

**IN THE HON'BLE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI**

O.A. No.228 of 2024 (SZ)
(Earlier O.A. No. 778/2024-PB)

IN THE MATTER OF:

**In News Item Titled Encroachers Eat Into Land Meant For Afforestation
appearing in the Bangalore Mirror Dated 02.07.2024 Vs Ministry Of
Environment Forest And Climate Change Regional Office**

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Certified that the above documents are the true copies of their originals.

Dated at Chennai on this the 21st day of November 2024.



Counsel for 1st Respondent

IN THE HON'BLE NATIONAL GREEN TRIBUNAL (SZ), CHENNAI

IN

O.A. No. 228/2024 (Earlier O.A. No. 778/2024-PB)

IN THE MATTER OF:

In News Item Titled Encroachers Eat Into Land Meant For Afforestation appearing in the Bangalore Mirror Dated 02.07.2024 Vs Ministry Of Environment Forest And Climate Change Regional Office.

Counter Affidavit On Behalf of Ministry of Environment, Forest and Climate Change (Respondent No.1)

IT IS MOST RESPECTFULLY SHOWETH:

I M.K Shambhu, S/o Vaijanath Shambhu, aged about 48 years, working as Deputy Inspector General of Forest, at Regional Office, Bengaluru of the Ministry of Environment, Forest and Climate Change ('MoEFCC', for short), do hereby solemnly affirm and state as follows:

1. That I am holding the post of Deputy Inspector General of Forest in the Ministry of Environment, Forest & Climate Change, Regional Office, Bengaluru. I have made myself acquainted with the facts and circumstances of this instant case and I have been duly authorized and empowered to make and swear this affidavit for and on behalf of the Ministry of Environment, Forest & Climate Change and I am competent to do so.
2. That, the deponent has been served with a copy of the said application in which the deponent have perused and understood the contents /allegations/ averments/

Maresh Kumar Shambhu
Deputy Inspector General of Forest(C)
Ministry of Environment, Forest & Climate Change
Regional Office, (Southern Zone),
Kendriya Sadan, Koramangala
Bengaluru-560034

statements and or tenor thereof made in the petition. At the outset, the deponent denies all averments, submissions; statements and allegations made therein except as may be specifically admitted herein after.

Statement of Facts

3. It is humbly submitted that the 'land' is a subject matter of State FC-7/21/2024-FC I/82265/2024 Government. The forest areas and the legal boundaries thereof are determined and maintained by the concerned State Government. That, *inter alia* , being the repository of land records, State Government has the primary responsibility to determine status of any parcel of land, giving due regards to gazette notifications, provisions under State and Central Acts and concerned judgments and directions of the Hon'ble Supreme Court.
4. It is submitted that prior approval of the Central Government under Section-2 (1) (ii) of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 is required for carrying out any non-forestry activity on forest land.
5. It is submitted that the answering respondent vide letter dated 21.02.2023 received a proposal for seeking prior approval of the Central Government under section 2 (1) of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 in favour of Executive Engineer, Karnataka, Neeravari Nigam Limited (KNNL), for non-forestry use of 575.0749 ha of forest land for the construction of dam

Digitally signed by Mahesh Kumar Shambhu
DN: cn=Mahesh Kumar Shambhu, o=Ministry of Environment, Forest & Climate Change, ou=Regional Office, (Southern Zone), c=India


Mahesh Kumar Shambhu
Deputy Inspector General of Forest(C)
Ministry of Environment, Forest & Climate Change
Regional Office, (Southern Zone),
Kendriya Sadan, Koramangala
Bengaluru-560034

across Markandeya River and ancillary infrastructure in forest lands of Gokak, Godachinamalki, Konnur and Mavanura villages in Gokak and Hukkeri Taluks, Belagavi District for storing 6 TMC of water under Ghatti- Basavanna Drinking Water Supply Project by KNNL, Govt. of Karnataka.

6. That after due deliberation of the proposal, the answering respondent vide letter dated 15.03.2023 requested the State Govt. to provide additional information vis-a-vis the proposal. The State Government. vide letter dated 31.01.2024 replied to the Ministry's letter dated 15.03.2023, however, certain shortcomings were observed in the reply of the State Govt. Thereafter, the answering respondent vide letter dated 23.02.2024 requested the State Government. to provide requisite information with respect to the said proposal, however the reply in this regard is awaited from State Govt. In addition, the answering respondent vide letter dated 23.02.2024 also requested its Regional Office Bengaluru to conduct a site inspection of the proposed site and submit a report. The Regional Office vide its letter dated 21.05.2024 has submitted a site inspection report (SIR) to this answering respondent. That upon examination of the said SIR, it was observed that encroachments are there on the areas proposed for Compensatory Afforestation (CA) which need to be exactly measured and delineated and excluded to make the CA land free from encumbrances. As per the report, about 100 hectares (in both NFL and DFL put together) is under encroachment. Taking into consideration the SIR, the answering respondent vide letter dated


Mahesh Kumar Shankhthi
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Bengaluru-560034

10.06.2024 asked the State Government to provide details and take action vis-à-vis the encroachment and other issues raised by the Regional Office in the SIR. The reply in this regard is awaited from the State Government. The copy of letter dated 10.06.2024 is annexed as **Annexure-1**.

7. It is respectfully submitted that this answering Ministry without prejudice reserves its right to file additional information till pendent-lite, if so required.
8. It is respectfully submitted that in view of the above-mentioned facts, the replying Respondents humbly pray that the Hon'ble Tribunal may be pleased to pass such order as deemed fit in the interest of the Justice.

Sgawf
DEPONENT

Mahesh Kumar Shambhu
Deputy Inspector General of Forest(C)
Ministry of Environment, Forest & Climate Change
Regional Office, (Southern Zone),
Kendriya Sadan, Koramangala
Bangaluru-560034

VERIFICATION

I, the above-named Deponent, do hereby verify that the contents of the above counter affidavit are true and correct to my knowledge as per the records of the answering respondents. No part of it is false and nothing material has been concealed there from. Verified at Bangalore on this 24th day of September 2024.

Sgawf
DEPONENT

Mahesh Kumar Shambhu
Deputy Inspector General of Forest(C)
Ministry of Environment, Forest & Climate Change
Regional Office, (Southern Zone),
Kendriya Sadan, Koramangala
Bangaluru-560034

Annexure-1

Government of India
Ministry of Environment, Forest and Climate Change
(Forest Conservation Division)

Indira Paryavaran Bhawan
Aliganj, Jorbagh Road
New Delhi – 110003
Dated: June, 2024

To,
The Additional Chief Secretary (Forests),
Department of Forest, Ecology and Environment,
Government of Karnataka
Bengaluru.

Subject: Proposal for seeking prior approval of the Central Government under section 2 (1) (ii) of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 in favour of Executive Engineer, Karnataka, Neeravari Nigam Limited (KNNL), for non-forestry use of 575.0749 ha of forest land for the construction of dam across Markandeya River and ancillary infrastructure in forest lands of Gokak, Godachinamalki, Konnur and Mavanura villages in Gokak and Hukkeri Taluks, Belagavi District for storing 6 TMC of water under Ghatti-Basavanna Drinking Water Supply Project by KNNL, Govt. of Karnataka. (Online Proposal No. FP/KA/WATER/65437/2020).

Madam/Sir

I am directed to refer to this office letter of even no. 23.02.2024 wherein certain information on the above mentioned subject have been sought. The reply is awaited. Further, it is to inform that the Regional Office Bengaluru vide 4-KRA1445/2023-BAN dated 21.05.2024 (**copy enclosed**) has submitted the Site Inspection Report for the instant proposal. After the examination of the said SIR, the State Government is requested to submit the information/ justification as pointed out by the RO Bengaluru in his SIR for further action in the matter:

- i. Many encroachments are found which need to be exactly measured and delineated and excluded to make the CA land free from encumbrances. As per the discussions with field functionaries, about 100 hectares (in both NFL and DFL put together) is under encroachment. Exact areas free from encumbrances may be given and balance shortfall shall be provided / uploaded on the portal. In this regard details and comments shall be submitted.
- ii. Planting has been done in some patches of CA land identified. The State Govt shall clarify in this regard.
- iii. The CA scheme may be modified to include SMC works and protection of the available vegetation, closing the land from biotic interference, along with enrichment activities for improved success as noted in the SIR.
- iv. How it has been categorized as a drinking water project and what are the parameters to term the project as one need to furnished. Further, number of proposed beneficiaries may also be provided.
- v. Since it is a major dam proposed over an inter-state river, the applicability of

- Central Water Commission's approval and its status shall be provided.
- vi. Since the proposal involves relocation of village with more than 200 families, the R&R plan as acceptable to the villagers should be in place. The status of R&R plan shall be provided along with comments.
 - vii. Further, as per SIR, with regards to the requirement of 12.95 ha forest land for Dam office, guest house, dam point view and utilities, which seem non-site specific in nature, the sites were seen and discussed with the UA and SFD. The UA has agreed to shift the View point (8.45 ha) and utility component (1.054 ha) to non-forest area. They have requested for retention of Dam office and Guest house in forest area due to strategic requirement. Accordingly the revised land use map/updated KML etc. shall be provided/uploaded.

In view of above the State Government is requested to submit the information/documents as mentioned above along with the reply to this office letter dated 23.02.2024 wherein certain information on the above mentioned subject were sought to this Ministry at the earliest.

Signed by

Dheeraj Mittal

Date: 10-06-2024 09:36:11

Yours faithfully,

(Dr. Dheeraj Mittal)

Assistant Inspector General of Forests

Copy to:

1. PCCF (HoFF), Government of Karnataka, Bengaluru.
2. DDGF (C) Regional Office, MoEF&CC, Bengaluru.
3. APCCF cum Nodal Officer (VSESA), 1980, Forest Department, Government of Karnataka, Bengaluru.
4. User Agency.
5. Monitoring Cell, FC Division, MoEF&CC, New Delhi.

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**COUNTER AFFIDAVIT
AND DOCUMENTS
FILED BY
1st RESPONDENT**

S. DIWAKAR

Counsel for 1st Respondent

9884670187