



Odisha Biodiversity Board

(Forest & Environment Department, Government of Odisha)

Regional Plant Resource Centre Campus
Ekamrakanan, Nayapalli, Bhubaneswar 751 015 Odisha

No. Estt. 134/OBB/2020/4016 Bhubaneswar

Date: 2.12.20

From

Dr. Nihar Ranjan Nayak
Member Secretary

To

**The Hon'ble National Green Tribunal,
Principal Bench
New Delhi**

Sub: Submission of Final Compliance Report on O.A. no. 347 of 2016 Chandra Bhal Singh-Vrs-Union of India & Others before the National Green Tribunal, New Delhi-Reg.

Sir,

In inviting a reference to the Judgment passed by the Hon'ble National Green Tribunal, New Delhi dated 18.3.20 on the matter of O.A. no. 347 of 2016, Odisha Biodiversity Board is submitting herewith the "Final Compliance Report" on behalf of the State of Odisha on the above mentioned matter. The Compliance Report is enclosed herewith for kind information.

Yours faithfully,

Nihar R Nayak
2-12-2020

Member Secretary
Member Secretary
Odisha Biodiversity Board

Encl: As above.

**BEFORE THE PRINCIPAL BENCH OF THE HON'BLE NATIONAL
GREEN TRIBUNAL, NEW DELHI (O.A. No. 347 of 2016)**

Chandra Bhal Singh Applicant
Vs. Respondent(s)
Union of India & others

**FINAL REPORT IN COMPLIANCE WITH THE ORDERS OF THE HON'BLE
NATIONAL GREEN TRIBUNAL**

I, Dr. Nihar Ranjan Nayak, S/o Sri Dandapani Nayak, aged 51 years presently in charge Member Secretary, Odisha Biodiversity Board, a statutory body functioning under the Forest and Environment Department, Government of Odisha and headquartered in Bhubaneswar, having office at Regional Plant Resource Centre Campus, Nayapalli, Bhubaneswar, on behalf of State of Odisha, do hereby solemnly state and affirm as under:-

1. That, the deponent is the Member Secretary, Odisha Biodiversity Board and in course of discharge of his official duties, deponent has become conversant with the fact of the instant case and being duly authorized on this behalf by the State of Odisha, the deponent is fully competent to swear the present compliance report.
2. That, the Hon'ble National Green Tribunal in the present case, had issued, *inter alia*, directions vide Order dated 9.8.2019 for constitution of Biodiversity Management Committees (BMCs) and preparation of Peoples' Biodiversity Registers (PBRs) in all states by 31.1.2020.
3. That, In pursuance to Section 22 of the Biological Diversity Act, 2002, Odisha Biodiversity Board has been constituted by the state Government under the administrative control of Forest and Environment Department, Government of Odisha, vide notification number 10F (TR) 61/2008/18823/F&E, dated 11.11.2009. The Board is functioning since then to implement the legal provisions of the

Biological Diversity Act 2002 & Rules 2004 in the state with full effect. In exercise of the powers conferred by sub-sections (1) and (2) of Section 63 of the Biological Diversity Act 2002 (No. 18 of 2003), the State Government has notified Odisha Biological Diversity Rules, 2012 vide notification No-10-F(TR)52/2012/22461/ F & E., dated 03.12.12. The main objective of Odisha Biodiversity Board is to implement the Biological Diversity Act, 2002 which envisages conservation of biodiversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resources and associated traditional knowledge. Along with other activities, the Board is to facilitate constitution of Biodiversity Management Committees (BMC) and preparation of Peoples' Biodiversity Registers (PBR) at District, Block and Gram Panchayat levels and in all Urban Local Bodies in the State.

4. That, the status of constitution of Biodiversity Management Committees (BMC) and preparation of Peoples' Biodiversity Registers (PBR) in Odisha by 30th November, 2020 is given below.

Constitution of Biodiversity Management Committees (BMCs):

Odisha Biodiversity Board, with the technical and administrative support of Panchayati Raj & Drinking Water Department, Housing and Urban Development Department and Forest & Environment Department, Government of Odisha, has facilitated and completed constitution of **7,256** BMCs out of total **7,256** local bodies and achieved **100%** success towards constitution of Biodiversity Management Committees (BMCs) at all levels i.e. District, Block, Gram Panchayat and Urban Local Bodies. The details are provided below:

District level		Block level		Gram Panchayat level		Urban local body level		Total	
Total no. of Districts	BMC constituted	Total no. of Blocks	BMC constituted	Total no. of Gram Panchayats	BMC constituted	Total no. of Urban local bodies	BMC constituted	Total local bodies	Total BMC constituted
30	30	314	314	6798	6798	114	114	7256	7256 (100%)

Preparation of Peoples' Biodiversity Registers (PBRs):

Odisha Biodiversity Board through its own effort and in consultation with the BMC members and other experts has facilitated the preparation of 7256 Dynamic PBRs (100%) in the State till 30th November 2020.

District level		Block level		Gram Panchayat level		Urban local body level		Total	
Total no. of Districts	PBR prepared	Total no. of Blocks	PBR prepared	Total no. of Gram Panchayats	PBR prepared	Total no. of Urban local bodies	PBR prepared	Total local bodies	PBR prepared
30	30	314	314	6798	6798	114	114	7256	7256 (100%)

5. That, the Board has earlier submitted affidavit on the matter of O.A. 347/2016 in February 2020, Interlocutory Application in May 2020 and Compliance Report on 30.9.20 vide letter no. 133/OBB/2020/3908 dated 30th September 2020. Copies of the affidavit, IA and Compliance Report are enclosed for kind information. As mentioned in these affidavits, it is very much difficult to obtain huge amount of funds from the State/Central Government required for the preparation of PBRs in the current situation of COVID-19 pandemic. It has also been very difficult to carry out inventories of bioresources through Participatory Rural Appraisal (PRA) exercises, household surveys, collect primary and secondary informations and other required exercises for the preparation of PBRs due to the existing restrictions in travelling and conducting meetings. Keeping in mind all these constraints, the Board has developed a web based application hosted at **www.pbrodisha.in** for the preparation PBRs on line to comply the orders of Hon'ble National Green Tribunal in short period of time. The Board will provide log in credentials to all the Biodiversity Management Committees constituted in the state to input data as per the prescribed formats in electronic form. The scientists and subject experts of the PBR monitoring Committee constituted by the Board will supervise and monitor the veracity of data and quality of PBRs. However, it is still not being possible on the part of

trained and sensitized on local biological resources and traditional knowledge possessed by these communities have to be recorded through Participatory Rural Appraisal (PRAs), house hold interviews, individual interviews and in consultation with village heads and traditional knowledge-holders.

9. That, authentic and recorded data are being collected from various Government Departments like District Statistical office, Forest and Environment Department, Agriculture Department, Horticulture Department, Fisheries and Animal Resources Department, Panchayati Raj and Rural Department, ST & SC Department, Housing and Urban Development Department, Health and Family Welfare Department, Universities, colleges, research organizations, and other academic institutions, NGOs, SHGs, volunteers and other local bodies.
10. That, Odisha is a developing State in the country and at present, facing severe financial crunch due to the economic impact caused by the ongoing country-wide and localised lockdowns/shutdowns in order to fight against spread of Corona virus (COVID-19). The Government of Odisha has also ordered financial austerity measures to cut short nonessential expenditures. In such a peculiar situation along with financial crisis, the compensation of Rs. 10.00 lakhs per month starting from 01.02.2020 till full compliance of the orders of the Hon'ble NGT Dt. 09.08.2019 and Dt.18.03.2020 to pay to the Central Pollution Control Board (CPCB) by State of Odisha is not possible in view of the current financial situation.
11. That, with all humility, it is submitted that Government of Odisha is committed to carry out all of the above activities required for enriching the Dynamic PBRs once the COVID-19 pandemic in the country is over.

12. It is, therefore, humbly prayed that in view of the unusual crisis due to rise of the novel Corona virus (COVID-19) pandemic and consequent financial constraints of the State, the Hon'ble National Green Tribunal may sympathetically consider to waive out the penalties imposed on the State of Odisha for delay in completion of 100% constitution of Biodiversity Management Committees (BMCs) and preparation of Peoples' Biodiversity Registers (PBRs) by 31.01.2020 in compliance of the order of Hon'ble National Green Tribunal Dt. 09.08.2019 and 18.03.2020 or pass any such order or further direction(s), this Hon'ble Tribunal deems fit and proper in the facts and circumstances stated above.


2/12/2020

**Member Secretary
Odisha Biodiversity Board
Bhubaneswar
Member Secretary
Odisha Biodiversity Board**



Odisha Biodiversity Board

(Forest & Environment Department, Government of Odisha)

Regional Plant Resource Centre Campus
Ekamrakanan, Nayapalli, Bhubaneswar 751 015 Odisha

No. Estt. 133/OBB/2020/ 3908 Bhubaneswar

Date: 30.9.2020

From

Dr. Nihar Ranjan Nayak
Member Secretary

To

**The Hon'ble National Green Tribunal,
Principal Bench
New Delhi**

Sub: Submission of Compliance Report on O.A. no. 347 of 2016 Chandra Bhal Singh-Vrs-
Union of India & Others before the National Green Tribunal, New Delhi-Reg.

Sir,

In inviting a reference to the Judgment passed by the Hon'ble National Green Tribunal, New Delhi dated 18.3.20 on the matter of O.A. no. 347 of 2016, Odisha Biodiversity Board is submitting herewith the "Compliance Report" on behalf of the State of Odisha on the above mentioned matter. The Compliance Report is enclosed herewith for kind information.

Yours faithfully,

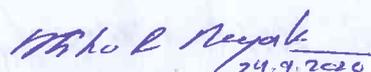
**Member Secretary
Member Secretary
Odisha Biodiversity Board**

Encl: As above.

Compliance Report of Odisha Biodiversity Board on the Constitution of Biodiversity Management Committees (BMCs) and Preparation of Peoples' Biodiversity Registers (PBRs) in accordance with the orders passed by the Hon'ble National Green Tribunal, New Delhi on matter of O.A. 347/2016

I, Dr. Nihar Ranjan Nayak, Member secretary, Odisha Biodiversity Board on behalf of State of Odisha, having office at Regional Plant Resource Centre Campus, Nayapalli, Bhubaneswar, do hereby solemnly state and affirm as under:-

1. That, the deponent is the Member Secretary, Odisha Biodiversity Board and in course of discharge of his official duties, deponent has become conversant with the fact of the instant case and being duly authorized on this behalf by the State of Odisha, the deponent is fully competent to swear the present compliance report.
2. That, the Hon'ble National Green Tribunal in the present case, had issued, *inter alia*, directions vide Order dated 9.8.2019 for constitution of Biodiversity Management Committees (BMCs) and preparation of Peoples' Biodiversity Registers (PBRs) in all states by 31.1.2020.
3. That, In pursuance to Section 22 of the Biological Diversity Act, 2002, Odisha Biodiversity Board has been constituted by the state Government under the administrative control of Forest and Environment Department, Government of Odisha, vide notification number 10F (TR) 61/2008/18823/F&E, dated 11.11.2009. The Board is functioning since then to implement the legal provisions of the Biological Diversity Act 2002 & Rules 2004 in the state with full effect. In exercise of the powers conferred by sub-sections (1) and (2) of Section 63 of the Biological Diversity Act 2002 (No. 18 of 2003), the State Government has notified Odisha Biological Diversity Rules, 2012 vide notification No-10-F(TR)52/2012/22461/ F & E., dated 03.12.12.


24.9.2020

Member Secretary
Odisha Biodiversity Board

The main objective of Odisha Biodiversity Board is to implement the Biological Diversity Act, 2002 which envisages conservation of biodiversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resources and associated traditional knowledge. Along with other activities, the Board is to facilitate constitution of Biodiversity Management Committees (BMC) and preparation of Peoples' Biodiversity Registers (PBR) at District, Block and Gram Panchayat levels and in all Urban Local Bodies in the State..

4. That, the status of constitution of Biodiversity Management Committees (BMC) and preparation of Peoples' Biodiversity Registers (PBR) in Odisha by 21st September, 2020 is given below.

Constitution of Biodiversity Management Committees (BMCs):

Odisha Biodiversity Board, with the technical and administrative support of Panchayati Raj & Drinking Water Department, Housing and Urban Development Department and Forest & Environment Department, Government of Odisha, has facilitated and completed constitution of **7,090** BMCs out of total **7,256** local bodies and achieved **98%** success towards constitution of Biodiversity Management Committees (BMCs) at all levels i.e. District, Block, Gram Panchayat and Urban Local Bodies. The details are provided below:

District level		Block level		Gram Panchayat level		Urban local body level		Total	
Total no. of Districts	BMC constituted	Total no. of Blocks	BMC constituted	Total no. of Gram Panchayats	BMC constituted	Total no. of Urban local bodies	BMC constituted	Total local bodies	Total BMC constituted
30	12	314	191	6798	6773	114	114	7256	7090 (98%)

Though some more BMCs might have been constituted by the Panchayati Raj & Drinking water Department, the documents/informations have not been received by Odisha Biodiversity Board due to complete/partial/localised lockdowns and shutdowns in view of COVID-19 pandemic in the country. The required data under the current situation

M. K. Nayak
24/9/2020

Member Secretary
Odisha Biodiversity Board

can't be collected from District, Block and Gram Panchayat level functionaries because all the state machineries are functioning in the fight against the corona virus pandemic and the situation is unavoidable at the present time.

Preparation of Peoples' Biodiversity Registers (PBRs):

Odisha Biodiversity Board through its own effort and in consultation with the BMC members and other experts has facilitated the preparation of 2264 Dynamic PBRs (31%) in the State till 21.9.20. Preparation of rest of the Dynamic PBRs is under progress.

District level		Block level		Gram Panchayat level		Urban local body level		Total	
Total no. of Districts	PBR prepared	Total no. of Blocks	PBR prepared	Total no. of Gram Panchayats	PBR prepared	Total no. of Urban local bodies	PBR prepared	Total local bodies	PBR prepared
30	21	314	0	6798	2243	114	0	7256	2264

- That, the Board has earlier submitted affidavit on the matter of O.A. 347/2016 in February 2020 and Interlocutory Application in May 2020. Copies of the affidavit and IA are enclosed for kind information. As mentioned in these affidavits, it is very much difficult to obtain huge amount of funds from the State/Central Government required for the preparation of PBRs in the current situation of COVID-19 pandemic. It has also been very difficult to carry out inventories of bioresources through Participatory Rural Appraisal (PRA) exercises, household surveys, collect primary and secondary informations and other required exercises for the preparation of PBRs due to the existing restrictions in travelling and conducting meetings. Keeping in mind all these constraints, the Board has developed a web based application hosted at www.pbrodisha.in for the preparation PBRs on line to comply the orders of Hon'ble National Green Tribunal in short period of time. The Board will provide log in credentials to all the Biodiversity Management Committees constituted in the state to input data as per the prescribed formats in electronic form. The scientists

M. K. Nayak
24.9.2020

Member Secretary
Odisha Biodiversity Board

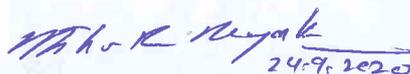
and subject experts of the PBR monitoring Committee constituted by the Board will supervise and monitor the veracity of data and quality of PBRs. However, it is still not being possible on the part of Panchayats to fill the data in the PBR in the web application due to the current COVID-19 pandemic situation prevailing in the State, where all the staffs of Panchayats are involved in handling the COVID-19 situation. Till 21st September 2020, the number of active cases crossed 30,000 mark. The Sarpanches of the Gram Panchayats have been given special authority by the State Government and the Panchayat staffs have been engaged to deal with the situation.

6. That, under the above circumstances, the Board has further accelerated its effort to obtain as much information from various line Departments of the State. Further, adequate numbers of dedicated Junior Research Fellows and staffs have been engaged for the online entry of information with consultation BMC members for the preparation of Dynamic PBRs. In this process, the Board may be able to complete the preparation of PBRs by 31st December 2020.
7. That, the People's Biodiversity Registers are legal as well as technical documents, which need to be prepared by the BMCs as per Rule 22(6) of the Biological Diversity Rules 2004. It contains comprehensive information on plants, animals and other biological resources, knowledge and perception of local people, traditional knowledge associated with bioresources of the particular area and also on landscape and peopescap. Thus the PBRs are dynamic documents where addition of new informations would continue to be added and the PBRs would continue to be updated on getting new informations
8. That, with a view to provide inputs for the PBR formats prescribed by the National Biodiversity Authority in 2013, comprehensive study and collection of data on demography, landscape, peopescap, local markets, traditional practitioners, flora, fauna and other local


24.9.2020
Member Secretary
Odisha Biodiversity Board

biological resources and traditional knowledge associated with them are essential. Importantly, first-hand information through multi-seasonal studies has to be collected through field survey and resource inventories. Identification of plants and animals also require expert consultations and assistance of subject specialists on different plant and animal groups. To achieve this goal, BMC members have to be trained and sensitized on local biological resources and traditional knowledge possessed by these communities have to be recorded through Participatory Rural Appraisal (PRAs), house hold interviews, individual interviews and in consultation with village heads and traditional knowledge-holders.

9. That, authentic and recorded data are being collected from various Government Departments like District Statistical office, Forest and Environment Department, Agriculture Department, Horticulture Department, Fisheries and Animal Resources Department, Panchayati Raj and Rural Department, ST & SC Department, Housing and Urban Development Department, Health and Family Welfare Department, Universities, colleges, research organizations, and other academic institutions, NGOs, SHGs, volunteers and other local bodies.
10. That, Odisha is a developing State in the country and at present, facing severe financial crunch due to the economic impact caused by the ongoing country-wide and localised lockdowns/shutdowns in order to fight against spread of Coronavirus (COVID-19). The Government of Odisha has also ordered financial austerity measures to cut short nonessential expenditures. In such a peculiar situation along with financial crisis, the compensation of Rs. 10.00 lakhs per month starting from 01.02.2020 till full compliance of the orders of the Hon'ble NGT Dt. 09.08.2019 and Dt.18.03.2020 to pay to the Central Pollution Control Board (CPCB) by State of Odisha is not be possible in view of the current financial situation.


24.9.2020

Member Secretary
Odisha Biodiversity Board

11. That, once the COVID-19 pandemic in the country is over, the compliance of the order of the National Green Tribunal will be the first priority of the state in this matter. It will take a reasonable time to get the situation under control. Till that period the waiver of the fine may kindly be granted by the Hon'ble Court.
12. That, with all humility, it is submitted that Government of Odisha is committed to achieve 100% formation of BMCs and preparation of Dynamic PBRs at all levels till 31st December 2020 or after normalization of the present COVID-19 pandemic situation in the State.
13. It is, therefore, humbly prayed that in view of the unusual crisis due to rise of the novel Corona virus (COVID-19) pandemic and consequent financial constraints of the State, the Hon'ble National Green Tribunal may sympathetically consider to waive out the penalties imposed on the State of Odisha for delay in completion of 100% constitution of Biodiversity Management Committees (BMCs) and preparation of Peoples' Biodiversity Registers (PBRs) by 31.01.2020 in compliance of the order of Hon'ble National Green Tribunal Dt. 09.08.2019 and 18.03.2020 or pass any such order or further direction(s), this Hon'ble Tribunal deems fit and proper in the facts and circumstances stated above.


24/9/2020

Member Secretary
Odisha Biodiversity Board
Bhubaneswar

Member Secretary
Odisha Biodiversity Board

✓ 28

NOTE SHEET

Letter from the Secretary, NBA, seeking the updated status of BMC & PBR in the state following the order of NGT, New Delhi, put up at 166/c for his personal. The updated status of BMCs, constituted and PBRs prepared in the state put up at 167/c for his personal. If approved the same may be communicated to NBA through email only.

for his approval.

Member Secretary

Joseph
11/2/20

May be sent by mail.

Amud
11/2/20

The National Green Tribunal, Principal Bench, New Delhi in the matter of O.A.-No. 347/2016 passed a judgement for constitution of BMCs and preparation of PBRs at District, Block, GP levels and also in all Urban Local Bodies of Odisha. As per the order of NGT dt 9.8.2018 an affidavit needs to be filed stating the current progress and constraints for constitution of BMCs and preparation of PBRs on or on 31/1/2020.

Chief Secretary, Odisha, may be requested through P&E Dept to authorize the Chairman, OBB to file an affidavit on behalf of the State of Odisha.

Chairman

Amud
11/2/20

As mentioned above for the above said purpose the Chairman OBB may be authorized to file affidavit on behalf of State of Odisha.



NOTE SHEET

127



Draft affidavit is placed for
kind review and approval of
ACS

12/2

Additional chief Secretary
Forest and Environment department /

No. ANO-35/ACSP&E
12.02.2020

~~C.S~~

12/2
Additional Chief Secretary
Forest & Env. Department

[Signature]

Chief Secretary,
Odisha

Discussed with Div. environment and
NBA. its new ten. direction
MS please file affidavit
on behalf of the board

[Signature]

~~MS~~ Affidavit signed and ^{shall} handed over personally to
Sr. Shashank Bajpai, Adv. Advocate at New Delhi
on 14/2/20.

13/2/20

As instructed draft affidavit put up for
your signature and onward transmission to
Mr. Shashank Bajpai, Adv. State of Odisha
for further necessary action

Member Secretary

[Signature]
13/2/20

13.2.20

Item No.2

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 347/2016
(I.A. No. 471/2019, M.A. No. 15/2020,
M.A. No. 22/2020& M.A. No. 23/2020)

Chandra Bhal Singh

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 18.03.2020

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

For Applicant(s): Mr. Saurabh Sharma, Advocate

For Respondent(s): Mr. Sashi Juneja, Advocate for State of J&K
Ms. Aastha Mehta, Advocate for State of
Gujarat
Mr. Mukul Singh, Advocate for MoEF&CC
and NBA
Ms. Amrita Sharma, Advocate for State of
Karnatka

ORDER

1. This order is being passed in continuation of order dated 09.08.2019. The issue for consideration is the remedial action for non-compliance of provisions of the Biological Diversity Act, 2002 (the Act) and Biological Diversity Rules, 2004 (the Rules) in as much as Biodiversity Management Committees (BMCs) have not been constituted as per Section 41 of the Act and People's Bio Diversity Registers (PBRs) have not been maintained, as required under Rule 22(6).

2. The Act was enacted to provide for conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits and for matters connected therewith or incidental thereto with a view to give effect to the United Nations Convention on Biological Diversity (CBD) which came into force on 29.12.1993. The Act seeks to regulate access to biological resources and fair and equitable sharing of benefits arising out of utilization of biological resources by constituting National Biodiversity Authority (NBA) to advise the Central Government and the State Governments on steps towards conservation of biodiversity, sustainable use of its components, equitable sharing of benefits and allied issues. The Act also contains provision for establishment of State Biodiversity Boards to advise the State Government on the subject. The Central Government has to develop national strategies, plans and programmes for conservation and promotion and sustainable use of biodiversity. At local level, every local body has to constitute BMCs. The Rules based on CBD provide that the BMC is to prepare PBRs containing comprehensive information on availability and knowledge of local biological resources, their medicinal or any other use and Traditional Knowledge (TK) associated with them.

3. This Tribunal issued notices to all the States and Union Territories, Boards and Authorities. The matter has been considered on several dates in the last two years. It is not necessary to refer to all the proceedings. Some State Boards have filed their respective affidavits mentioning the steps taken for enforcement of the Act and the Rules.

25

4. Vide order dated 12.04.2019, noticing huge gap in constitution of BMCs and preparation of PBRs, this Tribunal directed the said steps to be completed within three months and a report filed by MoEF&CC. The States which remained non-compliant were asked to furnish their explanation.

5. The matter was thereafter considered on 09.08.2019 in the light of the report of MoEF&CC dated 02.08.2019, the Tribunal observed:-

“ 5. A report dated 02.08.2019 has been filed by the MoEF&CC to the effect that the Principal Secretaries of Panchayat Raj and Rural Development Departments were asked to expedite the setting up of the BMCs and three regional meetings were held with all the States and the State Biodiversity Boards. The statistics show that as against the need to constitute 317519 BMCs, 155838 BMCs have been constituted and 6868 PBRs have been documented, while 1692 PBRs are still in progress. The BMCs constituted are about 50%. The number of PBRs appears to be less than the PBRs reported earlier.

6. Having regard to the laudable objective to meet the necessity of conservation of biological diversity, delay of more than 16 years in complying with the mandate of law is a matter of serious concern.

7. We regretfully note that the matter on PBR progress noted is 'zero' in the States of Arunachal Pradesh, Bihar, Chhattisgarh, Gujarat, Jammu & Kashmir, Karnataka Madhya Pradesh, Manipur, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh and West Bengal. On the subject of BMC, there is zero progress in Bihar and Jammu & Kashmir.

8. This inadequate progress is in spite of repeated directions of this Tribunal. We asked all the learned counsel appearing in the matter to suggest a reasonable mechanism for ensuring compliance of law with a penal consequence for any further defaults.

*9. **India is one of the recognized mega-diverse countries of the world, harbouring nearly 7-8% of the recorded species of the world, and representing 4 of the 34 globally identified biodiversity hotspots. India is also a vast repository of traditional knowledge associated with biological resources. So far, over 91,200***

species of animals and 45,500 species of plants have been documented in the ten biogeographic regions of the country. 5 The indigenous and local community are a repository of traditional knowledge and their knowledge and practices help in conservation and sustainable development of the biodiversity. In the past, India has already faced biopiracy6. There is, thus, urgent need to document the knowledge of the local community in the form of PBR.

10. As per certain studies7, PBRs help the State and the local community to become aware of the valuable resources being harvested in their area which can be utilised for the overall social and economic development of the State. Furthermore, PBRs also help in conservation of the traditional practices and knowledge of the local community. Studies on the issue of access and benefit sharing (ABS)8, show that non establishment of BMCs and absence of PBRs deprives the local community of the advantage of the biological resources. PBRs not only document the knowledge, they also help in identification of benefit claimers.

11. In above background, having considered the submissions made by the learned counsels, we direct as follows:

- (i) The Chief Secretaries of all the States, where the defaults are continuing, may consider giving a warning to the Panchayat Secretaries for their past failures, recording the same in their service record and give direction to the officers who are responsible for the job to ensure compliance with 100% constitution of BMCs and PBRs by 31.01.2020 failing which coercive measures may have to be considered against them. The Chief Secretaries may evolve a mechanism for ensuring a monthly meeting to be attended by the Chairman and Member Secretaries of State Biodiversity Boards, Secretaries, Panchayat, Environment and Forest starting from September, 2019.
- (ii) The States will be accountable for the defaults and required to deposit a sum of Rs. 10 lakhs per month each from 01.02.2020 with the CPCB to be utilized for restoration of the environment. The States will be at liberty to recover the said amount from the persons committing the default.
- (iii) The MoEF&CC and National Biodiversity Authority may hold a review meeting every

124

month from September 2019 till the above task is completed.

- (iv) *The MoEF&CC may file a compliance report after collecting the necessary data from all the States on or before 15.02.2020. The Monitoring Committee of the MoEF&CC may oversee the quality of PBRs on sample basis by evolving a suitable mechanism.”*

6. Accordingly, a final report has been filed by the National Biodiversity Authority, Chennai on behalf of the MoEF&CC giving status of the formation of Biodiversity Management Committees (BMCs) and preparation of Peoples Biodiversity Registers (PBRs) in the local bodies as on 31.2020. The report inter-alia is as follows:

“ As can be seen, there has been an increase of 32.5% in BMC constitution and an increase of 32.7% in PBR formation since the Order of the Hon’ble National Green Tribunal dated 09.08.2019:-

As on 26/07/2016 (when the OA was filed before the Hon’ble Tribunal)		As on 31/07/2020 (Based on which the Tribunal had issued Orders on 09/08/2019)		As on 31/01/2020 (January 2020)	
BMCS formed	PBRs prepared	BMCS formed	PBRs prepared	BMCS formed	PBRs prepared
9700	1,388	1,55,838	6,868	2,43,499	95,252

3. *As already informed in the Interim Report, the National Biodiversity Authority had written to the Chief Secretaries of all States on 08/11/2019 to take necessary action to comply with the Orders of the Hon’ble Tribunal to complete the process of BMC formation and PBR preparation within the stipulated time frame as instructed by the Hon’ble Tribunal.*
7. *PBR is a dynamic document and it has to capture all the biological resources available in the local body in all the four seasons. Besides evaluating the PBRs. The PBR Monitoring Committee constituted by the NBA based on approval by MoEF&CC would be assisting the SBBs to evolve a mechanism to complete the PBRs in an expeditious manner.”*

7. We have also perused the written submissions filed on behalf of the applicant on 16.02.2020 commenting about the compliance as follows:

“4. That a perusal of the Compliance Report dated 13.02.2020 shows that:-

- (i) Out of 2,75,220 local bodies, BMCs have been constituted in 2,48,140 local bodies. This implies that present compliance rate is more than 90%. In the following States and Union Territories: Assam, Goa, Himachal Pradesh, Kerala, Maharashtra, Sikkim, Tripura and Lakshadweep the compliance with respect to BMC constitution is 100 %.*
- (ii) Out of 2,48,140 BMCs, PBRs have been prepared by 95,252 BMCs. This implies that more than 61% of the BMCs are yet to prepare their PBRs. It is important to note that while in the Union Territory of Jammu and Kashmir, State of Bihar and Rajasthan none of the BMCs have prepared their PBRs till date while Uttar Pradesh has achieved 100% target in PBR preparation.”*

8. The applicant has also given comments about the quality of the PBRs, status of collection of fees by the BMCs, status of funding of BMCs and status of access and benefit sharing (ABS).

9. We find that since there are still defaults in the constitution of BMCs and preparation of PBRs within the stipulated time fixed by this Tribunal, the defaulting States are liable to pay compensation in terms of order dated 09.08.2019 from 01.02.2020. The Act was enforced in 2002. The Rules came into force in 2004. Any further delay is not conducive to rule of law. The States cannot be allowed to plead incompetence or inability of carrying out mandate of law, undermining public interest. We may note that in absence of PBRs, regulation for conservation of biodiversity is affected. The Tribunal dealt with a matter in O.A. No. 57/2018 vide order dated 30.07.2019 where concretization within the blue line of Krishna river was found hampering biodiversity at the river bed. The

23

Hon'ble Supreme Court in Civil Appeal No. 6563/2019, *Wai Municipal Council v. Jeevitnadi Living River Foundation & Ors.*, against the above order of NGT, observed, vide order dated 30.08.2019:-

"We are satisfied that concretization has been done within the prohibited zone, which has hampered the ground seepage and biodiversity at the river bed."

10. There are other similar instances including order of this Tribunal dated 20.02.2020 in O.A. No. 385/2019, *Centre for Wildlife v. UOI* for preservation of great Indian Bustard by removing powerlines from the flight path of the said bird. This matter was also dealt with by the Hon'ble Supreme Court vide order dated 18.02.2019 in Civil Appeal No. 838/2019, *M. K. Ranjitsinh & Ors. V. UOI & Ors.* It is not necessary to multiply similar other instances but the fact remains that the issue is great significance and urgency.
11. In view of the above, we do not find any merit in the applications seeking extension of time. The States may ensure compliance and for the delay, compensation has to be paid as already directed. Only exception which may have to be made is for Jammu & Kashmir and Ladakh on account of developments in the wake of Jammu & Kashmir Reorganization Act, 2019 and peculiar situation which prevailed as mentioned in the affidavit dated 11.02.2020 filed on behalf of the UT of J&K. The time in respect of UTs of J&K and Ladakh will stand extended up to 31.10.2020. For delay beyond the said date, compensation at the same rate as applicable to other States/UTs will be payable from 01.11.2020.

In view of the above, I.A. No. 471/2019, M.A. No. 15/2020, M.A. No. 22/2020 & M.A. No. 23/2020 are dismissed.

12. We are informed that the National Biodiversity Authority of India has prepared and placed on its website a model PBR for guidance of the States. The said model may be revised in the light of other available models. By way of example, reference is made a model prepared by the State of Nagaland.¹ Other similar models may also need to be looked into. The model so revised may be placed on the website within one month from today.

13. The MoEF&CC may continue to monitor the situation and file an updated status report as on 31.08.2020 before 30.09.2020. The stand of the applicant with regard to quality of the PBRs and other issues may be looked into and response filed before the next date by email at judicial-ngt@gov.in. CPCB may take steps to recover compensation from the defaulting States in terms of earlier orders.

List for further consideration on 07.10.2020.

Adarsh Kumar Goel, CP

Sheo Kumar Singh, JM

Dr. Nagin Nanda, EM

March 18, 2020
Original Application No. 347/2016
(I.A. No. 471/2019, M.A. No. 15/2020,
M.A. No. 22/2020& M.A. No. 23/2020)
AK

¹ <http://gef-satovama.net/wp/wp-content/uploads/2017/11/Kivikhu-People%E2%80%99s-Biodiversity-Register.pdf>

Item No. 02

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 347/2016
(I.A. No. 471/2019)

Chandra Bhal Singh

Applicant(s)

Versus

Union of India & Ors. -

Respondent(s)

(Report filed in O.A. No.347/2016, I.A. No. 471/2019 filed for exemption of personal appearance on 09.08.2019 of the Special Principal Chief Conservator of Forest and Member Secretary of Assam State Biodiversity Board)

Date of hearing: 09.08.2019

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

For Applicant(s): Mr. Saurabh Sharma, Advocate

For Respondent (s): Mr. Leishangthem Roshmani Kh., Ms. Anupama Ngangom, Ms. Maibam Babina, Advocates for State of Manipur
Mr. Ayush Acharjee, Ms. Ishita Sachdeva, Advocates for PCC-DD&NH
Mr. Shurodeep Roy, Mr. Vinayak Gupta, Advocates for State of Assam
Mr. Shurodeep Roy, Mr. Kabir Shankar Bose, Advocates for State of Tripura
Ms. Kuchira Gupta, Mr. Anurag Sharma, Advocate for Goa State Bio Diversity Board
Mr. Rahul Khurana, Advocate for Haryana State Bio-Diversity Board
Mr. Edward Belho, Ms. Hoineithiam, Advocates for State of Nagaland
Mr. G. Indira, Mr. K.V Jagdishvaran, Advocates for Andaman and Nicobar Administration
Mr. Nishe Rajen Shonkar, Mr. Alim Anvar, Advocate for State of Kerala

21
163
301

Mr. Raja Chatterjee, Mr. Piyush Sachdev, Ms. Runamoni Bhuyan, Advocates for State of West Bengal
Mr. Devraj Ashok, Advocate for Karnataka State Bio Diversity Board
Mr. Darpan K.M, Advocate for State of Chhattisgarh
Mr. Devashish Bharuk, Mr. Justine George, Advocates for State of Bihar
Mr. Siddhesh Kotwal, Ms. Arshiya Ghose, Advocate for State of Mizoram
Mr. C. Kannav, Advocate for State of Uttarakhand
Mr. D. Bharathi Reddy, Advocate for R-26
Mr. Chirag Reddy, Mr. Nishanth Patil Advocate for State of Chhattisgarh for State of Uttarakhand
Mr. Guntar Prabhakar, Mr. Guntar Pramod Kumar, Advocates for State of Andhra Pradesh
Mr. Nishant Talwar, Mr. Sakya Singla Chaudhari, Advocates for State of Punjab

ORDER

1. The issue for consideration is non-compliance of provisions of the Biological Diversity Act, 2002 (the Act) and Biological Diversity Rules, 2004 (the Rules) in as much as Biodiversity Management Committees (BMCs) have not been constituted as per Section 41 of the Act and People's Bio Diversity Registers (PBRs) have not been maintained, as required under Rule 22(6).
2. The Act was enacted to provide for conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits and for matters connected therewith or incidental thereto with a view to give effect to the United Nations Convention on Biological Diversity (CBD) which came into force on 29.12.1993. The Act seeks to regulate access to biological resources and fair and equitable sharing of benefits arising out of utilization of biological resources by constituting National Biodiversity Authority (NBA) to

20

162
172
383

advise the Central Government and the State Governments on steps towards conservation of biodiversity, sustainable use of its components, equitable sharing of benefits and allied issues.¹ The Act also contains provision for establishment of State Biodiversity Boards to advise the State Government on the subject.² The Central Government has to develop national strategies, plans and programmes for conservation and promotion and sustainable use of biodiversity.³ At local level, every local body has to constitute BMCs. The Rules based on CBD provide that the BMC is to prepare PBRs containing comprehensive information on availability and knowledge of local biological resources, their medicinal or any other use and Traditional Knowledge (TK) associated with them.⁴

3. This Tribunal issued notices to all the States and Union Territories Boards and Authorities. The matter has been considered on several dates in the last two years. It is not necessary to refer to all the proceedings. Some State Boards have filed their respective affidavits mentioning the steps taken for enforcement of the Act and the Rules.
4. Vide order dated 12.04.2019, noticing huge gap in constitution of BMCs and preparation of PBRs, this Tribunal directed the said steps to be completed within three months and a report filed by MoEF&CC. The States which remained non-compliant were asked to furnish their explanation.

¹ Section 18(3) of the Biological Diversity Act, 2002.

² Section 23 of the Biological Diversity Act, 2002.

³ Section 36 of the Biological Diversity Act, 2002.

⁴ Rule 22(6) of the Biological Diversity Rules, 2004, Article 8(j) of the Convention on Biological Diversity.

5. A report dated 02.08.2019 has been filed by the MoEF&CC to the effect that the Principal Secretaries of Panchayat Raj and Rural Development Departments were asked to expedite the setting up of the BMCs and three regional meetings were held with all the States and the State Biodiversity Boards. The statistics show that as against the need to constitute 317519 BMCs, 155838 BMCs have been constituted and 6868 PBRs have been documented, while 1692 PBRs are still in progress. The BMCs constituted are about 50%. The number of PBRs appears to be less than the PBRs reported earlier.
6. Having regard to the laudable objective to meet the necessity of conservation of biological diversity, delay of more than 16 years in complying with the mandate of law is a matter of serious concern.
7. We regretfully note that the matter on PBR progress noted is 'zero' in the States of Arunachal Pradesh, Bihar, Chhattisgarh, Gujarat, Jammu & Kashmir, Karnataka Madhya Pradesh, Manipur, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh and West Bengal. On the subject of BMC, there is zero progress in Bihar and Jammu & Kashmir.
8. This inadequate progress is in spite of repeated directions of this Tribunal. We asked all the learned counsel appearing in the matter to suggest a reasonable mechanism for ensuring compliance of law with a penal consequence for any further defaults.
9. India is one of the recognized mega-diverse countries of the world, harbouring nearly 7-8% of the recorded species of the world, and representing 4 of the 31 globally identified biodiversity hotspots. India

119

167
177

is also a vast repository of traditional knowledge associated with biological resources. So far, over 91,200 species of animals and 45,500 species of plants have been documented in the ten biogeographic regions of the country.⁵ The indigenous and local community are a repository of traditional knowledge and their knowledge and practices help in conservation and sustainable development of the biodiversity. In the past, India has already faced biopiracy⁶. There is, thus, urgent need to document the knowledge of the local community in the form of PBR.

10. As per certain studies⁷, PBRs help the State and the local community to become aware of the valuable resources being harvested in their area which can be utilised for the overall social and economic development of the State. Furthermore, PBRs also help in conservation of the traditional practices and knowledge of the local community. Studies on the issue of access and benefit sharing (ABS)⁸, show that non establishment of BMCs and absence of PBRs deprives the local community of the advantage of the biological resources. PBRs not only document the knowledge, they also help in identification of benefit claimers.
11. In above background, having considered the submissions made by the learned counsels, we direct as follows:

⁵ <https://www.cbd.int/countries/profile/default.shtml?country=in#facts>

⁶ Some examples of the cases of biopiracy in India are the Neem Case, the Basmati Case, the Tulsi case and the Turmeric Case in which the biological resources and traditional knowledge of the indigenous people in India were misappropriated and patents were obtained in relation to them in foreign countries without any prior approval from the Government of India.

⁷ Madhav Gadgil, **People's Biodiversity Register: Lesson Learnt,**
http://repository.ias.ac.in/64107/1/13_PUB.pdf

⁸ Refer: Pepsico Seaweed Case and the Kani Tribe case

- (i) The Chief Secretaries of all the States, where the defaults are continuing, may consider giving a warning to the Panchayat Secretaries for their past failures, recording the same in their service record and give direction to the officers who are responsible for the job to ensure compliance with 100% constitution of BMCs and PBRs by 31.01.2020 failing which coercive measures may have to be considered against them. The Chief Secretaries may evolve a mechanism for ensuring a monthly meeting to be attended by the Chairman and Member Secretaries of State Biodiversity Boards, Secretaries, Panchayat, Environment and Forest starting from September, 2019.
- (ii) The States will be accountable for the defaults and required to deposit a sum of Rs. 10 lakhs per month each from 01.02.2020 with the CPCB to be utilized for restoration of the environment. The States will be at liberty to recover the said amount from the persons committing the default.
- (iii) The MoEF&CC and National Biodiversity Authority may hold a review meeting every month from September 2019 till the above task is completed.
- (iv) The MoEF&CC may file a compliance report after collecting the necessary data from all the States on or before 15.02.2020. The Monitoring Committee of the MoEF&CC may oversee the quality of PBRs on sample basis by evolving a suitable mechanism.

118

160

71

319

List for further consideration on 18.03.2020.

Adarsh Kumar Goel, CP

S.P. Wangdi, JM

K. Ramakrishnan, JM

Dr. Nagin Nanda, EM

August 09, 2019
Original Application No. 347/2016
(I.A. No. 471/2019)
AK

Item No. 03

Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
(Through Video Conferencing)

Original Application No. 347/2016

Chandra Bhal Singh

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 12.04.2019

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

For Applicant(s): Ms. Meera Gopal and Mr. Saurabh Sharma, Advocates
For Respondent (s): Mr. Leishangthem Roshmani Kh, Ms. Anupama
Ngangom and Ms. Maibam Babina, Advocates for State
of Manipur.
Mr. Shubham Bhalla, Advocate for UT of Chandigarh
Ms. G. Indira and Ms. Rangoli Seth, Advocates for UT of
A&N Adm.
Mr. Krishna Kumar Singh, Advocate for MoEF&CC
Mrs. Aruna Mathur, Mr. Avneesh Arputham, Ms.
Anuradha Arputham, Advocates for State of Sikkim.
Mr. Banwar Pal Singh and Jadon, Advocates for State of
U.P.
Mr. Shurodeep Roy and Mr. Vinayak Gupta, Advocates
for State of Assam.
Mr. Manish Kumar, Advocate for State of H.P.
Mr. Reagan S. Bel and Mr. Nishe Razen Shonker,
Advocates for State of Kerala.
R. Rakesh Sharma and U. Mowli, Advocates for State of
Tamil Nadu
Ms. Ruchira Gupta, Advocate for State of Goa
Mr. Deepak Jain, Ms. Jasprit, Himanshu, Advocates for
UT of Daman, Diu and Dadar Nagar Haveli
Mr. Shashank Saxena and Mr. Amritesh Raj, Advocates
for MoHUA
Mr. Justine George, Advocate for State of Bihar

ORDER

1. The issue for consideration is non-compliance of provisions of the
Biological Diversity Act, 2002 and Biological Diversity Rules, 2004

inasmuch as Biodiversity Management Committees (BMCs) have not been constituted as per Section 41 of the Biological Diversity Act, 2002 and People's Diversity Registers have not been maintained, as required.

2. Vide order dated 08.08.2018, this Tribunal noticed gaps in the requirement of law and the action taken. Accordingly, the Tribunal directed further monitoring by a Monitoring Committee comprising the Ministry of Environment, Forest and Climate Change (MoEF&CC) and National Biodiversity Authority (NBA) which was to furnish a report to the Tribunal.
3. Accordingly, report has been received vide e-mail dated 12.03.2019 indicating as follows:

"So far 144 BMCs at District level, 2299 at the Intermediate Panchayat level (block/taluk/mandal/municipalities/municipal corporations) and 141928 BMCs at Village Panchayat level were constituted throughout the country making a total 144371 BMCs as on 28th February 2019. With respect to People Biodiversity Registers, 6834 have been documented so far and another 1814 are in progress."

4. It is clear from the report that as against 252709 Panchayats where BMCs were to be constituted, total of 144371 BMCs have been constituted which shows gap of more than one lac.
5. In view of the above, let further steps be taken and completed within three months and a further report filed by the MoEF&CC by e-mail at ngt.filing@gmail.com. The Officer In-charge dealing with the subject may remain present in person with the compliance report on the next date.

~~23~~

~~1470~~

116

6. A copy of this order be sent to the MoEF&CC by e-mail for compliance.
7. The States which have not complied with the mandate of law may do so expeditiously. The States which have complied need not appear before this Tribunal. The States which remain non-compliant may furnish their explanation for non-compliance by way of affidavit.

List for further consideration on 09.08.019.

Adarsh Kumar Goel, CP

Dr. Nagin Nanda, EM

April 12, 2019

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 347 of 2016

IN THE MATTER OF:

Chandra Bhal Singh Vs. Union of India & Ors.

CORAM : HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE DR. JUSTICE JAWAD RAHIM, JUDICIAL MEMBER
HON'BLE MR. JUSTICE S.P. WANGDI, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

Present: Applicant: Mr. Ritwick Dutta and Mr. Saurabh Sharma,
Advs.
Respondents: Ms. Shashi Juneja, Adv. for State of
Chattisgarh
Mr. R. Rakesh Sharma, Mr. V. Mowli, Adv. for State of TN & TNPCE
Mr. Anil Grover, AAG, Mr. Mishal Vij and Mr. Rahul Khurana, Adv.
Mr. V. K. Shukla and Ms. Vijay Laxmi, Adv. for State of MP
Mr. Shuvodeep Roy and Mr. Vinyak Gupta, Adv. for State of Assam
Mr. Anil Shrivastav, Mr. Rituraj Biswas and Ms. Sujaya Bardhan, Mr. Satyendra Kumar Srivastav, Adv. for State of Arunachal Pradesh
Mrs. Aruna Mathura, Mr. Avneesh Arputham and Ms. Anuradha Arputham, Ms. Geetanjali, Adv. for State of Sikkim
Ms. Priyanka Sinha, Ms. Shristi Sinha, Adv. for State of Jharkhand
Mr. Bhanwar Pal Singh Jadon, Adv. for State of UP
Mr. Rituraj Biswas and Mr. Shuvodeep Roy, Adv.
Mr. Nishant Talwar, Adv.
Mr. Amit Tiwari, Adv. for State of UP
Mr. Preshit Surshe, Adv. for State of Maharashtra
Mr. Shubham Bhalla, Adv.
Mr. Mukul Singh adv for R-1, R-2 & 7
Ms. D. Bharati Reddy and Ms. Priyanka, Adv. for State of Uttarakhand
Ms. Ruchira Gupta, Bhaskar Chhakara, Adv. for Goa State Bio-diversity Board
Mr. Shoeab Alam and Mr. Gautam Singh, Adv. for State of Bihar
Mr. Shiv Mangal Sharma, AAG and Mr. Saurabh Rajpal, Mr. Adhiraj Singh, Adv. for State of Rajasthan
Mr. Nishe Rajen Shonker, Ms. Anu K. Joy Adv. and Alim Anvar, Adv. for State of Kerala
Mr. Edward Belho, AAG, Mr. Luikang K. Michael and Ms. Hoinathiam, Adv. for State of Nagaland
Ms. G. Indira, Adv. for State of Andaman & Nicobar
Mr. Pragyan Pradip Sharma, Anandini Kumari, Adv. for State of Mizoram
Mr. Tarunvir Singh Khehar and Ms. Guneet Khehar and Mr. Sandeep Mishra, Adv. for GNCTD
Mr. Devraj Ashok, Adv. for State of Karnataka
Mr. Rajkumar, Adv. for CPCB
Mr. P. Venkat Reddy & Mr. Prashant Tyagi, Adv. for State of Telangana

Mr. Shashank Bajpai, Ms. Shakun Sudha Shukla, Advs. for State of Odisha
 Mr. Richa Pandey, Adv.
 Mr. Abhimanyu Garg and Preety Makkr, Advs. for Govt. of Puducherry
 Ms. Aprajita Kukherjee, Adv. for State of Meghalaya
 Mr. Leishangthem Roshmani. KH, Adv. for State of Manipur
 Mr. Bhanwar Pal Singh Jadon, Adv. for State of Uttar Pradesh
 Mr. Raja Chatterjee and Ms. Abhinandini Yadav and Mr. Piyush Chatterjee Advs.
 Mr. Manish Kumar, Adv. for State of HP
 Mr. G. M. Kawoosa, Adv.
 Advs.

Date and Remarks	Orders of the Tribunal
<p>Item No. 09</p> <p>August 08, 2018</p> <p>R</p>	<p>1. This application puts forward the grievance of non-compliance of provisions of the Biological Diversity Act, 2002 and Biological Diversity Rules, 2004. It is stated that various States/Authorities have failed to constitute adequate number of Biodiversity Management Committees at the local level which is mandate under Section 41 of the Biological Diversity Act, 2002. They have also failed to prepare, maintain and validate the People's Biodiversity Register as required to be done under Rule 22 of the Biological Diversity Rules, 2004. The Biodiversity Management Committees have failed to collect the charges through collection fees from the people who have accessed the biological resource for the commercial purposes under Section 41(3) of the Biological Diversity Act, 2002. The State Governments have failed to provide grants and loans to the respective State Biodiversity Boards as prescribed under Section 42 and 43 of the said Act.</p> <p>2. This Tribunal issued notices to all the States and Union Territories Boards and Authorities. The matter has been considered on several dates in the last 2 years. It is not necessary to refer to all the proceedings. Some State Boards have filed their respective affidavits mentioning the</p>

14

<p>Item No. 09 August 08, 2018 R</p>	<p>steps taken for enforcement of Act and the Rules.</p> <p>3. Learned counsel for the applicant has stated that there are gaps in the implementation of the Acts and the Rules. Steps have to be taken by the authorities. There are 2,51,428 local bodies but there are 46,317 Biodiversity Management Committee (BMCs) in India. BMCs have been constituted in only 18.42% of the local bodies. Learned counsel for the Ministry of Environment, Forest & Climate Change and National Biodiversity Authority disputes this stand. According to him, number of BMCs as on 06.08.2018 is 73,367. Even if we accept the figure mentioned by the learned counsel for the MoEF & CC and the NBA as against the requirement of about 2.5 lakhs, the constitution of BMCs is only about 30% of the local bodies.</p> <p>4. In view of the above, it appears to be necessary that there is need for further monitoring of this aspect by the MoEF &CC and NBA jointly with the target of ensuring that the legal requirements are complied with within 6 months from today. With this target, the monitoring meetings be held once in a month. The nodal agency for conducting the meeting and monitoring the compliance of the statutory requirements will be the MoEF & CC.</p> <p>5. A copy of this order be sent to the MoEF & CC for compliance by e-mail.</p> <p>6. The MoEF & CC may send a compliance report to the Tribunal by e-mail at <i>filing.ngt@gmail.com</i> on or before 31.03.2019. The Monitoring Committee may also consider compliance of other requirements including People's Biodiversity Registers.</p>
--	--

<p>Item No. 09</p> <p>August 08, 2018</p> <p>R</p>	<p>The application is disposed of.</p> <p>List for consideration of such report on 25th February, 2019.</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>08.08.2018</p>
--	--

13

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION 347/2016**

IN THE MATTER OF:

CHANDRA BHAL SINGH

.....APPLICANT

VERSUS

UNION OF INDIA & ORS

.....RESPONDENTS

INDEX

SL. NO.	PARTICULARS	PAGE NO.
1	Affidavit on behalf of State of Odisha in compliance to Order dated 9.8.2019	1-4
2	Proof of service	5-6

Filed on.....

Filed by,.....



Shashank Bajpai
Advocate, State of Odisha
Office: Flat no. 100, Tower-12,
Supreme Enclave, Mayur Vihar Phase-1
Delhi-110091
Email: advocateshashankbajpai@gmail.com
Mobile: 9891060955

Pratibha Choudhary
Member Secretary
Odisha Biodiversity Board

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION 347/2016

IN THE MATTER OF:

CHANDRA BHAL SINGH

.....APPLICANT

VERSUS

UNION OF INDIA & ORS

.....RESPONDENTS

NAREDRAN K. SAHOO
NOTARY, BHUBANESWAR
GOVT. OF ODISHA
Regd. No. CN. 269/2003

13 FEB 2020

**AFFIDAVIT ON BEHALF OF STATE OF ODISHA IN COMPLIANCE TO ORDER DATED
9.8.2019**

1. I, Dr. Pratap Chandra Panda, Member secretary, Odisha Biodiversity Board on behalf of State of Odisha, having office at Regional Plant Resource Centre Campus, Nayapalli, Bhubaneswar, do hereby solemnly state and affirm as under:-

That, the deponent is the Member Secretary, Odisha Biodiversity Board and in course of discharge of his official duties, deponent has become conversant with the fact of the instant case and being duly authorized on this behalf by the State of Odisha, the deponent is fully competent to swear the present affidavit.

That, Hon'ble Tribunal in the present case, had issued, *inter alia*, directions vide Order dated 9.8.2019 for constitution of Biodiversity Management Committees (BMCs) and preparation of Peoples' Biodiversity Registers (PBRs) in all states by 31.1.2020.

That Odisha Biodiversity Board is mandated to implement the Biological Diversity Act, 2002 which envisages the conservation of biodiversity, sustainable use of its components and fair and equitable sharing of benefits arising out of the use of biological resources and associated traditional knowledge. Along with other activities, the Board is to facilitate constitution of Biodiversity Management Committees (BMC) and preparation of Peoples' Biodiversity Registers (PBR) at District, Block and Gram Panchayat levels and in all Urban Local Bodies in the State.

5. That, the status of constitution of Biodiversity Management Committees (BMC) and preparation of Peoples' Biodiversity Registers (PBR) in Odisha by 31st January, 2020 is given below.

Constitution of Biodiversity Management Committees (BMCs):

Odisha Biodiversity Board, with the technical and administrative support of Panchayati Raj & Drinking Water Department, Housing and Urban Development Department and Forest & Environment Department, Government of Odisha, has facilitated and completed constitution of 6,935 BMCs out of 7,256 and achieved 96% success towards constitution

Pratap Chandra Panda
Member Secretary
Odisha Biodiversity Board

112

of Biodiversity Management Committees (BMCs) at all levels i.e. District, Block, Gram Panchayat and Urban Local Bodies. The details are provided here:

District level		Block level		Gram Panchayat level		Urban local body level		Total	
Total no. of Districts	BMC constituted	Total no. of Blocks	BMC constituted	Total no. of Gram Panchayats	BMC constituted	Total no. of Urban local bodies	BMC constituted	Total local bodies	Total BMC constituted
30	5	314	74	6798	6742	114	114	7256	6935 (96%)

The constitution of BMCs in the rest 321 no. of Districts, Blocks and Gram Panchayats will be completed by February 2020.

Preparation of Peoples' Biodiversity Registers (PBRs):

Odisha Biodiversity Board has completed preparation of 111 nos. of PBRs at Gram Panchayat level and draft PBRs of another 40 Gram Panchayats will be ready by the end of February 2020. Preparation of district level PBRs in all the 30 districts of Odisha is underway and will be completed by March, 2020. The total number of PBRs will be 181 by the end of March, 2020.

- 6. That, the People's Biodiversity Registers are legal as well as technical documents, which need to be prepared by the BMCs as per Rule 22(6) of the Biological Diversity Rules 2004. It contains comprehensive information on plants, animals and other biological resources, knowledge and perception of local people, traditional knowledge associated with bioresources of the particular area and also on landscape and peopescap.

Odisha Biodiversity Board has been supporting the BMCs for PBR preparation through Technical Support Groups (TSGs) with financial assistance from both Central and State Governments. For the preparation of authentic PBRs, a detailed survey and inventory on the local biological diversity and associated traditional knowledge is required for a period not less than three seasons. This facilitates documentation of seasonal changes and plant successions in three seasons such as monsoon, winter and summer. Same is true for fauna components which appear and dominate in different seasons of the year.

That, with a view to provide inputs for the PBR formats prescribed by the National Biodiversity Authority in 2013, comprehensive study and collection of data on demography, landscape, peopescap, local markets, traditional practitioners, flora, fauna and other local biological resources and traditional knowledge associated with them are essential. Importantly, first-hand information through multi-seasonal studies has to be collected through field survey and resource inventories. Identification of plants and animals also require expert consultations and assistance of subject specialists on different

Pradyumn Choudhary
Member Secretary
Odisha Biodiversity Board



plant and animal groups. To achieve this goal, BMC members have to be trained and sensitized on local biological resources and traditional knowledge possessed by these communities have to be recorded through Participatory Rural Appraisal (PRAs), house hold interviews, individual interviews and in consultation with village heads and traditional knowledge-holders.

8. That, authentic and recorded data need to be collected from various Government Departments like District Statistical office, Forest and Environment Department, Agriculture Department, Horticulture Department, Fisheries and Animal Resources Department, Panchayati Raj and Rural Department, ST & SC Department, Housing and Urban Development Department, Health and Family Welfare Department, Universities, colleges, research organizations, and other academic institutions, NGOs, SHGs, volunteers and other local bodies.
9. That, there are a number of constraints for the preparation of People's Biodiversity Registers (PBRs) as given under:

The BMCs are not technically competent to identify and record locally available plants, animal and other biological resources and need engagement of Technical Support Group.

Collection of field level data on biological resources requires multi-seasonal survey and inventories (at least three seasons).

Authentic identification of plants and animals requires the help of plant and animal taxonomists, which is not locally available.

Plant specimen collection, herbarium preparation takes long time, preservation of voucher specimens is a big task for State Biodiversity Board.

NBA has determined an amount of Rs. 1,15,000/- for the preparation of one GP level PBR. At this rate at least, an amount of Rs.84.00 crores will be required to prepare PBRs in 7,256 BMCs of Odisha. The amount is not available with Odisha Biodiversity Board.

Additional manpower and field staffs are required for the evaluation of PBRs and other office work. Large number of awareness programmes and trainings are required to enlighten the local people and line Departments for the preparation of PBRs.



Parthap Chandra Prasad
Member Secretary
Odisha Biodiversity Board

111

10. That, the Government of Odisha has taken following actions for constitution of BMCs and preparation of PBRs

The Additional Chief Secretary to Government, Forest and Environment Department, Government of Odisha has instructed all Divisional Forest Officers of the state to facilitate constitution of BMCs and preparation of PBRs.

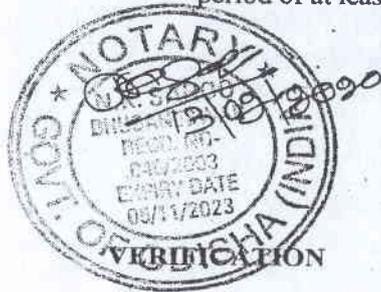
Forest circle level training programmes are underway to train staffs of Forest department in preparation of PBRs in their respective areas. Four such programmes have been completed and rest will be completed by February, 2020. Odisha Biodiversity Board is imparting these training programmes.

The Panchayati Raj and Drinking Water Department, Government of Odisha and Housing and Urban Development Department of Government of Odisha are taking effective steps in preparation of GP, Block and District PBRs and constitution of BMCs. Housing and Urban Development Department has completed BMC constitution in all Urban Local Bodies. Panchayati Raj and Drinking Water Department has constituted 6742 BMCs at GP level and rest 56 BMCs will be constituted by February, 2020.

Odisha Biodiversity Board is preparing PBRs at district level with incorporation of data from all possible sources including field work.

Odisha Biodiversity Board has already requested the National Biodiversity Authority and State Government to provide funds to complete the task.

11. That, in order to complete the entire task of preparation of PBRs at all levels, a time period of at least one and half year is required along with provision of required funds.



Bantup Chandan Sahoo
Member Secretary
Odisha Biodiversity Board
DEPONENT

Verified at Bhubaneswar on 13th February, 2020 that the contents of the above affidavit of mine are true and correct to the best of my knowledge and belief. No part of it is false and nothing material is concealed therein.

Bantup Chandan Sahoo
DEPONENT
Member Secretary
Odisha Biodiversity Board

SWORN BEFORE ME
Naredra Kumar Sahoo
NOTARY, BHUBANESWAR
GOVT. OF ODISHA
Regd. No. ON. 040/2003



GOVERNMENT OF ODISHA
FOREST & ENVIRONMENT DEPARTMENT

No. FE-FE1-FE-0086-2016 17657/F&E, dated. 10.8.18

CORRIGENDUM

The words "Sri Pratap Chandra Panda" & "I/c Secretary" mentioned in the F&E Department Order No. 17049/F&E, dtd. 03.08.2018 may be corrected & read as "Dr. Pratap Chandra Panda" & "I/c Member Secretary".

[Signature]
Under Secretary to Government

Memo No. 17658/F&E., Dated 10.8.18
Copy forwarded to the A.G. (A&E), Odisha/ A.G. (Audit), Odisha, Bhubaneswar for information & necessary action w.r.t. this Department Memo No. 17050/F&E, dtd. 03.08.2018.

[Signature]
Under Secretary to Government

Memo No. 17659/F&E., Dated 10.8.18
Copy forwarded to the P.S. to Hon'ble Chief Minister for kind information of Hon'ble Chief Minister/P.S. to Minister F&E for favour of kind information of the Hon'ble Minister Forest & Environment w.r.t. this Department Memo No. 17051/F&E, dtd. 03.08.2018.

[Signature]
Under Secretary to Government

Memo No. 17660/F&E., Dated 10.8.18
Copy forwarded to the Senior P.S. to Chief Secretary/ P.S. to Additional Chief Secretary/Special Secretary/Director, Environment-cum-Special Secretary, Forest & Environment Department for information and necessary action w.r.t. this Department Memo No. 17052/F&E, dtd. 03.08.2018.

[Signature]
Under Secretary to Government

Memo No. 17661/F&E., Dated 10.8.18
Copy forwarded to the P.C.C.F., Odisha/ P.C.C.F. (WL) & CWLW, Odisha / PCCF (KL), Odisha/PD, OFSDP, Bhubaneswar/Chief Executive, Chilika Development Authority, Bhubaneswar / Chief Executive, RPRC, Bhubaneswar/ Chairman, Odisha Biodiversity Board, Bhubaneswar/All RCCFs for information and necessary action w.r.t. this Department Memo No. 17053/F&E, dtd. 03.08.2018.

[Signature]
Under Secretary to Government

Memo No. 17662/F&E., Dated 10.8.18
Copy forwarded to OIC, State Portal, NIC, IT Department, Odisha Secretariat/ RTI Cell of Forest & Environment Department for information and necessary action.

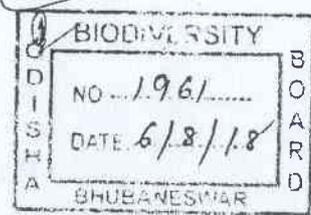
The OIC, State Portal, NIC, IT Department Odisha Secretariat is requested for publication of his Notification in the Website of Forest & Environment Department w.r.t. this Department Memo No. 17054/F&E, dtd. 03.08.2018.

[Signature]
Under Secretary to Government

[Handwritten signature]
[Handwritten signature]
13/8/18



110



GOVERNMENT OF ODISHA
FOREST & ENVIRONMENT DEPARTMENT

OFFICE ORDER

Bhubaneswar, Dated the 03-08-18

No. FE-FE1-FE-0086-2018 - 17049 /F&E., Sri Pratap Chandra Panda, Principal Scientist, Regional Plant Resource Centre, Bhubaneswar will act as I/c Secretary, Odisha Biodiversity Board, Bhubaneswar in addition to his own duties until further orders.

By the order of Additional Chief Secretary

As per order 3/8/18
Special Secretary to Government

Memo No. 17050 /F&E., Dated 03-08-18

Copy forwarded to the A.G. (A&E), Odisha/ A.G. (Audit), Odisha, Bhubaneswar for information & necessary action.

Memo No. 17051 /F&E., Dated 03-08-18 *As per order 3/8/18*
Special Secretary to Government

Copy forwarded to the P.S. to Hon'ble Chief Minister for kind information of Hon'ble Chief Minister/P.S. to Minister F&E for favour of kind information of the Hon'ble Minister Forest & Environment.

Memo No. 17052 /F&E., Dated 03-08-18 *As per order 3/8/18*
Special Secretary to Government

Copy forwarded to the Senior P.S. to Chief Secretary/ P.S. to Additional Chief Secretary/Special Secretary/Director, Environment-cum-Special Secretary, Forest & Environment Department for information and necessary action.

Memo No. 17053 /F&E., Dated 03-08-18 *As per order 3/8/18*
Special Secretary to Government

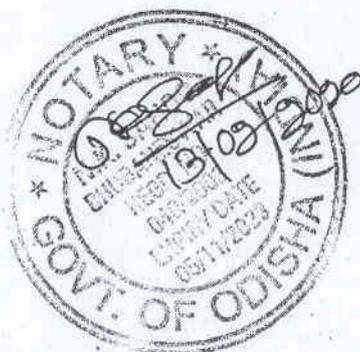
Copy forwarded to the P.C.C.F., Odisha/ P.C.C.F. (WL) & CWLW, Odisha / PCCF (KL), Odisha/PD, OFSDP, Bhubaneswar/Chief Executive, Chilika Development Authority, Bhubaneswar / Chief Executive, RPRC, Bhubaneswar/ Chairman, Odisha Biodiversity Board, Bhubaneswar/All RCCFs for information and necessary action.

Memo No. 17054 /F&E., Dated 03-08-18 *As per order 3/8/18*
Special Secretary to Government

Copy forwarded to OIC, State Portal, NIC, IT Department, Odisha Secretariat/ RTI Cell of Forest & Environment Department for information and necessary action.

The OIC, State Portal, NIC, IT Department Odisha Secretariat is requested for publication of his Notification in the Website of Forest & Environment Department.

As per order 3/8/18
Special Secretary to Government



Atkshw
13/2/20

9

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION 347/2016

IN THE MATTER OF:

CHANDRA BHAL SINGHAPPLICANT

VERSUS

UNION OF INDIA & ORS RESPONDENTS

INDEX

SL. NO.	PARTICULARS	PAGE NO.
1	I.A. Petition on behalf of State of Odisha in compliance to Order dated 18.03.2020	
2	Annexure-A/1 True copy of the last order dated 18.3.2020	
3		

Filed on.....

Filed by.....

Shashank Bajpai
Advocate, State of Odisha
Office: Flat no. 100, Tower-12,
Supreme Enclave, Mayur Vihar Phase-I
Delhi-110091
Email: advocateshashankbajpai@gmail.com
Mobile: 9891060955

4 MAY 2020



ଓଡ଼ିଶା ଗୋଡ଼ିଶା ODISHA

51AA 148187

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION 347/2016

IN THE MATTER OF:

CHANDRA BHAL SINGH

VERSUS

UNION OF INDIA & ORS

.....APPLICANT

.....RESPONDENTS

INTERLOCUTORY APPLICATION (IA) ON BEHALF OF STATE OF
ODISHA IN COMPLIANCE TO ORDER DATED 18.03.2020

1. I, Dr. Pratap Chandra Panda, Member Secretary, Odisha Biodiversity Board, Regional Plant Resource Centre Campus, Nayapalli, Bhubaneswar on behalf of State of Odisha do hereby solemnly state and affirm as under:-

2. That, the deponent is the Member Secretary, Odisha Biodiversity Board and in course of discharge of his official duties, deponent has become conversant with the fact of the instant case and being duly authorized by the State of Odisha, the deponent is competent to swear the present IA.



6. That a sum of Rs.5.0-7.0 lakhs will be required as informed by the Chairman, National Biodiversity Authority (NBA) in his DO letter No. NBA/5/30/219/SBB/NGT Dt. 30.3.2020, to prepare one quality PBR to

Pratap Chandra Panda
Member Secretary
Odisha Biodiversity Board

8 ✓

8694 O.B.B

POV

D 21472

DISTRICT TREASURY
BILURAMPUR
07 MAR 2022
SECURITY DEPT

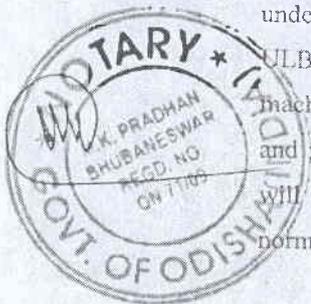
[Handwritten signature]

[Handwritten signature]

ID. NO.-1
RAMAKRISHNA PARIDA
STAMP VENDOR
BILURAMPUR COURT

3. That, Hon'ble Tribunal in the present case, which is in continuation of its earlier Order Dt. 09.08.2019, *inter alia*, directed vide Order dated 18.03.2020 for remedial actions for non-compliance of provisions of the Biological Diversity Act, 2002 (the Act) and Biological Diversity Rules, 2004 (the Rules) in as much as Biodiversity Management Committees (BMCs) have not been constituted as per Section 41 of the Act and Peoples' Biodiversity Registers (PBRs) have not been maintained, as required under Rule 22 (6).
4. That, the Hon'ble Tribunal in its Order Dt. 18.03.2020 holds the states accountable for non-compliance of the provisions of the Biological Diversity Act, 2002 and Biological Diversity Rules, 2004 in terms of constitution of BMCs and preparation of PBRs within the stipulated time fixed by the Tribunal i.e. by 31.01.2020 and the defaulting states are liable to pay compensation of Rs. 10.00 lakhs (Rupees Ten Lakhs only) per month to Central Pollution Control Board with effect from 01.02.2010 till such time, the task is fully completed in terms of its Order Dt.09.08.2019.
5. That, out of 7,256 BMCs at all levels (District, Block, Gram Panchayat and Urban Local Bodies) in the state of Odisha, 6,935 BMCs have been constituted and the achievement is 96%. Though some more BMCs have already been constituted by the Panchayati Raj & Drinking Water Department before 23rd March, 2020, the documents/information has not been received by Odisha Biodiversity Board due to complete lock-down in view of COVID-19 pandemic in the country. The required data under the current situation cannot be collected from District, Block, ULB and Gram Panchayat level functionaries because all the state machinery are functioning in the fight against the coronavirus pandemic and in the situation is unavoidable at the present time. However, this will be completed within two months after the pandemic situation is normalized.
6. That a sum of Rs.5.0-7.0 lakhs will be required as informed by the Chairman, National Biodiversity Authority (NBA) in his DO letter No. NBA/5/30/219/SBB/NGT Dt. 30.3.2020, to prepare one quality PBR to

Pankaj Choudhary
Member Secretary
Odisha Biodiversity Board



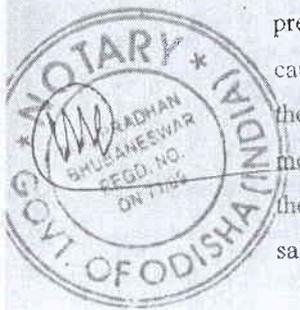
7

prepare one quality PBR through specialized NGOs, universities, research institutions etc. and therefore, an amount of Rs. 362.80 Crores (Rupees Three Hundred Sixty Two Crores and Eighty Lakhs) has to be spent for preparation of 7,145 PBRs (@ Rs.5.00 lakhs each) in the state of Odisha. Since all the funds have been diverted to fight the COVID-19 pandemic in the state at the present time and situation, it is not possible to locate manpower and huge funds as mentioned for preparation of all PBRs in the state in view existing financial condition in the state due covid 19 pandemic.

7. However, in order to implement and expedite Honorable Court order, it is submitted that Government of Odisha have declared the Divisional Forest Officers (DFOs) as the first point of contact vide Office Order No. 25103/F & E Dt. 20.12.2019 of Forest & Environment Department to facilitate constitution of BMCs and preparation of PBRs in the state of Odisha. The DFOs have been asked to expedite preparation of PBRs in GPs under their jurisdiction through their field functionaries and available manpower with technical support of Local Bodies. To achieve this goal, Odisha Biodiversity Board has conducted Forest Circle level training programmes for DFOs, Range Officers and other Forest officials on technical aspects of preparation of Peoples' Biodiversity Registers. At present, the officers and staff of Gram Panchayats, blocks, Urban Local Bodies, District and even NGOs are busy fighting the pandemic COVID-19 in the state, which is a priority area in the current situation. Once the Coronavirus pandemic is over, the DFOs will be requested to put all out efforts to prepare the PBRs within a reasonable time frame.

8. Further, Odisha is a rapidly developing state in the country and at present, facing severe financial crunch due to the economic impact caused by the ongoing country-wide lockdown in order to fight against the spread of Coronavirus (COVID-19). Along with financial austerity measures, Government of Odisha have ordered for deferment of 70% of the gross salary of Ministers/ MLAs/ elected representatives and 50% salary of IAS, IPS and IFS officers of the State for an indefinite period.

Pankaj Chandra Panda
Member Secretary
Odisha Biodiversity Board



In such a peculiar situation along with financial crisis, the compensation of Rs. 10.00 lakhs per month starting from 01/02/2020 till full compliance of the orders of the Hon'ble NGT Dt. 09.08.2019 and Dt.18.03.2020 to pay to the Central Pollution Control Board (CPCB) by State of Odisha is not be possible in view of current financial situation.

9. That once the COVID-19 pandemic in the country is over, the compliance of the order of National Green Tribunal will be the first priority of the state in this matter. It will take a reasonable time to get the situation under control. Till that period the waiver of the fine may kindly be granted by the Hon'ble Court.
10. That, the status of constitution of Biodiversity Management Committees (BMC) and preparation of Peoples' Biodiversity Registers (PBR) in Odisha as on 23rd March, 2020 is given below:

a. Constitution of Biodiversity Management Committees (BMCs):

Odisha Biodiversity Board, Panchayati Raj & Drinking Water Department, Housing and Urban Development Department and Forest & Environment Department of Government of Odisha have taken joint efforts for formation of BMCs at all levels in the State. Till date, out of 7,256 BMCs at all levels (District, Block, Gram Panchayat and Urban Local Bodies), 6,935 BMCs have been constituted and the achievement is 96% in terms of constitution of Biodiversity Management Committees (BMCs) in the state. Though some more BMCs have already been constituted by the Panchayati Raj & Drinking Water Department before 23rd March, 2020, the documents/information are yet to be received by Odisha Biodiversity Board due to complete lock-down in view of COVID-19 pandemic in the country. However, this will be completed within two months after the pandemic situation is normalized.

Pandey Chandan Prady
Member Secretary
Odisha Biodiversity Board



16

The details are as follows:

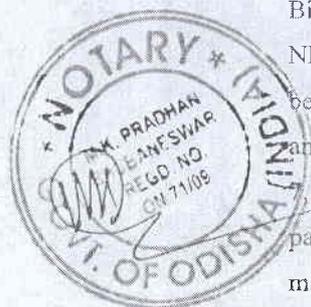
District level		Block level		Gram Panchayat level		Urban local body level		Total	
Total no. of Districts	BMC constituted	Total no. of Blocks	BMC constituted	Total no. of Gram Panchayats	BMC constituted	Total no. of Urban local bodies	BMC constituted	Total local bodies	Total BMC constituted
30	5	314	74	6798	6742	114	114	7256	6935 (96%)

b. Preparation of Peoples' Biodiversity Registers (PBRs):

Odisha Biodiversity Board has completed preparation of 111 nos. of PBRs at Gram Panchayat level. Besides, data collection for another 40 Gram Panchayats has been completed by two external agencies. PRA exercise, preparation of draft PBRs and their evaluation by the designated committee in terms of its quality and contents shall be taken up after the lock-down period. Additionally, preparation of district level PBRs in all the 30 districts of Odisha has been taken up by the Scientists and Research Fellows of Odisha Biodiversity Board out of its own grant-in-aid and will be brought out after the prevailing lock-down period due to Covid-19 pandemic.

That, the People's Biodiversity Registers (PBR) are highly technical documents, which contains comprehensive information on plants, animals and other biological resources, knowledge and perception of local people, traditional knowledge associated with bio-resources of the particular area and involves multi-seasonal (at least 3 seasons) resource surveys and inventories. As informed by the Chairman, National Biodiversity Authority (NBA) in his DO letter No. NBA/5/30/219/SBB/NGT Dt. 30.3.2020, a sum of Rs.5.0-7.0 lakhs will be required to prepare one quality PBR and therefore, a minimum amount of Rs. 362.80 crores has to be spent for preparation of about 145 PBRs in the state of Odisha. Under the prevailing situation of pandemic COVID-19, it is not possible to locate required funds and manpower for preparation of PBRs out of the budgetary allocations of Government of Odisha. As preparation of quality PBRs at all levels requires considerable fund as estimated by NBA and a minimum of

Pradyip Choudhary
Member Secretary
Odisha Biodiversity Board



twelve months to take up study in all three seasons, the state board may need sufficient time. These exercises can be taken up after this current COVID-19 pandemic.

11. That, a number of review meetings have been taken up by the Chief Secretary, Odisha and Addl. Chief Secretary, Forest & Environment Department with officials of Panchayati Raj & Drinking Water Department, Housing & Urban Development Department and Odisha Biodiversity Board for expeditious completion of the process for constitution of remaining BMCs and preparation of rest PBRs as per the orders of the Hon'ble NGT. Panchayati Raj and Drinking Water Department, Housing & Urban Development Department and District Magistrate & Collectors have been reminded time & again by the Forest & Environment Department to complete the process in time.

12. That, Odisha is one of the financially backward States in the country and at present, facing severe financial crunch due to the economic impact caused by the ongoing country-wide lockdown in order to fight against the spread of Coronavirus (COVID-19). Government of Odisha adopted a number of austerity measures including deferment of major part of salary of elected representatives and all India Service officers. In such a peculiar situation along with financial crisis, the payment of compensation of Rs. 10.00 lakhs per month starting from 01/02/2020 till full compliance of the orders of the Hon'ble NGT Dt. 09.08.2019 and Dt.18.03.2020 to the Central Pollution Control Board (CPCB) is not reasonable. With the present extraordinary situation facing the state, Government machinery including staff of local bodies both in urban & rural area are also now being engaged for containment of Covid-19 in the State.

13. With all humility it is submitted that Government of Odisha is committed to achieve 100% formation of BMCs and preparation of PBRs at all levels within a reasonable time period after normalization of the present Covid-19 pandemic situation in the State.



Pradyumn Kumar
Odisha Biodiversity Board

MANJULA KUMAR PRADHAN
NOTARY PUBLIC
BHUBANESWAR
REGD. NO. ON-71/2009
PH:-9437627119 (M)

15
04/05/2020

14. It is, therefore, humbly prayed that in view of unusual crisis due to rise of novel Corana virus pandemic and consequent financial condition of the State of Odisha, Hon'ble National Green Tribunal may sympathetically consider to waive out the penalties imposed on State of Odisha for delay in completion of 100% constitution of Biodiversity Management Committees (BMCs) and preparation of Peoples' Biodiversity Registers (PBRs) by 31.01.2020 in compliance of the order of Hon'ble National Green Tribunal Dt. 09.08.2019 and 18.03.2020 or pass any such order or further direction(s), this Hon'ble Tribunal deems fit and proper in the facts and circumstances stated above.

IDENTIFIED BY
J.M. 5.2020
ADVOCATE, BBSR.

Pradyumn Chandra Panda
Member Secretary
Odisha Biodiversity Board
DEPONENT

VERIFICATION

Verified at Bhubaneswar on ^{4th} May, 2020 that the contents of the above review application are true and correct to the best of my knowledge and belief. No part of it is false and nothing material is concealed therein.

Pradyumn Chandra Panda
Member Secretary
DEPONENT
Odisha Biodiversity Board



MANJULA KUMAR PRADHAN
NOTARY PUBLIC
BHUBANESWAR
REGD. NO. ON-71/2009
PH:-9437627119 (M)

04/05/2020

Item No.2

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Original Application No. 347/2016
(I.A. No. 471/2019, M.A. No. 15/2020,
M.A. No. 22/2020& M.A. No. 23/2020)

Chandra Bhal Singh

Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

Date of hearing: 18.03.2020

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER

For Applicant(s): Mr. Saurabh Sharma, Advocate

For Respondent(s): Mr. Sashi Juneja, Advocate for State of J&K
Ms. Aastha Mehta, Advocate for State of Gujarat
Mr. Mukul Singh, Advocate for MoEF&CC and NBA
Ms. Anrita Sharma, Advocate for State of Karnataka

ORDER

1. This order is being passed in continuation of order dated 09.08.2019. The issue for consideration is the remedial action for non-compliance of provisions of the Biological Diversity Act, 2002 (the Act) and Biological Diversity Rules, 2004 (the Rules) in as much as Biodiversity Management Committees (BMCs) have not been constituted as per Section 41 of the Act and People's Bio Diversity Registers (PBRs) have not been maintained, as required under Rule 22(6).



True copy attested

Chandra
4/5/20
Pradip Chandra Paul
Member Secretary
Odisha Biodiversity Board

TRUE COPY ATTESTED

M. K. Pradhan
NOTARY, BHUBANESWAR
REGD. NO. ON-71/2009

14

2. The Act was enacted to provide for conservation of biological diversity, sustainable use of its components and fair and equitable sharing of the benefits and for matters connected therewith or incidental thereto with a view to give effect to the United Nations Convention on Biological Diversity (CBD) which came into force on 29.12.1993. The Act seeks to regulate access to biological resources and fair and equitable sharing of benefits arising out of utilization of biological resources by constituting National Biodiversity Authority (NBA) to advise the Central Government and the State Governments on steps towards conservation of biodiversity, sustainable use of its components, equitable sharing of benefits and allied issues. The Act also contains provision for establishment of State Biodiversity Boards to advise the State Government on the subject. The Central Government has to develop national strategies, plans and programmes for conservation and promotion and sustainable use of biodiversity. At local level, every local body has to constitute BMCs. The Rules based on CBD provide that the BMC is to prepare PBRs containing comprehensive information on availability and knowledge of local biological resources, their medicinal or any other use and Traditional Knowledge (TK) associated with them.

3. This Tribunal issued notices to all the States and Union Territories, Boards and Authorities. The matter has been considered on several dates in the last two years. It is not necessary to refer to all the proceedings. Some State Boards have filed their respective affidavits mentioning the steps taken for enforcement of the Act and the Rules.



TRUE COPY ATTESTED

M. K. Pradhan
NOTARY, BHUBANESWAR
REGD. NO. ON-71/2009

4. Vide order dated 12.04.2019, noticing huge gap in constitution of BMCs and preparation of PBRs, this Tribunal directed the said steps to be completed within three months and a report filed by MoEF&CC. The States which remained non-compliant were asked to furnish their explanation.
5. The matter was thereafter considered on 09.08.2019 in the light of the report of MoEF&CC dated 02.08.2019, the Tribunal observed:-

* 5. A report dated 02.08.2019 has been filed by the MoEF&CC to the effect that the Principal Secretaries of Panchayat Raj and Rural Development Departments were asked to expedite the setting up of the BMCs and three regional meetings were held with all the States and the State Biodiversity Boards. The statistics show that as against the need to constitute 317519 BMCs, 155838 BMCs have been constituted and 6868 PBRs have been documented, while 1692 PBRs are still in progress. The BMCs constituted are about 50%. The number of PBRs appears to be less than the PBRs reported earlier.

6. Having regard to the laudable objective to meet the necessity of conservation of biological diversity, delay of more than 16 years in complying with the mandate of law is a matter of serious concern.

7. We regretfully note that the matter on PBR progress noted is 'zero' in the States of Arunachal Pradesh, Bihar, Chhattisgarh, Gujarat, Jammu & Kashmir, Karnataka Madhya Pradesh, Manipur, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh and West Bengal. On the subject of BMC, there is zero progress in Bihar and Jammu & Kashmir.

8. This inadequate progress is in spite of repeated directions of this Tribunal. We asked all the learned counsel appearing in the matter to suggest a reasonable mechanism for ensuring compliance of law with a penal consequence for any further defaults.

9. India is one of the recognized mega-diverse countries of the world, harbouring nearly 7-8% of the recorded species of the world, and representing 4 of the 34 globally identified biodiversity hotspots. India is also a vast repository of traditional knowledge associated with biological resources. So far, over 91,200



TRUE COPY ATTESTED

M. K. Pradhan
NOTARY, BHUBANESWAR
REGD. NO. ON-71/2009

3

species of animals and 45,500 species of plants have been documented in the ten biogeographic regions of the country. 5 The indigenous and local community are a repository of traditional knowledge and their knowledge and practices help in conservation and sustainable development of the biodiversity. In the past, India has already faced biopiracy6. There is, thus, urgent need to document the knowledge of the local community in the form of PBR.

10. As per certain studies7, PBRs help the State and the local community to become aware of the valuable resources being harvested in their area which can be utilised for the overall social and economic development of the State. Furthermore, PBRs also help in conservation of the traditional practices and knowledge of the local community. Studies on the issue of access and benefit sharing (ABS)8, show that non establishment of BMCs and absence of PBRs deprives the local community of the advantage of the biological resources. PBRs not only document the knowledge, they also help in identification of benefit claimers.

11. In above background, having considered the submissions made by the learned counsels, we direct as follows:

- (i) The Chief Secretaries of all the States, where the defaults are continuing, may consider giving a warning to the Panchayat Secretaries for their past failures, recording the same in their service record and give direction to the officers who are responsible for the job to ensure compliance with 100% constitution of BMCs and PBRs by 31.01.2020 failing which coercive measures may have to be considered against them. The Chief Secretaries may evolve a mechanism for ensuring a monthly meeting to be attended by the Chairman and Member Secretaries of State Biodiversity Boards, Secretaries, Panchayat, Environment and Forest starting from September, 2019.
- (ii) The States will be accountable for the defaults and required to deposit a sum of Rs. 10 lakhs per month each from 01.02.2020 with the CPCB to be utilized for restoration of the environment. The States will be at liberty to recover the said amount from the persons committing the default.
- (iii) The MoEF&CC and National Biodiversity Authority may hold a review meeting every



TRUE COPY ATTESTED

M. K. PRADHAN
NOTARY, BHUBANESWAR
REGD. NO. ON-71/2009

5/10/20

month from September 2019 till the above task is completed.

- (iv) The MoEF&CC may file a compliance report after collecting the necessary data from all the States on or before 15.02.2020. The Monitoring Committee of the MoEF&CC may oversee the quality of PBRs on sample basis by evolving a suitable mechanism"

6. Accordingly, a final report has been filed by the National Biodiversity Authority, Chennai on behalf of the MoEF&CC giving status of the formation of Biodiversity Management Committees (BMCs) and preparation of Peoples Biodiversity Registers (PBRs) in the local bodies as on 31.2020. The report inter-alia is as follows:

" As can be seen, there has been an increase of 32.5% in BMC constitution and an increase of 32.7% in PBR formation since the Order of the Hon'ble National Green Tribunal dated 09.08.2019:-

As on 26/07/2016 (when the OA was filed before the Hon'ble Tribunal)		As on 31/07/2020 (Based on which the Tribunal had issued Orders on 09/08/2019)		As on 31/01/2020 (January 2020)	
BMCs formed	PBRs prepared	BMCs formed	PBRs prepared	BMCs formed	PBRs prepared
9700	1,388	1,55,838	6,868	2,43,499	95,252

3. As already informed in the Interim Report, the National Biodiversity Authority had written to the Chief Secretaries of all States on 08/11/2019 to take necessary action to comply with the Orders of the Hon'ble Tribunal to complete the process of BMC formation and PBR preparation within the stipulated time frame as instructed by the Hon'ble Tribunal.
7. PBR is a dynamic document and it has to capture all the biological resources available in the local body in all the four seasons. Besides evaluating the PBRs. The PBR Monitoring Committee constituted by the NBA based on approval by MoEF&CC would be assisting the SBBs to evolve a mechanism to complete the PBRs in an expeditious manner."



TRUE COPY ATTESTED

M. K. Prakash
NOTARY, BHUVANESHWAR
REGD. NO. ON-712009
20/2/2020

12

7. We have also perused the written submissions filed on behalf of the applicant on 16.02.2020 commenting about the compliance as follows:

"4. That a perusal of the Compliance Report dated 13.02.2020 shows that:-

- (i) Out of 2,75,220 local bodies, BMCs have been constituted in 2,48,140 local bodies. This implies that present compliance rate is more than 90%. In the following States and Union Territories: Assam, Goa, Himachal Pradesh, Kerala, Maharashtra, Sikkim, Tripura and Lakshadweep the compliance with respect to BMC constitution is 100%.
- (ii) Out of 2,48,140 BMCs, PBRs have been prepared by 95,252 BMCs. This implies that more than 61% of the BMCs are yet to prepare their PBRs. It is important to note that while in the Union Territory of Jammu and Kashmir, State of Bihar and Rajasthan none of the BMCs have prepared their PBRs till date while Uttar Pradesh has achieved 100% target in PBR preparation."

8. The applicant has also given comments about the quality of the PBRs, status of collection of fees by the BMCs, status of funding of BMCs and status of access and benefit sharing (ABS).

9. We find that since there are still defaults in the constitution of BMCs and preparation of PBRs within the stipulated time fixed by this Tribunal, the defaulting States are liable to pay compensation in terms of order dated 09.08.2019 from 01.02.2020. The Act was enforced in 2002. The Rules came into force in 2004. Any further delay is not conducive to rule of law. The States cannot be allowed to plead incompetence or inability of carrying out mandate of law, undermining public interest. We may note that in absence of PBRs, regulation for conservation of biodiversity is affected. The Tribunal dealt with a matter in O.A. No. 57/2018 vide order dated 30.07.2019 where concretization within the blue line of Krishna river was found hampering biodiversity at the river bed. The



TRUE COPY ATTESTED

M. K. Pradhan
NOTARY, BHUBANESWAR
REGD. NO. ON-71/2009

Hon'ble Supreme Court in Civil Appeal No. 6563/2019, *Wai Municipal Council v. Jeevitnadi Living River Foundation & Ors.*, against the above order of NGT, observed, vide order dated 30.08.2019:-

"We are satisfied that concretization has been done within the prohibited zone, which has hampered the ground seepage and biodiversity at the river bed."

10. There are other similar instances including order of this Tribunal dated 20.02.2020 in O.A. No. 385/2019, *Centre for Wildlife v. UOI* for preservation of great Indian Bustard by removing powerlines from the flight path of the said bird. This matter was also dealt with by the Hon'ble Supreme Court vide order dated 18.02.2019 in Civil Appeal No. 838/2019, *M. K. Ranjansinh & Ors. V. UOI & Ors.* It is not necessary to multiply similar other instances but the fact remains that the issue is great significance and urgency.
11. In view of the above, we do not find any merit in the applications seeking extension of time. The States may ensure compliance and for the delay, compensation has to be paid as already directed. Only exception which may have to be made is for Jammu & Kashmir and Ladakh on account of developments in the wake of Jammu & Kashmir Reorganization Act, 2019 and peculiar situation which prevailed as mentioned in the affidavit dated 11.02.2020 filed on behalf of the UT of J&K. The time in respect of UTs of J&K and Ladakh will stand extended up to 31.10.2020. For delay beyond the said date, compensation at the same rate as applicable to other States/UTs will be payable from 01.11.2020.

In view of the above, I.A. No. 471/2019, M.A. No. 15/2020,

TRUE COPY ATTESTED M.A. No. 22/2020 & M.A. No. 23/2020 are dismissed.

M. K. P
NOTARY, BHUBANESHWAR
REGD. NO. ON-71/200

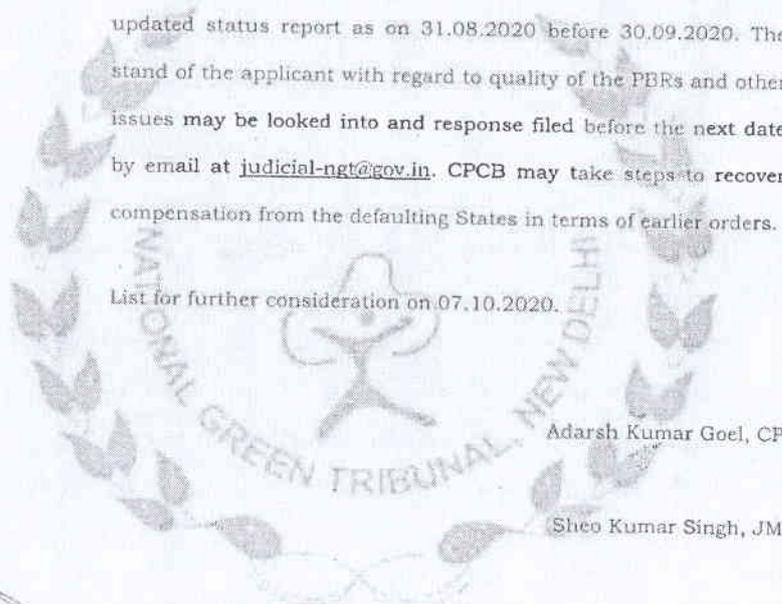
20/10/2020

✓

12. We are informed that the National Biodiversity Authority of India has prepared and placed on its website a model PBR for guidance of the States. The said model may be revised in the light of other available models. By way of example, reference is made a model prepared by the State of Nagaland.¹ Other similar models may also need to be looked into. The model so revised may be placed on the website within one month from today.

13. The MoEF&CC may continue to monitor the situation and file an updated status report as on 31.08.2020 before 30.09.2020. The stand of the applicant with regard to quality of the PBRs and other issues may be looked into and response filed before the next date by email at judicial-ngt@gov.in. CPCB may take steps to recover compensation from the defaulting States in terms of earlier orders.

List for further consideration on 07.10.2020.



Adarsh Kumar Goel, CP

Sheo Kumar Singh, JM

Dr. Nagin Nanda, EM



March 18, 2020
Original Application No. 347/2016
(I.A. No. 471/2019, M.A. No. 15/2020,
M.A. No. 22/2020& M.A. No. 23/2020)
AK

¹ <http://gef-autorama.net/wp/wp-content/uploads/2017/11/Kivikhu-People%27sBiodiversity-Register.pdf>

TRUE COPY ATTESTED

M. K. PRADHAN
NOTARY, BHUBANESWAR
REGD. NO. ON-71/2009