

BEFORE THE NATIONAL GREEN TRIBUNAL

SOUTHERN ZONE, CHENNAI

Original Application No.132 of 2024 (SZ)

In the matter of:

Udumalai Vivasayigal Paadhukapu Sangam

... Applicant(s)

Versus

The District Forest Officer

...Respondent(s)

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Through

Dr. D. Shanmuganathan

Standing Counsel of Tamil Nadu

National Green Tribunal

Southern Zone, Chennai

DATE:18.07.2024

**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI
Original Application No.132 of 2024**

In the matter of
Udumalai Vivasayigal Paadhukapu Sangam
Tiruppur District.

...Applicant

Versus

1. The District Forest Officer,
Anamalai Tiger Reserve,
Udumalpet Taluk,
Tiruppur District-642126

..Respondent

2. The District Collector,
The District Collector Office,
Tiruppur District- 641604.

3. Thali Town Panchayat,
Dhali Post,
Udumalpet Taluk,
Tiruppur District 642126.

4. Vinayaga & Co,
SF.No.186/1,
Possaripatti,
Dharapuram Main Road,
Pollachi- 642205.

STATUS REPORT FILED BY THE 1ST RESPONDENT

I, Devendra Kumar Meena, IFS S/o. Govind Ram Meena, Shimbhupura, Rajasthan, aged about 35 years, employed as District Forest Officer and Deputy Director do hereby solemnly affirm and sincerely state as follows:

1. It is respectfully submitted that I am the 1st respondent herein, and I am acquainted with the facts of the case based on the available records.
2. It is respectfully submitted that the respondent deals with only such portions of WP that are related to the jurisdiction of the 1st respondent and essential for the disposal of the same.
3. It is respectfully submitted that, unless borne by the records, I deny all the averments made by the petitioners, except those that are specifically admitted herein, and the petitioner is put to strict proof of the same.
4. It is respectfully submitted that this writ petition has been filed by the petitioners with prayer to restrain the respondents from proceeding with the construction of a new road from the base of the Western Ghat i.e. the Thirumoorthy Hills to Gurumalai i.e Kurumulai within the Udumalai Circle of Dhali Town Panchayat in the Tiruppur District, and pass such further or other orders as it may deem fit under the facts and circumstances of the case and thus render justice.
5. It is respectfully submitted that Anamalai Tiger Reserve is one of the Tiger Reserves of Tamil Nadu, lying in the Anamalai Hills of the Western Ghat. The Tiger Reserve is headquartered at Coimbatore, under the administrative control of Field Director. It has two divisions, i.e. Pollachi Division and Udumalpet Division, headed by the separate Deputy Directors. The Tiger Reserve is spread over 4 revenue talukas in 3 districts.
6. It is respectfully submitted that Anamalai Tiger Reserve possesses diverse fauna and flora and supports diverse habitat types including Shola Forests. The protected area of reserve includes three national parks and 2 wildlife sanctuaries. The Tiger Reserve is also a part of the Anamalai-Parambikulam Elephant Reserve. It supports several endangered wild animals and hosts several faunal and floral species endemic to the Western Ghat.
7. It is respectfully submitted that the Tiger Reserve is part of a larger tiger landscape in Western Ghat. It shares boundaries with Parambikulam Tiger Reserve and Munnar Wildlife Division, i.e. Chinnar Wildlife Sanctuary in Kerala and Kodaikanal Wildlife Sanctuary in Tamil Nadu.

8. It is respectfully submitted that there are seven forest settlements under administrative control located in Kurumalai Hills and adjacent areas in Udumalpet (Tiruppur) division. Out of 7 settlements, 4 forest settlements fall under the administrative control of Dhalli Town Panchayat, which is also the user agency for this proposed road. These include 2 ST settlements and 2 non-ST settlements. The remaining 3 forest settlements are under the administrative control of Ravanapuram Panchayat. About 400 STs and 1250 non-ST populations reside in these 7 forest settlements.

I respectfully submit that the mentioned forest stretch from Thirumoothimalai to Gurumalai or Kurumalai, for which the construction of a new road demanded by the residents of the settlement, is 8.4 Km in length. The complete stretch falls under the core zone of the Tiger Reserve.

9. With regard to averment made in Para 7, it is respectfully submitted that the proposed road poses a significant threat to the protected area since it is located in the Core Zone and hosts endangered faunal and floral species. Moreover, the terrain is too steep and undulating and is traversed by numerous water channels draining to the Palar River, which drains to the Tirumoothimalai dam. The entire area forms the watershed area of tributaries of the Kaveri River. The any change in landscape and disturbance to terrain may cause soil erosion thus negatively impacting the watershed area.

I also respectfully submit that there is an existing road from Kurumalai to Attakatti via upper Aliyar connecting six settlements to the Attakatti or Valaparai- Pollachi road.

10. With regard to averment made in Para 8, it is respectfully submitted that there is the presence of Bengal tigers, leopards, elephants and other scheduled 1 species either residing in this area or using the area for their movement. Other than that, there is a presence of diverse faunal and floral species in this forest area, including amphibians, reptiles, birds, and common and endemic plants etc. This area is also habitat for the Nilgiri Tahr, the state animal of Tamil Nadu. Any road construction work will negatively impact the ecosystem and wildlife habitat areas.

11. With regard to averment made in Para 9, it is respectfully submitted that necessary wildlife and forest clearances were not obtained for this road till now. The initiation of the work by the 3rd respondent and the 4th

respondent was stopped by the forest department which informed them about illegalities in the new road construction without prior forest and wildlife clearance. The villagers from Kurumalai and other 3 settlements also made multiple attempts in the months of March 2024 and April 2024 to clear the land for road formation, but it was stopped by the forest department by taking the necessary steps and actions.

12. With regard to averment made in Para 10, it is respectfully submitted that the proposed 8.4 km stretch has a lot of bends and curves and numerous water channels draining to the Palar River. The Kurumalai hill area has steep and undulating terrain. Any linear structure created in a protected area has a negative impact on wildlife and forests unless all mitigation measures suggested by the Wildlife Institute of India are incorporated and fully implemented.

It is also respectfully submitted that night traffic was banned on roads passing through Bandipur-Mudumalai Tiger Reserves and BRT-Sathyamangalam Tiger Reserves due to the negative impact of the road i.e. linear infrastructure passing through the core area of the tiger reserve, on the endangered wildlife.

13. With regard to averment made in Para 11, it is respectfully submitted that Section 2(b) Schedule Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, provides for the determination and notification of 'Critical Wildlife Habitats' within National Parks and Sanctuaries. The area is required to be kept inviolate for the purpose of wildlife conservation. The Critical Tiger Habitat, or Core Area, under section 38V of wildlife protection act 1972 has been already identified and notified. Whereas right holders under the Forest Right Act are permitted to exercise their rights in the Critical Tiger Habitat (CTH), the Critical Wildlife Habitat is yet to be declared. The area is necessary for the preservation of the Tiger Reserve. As per existing scientific knowledge, 800-1200 sq. km of inviolate core/critical habitat is required for a viable population of tiger. Therefore, the construction of a new road in the core area of tiger reserve, not being an existing right but the new developmental right, may pose the significant challenges to the tiger conservation. For this road, the necessary wildlife and forest clearances were not obtained.

14. With regard to averment made in Para 12, it is respectfully submitted that existing rights enjoyed by the residents of forest settlements received by the forest department have been cleared and recommended under the Forest Rights Act 2006.

I also respectfully submit that the user agency i.e. Dhali Town Panchayat, has applied for forest clearance under section 3(2) of the Forest Rights Act 2006. The application was made as per the procedure laid out by the Ministry of Tribal Affairs. As per the procedure, the Form A submitted by the user agency to the District Forest Office, Udumalpet. But submitted A form by the user agency was incomplete and incorrect. It was also communicated to the user agency through official communication dated 19.02.2024 and 23.04.2024. The detailed procedures for applying for forest and wildlife clearance through PARIVESH portal were explained to the user agency in direct meeting held in the month of Oct 2023 and Nov 2023.

I also respectfully submit that the forest clearance under Section 3(2) of FRA 2006 will be applicable subject to the two following conditions:

- i. The forest land to be diverted for the purposes mentioned in this sub-section 3(2) is less than one hectare in each case; and
- ii. The forest land to be diverted for the purposes mentioned in this sub-section 3(2) does not involve the felling of more than 75 trees per hectare.

I respectfully submit that with standard width of 3.5 meter, the forest area diverted for the road is 2.94 Ha and there are 493 existing trees in the proposed stretch. Therefore, the forest clearance under Section 3(2) of FRA 2006 may not be applicable. The road attracts the provisions of the Forest Conservation Act 1980 i.e. Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980. The user agency didn't receive the necessary forest clearance under both acts. Moreover, there is existing road available connecting the settlements to the main road.

15. I respectfully submit that Section 3(2) of FRA 2006 exempts developmental activities from the Forest Conservation Act 1980 only. As the section 13 of FRA 2006 is excerpted here

"Save as the otherwise provided in this Act and the Provisions of the Panchayats (Extensions to the Scheduled Areas) Act, 1996 (40 of 1996), the provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force."

Therefore, the other acts, which are in force and not exempt, shall apply accordingly. The Ministry of Environment, Forest and Climate change reference F.No.8-6/2020/WL/dated .10.2020 also confirms that the Wildlife Protection Act 1972 will be applicable to the developmental activities proposed under Section 3(2) of FRA 2006. Therefore, wildlife clearance from the National Board of Wildlife (NBWL) is necessary and the same was not obtained by the user agency. The mandatory requirement of wildlife clearance for this project has been communicated to the user agency through official communication on 07.06.2023 and 22.02.2024.

16. It is respectfully submitted that on 19.10.2015 through advisory letter, Principal Chief Conservator of Forests (Head of Department) has also communicated the mandatory requirement of permission from National Board of Wildlife along with FCA clearance if the land concerned is forest land for construction of road in core zone of Tiger Reserve.

17. It is respectfully submitted that as per the handbook of guidelines for effective and transparent implementation of the provisions of Forest (Conservation) Act, 1980, the Standing Committee of NBWL has clarified regarding consideration of proposals of roads within Protected Areas that new roads shall not be proposed inside the National Park and the Wildlife Sanctuary under Forest Conservation Act 1980.

18. With regard to averment made in Para 13, 14, and 15, it is respectfully submitted that there is an existing road connecting the settlements to the Attakatti, Valaparai- Pollachi road. The repair and maintenance of this road, along-with the creation of non-linear developmental activities under Section 3(2) such as primary health centre, anganwadis, and community centres within the boundary of the settlement village may be favorable to meeting their basic needs for which this road is being sought.

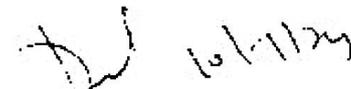
I respectfully submit that the construction of a new road poses a significant threat to wildlife habitat, biodiversity, and the ecological balance. It may increase human-wildlife conflicts due to increased movement, endangering the safety and wellbeing of the local communities and wildlife. It may also have significant negative impact on the people living in forest fringe villages who are directly and indirectly benefited by the forest and biodiversity present therein.

19. It is respectfully submitted that the Standing Committee of National board of Wild Life (NBWL) did not approve the use of 0.02 Ha of forest land from these settlement area of core zone of Anamalai Tiger Reserve for installation of mobile tower.

20. It is respectfully submitted that such attempts to construct a new road will not be permitted in future unless the necessary wildlife and forest clearance is received by the user agency before commencing any work. Similarly, such attempts to clear the land for road through the forest settlement people will also be thwarted

It is therefore humbly prayed that this Hon'ble Court may pass such direction or order as this Hon'ble Court may deem fit under the facts and circumstances of the case and thus render justice.

Signature:-


Deputy Director,
Anamalai Tiger Reserve,
Udumalpet - 642126.

Date:-10.07.2024.

VERIFICATION

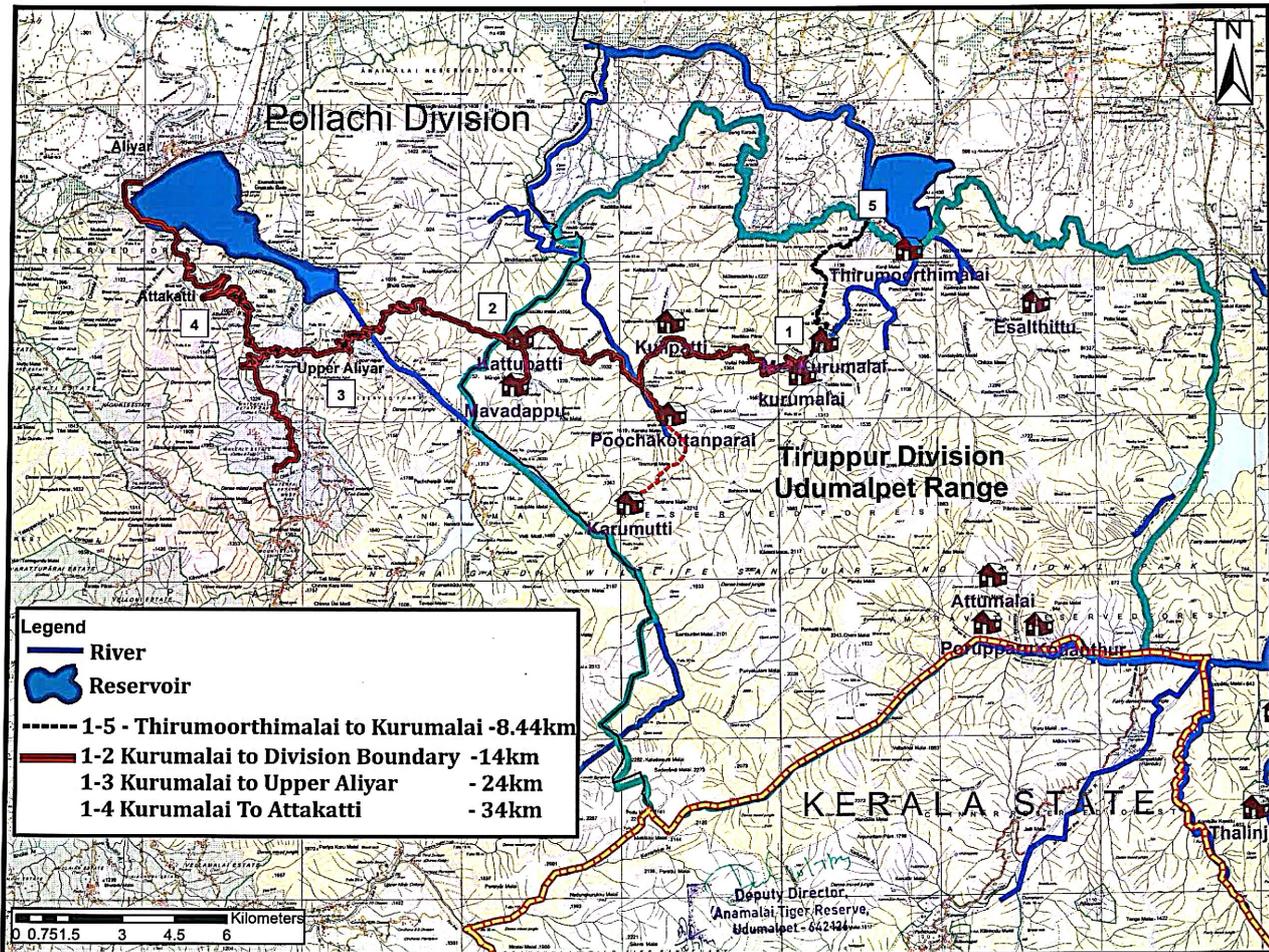
I, Devendra Kumar Meena, IFS S/o. Govind Ram Meena, Shimbhupura, Rajasthan, aged about 35 years presently discharging my duties as Deputy Director, Anamalai Tiger Reserve, Udumalpet Solemnly affirm that the contents of this Report are true to the best of my knowledge based on the records and I have not suppressed any facts.

Signature:-

 10/7/24
**Deputy Director,
Anamalai Tiger Reserve,
Udumalpet - 642126.**

Date:- 10.07.2024.

Map Showing Forest Settlements in Tiruppur Division and Roads connecting to the settlements





கருக்கம்

ஆதிதிராவிடர் மற்றும் பழங்குடியினர் நலம் - பழங்குடியினர் மேம்பாடு - 2023-2024-ஆம் ஆண்டிற்கான அடிப்படை உட்கட்டமைப்பு வசதிகள் மேம்படுத்தும் திட்டம் - திருப்பூர் மாவட்டத்தில் திருமலைமூர்த்தி மலை முதல் குருந்த மலை வரை (3150 மீ) சாலை அமைத்தல் - ரூ.49.00 இலட்சம் நிதி ஒப்பளிப்பு - ஆணை வெளியிடப்படுகிறது.

ஆதிதிராவிடர் மற்றும் பழங்குடியினர் நலத் (பமே(2)) துறை

அரசாணை (நிலை) எண்.171

நாள்:08.12.2023

சோபகிருது வருடம், கார்த்திகை-22,

திருவள்ளூர் ஆண்டு-2054,

படிக்கப்பட்டது:-

இயக்குநர், பழங்குடியினர் நலம் அவர்களின் கடித நக எண்.
பமே/அ3/5661/2023, நாள்:16.10.2023.

.....

ஆணை

மேலே படிக்கப்பட்ட பழங்குடியினர் நல இயக்குநரின் கடிதத்தில், 2023 - 2024 ஆம் ஆண்டிற்கான அடிப்படை உட்கட்டமைப்பு வசதிகள் மேம்படுத்தும் திட்டத்தின் கீழ் பழங்குடியின மக்கள் வாழும் பகுதியில் அடிப்படை வசதிகளை ஏற்படுத்த திருப்பூர் மாவட்டத்தில் திருமலைமூர்த்தி மலை முதல் குருந்த மலை வரை (3150 மீ) சாலை அமைக்கும் பணியினை ரூ.49.00 இலட்சம் செலவினத்தில் மேற்கொள்ள அரசாணை வழங்கிடுமாறு கேட்டுக்கொண்டுள்ளார்.

2. பழங்குடியினர் நல இயக்குநரின் கருத்துருவினை அரசு கவனமுடன் ஆய்வு செய்து, அதனை ஏற்று, 2023-2024-ஆம் ஆண்டிற்கான அடிப்படை உட்கட்டமைப்பு வசதிகளை மேம்படுத்துதல் திட்டத்தின் கீழ், திருப்பூர் மாவட்டத்தில் திருமலைமூர்த்தி மலை முதல் குருந்த மலை வரை (3150 மீ) சாலை அமைப்பதற்கு ரூ.49.00 இலட்சம் (ரூபாய் நாற்பத்து ஒன்பது இலட்சம் மட்டும்) நிதி ஒப்பளிப்பு செய்து அரசு ஆணையிடுகிறது.

(த.பி.பா.)

2.

3. மேலே பத்தி இரண்டில் ஒப்பளிப்பு செய்யப்பட்ட தொகை கீழ்க்காணும் கணக்குத் தலைப்பின்கீழ் பற்று வைக்கப்படவேண்டும்:-

“4225 ஆதிதிராவிடர், பழங்குடியினர், ஏனைய பிற்படுத்தப்பட்ட வகுப்பினர் மற்றும் சிறுபான்மையினர் நலன் குறித்த மூலதனச் செலவு 02 - பழங்குடியினர் நலன் 800 ஏனைய செலவு - மாநிலச் செலவினங்கள் AB - பழங்குடியின மக்கள் அதிகமாக வாழும் கிராம பகுதிகளில் அடிப்படை உட்கட்டமைப்பு வசதிகள் மேம்படுத்துதல் - 416 பெரும் பணிகள் - 01 பெரும் பணிகள்.”

(IFHRMS DPC: 4225-02-800-AB-41601)

4. மேலே பத்தி இரண்டில் ஒப்பளிக்கப்பட்ட தொகையினை பழங்குடியினர் நல இயக்குநர் பெற்று பேரூராட்சி துறை மூலம் வழங்க அரசு அனுமதி அளித்து ஆணையிடுகிறது.

5. மேலே பத்தி இரண்டில் ஒப்பளிக்கப்பட்ட தொகைக்கான செலவினத்தை பயன்படுத்தியதற்கான சான்றிணை குறிப்பிட்ட காலக் கெடுவிற்குள் அரசுக்கு அனுப்பி வைக்குமாறு பழங்குடியின நல இயக்குநர் கேட்டுக் கொள்ளப்படுகிறார்.

6. அரசாணை (நிலை) எண்.334, நிதி (வரவு செலவு / பொது.1) துறை, நாள்.22.10.2022-ன்படி இவ்வாணைக்கு நிதித்துறையின் இசைவு பெறத் தேவையில்லை.

(ஆளுநரின் ஆணைப்படி)

க. லட்சுமி பிரியா
அரசு செயலாளர்

பெறுநர்

இயக்குநர், பழங்குடியினர் நலம், சென்னை-5.

மாவட்ட ஆட்சித் தலைவர், திருப்பூர் மாவட்டம்.

மாவட்ட ஆதிதிராவிடர் மற்றும் பழங்குடியினர் நல அலுவலர் /

திட்ட அலுவலர், திருப்பூர் மாவட்டம்.

பேரூராட்சி துறை, தனி பேரூராட்சி, திருப்பூர் மாவட்டம்.

மாநிலக் கணக்காய்வுத் தலைவர், சென்னை- 18/35.

சம்பளம் மற்றும் கணக்கு அலுவலர், சென்னை-8.

-3-

நகல்

நிதித் (ஆதி(ம)பந) துறை, சென்னை-9.

மாண்புமிகு அமைச்சர் (ஆதிதிராவிடர் நலம்) அவர்களின்

சிறப்பு நேர்முக உதவியாளர், சென்னை-9

ஆதிதிராவிடர் மற்றும் பழங்குடியினர் நலத்துறை

அரசு செயலாளர் அவர்களின் தனிச் செயலர், சென்னை-9.

ஆதிதிராவிடர் மற்றும் பழங்குடியினர் நலத் (ஆதிந.5/அநமு.1) துறை, சென்னை-9.

இருப்புக் கோப்பு / உதிரி நகல்.

//ஆணைப்படி அனுப்பப்படுகிறது//

சி.பி.பி.
8.12.2023
பிரிவு அலுவலர்
8.12.2023