



**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH, PUNE**

Original Application No. 46 / 2018

Joint Forest Management Committee ... Applicants

v/s.

**Principal Secretary,
Revenue & Forest Dept. (Forest) &Ors.** ... Respondents

OBJECTION BY THE APPLICANTS TO THE COMMITTEE REPORT
___ NOVEMBER 2022, IN THE FORM OF AFFIDAVIT

We, ShamaNamu Mali, KirtiSurajmal Jain, Santra Kiran Jain and MahaveerBabulalPande, the respective Applicants in the present case, do hereby state on solemn affirmation that,

1. The present case pertains to grave forest violations committed by the Respondent No. 13 in consonance with the State Forest Department. It is undisputed fact that all the three joint committee reports state that, the Respondent No. 13 is responsible for causing large scale destruction of reserved forest areas at MangiTungi. Dumping of stones on the hill slopes from murti carving, no demarcation of 0.80 Ha for Murti carving, unauthorised development of road and other facilities, etc., are all brought on record, and this has raised a substantial question of environment.

On 05-09-2022, the Hon'ble Tribunal constituted a four members joint committee. The said committee was directed to -

... visit the spot and submit a report before us with respect to the factual situation of the spot as well as in respect of whether any destruction to the environment/forest has been caused by the Respondent No. 13 and if any damage to the environment/forest is



found to have been caused, its evaluation in terms of monetary compensation and remedial measures should also be done.

16. *The inspection shall be conducted after giving prior notice to the concerned parties ...*

3. Although the Committee was tasked to give prior notice to all the parties, the Committee gave notice only to Respondent No. 13, who remained present on 19-10-2022. Office bearers of the Respondent No. 13 Trust came from New Delhi and Hastinapur and accompanied the committee members and caused unilateral joint inspection, without any applicants present.
4. This fact was brought to the notice of the Hon'ble Tribunal and accordingly on 02-11-2022, the Hon'ble Tribunal directed the Joint Committee to cause re-inspection by giving advanced notice to the parties.
5. Accordingly, the Applicants received intimation from the committee about their visit on 24-11-2022. On 23-11-2022, the Applicants gave a representation to the Joint Committee, which was received by the Sub-DFO Office, Malegaon. Copy of the representation by the Applicants is marked as **Annexure 1**.
6. The Committee didn't visit MangiTungi on 24-11-2022. They called the Applicants to the Government Rest House at Taharabad. Committee was mandated by the Hon'ble Tribunal to cause joint inspection again at MangiTungi in the presence of the Applicants, which they didn't do. They only met the Applicants at Taharabad, which is far away from MangiTungi.
7. The Hon'ble Tribunal vide order dated 05-09-2022 had directed the Joint Committee to visit the spot and submit a factual report. The Applicants through their representation dated 23-11-2022, gave a list of various illegalities committed by the Respondent No. 13 which the Committee should have checked.
8. The Committee has opined that it is very difficult to remove the debris as it is dumped on slope. If that debris is to be removed, it will adversely affect the adjoining forest area. The quantum of debris is very huge. During the rainy season loose boulders tend to roll downhill and adjoining forest area is likely to be affected.

Therefore to arrest the rolling of boulders by construction of gabion structures on lower side of debris area.

9. Objections to the Joint Committee Report -

a) Committee members are not experts in civil engineering. They cannot give solutions for removing those boulders. Construction of Gabion Wall for arresting the rolling down of the boulders during monsoons is no solution. Gabion Wall constructed on hill slope won't remain intact due to change in weather.



b) The Applicants fear that if there are very heavy rains, the Gabion Wall might not be able to withhold the pressure of mud and huge boulders and it might burst open, thereby causing destruction of the entire village downhill. Removal of those boulders is the only solution.

c) Therefore it is necessary to appoint NEERI or any other Civil Engineering Research Institute to suggest ways of removing those boulders.



d) The Committee was directed to do spot visit of the entire area. The scope of work included visiting the unauthorized road, construction of 14-15 rooms at the foothills and unauthorized constructions near to the Murti, as well. Whereas it seems that, they have visited only the dumped debris and boulders and given their opinion thereupon.

e) The said 14-15 rooms don't have Forest Clearance even today.

f) Respondent No. 13 for carving out of the Murti, did tree cutting and hill cutting in the year 2000, for making the unauthorized kaccha road from the foothills till the Murti site. They constructed this road for movement of heavy machinery and equipment. They never obtained Forest Clearance for construction of that road. They got it as late as in February 2018. Moreover, in the year 2010, the District Collector sanctioned an amount of Rs. 10,00,000/-

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Dated 25.1.2023

from Adivasi improvement fund towards development of the said road, when the Collector had no authority to do so.

g) Committee has neither measured nor given any opinion of the unauthorized kaccha road constructed by Respondent no. 13 from the foothills till the Murti site.

h) Committee has not calculated the Environmental Compensation to be levied on Respondent no. 13 for causing Reserved Forest Destruction due to dumping of boulders, construction of unauthorized road by doing tree cutting and hill cutting, construction of 14-15 rooms at the foothills and unauthorized constructions near to the Murti.

10. All these facts were informed to the Joint Committee by the Applicants, however the Committee has not given any opinion thereupon.

Whatever is stated above is true and correct to the best of our knowledge, information and belief and we affirm it to be true.

Place :
Date :

Shama



Shama Namu Mali



Kirti Surajmal Jain



Santra Kiran Jain



Mahaveer Babulal Pande

I know the Affiant

[Signature]
Notary M.C.
Signed before Me

I solemnly affirm that the above is true and correct to the best of my knowledge, information and belief and I have signed in my presence and I have been identified by whom I personally know.
Date 25/1/2023

[Signature]
Notary
Mr. M. C. Sawant
Advocate & Notary (Govt. of India)



प्रति,
 मा.अप्परप्रधान मुख्य वनसंरक्षक तथा केंद्रस्थ अधिकारी
 प्रधान सचिव साो.,
 संयुक्त स्थळ निरीक्षण समिती

विषय :-मांगीतुंगी पर्वतावरील झालेल्या नुकासानीबाबत खालील स्थळांचे निरीक्षण
 सदंर्भ :- राष्ट्रीय हरित लवाद येथील याचिका क्र. ४६/२०१८ मध्ये दि. ५/९/२०२२ आणि
 २/११/२०२२ रोजी पारित झालेले आदेश

महोदय,

- १) सन १९९९ पासून ते २०१८ पर्यंतकेंद्र शासनाची परवानगी न घेता मुर्ती निर्माण कमेटी ने वृक्ष तोडून आणि डोंगर फोडून रस्ता तयार केला आणि वापरला त्या रस्त्याकरिता त्यांना २०१८ मध्ये केंद्र शासनाची परवानगी मिळाली. त्यांनी बेकायदेशीर केलेला रस्ता केंद्र सरकारला अंधारात ठेवून कायदेशीर करून घेतला याची चौकशी व्हावी.
- २) सन १९९९ सालची परवानगी फक्त मुर्ती निर्माण करता होती सन १९९९ ते २०१८ मध्ये मुर्ती व्यतिरिक्त त्यांनी बाकी बरीच बांधकामे केली आहेत. जे वन कायद्याचे उल्लंघन आहे. ती सगळी बांधकामे उघड दिसत आहेत.त्यांचा चंपनामा करावा.
- ३) सन १९९९ ते २०१८ पर्यंत अवैध रित्या केलेला व वापरात असलेला रस्ता मुर्तीपाशी व पायथ्याशी केलेली बांधकामे यांचा पंचनामा करून वन कायद्याप्रमाणे त्यांच्यावर कार्यवाही करण्यात यावी
- ४) वृक्षतोड, डोंगर फोड, दगड धोंडे कड्यावरून लोटून दिल्यामुळे जंगलाचे किती नुकसान झाले आहे. याचे पैश्यांमध्ये मोजमाप करावे व मा. सर्वोच्च न्यायालयाने टी.एन.गोदावर्मन च्या निकालानुसार रक्कम त्यांच्याकडून वसूल करावी.
- ५) प्रचंड मोठ्या प्रमाणावर टाकलेले दगड धोंडे वैज्ञानिक पद्धतीने काढावे व जंगल परिस्थिती पुर्ववत करावी व त्यांचा खर्च त्यांच्याकडून वसूल करावा.
- ६) वन क्षेत्रामध्ये जिल्हाधिकारी यांना कुठली ही कामे करायचा अधिकार नाही. ते कुठल्याही कामासाठी निधी देऊ शकत नाहीत. असे असतांना सुद्धाजिल्हाधिकारी यांनी त्यांच्या ६/१/२०११ रोजीच्या पत्राने अवैध रस्त्यासाठी व इतर कामाकरिता रु. १० लाख निधी दिला याची चौकशीचे आदेश पारित करावे.
- ७) सन १९९९ मध्ये मुर्ती निर्माण कमेटी यांनी पॉईंट ८० आर जमिन मुर्ती निर्माणसाठी दिलेली आहे. सदर मुर्तीनिर्माणासाठी स्थळ डिमार्केशन कोणत्या ठिकाणी केलेले आहे ते स्पष्ट होत नाही. सदर मुर्ती निर्माणासाठी ८० आर पेक्षा कितीतरी जास्त जमीन वापरण्यात आलेली आहे असे निदर्शनास येते त्याचे माजेमाप करणे गरजेचे आहे.
- ८) मुर्ती निर्माणकरिता ८० आर जमिन दिलेली आहे त्यासाठी ज्या अटी व शर्ती दिलेल्या होत्या त्याचे अनुपालन झाले किंवा नाही याची चौकशी करावी उदा. ५०० हेक्टर जमीनवर वृक्षारोपन करण्यास सांगितलेले होते परंतु आज अखेर तिथे किरकोळ वृक्षारोपन पेक्षा जास्त दिसत नाही. म्हणजेच त्यांनी अटीचे उल्लंघन केलेले दिसते.
- ९) जर का त्या जागेवर निर्देश दिल्याप्रमाणे वृक्षारोपन झाले असते तर तेथे पुन्हा जंगल उभे राहू शकले असते व पर्यावरणाला पुरक असे वातावरण निर्माण झाले असते.

१०) मुर्ती निर्माण रचणुकाचे काम सन १९९९ पासून सुरू झालेले आहे. सदर कामासाठी मोठमोठ्या मशिनरी बुलडोजर वायसा मशिन, जनरेटर वा सर्व वस्तु कामासाठी वेणआण करण्यासाठी सदर समिती ने जेसीबी व बुलडोजरच्या साहाय्याने कंधा रस्ता तयार करताना रस्त्यात घेणारे झाडे तोडण्यात आलेली आहे. सदर रस्त्याकामी त्यांनी २.७३ जमिन ही सन २०१८ मध्ये देण्यात आली म्हणजेच यांनी जवळ जवळ २० वर्षे सदरची जमिनी वापर विनापरवानगी केलेला आहे.

११) सदरच्या रस्त्यासाठी वनविभागाचा निधी वापरण्यात आलेला आहे असे वन विभागाने एनजीटी ला कळविले आहे. जर हा रस्ता खाजगी देण्यात आलेला आहे तर मग त्यावर वनविभागाने खर्च का केला. सदर रस्त्यासाठी काही अटीशर्ती घातून दिलेल्या आहेत. त्याचे पालन झाले किंवा नाही याचा खुलासा व्हावा. उदा. अटी शर्तीमध्ये सदरचा रस्ता हा गावकऱ्यांना विनारोख ठोक व विनामुल्य वापरण्यास सरकारने निर्देश दिलेले आहेत तसेच मुर्तीनिर्माण कमेटीने लेखी स्वरूपात दिलेले आहे. तरी देखील सदर कमेटी स्थानिक लोकंना सदरचा रस्ता विनामुल्य वापरू देत नाही. त्यासंबंधी नोंद घेणे गरजेचे आहे.

१२) ट्रस्ट ला ८० आर व २.७३ हेक्टर जमिन देण्यात आलेली आहे परंतु सदर संस्थेने दिलेल्या पंक्षा जास्त जमिनीचा वापर केलेला दिसत आहे.

१३) वनविभागाने ८ हेक्टर वर नुकसान झालेले आहे असे एनजीटी ला लेखी स्वरूपात दिलेले आहे परंतु सदरचे नुकसान हे त्यापेक्षा कितीतरी जास्त दिसत आहे. तरी संपुर्ण जागेची मोजणी व्हावी.

१४) सदरच्या भांगी व तुंगी व सुद्धबुद्धजी गुफेवर अजेंठा व वेरूळ या टाईपच्या लेण्या आहेत. सदर लेण्यांना यांनी केलेल्या मोठमोठ्या ब्लास्टिंगमुळे गुफांना हादरे बसून लिकेज होत आहेत त्यामुळे तेथे असलेल्या देवांच्या प्रतिमा ह्या जीर्ण होत आहे. व नष्ट होत आहेत.

वोट :- सदर वरील बाब आपल्या निदर्शनास आणून देत आहेत तसेच एन.जी.टी.ला संपुर्ण माहिती पुरविलेली आहे व आपण ही आपला अहवाल प्रत्यक्ष दर्शनी जसा आहे तसा तो सादर करावा हि विनंती.

सोबत -राष्ट्रीय हरित लवाद येथील याचिका क्र. ४६/२०१८ मध्ये दि. ५/९/२०२२ आणि २/११/२०२२रोजी पारित झालेले आदेशाच्या झेरॉक्स प्रत व

प्रत माहितीसाठी रवाना

- १) मा.मुख्य वनसंरक्षक प्रा. नाशिक
- २) मा.प्रधान मुख्य वनसंरक्षक (वनबल प्रमुख) यांचे प्रतिनिधी
- ३) मा.असि.इन्स्पेक्टर जनरल प्रादेशिक कार्यालय पर्यावरण वन व जलवायु परिवर्तन मंत्रालय भारत सरकार नागपुर
- ४) मा. अम्पर जिल्हाधिकारी नाशिक यांचे प्रतिनिधी
- ५) मा.उपविभागीय वनाधिकारी मालेगांव

आपला

- १) शामा नामु माळी
- २) सौ.किर्ती सुरजमल जैन
- ३) सौ.संत्रा किरण जैन
- ४) महावीर बाबुलाल पांडे

श्रीमती
सौ. किर्ती जैन
श्रीमती
श्रीमती

Revised
Subofa
malegam
date. 23/11/22

भारत सरकारचे १८०२ नमूने
५११ नं. १२५० १२५० - ११ - ११
१२५० १२५० १२५० १२५० १२५०

Date 23-11-2022

To,
Additional Principal Chief Conservator of Forests and
Central Designated Officer,
Joint Spot Inspection Committee

Subject : To do spot inspection of various locations destroyed at Mangi Tunggi

Reference : Orders dated 05/09/2022 and 02/11/2022 passed by Hon'ble NGT in OA No. 46/2018

Sir,

1. From the year 1999 till 2018, Murti Nirman committee without taking prior permission from Central Govt., constructed a road by doing tree cutting and hill cutting and they obtained permission from the Central Govt. in 2018. They kept the Central Govt. in dark and got the road legalised, enquiry needs to be done about it.
2. Permission given in 1999 was only for carving out of the Murti, from 1999 till 2018 they did many unauthorised constructions. It is violation of Forest Law. All those constructions are openly visible, Panchannama of that needs to be done.
3. Road constructed and in use from the year 1999 till 2018, constructions done near to the Murti and at the foothills, Panchnama of the same needs to be done and action should be taken according to the Forest Law.
4. Monetary evaluation needs to be done of the destruction caused due to tree cutting, Hill cutting, dumping of huge stone boulders etc., and the said amount should be recovered from them according to the Hon'ble Supreme Court's decision in T N Godavarman case.
5. Huge boulders and stones dumped, should be scientifically removed, destructed area should be restored and expenses of the same should be recovered from them.
6. District collector has no authority to carry out any works in forest area. He cannot sanction any amount for the same. In spite of this position the District Collector vide their letter dated 06-01-2011 sanctioned an amount of Rs. 10,00,000/- for the unauthorised road, this needs to be enquired into.
7. In the year 1999, 0.80 Ha of reserved forest land was given to Murti Nirman Committee for Murti Nirman only. There is no clear demarcation on ground

identifying the exact location of the said allocated land. A lot of excess land which is more than 0.80 Ha has been used, which is clearly visible, the said needs to be measured.

8. Murti Nirman, 0.80 Ha of reserved forest land was given on certain terms and conditions, enquiry needs to be done whether the same have been followed or not. For e.g., plantation was told to be done on 500 Ha, hardly any plantation is visible. This means they have violated they said conditions.
9. If the said condition had been followed, a dense forest would have been visible today creating a healthy environment.
10. Murti Nirman work began in the year 1999. The committee by using JCB machines and bulldozers, did large scale tree cutting and hill cutting for construction of the unauthorised road required for transportation of heavy machinery, generators and equipment for carving out Murti. They obtained forest clearance in 2018 for the road, this means they were illegally using the said road for almost 20 years.
11. Forest department has stated to the Hon'ble NGT that they have made expenditure towards the said road. If the said road is private road then why did Forest Department spend money on it. Certain Terms and conditions had been given while making that road. Whether they have been followed or not needs to be enquired. For e.g., one of the condition states that local villagers can use the said road without any obstruction, the same has been given in writing by the Murti Nirman Committee. In spite of that, Committee is not allowing local villages to use that road. The said needs to be looked into.
12. The Trust had been given 0.80 Ha and 2.73 Ha land, however much more land has been unauthorisedly grabbed.
13. Forest department has submitted that an area of around 8 hectares has been destroyed, whereas in reality much larger area has been destroyed.
14. At the Sadbuddhi Caves at Mangi Tungi, there are ancient caves like Ajanta and Ellora. The said caves and the ancient idols inside, have been damaged due to water leakages caused due to heavy vibrations while carving out the Murti by the Murti Nirman Committee.

Note : Above information is being given to you and the same has been submitted before the Hon'ble NGT and it is requested to you to submit a true and correct report based on the ground level situation.

Attached : Orders dated 05/09/2022 and 02/11/2022 passed by Hon'ble NGT in OA No. 46/2018, Forest Clearance of 0.80 Ha, Forest Clearance of 2.73 Ha and other information.

Copy for information to -

1. Chief Conservator of Forests, Nashik
2. Principal Chief Conservator of Forests, Head of Forest Force, their representative
3. Assistant Inspector General of Forests, Ministry of Environment Forest and Climate Change, Nagpur Office
4. Deputy Collector, their representative
5. Divisional Officer, Malegaon

Yours

1. Shama Namu Mali
2. Sou. Kirti Surajmal Jain
3. Sou. Santra Kiran Jain
4. Mahavir Babulal Pande

Received
Sd/-
Sub DFO
Malegaon
Date 23/11/2022