tourism activities in specific areas.

Around 500 camels are used for safari in the specified area with no restrictions, guidelines, or statutory authority monitoring. Impose safari conditions at the time of registration that is deemed appropriate for the conservation of desert ecology, wildlife, and the Great Indian Bustard. Regular health examinations by the government veterinary doctor (every six months) and timely immunisation of safari camels should be mandatory.

The plastic, glass and residual food waste on the dunes, that selling and carrying eatables and beverages be prohibited on the sand dunes.

Tourism in and around the Sam and Khuri sand dunes be based on the principles of eco-tourism and sustainable development in accordance with the provisions of *The Environment (Protection) Act, 1986, The Air (Prevention and Control of Pollution) Act, 1981, and The Water (Prevention and Control of Pollution) Act, 1974. The (Noise Pollution Regulation and Control) Regulations of 2000, the Solid Waste Management Rules of 2016, and the Wildlife (Protection) Rules of 1972*, among others, shall be carefully enforced throughout the area. In addition, all types of vehicle access should be prohibited in the specified area.

Around 200 square kilometres of revenue land between the *Sam* and *Khuri* sand dunes, free of villages and human impact, be handed to the Deputy Conservator of Forests (WL) Jaisalmer for GIB protection and used to build additional GIB enclosures.

Eco Sensitive Zone of Desert National Park is not finalised by the MOEF till date as per directions/order dated 4th December 2006 of *Hon'ble Supreme Court* in the cases of Goa Foundation (Writ Petition(C) No.460of2004) resulted the Eco Sensitive Zone of Desert National park is till the 10kms from the boundary of Protected area and in the case of Writ Petition(s) (Civil) No(s). 202/1995 *IN RE: T.N. GODAVARMAN THIRUMULPAD VERSUS UNION OF INDIA AND ORS.* Hon'ble *Supreme Court* recently stated that "Each protected forest, that

is national park or wildlife sanctuary must have an ESZ of minimum one kilometre measured from the demarcated boundary of such protected forest in which the activities proscribed and prescribed in the Guidelines of 9th February 2011 shall be strictly adhered to." So in the light of the above directions of Hon'ble Supreme Court I suggest the authorities to please adhere given guidelines by the MoEF&CC, Government of India in F.No.1-9/2007 WL-I (pt) dated 9th February 2011 while framing the further tourism guidelines in Sam and Khuri area of Desert national park.

Fulfil the objectives of sustainable tourism in places of natural or cultural value, follow the principles outlined in the Rajasthan Ecotourism Policy 2021 while developing or recommending tourism guidelines in the Sam and Khuri areas.

"SAM VIKAS SAMITI" is an organisation headed by the Sub Divisional Officer, Jaisalmer, and the Tehsildar, Sam, and the organisation is responsible for preserving the cleanliness of Sam's sand dunes and other tourist attractions. For the services, organisation collecting entry fees of Rs. 50 to 200 from every tourist vehicle at Sam as a vehicle entry charges and around 2500-3000 vehicles are pay entry fee to "SAM VIKAS SAMITI" every day during the tourist season. "SAM VIKAS SAMITI" and other parties are mostly to blame for earlier environmental standards violations. With these pleas, the applicant requested the Hon'ble Tribunal to charge "SAM VIKAS SAMITI" on the principle of the "Polluter Pays". Copy of the submissions of the Applicant is provided to the members of the Committee along with the notice for final meeting.

Relevant Facts:-

Area in question, as per the report, "*District Environment Plan for Jaisalmer District*" (prepared in pursuance of order of the NGT in another matter), "It (Jaisalmer) is the largest district of Rajasthan and one of the largest in the country, having an area of 38,401 Sq. Kms. The breath (East-West) of the district is 270 Kms and the length (North-South) is 186 Kms." And is "part of the *Great Indian Thar Desert*, is sandy, dry and scorched. The terrain around, within a radius of about 60 kms is stony and rocky. The area is barren, undulating with its famous sand dunes and slopes towards the Indus valley and the Runn of Kutch. *The soil here is grateful even to a little rain and turns lush green during monsoon (monsoon). There is no perennial river in the district. The underground water level is very low. Geographically this district is spread over in 38,401 sq. kms which is one of the largest district and almost equal to the state of Kerala.* (Emphasis Supplied).

"**Climate:** The Jaisalmer region has a climate of *high temperature, severe drought* with strong south westerly winds. The relative *humidity is low, high evaporation rate and very little rainfall*, due to which the *vegetation cover in this region is very low*. Autumn is very cold here. *In winter, the mercury reaches the freezing point.* Strong hot winds (loo) move in summer.

The maximum temperature ranges from 39° C to 49° C in summer, while, the minimum temperature varies from 2°C to 10°C in winter. The main reason behind the lack of rains in this region is that, the impulse for the southwest monsoon, which comes from the Arabian Sea and the southeast monsoon that rises from the Bay of Bengal, is very low. Although there has been a cloud burst in the past years, but due to the heterogeneous climate, there has not been much increase in the growth of vegetative cover. Rainfall in this region is very less and its distribution is also very uneven. Average annual rainfall here is 164 mm. During summer, walking blind is a common practice. The velocity of these winds reaches 60–90 km per hour.”

“**Demography:** According to the 2011 census, Jaisalmer district has a population of 6, 69,919 of which male and female are 3, 61,708 and 3, 08,211, respectively. The district has a population density of 17 inhabitants per square kilometre. Its population growth rate over the decade 2001-2011 was 32.22%. Jaisalmer has a sex ratio of 849 females for every 1000 males, and a literacy rate of 58.04%. At the time of the 2011 Census of India, 95.09% of the population in the district spoke Hindi, 2.56% Sindhi, 1.02% Urdu and 0.40% Punjabi as their first language.”

The District Environment Plan also noted a few facts about tourism activities:-

“**Tourism Industry:** - Tourism industry of Jaisalmer is one of the booming sectors of the city. The natural beauty of the city set amidst the desert lures international and national tourists to visit it. The city earns foreign exchange from the huge number of international tourists who flock the city every year. The government of the Rajasthan State has provided with adequate infrastructure to support tourism industry. Accommodation facilities are available in various hotels established in Description 2011 2001 Population 6.70 Lakhs 5.08 Lakhs Actual Population 669,919 508,247 Male 361,708 279,101 Female 308,211 229,146 Population Growth 31.81% 24.39% 9 the city. The city is also well connected with roads, railways and air to the major cities of the country. The scenic beauty of the city lures tourists to visit it. The industry of tourism in Jaisalmer has emerged as one of the most profiting industries of the region.” (Emphasis supplied)

This is an admitted fact and is clear from the “District Environment Plan for Jaisalmer District” that it has noted the facts in general but is not a study on subject of impact assessment of tourism activities on the sand dunes. From other material obtained by Chairperson and from the documents provided by the members of the Committee also it is clear that, neither the “District Environment Plan for Jaisalmer District” nor any material

provided to Committee are study report for the specific subject of *impact assessment of tourism activities on ecosystem nor study of impact of tourism on sand dunes and biodiversity*, therefore, the report and the materials are not useful for the Committee.

Consideration by the Committee:-

In the Committee's first meeting dated 23.02.2023, the learned member, committee, Mrs Teena Dabi, the District Collector, Jaisalmer informed that, no impact assessment of tourism activities on environment of the area has been done to find out the effects of activities held during *Maru Festival ('Maru Mahotsav)*. It was also pointed out that, this festival is held only for two days in a year and peak hours in two days are also limited. **However, the District Collector was also of the view that, since environment impact assessment of tourism activities for this reason has not been done, therefore, to allow commercial activates in sustainable way, the study is required.**

Mr. P. Jagan (CPCB), pointed out that, in pursuance of the order passed by the Hon'ble NGT in another matter, *District Environment Plan* has already been prepared for the Jaisalmer district wherein solution is already given to the issues. He was by the requested Chairperson to provide the copy of the said plan. (However, after perusal of the said report, we found the report is not of any help to the Committee).

Shri Anand Kumar, Joint Director, Tourism, GOR, informed the Committee that **Maru Mahotsav is organised only for two days in a year and that too, only for two house in a day. Therefore, according to him, there is no harmful effects of these activities.**

Shri Mahesh Dutt, Purohit, representative of the Regional Office, MOEF & CC informed that the MOEF & CC is a regulatory body and it has no role in environment assessment. **It was suggested by him that, impact assessment should be carried out before and after peak time of activities.**

Shri Sujan Chand Meena, Sr. Scientist, CAZRI, RRS, Jaisalmer informed the Committee that, the **CAZRI has not conducted any environment impact assessment due to the activities referred above.**

Shri Amrit Lal Jingar, Add. SP, Jaisalmer informed that the **tourism season in this area is from the month of Oct. to Feb. every year.**

In the Committee's meeting dated 23.02.2023 it was resolved that:-

1. The District Administration shall inform the committee about the various activities carried out in the peak tourist seasons and the impacts of all these activities on the environment.
2. All the committee members directed to submit information/views/comments/suggestion and any report related to environmental issue of Sam & Khuhdi sand dunes near, Jaisalmer closed to the Desert National Park (DNP) by 28.02.2023.
3. All the committee members shall submit the questionnaire forwarded to them earlier latest by 28.02.2023.

Next Committee web-meeting was convened on 14.03.2023. In the notice itself, the members of Committee were informed that in the “*District Environment Plan for Jaisalmer District*” doesn’t deal with the issues which are under consideration before the Committee. The Chairperson could get the paper, “*THAR DESERT BIOSPHERE RESERVE AND CONSERVATION OF PHYTODIVERSITY OF THAR* by Prof. Dr. M.M. BHANDARI, J.N. Vyas University, Jodhpur. In this paper, several years ago warning was given in this way: -

“... the desert environment is a stage of a tense drama – the drama for the struggle for survival. Yet man, animal and plants of the desert survive and manage to live together by adapting their life styles to the vagaries of the habitat in which they live.

This relationship between the various components of the ecosystem is complex. Understanding this complex character of the ecosystem is a fundamental challenge, which is faced by the environmentalists today. A balanced ecosystem of any area is self-regulatory. However, even a minor effort to disturb this balance might create problem of far reaching consequences. Since the structure of the ecosystem comprises, the biological community consisting of producers and consumers, slightest fluctuation between the proportion of producers and consumers immediately disrupts this balance.”

“Therefore, conservation of biodiversity at all costs should rightfully be considered as an element of National Security. National Security will be strongest in countries that care for their biodiversity.

Indiscriminate collection and extraction of biodiversity resources without an opportunity for them to resurge and rejuvenate, conversion of land use for development and other purposes, destruction of forests have raised question about the conservation and sustainable use of biodiversity in the interest of the survival of the planet. (Emphasis supplied)

The committee members were duly informed that, after considering the “*District Environment Plan for Jaisalmer District*” and the views expressed by the committee members Chairperson is also of the view that, “..... **subject of Environment Impact Assessment on Ecosystem of Thar Desert with special reference to sand dunes of Sam and Khuhdi needed to be studied as no specific study appears to have been done till today.**

In the notice to convene the Committee meeting on 14.03.2023, suggestion was given that, since CAZARI is world’s renowned institution and working on Thar Desert and it has it’s office in the Jaisalmer District itself, the CAZARI may enlighten the Committee on the subject matter.

In the committee’s meeting on 14.03.2023 the various aspects were considered in detail:-

1. Mr. Jagdish Aashiya, SDM-Jaisalmer, representative of District Collector Jaisalmer who is on leave today) informed that **in compliance of the Hon’ble Tribunal’s Order dated 3.2.2023, directing administration to take steps** for stopping hazardous activities undertaken without requisite permissions, placing suitable sign boards at appropriate locations, preparing and issuing requisite SOP, take steps to enforce provisions of Water Act, Air Act, EP Act, Wildlife Protection Act and other sustainable tourism and sustainable development practices without any delay, a meeting was convened by the District Administration, Jaisalmer with Sam Welfare Society and Gram Panchayat Sam and various stakeholders and following decisions were taken, which are as follows: -

A. Till now **jeep safari** related activities were uncontrolled/irregular and over speeding and no specific location for their conduction was identified but it was decided in the meeting that in future jeep safari will be done only at one location i.e. at Laxman Basti. And a route map/Action Plan will be prepared for jeep safari.

B. **Camel Safari** used to be done at different places from Kanoi to Sam village, but it was decided that in future camel safari shall only be carried out at only one place i.e. at Sam Sand Dunes.

C. It was also decided that **adventure activities** like parachute, paragliding, hot balloon etc. would be conducted only at Damodara village.

D. The site for the **Waste Management Facility** has been selected and the site will be handed over to the Sam Welfare Society very soon, on which the work of disposal and management of Liquid/Solid Waste will be done by the Sam Welfare Society.

E. After 10:00 pm, the **night music system, laser and light shows** shall not be allowed.

F. Planning is in process to conduct Environmental Impact Assessment. (Emphasis supplied)

So, the administration has already taken some steps to regulate the tourist and connected activities. However, in this submission also, it has been made clear that, the **district administration is waiting for the Environmental Impact Assessment.**

Shri P. Jagan, Regional Director, CPCB, Bhopal submitted that, the said **place should be visited**, so that the current situation there, could be ascertained in consultation with the stakeholders, local villagers and Gram Panchayat. During discussion **he also informed that Environmental Impact Assessment is a time consuming process. Sh. P. Jagan said that the conversion of Sand Dunes to Green land is acceptable w.r.t environmental angle because they reduce air pollution , but impact on ecological may vary due to this.**

M. Patidar & Mr. S.C Meena (Scientist -CAZARI)- It was told by Sh. M. Patidar that they have not carried out any study on the effects of the biodiversity and livestock of sand dunes due to tourism activity. **CAZARI is especially dealing with sustainable growth of agriculture activities and environment is a big field. Our aim is not to convert desert land to Greenland but it is sustainable utilisation of area.** Sh. Patidar suggested to Committee that Zoological Survey of India (ZSI) might have carried such type of study, so suggestion can be taken from ZSI.

Mr. Aashish Vyas (DCF DNP Wildlife Jaisalmer) - **Mr. Vyas informed that due to all above referred activities, the wildlife has been adversely impacted. Then Hon'ble Chairman told to Sh. Vyas to submit report on impact of wildlife due to irregular/uncontrolled tourism activity.** DCF wildlife also informed that, Eco Sensitive Zone (ESZ) and proposal of ESZ is up to 0-1 Km area from periphery of DNP has been forwarded to Ministry of Environment and

Forest. Until appropriate order is issued, 0-1 Km of ESZ area is notified, the restrictions shall be considered for up to 10 kms area. Chairman said that a copy of the proposal letter of 0-1 km should be made available to the committee members.

Mr. Mahesh Dutt Purohit (Joint Director/Scientist D- MoEF&CC, GoI)-Joint Director IRO, briefed about Eco Sensitive Zone /Buffer Zone/Silence Zone etc. He also said that every NP/WLS/TH has by default 0-10 KM area which is marked as Eco Sensitive Zone and it may be reduced after approval from Govt.

Dr Artabandhu Sahoo (Director- National Research Centre on Camel, Bikaner) - Dr. Sahoo presented his view that Camel is Environment friendly animal and the **camel is an important animal component of the fragile desert eco-system.** With its unique biophysiological characteristics, the camel has become an icon of adaptation to challenging ways of living in arid and semi-arid regions. **Camel is not easily adversely impacted due to above said activity. However, Dr. Sahoo said that as per census of camel population has reduced from 4 lakh to 2.5 Lakh, due to sociological, economical and may be ecological/environmental issue.** Chairman asked to Director, ICAR, whether any study/research has been made w.r.t. adverse effect on camel/camel generation due to change in environment of sand dunes.

Mr. Anand Kumar Tripathi (Joint Director Tourism, GOR) - Anand Tripathi said that **tourism is the backbone of Jaisalmer's economic activities, thousands of people here get employment through tourism activities and run their homes. The tourism activities takes a higher jump only during the winter season.** In Jaisalmer, people come here to see the havelis, forts and lakes, as well as to see **the sand dunes, which are the centre of attraction.** And **the tourists who come here want to stay near sand dunes, hence hotel and resort activities are prevalent there.** **He also said that activity which disturbs wildlife/environment will be now in controlled way.**

In the Committee meeting dated 14th March 2023, it was directed that:-

1. All the concerned officer/departments to give suggestion/ comment/ information/ letter/ proposal/ action plan/ views/ study paper/ research paper/ annual reports etc. which are related to environmental issue of Sam & Khuhdi Sand dunes near, Jaisalmer closed to the Desert National Park (DNP) within stipulated time so can report can be

prepared for timely submission before Hon'ble National Green Tribunal, in compliance of order dated 03.02.2023.

2. On suggestion of CPCB Regional Director, it was decided that the field visit of the said area shall be scheduled in the third week of April, 2023 i.e., 17/04/2023 as per Chairman's consent.
3. All the members of the committee were directed to submit their suggestions/ information's as asked during the meeting within a week.

As mentioned above, after the Committing meeting dated 14th March 2023, the Applicant submitted his written submission and in addition to that, the R.O. Jaisalmer informed the Chairperson, via mail dated 29.03.2023, that,

1. As per the Environmental Impact Assessment Notification (EIA) dated 14/09/2006 and subsequent amendments, Ministry of Environment and Forest, New Delhi, had clearly listed projects and activities (Schedule) which require prior Environmental Impact Assessment report, which is annexed as Annexure-A.

As per the schedule, recreational activities are not covered under its ambit.

2. Environmental Study w.r.t ecological and socio- economic impact of tourism activities on Sam and Kuhdi sand dunes from Institute of National repute viz, NEERI, Nagpur, PdCor, CSIR etc. may be taken/ conducted.
3. Baseline data of ambient air, water quality and noise levels w.r.t pre and post tourist activities may be conducted.

This raise a very important and serious issue. Because, if Notification dated 14.09.2023 is read as desired to be read than the activities which prompted the Applicant to approach the tribunal and impact of such activities (recreational activities) on environment cannot be assessed than how these activities can be regulated, is a question which this committee cannot decide. Regulating activities require restrictions and restriction can be reasonable and reasonableness require reasons and the reasons can be accepted which are based on studies. Therefore, looking to limited role of the Committee, Committee is leaving this question for Hon'ble NGT's decision.

Even after such plea in para 1 of the said communication, the R.O. Jaisalmer, obviously, on behalf of the State Pollution Control Board, in the same communication suggested that, **Environmental Study w.r.t ecological and socio- economic impact of tourism activities on Sam and Khuhdi sand dunes from Institute of National repute viz, NEERI, Nagpur, PdCor, CSIR etc. may be taken/ conducted. Baseline data of ambient air, water quality and noise levels w.r.t pre and post tourist activities may be conducted.**

The Committee members are of the view that before giving any suggestions by the committee to protect ecosystem of the sand dunes of the *Sam* and *Khuhdi* situated in the district of the Jaisalmer in the state Rajasthan, expert body should be constituted to study the subject in detail. Looking to the limited duration of this Committee and since **Environmental Impact Assessment is a time consuming process.** The Committee cannot get any report from the sub-committee within time remaining with the Committee, even if any sub-committee is appointed.

Since, it also has been pointed out that, the area in question is a desert area and very sparsely populated, therefore, it is necessary to collect environmental data of the region before the start of tourist season and data at peak of season. **The doubts have been raised to the extent, whether, the tourist activities in this particular area will have any adverse environmental effects or not?** But Committee is not influenced by this doubt as *Maru* Mahotsav may be celebrated in two days but tourist season is well spread, from October to February, that is, five months every year. The number of activities and having about 130 hotels, 1,000 camel safari, 4,000 jeep safari, adventurous activities like paragliding, paramotoring and parasailing for five months a year and serious allegations of large number of unregulated activities affecting sanitation and hygiene are very serious issues which can be taken care only after a very detail and long study. Since no impact assessment report has been placed before the committee, the Committee is of opinion that, impact assessment of tourism activities on sand dunes of *Sam* and *Khuhdi* be given to expert body.

Since, Committee members are of the opinion that, the subject required study by the expert committee, the Chairperson sought views of the Central Arid Zone Research Institute, (CAZRI), Jodhpur that, whether, the CAZRI can undertake this task of study "**impact of tourism on sand dunes**". Representative of CAZRI, Shri Sughan Chand Meena, Sr. Scientist, CAZRI, RRS, Jaisalmer informed the Committee that, the **CAZRI has not conducted any such study nor an expert body for this subject.** Some information taken from the website of the CAZRI ("From

Director's Desk") show that CAZRI, "is a constituent of the Indian Council of Agricultural Research (ICAR) - an autonomous organisation of Department of Agricultural Research and Education (DARE), Ministry of Agriculture and Farmers Welfare, Government of India. The institute owes its origin to Desert Afforestation Research Station (DARS) that was established 1952 for undertaking research work on stabilization of sand dunes and establishment of shelterbelts. DARS was reorganized as Desert Afforestation and Soil Conservation Station (DASCS) in 1957 which was renamed as Central Arid Zone Research Institute (CAZRI) in 1959. The institute was brought under the umbrella of Indian Council of Agricultural Research (ICAR) in 1966." However, in the same message it mentioned that "**CAZRI is the only institute in the country exclusively mandated for conducting research on issues of arid zone ecosystem. The mandates of institute include conducting basic and applied research on sustainable farming systems, to act as repository of information on the state of natural resources and desertification processes, developing livestock-based farming systems and range management practices, and generating and transferring location-specific technologies.**"

Though there is mention of job of the CAZRI to "**conducting research on issues of arid zone ecosystem**" but that research on issues of arid zone ecosystem has not undertaken by the CAZRI, therefore, it will not be appropriate to assign this task to the CAZRI.

The Committee is of the view that:-

1. Large number of activities are unregulated and operators lack requisite skills and training. Sanitation and hygiene issues also remain. Regulation and monitoring is inadequate. Environmental norms are violated.
2. **The area has serious challenges of environmental protection and conservation** due to unregulated tourism activities.
3. Since the matter is yet sub judice before the Hon'ble NGT, Hon'ble NGT has given prima facie finding, in its order date 3rd March 2023 that, **the area has fragile eco system. Flora and fauna in the area inter alia includes Desert National Park, rare and endangered birds/animal species, rare vegetation, reducing camel population, loss of biodiversity, heat related issues, reduced water availability, dust**

and smoke pollution.” The Committee is of opinion, that the there is no view came to notice of the members of the Committee which may cast doubt on the petitioner’s, in sum and substance, contentions resulting in the observations in the above referred order dated 03.02.2023.

4. **While tourism generates wealth and employment on one hand, it threatens flora and fauna on the other unless suitable safeguards and regulations are adopted.** Therefore, instead of passing any order, and issuing directions, Hon’ble NGT, found that matter require study, “...study to balance economic activity with need to preserve ecologically fragile and sensitive areas for protection of inter-generational equity.”

Before the Committee, since facts are not in dispute and there are clear *prima facie* findings and observations from the Hon’ble National Green Tribunal, Principle Bench New Delhi, the Committee, with very active participation of the members is of the view that, since there is no earlier study on the effects of tourism on environment in question, the of Impact Assessment on the Sand Dunes of *Sam* and *Khuhdi* areas of the Jaisalmer District requires detail and long study of the environment of the areas in question. This study requires, study of the environment during desert festival season and at time of zero activity time. This task cannot be completed in this short time. The study requires appointing of a sub-committee as this Committee though has representation of number of departments. The departments and institutes have their own limitations, like, CAZRI, doesn’t deal with pollution matter nor relevant in impact assessment on environment because of tourism activities.

After circulating the proposed report among the members of the committee, one letter from “*Seema Jan Kalyan Samittee (Rajasthan), Jaisalmer*” dated 12.04.2023 and one report from OFFICE OF THE DY. CONSERVATOR OF FORESTS (WILDLIFE), JAISALMER dated 13.04.2023 are received by me via mail dated 17.04.2023.

According to the DCF Wildlife, Jaisalmer, the *Desert National Park Wildlife Sanctuary is one of the most beautiful and unique ecosystems of the country comprising of pristine rolling sand dunes, vegetated inter-dunal landscapes with stunted and sturdy vegetation, wildlife with special adaptations for surviving in the harshest of the climatic conditions and people with distinctive*

lifestyle. Desert National Park also has some iconic and rare desert wildlife like the Great Indian Bustard, Desert Fox, Desert Cat, Chinkara, Spiny Tailed Lizard, several species of vultures and raptors.

Tourists are offered experience packages like cultural nights, dune safari, camel safari, jeep safari, bird watching, wildlife photography, etc. by the resorts around the park. Cultural events in these resorts have increased the amount of light that is being emitted at night. ***This increase in luminosity in the area has the potential to disrupt the natural migratory and resting behaviours of animals, especially those which are nocturnal. Although there has been no direct study on the impact of resort lights on the animals here, the phenomenon of artificial light pollution adversely affecting wildlife has been well researched. Apart from the light, the resorts also host events and festivities, which cause an increase in noise (due to loudspeakers and/or fireworks). Sudden bursts of noise and light near the Park boundary during special festivities are also detrimental to wildlife and the Great Indian Bustards being reared in captivity near Sam, as a measure to recover their dwindling populations. (Emphasis supplied)***

While properly managed tourism activities are beneficial on many counts, unregulated tourism near Protected Areas may have some detrimental impacts on wildlife. ***Unregulated and uncontrolled tourism near Desert National Park has the potential to adversely impact wildlife directly or indirectly.there has been no direct study on the impact of tourism activities on the animals here, the threats from uncontrolled tourism activities near DNP.***

Be it as it may be, yet there is, according to DCF Wildlife, Jaisalmer, in the approved management plan of the DNP, some comments are there. These comments, we quote here:-

” Para- 3.12.4 Potential future threats

Tourism in *Sam* and *Khuri* are expanding and if not adequately controlled the waste generated in the hotels will invite scavengers that will turn to wildlife species during off season.

Para-5.3.7. Suppression of eco-tourism activities by the mass tourism

The economic benefits of tourism could not be made available to the villagers inside the park so far. A major setback to the efforts to promote ecotourism has been the role of ‘Touts’ locally known as ‘*Lapkas*’. Tourists are brainwashed and misled by the *Lapkas* to destination that offer maximum profit to them. Since the ecotourism activities run by the EDCs don’t have the financial flexibility to promote the *Lapkas*, very few tourists reach the Desert Wildlife Sanctuary to avail the tourism programmes. Local

EDCs will be allowed to realize environmental surcharge from tourists and this money will be utilized in maintaining the tourism spots inside DNP.

Para-6.4.7.1 Land pollution

- i. Signage should be installed in the tourism areas to sensitize the tourists about keeping the Desert clean.
- ii. Sufficient number of trash bins should be kept for collecting the trash along the tourist roads and tourism spots inside the sanctuary.
- iii. A plastic shredder machine should be established in the vicinity of Sam sand dunes and this should be run by the EDC to collect and process all the plastic wastes generated in the sanctuary.
- iv. The food waste generated by the camps should be disposed off by the respective camps strictly in accordance with the Solid Waste Management Rules.
- v. Entry gates should be installed in Sam Sand Dunes and the bottles and plastic wrappers should be controlled and insisted to be brought back by the tourists. Necessary mechanism should be developed for this.”

In sum and substance, according to DCF Wildlife, Jaisalmer also, unregulated tourism is not acceptable and through study Of impact of tourism on environment on sand dunes is required and tourism is required to be regulated.

In the same way, as is the opinion of the members of the Committee, “*Seema Jan Kalyan Samittee (Rajasthan), Jaisalmer*” by it’s letter dated 12.04.2023 submitted that, the forest department, without appropriate permission is, since last forty years allowing tourism activities in National Desert Park, which is eco-sensitive zone. It has not obtained permission from SPCB. According to Samittee, “Desert National Park is (in) Sam Sand dunes” (or sand dunes are in Desert National Park). According to Samittee, merely hundred meters from boundary of the park, buildings have been constructed which are illegal. Hundreds of tents have been installed just 500 meters away from Sand Dunes. There are illegal land transfer which smacks corruption. In some and substance, “*Seema Jan Kalyan Samittee (Rajasthan), Jaisalmer*” also is aggrieved because of unregulated tourism activities and other illegalities.

Above two new materials were placed before the Committee in the Committee’s meeting dated 17.04.2023 and were discussed and committee is of the opinion that these new material also is in consonance with the Committee’s opinion for obtaining experts report.

In the Committee's meeting dated 17.04.2023, Members had no objections to the proposed report except that, according to Mr. P. Jaggan, representative from CPCB, that the report must have relevant technical data. For this the Committee must inspect the site and get the data collections in its presence and must also take the views of all the stake holders. To the time limit of the Committee, Mr. P. Jaggan, suggested, instead of submitting this detailed report, one simple application for extension Committee's time period may be submitted. **Chairperson is of the view that, the subject referred to the Committee is not of general nature of environment problem of an area. Present time is not appropriate time for environment study of the area as on the day, before even the nodal officer was appointed by order of SPCB, the R. O. Jaisalmer informed Chairperson that by that time, in the month of February, most of the tourist already left the Jaisalmer.** It is relevant to note that, from mid of February, it was neither the peak season, nor mid-season, nor off season. In the opinion of the Chairperson, the total "normal environment" study time may be in summer, that is from May and then, the relevant study time may be from the month of September to end of January or till February. Season time, we have already taken note of in Committee's first meeting. It may be relevant to mention here that, the R. O. Jaisalmer (RPCB) has already collected data of present time. After the Committee Meeting R. O. Jaisalmer was directed to provide copy of the reports to the members of the Committee. A study of these data only shows that some environment issues are there even in no activity time and these violations of environment norms may not be due to only tourism activities. Hence, in the opinion of the Chairperson no purpose will be served by site visit by all the ten members of the Committee. And therefore, in the opinion of the Chairperson, **whether, to extend time for Committee be left to discretion of the Hon'ble Tribunal.** So far as, not to submit this detail report is concerned, Chairperson is of the view that whatever has been done by all the members of the Committee may be kept on the record of the Hon'ble Tribunal.

After considerations and detail deliberations the Committee is of the opinion that:-

1. The ecosystem of the area, apparently had real threats because of unregulated tourist and recreational activities.
2. The tourism is an important source of income to not only local residents but it also gives benefits to surrounding areas to Jaisalmer

District. Tourism is worldwide accepted source of income for the nations. Sam and the Kuhdi sand dunes are the most attractive places for the foreign and country's tourists. But damage to ecosystem cannot be accepted. Therefore, sustainable development is necessary.

3. Environment Impact Assessment on Ecosystem of sand dunes of Sam and Khuhdi areas needs to be studied as no specific study appears to have been done till today as per the views of all the members of the Committee.

4. Immediately expert's sub-committee is required to be constituted in view of the importance of the subject involving national economy, livelihood of local people and threat to environment. The NEERI, Nagpur, PdCor, CSIR etc. may be assigned to study the subject. Expert sub-committee may also take help of National Research Centre on Camel, Bikaner), Desert Medicine Research Centre, Jodhpur, Wildlife Institute of India (WII) Dehradun & Arid Forest Research Institute (AFRI) etc. Presence of all the member of this Committee in said study may not be relevant as some members of the Committee are not subject experts and they are necessary for effective implementation of orders and directions when issued.

5. Whether to extend time of this Committee is in the discretion of the Hon'ble Tribunal.

5. After the study report from the experts, appropriate orders and directions may be given to the authorities to ensure implementation of the order and directions.

6. Periodical implementation report may be placed before the appropriate department of the Government of Rajasthan for monitoring the tourism and connected activities.

There is some days delay in submitting this report before the Hon'ble Tribunal. The delay is due to non-availability of some of the members due to pre fixed engagements, official duties, long week- end holidays. The delay is regretted and humbly submitted that the delay may be condoned.

R. O. SPCB is directed to keep the record of the proceedings so that, if required by Hon'ble Tribunal, the record may be submitted.

Committee is humbly submitting this report before the Hon'ble Green Tribunal,
Principle Bench New Delhi for consideration.

Date 24 April, 2023

Justice Prakash Tatia (Rtd)

Chairperson,

for himself and on behalf of the Members of The Committee,

constituted by Hon'ble NGT in

Original Application No. 76/2023

Applicant: - Tapeswar Singh Bhati versus Respondent:-State of
Rajasthan