

Action Taken Report in the matter of Appeal No. 31/2022 titled as VivekKamboj&Ors. Vs. Union of India & Ors.

1. BACKGROUND

This Appeal has been preferred against forest clearance for diversion of 47.0919 ha. of forest land for construction of 4/6 lane of Gurugram Pataudi Rewari section of NH-352W. Stage-I clearance was granted on 27.10.2022 and Stage-II clearance was granted on 28.01.2022 by MoEF&CC and interim approval for felling of trees was granted on 27.12.2021 by PCCF, Haryana.

According to the appellants, Ministry of Road Transport and Highways Guidelines, 2018 are not being followed in terms of which expansion of highway should be on one side to avoid felling of trees on the other side. As per inspection report dated 30.07.2021, land is being acquired on either side of the road which makes felling of trees inevitable on both sides. The report is as follows:-

"xxx..... xxx.....xxx"

The details of the project show that user agency is acquiring land on either side of the road which makes felling of the trees inevitable."

It is further stated that the site where compensatory afforestation has been done is 300 km away from the site where trees are felled and thus such plantation is no compensation. This Tribunal has directed planting of ten trees for each tree cut in view of uncertainty of survival of plants.

We have heard learned Counsel for the applicant.

In short, the issue raised is to what extent cutting of trees is unavoidable and what can be best safeguards to compensate such cutting.

It is not disputed that construction and expansion of road network is a necessary amenity for movement of goods and persons. However, it is submitted that sustainable development requires that it should be consistent with the environmental concerns. Cutting of trees should only be allowed if inevitable and subject to suitable compensatory norms.

Having regard to above, we find it necessary to ascertain the factual position in respect of the project in question to determine whether intervention of this Tribunal is necessary in the matter.

Accordingly, a joint Committee of the District Magistrates and DFOs, Gurgaon and Rewari, Regional officer, MoEF&CC and State PCB may verify facts by undertaking visit to the site and interacting with the stakeholders, including the PP and submit a report within one month by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF. The report may particularly mention whether compensatory plantation is being considered 300 km away instead of contiguous areas/locations. The nodal agency will be the State PCB for coordination and compliance. A copy of the report may also be furnished to the NHAI, to enable it to file its response, if any. The Committee may ensure, by coordinating with the NHAI, that no irreversible illegality is committed in the process till the matter is further considered.

List for further consideration on 02.09.2022.

2. DETAIL OF INSPECTION

In compliance of the above said order dated 01.07.2022 received from the Member Secretary, Haryana State Pollution Control Board, Panchkula on dated 28.07.2022 through Email, the site was inspected by the joint team consisting of Dr. Vimal K. Hatwal, Additional Director (S), MoEF&CC, IRO, Chandigarh, Sh. Pradeep, HCS, Sub Divisional Magistrate, Pataudi, Sh. Siddarth Dahiya, Sub Divisional Magistrate, Rewari, Sh. Dinesh Yadav, Regional Officer, Haryana State Pollution Control Board, Dharuhera Region, Sh. Sandeep Singh, Regional Officer, Haryana State Pollution Control Board, Gurugram Region (South), Sh. Sunder Sambharya, Divisional Forest Officer, Rewari, Sh. Rajeev Tejyan, Divisional Forest Officer, Gurugram & Sh. Kashina TH, NHAI, IRCON on 28.07.2022. Complainant was contacted telephonically and as per his submission, there should be minimum tree fallen by adjusting the road widening in one side as and where possible. Attendance Sheet of the official/officers and site photographs are attached as **Annexure-1.**

Shisham	7	18	28	25	55	44	35	13	225	278.43
Kikar	10	25	54	96	98	63	21	6	373	356.26
Eucalyptus	-	2	18	24	7	4	-	4	59	3559.59
Misc	3931	1458	2208	1854	1233	616	259	105	11664	58.65
Total	3948	1503	2308	1999	1393	727	315	128	12321	4252.93

Rewari Divison:

Girth Class► Species▼	V	IV	III	IIA	IIB	IA	IB	Total	Volume M ³
Shisham	20	32	12	11	16	5	2	98	76.78
Kikar	15	43	69	81	45	10	2	265	261.45
Misc	1058	1270	822	416	76	31	13	3686	1407.00
Total	1093	1345	903	508	137	46	17	4049	1745.23

3. After scrutiny of the documents, Nodal Office sent this proposal through PARIVESH portal to the office of DFO, Rewari on 04.08.2020. The Handbook of Forest Conservation Act, 1980 and Forest Conservation Rules, 2003 (Guidelines and Clarifications) provides in para 2.5(i)(f) that in the case of projects implemented by the Central Government/PSUs, excluding Central Govt./Central PSUs Projects implemented by/through State Government and State Sector Projects implemented by the Central Government/PSUs, Compensatory Afforestation (CA) shall be raised and maintained at the cost of the user agency **on degraded forest land (DFL) twice in extent of the forest area diverted.** Only the forest lands having crown density below 40 percent is considered for the purpose of CA.
4. Therefore, for forest area to be diverted in Gurugram Division, a minimum of 72.293 ha. degraded forest land was required for undertaking CA plantation of 72,293 saplings and another minimum of 7.896 ha of degraded forest land was required for undertaking Additional CA plantation of 7896 saplings. Thus, the total degraded forest land required for CA for forest land diverted in Gurugram division as between 80.189 ha to 133.648 ha.

Due to non-availability of such a large patch of degraded forest land in Gurugram Forest Division, CA site was proposed at C-108 of Chandi Beat and C110, 111, 112 of Mandhana Beat, Thapli Block, Pinjore Range in Morni-Pinjore Division of Haryana which is approximately 280 KM from the project location where forest land has been diverted. This was also necessitated in view of the fact that Morni-Pinjore division is only having larger area in a stretch for undertaking CA of such extent.

5. For forest area to be diverted in Rewari Division, a minimum of 21.891 ha. degraded forest land was required for undertaking CA plantation of 21,891 saplings and another minimum of 8.274 ha of degraded forest land was required for undertaking Additional CA plantation of 8274 saplings. Thus the total degraded forest land required for CA and ACA in the present case for diversion of forest land in Rewari district was about 30.165 ha.

For forest land diverted in Rewari Division, CA site was proposed at Khasra no. 66, 67, 70, 71, 94, 95, 98, 99 of village Basduda in Khol Beat, Khol Block, Rewari Range in Rewari Division of Haryana which is approximately 25-30 KM from the project location where forest land has been diverted.

6. The proposal was examined by REC as per FCA guidelines and rules and Stage -I forest clearance was accorded vide Letter No. 9-HRC153/2021-CHA dated 27-10-2021. The user agency deposited Rs. 28,36,68,457 on 17-11-2021 for the CA and ACA. Subsequently, in accordance with Handbook of Forest Conservation Act, 1980 and Forest Conservation Rules, 2003 (Guidelines and Clarifications), Chapter 11, Para 11.2 felling permission of 8374 trees and 3948 plants in Gurugram forest Division and of 4049 trees and 4137 plants

in Rewari forest Division was given by PCCF, Haryana vide letter no. प्रशा -डी -तीन -9989/5435 dated 17-12-2021. The stage 2 approval for the diversion of forest land was accorded vide letter no 9-HRC153/2021-CHA dated 28.01.2022.

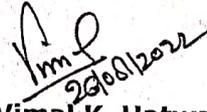
4. CONCLUDING REMARKS

Based upon the above report:-

During the field inspection, it was noted that the NHAI has started working on the project. Both in Gurugram and Rewari Forest Divisions, most of the trees for which permission has been granted by the Forest Department and MoEF&CC have been felled. Less than 5% of total trees remain standing for which it was informed by NHAI that these trees are required to be felled, but could not be felled on account of issues such as non-shifting of electrical lines.

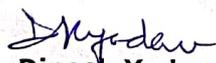
Action taken report is being submitted for kind consideration of this Hon'ble Tribunal, please.

DA/As above

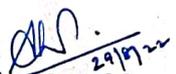

Dr. Vimal K. Hatwal,
Scientist 'E',
MoEF&CC, IRO, Chandigarh


Sh. Pradeep, HCS
Sub Divisional Magistrate,
Pataudi (Gurugram)


Sh. Siddarth Dahiya, HCS
Sub Divisional Magistrate,
Rewari


Sh. Dinesh Yadav,
Regional Officer,
HSPCB, Dharuhera Region


Sh. Sandeep Singh,
Regional Officer,
HSPCB, Gurugram Region (S)


Sh. Sunder Sambharya,
DFO, Rewari


Sh. Rajeev Tejyan,
DFO, Gurugram

MOE order dt. 01-07-2022 in Appeal No. 31 of 2022
 against Ms. Vinod Kambaj & Ors Vs Union of India & Ors.

Sl. No.	Name of officers & Designation	Department & Email-ID	mobile no	Signature
1.	Badeep IICJ SDM Patanch	Revenue sdmpatanchi@gmail.com	9990257777	
2.	Siddarth Dahiya SOM Rewari	-	7056756625	
3.	Dibech Takar RO - Dhaswara	HS PCB	9466791610	
4.	Sandeep Singh RO Gurgaon(S)	NS PCB	9891155555	
5.	Sunder Samtharys	DFO, Rewari	9416776910	
6.	Rajeev Tejyan	DFO, Gurgaon	8447134282	
7.	Dr. Vinod K. Nathwal Addl. Director(S)	MOEF & CE IRO CHD.	9464122468	
8.	KASHIWA TH	NHAI - IRCON	9079994089	



