

# 143

BEFORE THE NATIONAL GREEN TRIBUNAL,  
PRINCIPAL BENCH AT NEW DELHI

Original Application No. 677/2024

In the matter of:-

Chander Prakash

Applicant

Versus

Haryana State Pollution Control Board & Others

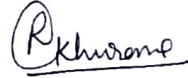
Respondent

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Date: 30.01.2025

Place: Delhi



Through

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In the matter of:-

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Respondent

REPLY ON BEHALF OF RESPONDENT No. 2, 3, 4 AND 5

MOST RESPECTFULLY SHOWETH:

PRELIMINARY SUBMISSIONS:-

1. That present application has filed by the applicant alleging illegal felling of trees in land belonging to the village Panchayat, Ahmedpur in violation of Rules and Regulations.
2. That present reply is being filed through Satish Kumar, HFS, Divisional Forest Officer, Sirsa who is authorized and competent to file the same on behalf of answering respondents.
3. That it is humbly submitted that regulatory mechanism in place in State of Haryana w.r.t. felling of trees is as under:
  - (i) Section 3 of the Punjab Land Preservation Act, 1900 (here-in-after referred to as Act, 1900) makes provision for notification of areas under the said Act. Further, the Act, 1900 empowers the State Government under Section 4 to regulate, restrict or prohibit, by general order or special order, with in notified areas, certain matters. Similarly, under Section 5 of the above Act, the State Government is empowered to regulate, restrict or prohibit, by general order or special order, within notified areas, certain other matters. The provisions of Section 3 and Section 4 of the Punjab Land Preservation Act, 1900 are reproduced hereunder for kind perusal of this Hon'ble Tribunal:-

**"Section 3 Notification Areas:** It reads as "Whenever it appears to the State Government that it is desirable to provide for the conservation of subsoil water or the prevention of erosion in any area subject to erosion or

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likely to become liable to erosion, such Government may-by notification make a direction accordingly.

**Section 4 Power to regulate, restrict or prohibit, by general or special order, within notified areas, certain matters.** It reads as "In respect of areas notified under section 3 generally or 'the whole or any part of any such area the State Government may by general or special order, temporarily regulate, restrict or prohibit-

The clearing or breaking up or cultivating of land not ordinarily under cultivation prior to the publication of the notification under section;

The quarrying of stone or the burning of lime at places where such stone or lime had not ordinarily been so-quarried or burnt prior to the publication of the notification under section 3;

The cutting of trees or timber, or the collection or removal or subjection to any manufacturing process, otherwise than as described in clause (b) of this subsection of any forest-produce other than grass, save for bona fide domestic or agricultural purposes of right-holder in such area;

The setting on fire of trees, timber or forest produces;

The admission, herding, pasturing or retention of sheep goats or camels;

The examination of forest-produce passing out of any such area; and

The granting of permits to the inhabitants of towns and villages situated within the limits or in the vicinity of any such area, to take any tree, timber or forest produce for their own use there from, or to pasture sheep goats or camels or to cultivate or erect buildings therein and the production and return of such permits by such persons,

It is further submitted that, the Govt. of Haryana issued notification No. S.O.121/PA.2/1900 /S4/97 dated 28 November 1997 under section 4 of the Act, 1900 prohibiting the following acts for a period of 15 years in the areas lying on north side of metalled and un-metalled road from Kalka connecting Chandigarh, Panchkula, Ramgarh, Raipur Rani, Naraingarh, Sadhaura, Bilaspur, Chhachhrouli, Dadupur upto the Yamuna river near villages Nathanpur and Lakur falling in Tehsils Kalka, Naraingarh and Jagadhari for giving effect to the purposes of the Act, 1900:-

*"The cutting of trees or timber except Eucalyptus and Poplar or the collection or removal or subjection to any manufacturing process, of any forest produce other than flower, fruit and honey, save for bonafide domestic or agricultural purposes or for purpose of the right Solders in the land, provided that the owners of the land may sell trees or timber after obtaining a permit to do so from the Divisional Forest Officer, of the concerned division, such permit will prescribe such conditions for sale as may from time to time appear necessary in the interest of forest conservancy."*

A copy of Notification dated 28 November 1997 issued Under Section 4 of the Act, 1900 is enclosed herewith as **Annexure R/1**.

After expiry of the above mentioned notification, fresh Notification dated 04 January 2013 under Section 4 has been issued by the State Government. The said notification continued till date only for the area specified therein. A copy of Notification dated 04 January 2013 issued Under Section 4 of the Act, 1900 is enclosed herewith as **Annexure R/2**.

The land in question does not fall under the abovementioned areas specify Under Section 4 of the Act, 1900.

- (ii) That any non-forest activity including felling of trees over the land having status of forest requires prior permission under Forest Conservation Act, 1980. The land in question does not fall within the definition of 'forest' under any of the enactment. Thus, Forest Department is not having any authority or jurisdiction to stop private individuals from felling the trees from the land owned by them, except wherever there is a specific provision to seek prior permission from the competent authority.
- (iii) That in compliance of the order dated 01 July 2022 passed by this Tribunal in O.A. No. 374 of 2022 titled as 'Green Earth Vs. Deputy Commissioner, Kurukshetra and others', the Development and Panchayats Department, Haryana has issued order dated 27 August 2023, whereby mechanism has been notified for felling of trees on private lands under the rural area of Gram Panchayats. A copy of order dated 27 August 2023 issued by the Development & Panchayat Department vides endst. dated 05 September 2023 is annexed herewith as **Annexure R/3**. The felling of trees in the present case is covered by the order dated 27 August 2023 issued by the Development & Panchayat Department vide endst. dated 05 September 2023. In present case, felling of trees has been caused through Haryana Forest Development Corporation (HFDC) which has filed its separate reply along with relevant documents

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i.e. copy of letter of BDPO, resolution of Gram Panchayat, Marking List, agreement etc.

4. That vide letter dated 09.10.2023, General Manager, HFDC, Sirsa has informed the Deputy Commissioner, Sirsa that after felling of 29 trees, agreement w.r.t. felling of remaining trees has been cancelled and felling of remaining trees has been stopped.

PARAWISE REPLY:

- I. That para No.1 of the application are wrong and denied to the extent those are contrary to matter of record. The contents of preliminary submissions are being reiterated.
- II. That para no.2 of the application is wrong and denied to the extent those are contrary to matter of record.
- III. That para No.3 of the application are wrong and denied to the extent those are contrary to matter of record. The description of Respondent No.2 is deficient and improper.
- IV. Sub parawise reply is as under:-
- A. That content of para No.4-A of the application is wrong and denied. The contents of preliminary submissions are being reiterated.
- B. That content of para No.4-B of the application is wrong and denied. The applicant is put to strict proof of the same. The contents of preliminary submissions are being reiterated.
- C. That in reply to contents of para No.4-C of the application, it is submitted that allegations made in para under reply don't relate to the answering respondents, however, contents of preliminary submissions are being reiterated in response to para under reply.
- D. That in reply to contents of para No. 4-D of the application, it is submitted that allegations made in para under reply don't relate to the answering respondents, however, contents of preliminary submissions are being reiterated in response to para under reply.
- E. That in reply to contents of para No.4-E of the application, it is submitted that no complaint has ever been received in the office of Respondent No.3 and 4 as alleged in this para. The contents of preliminary submissions are being reiterated.
- F. That content of para No.4-F of the application does not relate to Respondent No.3 and 4. The contents of preliminary submissions are being reiterated.
- G. That contents of 4-G of the application does not relate to Respondent No.3 and 4. The contents of preliminary submissions are being reiterated.
- H. That content of para No.4-H of the application is wrong and denied except those are matter of record. The contents of preliminary submissions are being reiterated.
- I. That content of para No.4-I of the application is wrong and denied except those are matter of record. The contents of preliminary submissions are being reiterated.

- J. That content of para No.4-J of the application is wrong and denied except those are matter of record. The contents of preliminary submissions are being reiterated.
- K. That in reply to contents of para No.4-K of the application, it is submitted that as per applicant authority vests with the Haryana Forest Development Corporation (Respondent No.7). It is Respondent No.7 through whom, felling of trees has been caused.
- L. That in reply to contents of para No.4-L of the application it is submitted that District Forest Officer has no concern or connection with the subject matter of the present application as the trees in question which allegedly shown to be illegally fell/cut/sell are not belongs to Forest department as the trees in question were neither notified under Haryana Government nor the same were the part of protected forest and the same also does not cover under the P.L.P.A. ACT 1900.
- M. That in reply to contents of para No.4-M of the application, contents of preliminary submissions is being reiterated.
- N. That in reply to contents of para No.4-N of the application, the contents of preliminary submissions are being reiterated.
- O. That content of para No.4-O of the application does not require specific reply in light of preliminary submissions.

#### V. GROUNDS

In view of contents of preliminary submissions and parawise reply, no ground is made out to file the present OA against the answering respondents. The grounds raised by the applicant are untenable and liable to be rejected.

#### Reply to Prayer Clause

In view of the facts and circumstances mentioned herein above, present OA is not maintainable and sustainable qua the answering respondents and same is liable to be dismissed qua answering respondents.

Place: **Sirsa**  
Date: 30.01.2025

Divisional Forest Officer,  
Sirsa, District Sirsa  
(For Respondent No. 2, 3, 4 and 5)  
**SATISH KUMAR, HFS**  
Divisional Forest Officer  
Sirsa Forest Division, Sirsa



**HARYANA GOVT. GAZ. (EXTRA), NOV. 28, 1997**  
**(AGAIN .7.1919 SAKA)**

**[Authorised English Translation]**

**HARYANA GOVERNMENT**

**FOREST DEPARTMENT**

**ORDER**

**Dated 28, November, 1997**

No. S.O. 121/P.A. 2 / 1900 /S.4/97:- Whereas, the Governor of Haryana is satisfied after due enquiry, that the regulations, restrictions and prohibitions hereinafter contained are necessary for the purpose of giving effect to the Punjab land preservation Act, 1990.

Now therefore, in exercise of the powers conferred by section 4 of the said Act, and in suppression of Haryana Government, Forest Department order No. S.O. 130/P.A./2/1900/S. 4/1995, Dated the 16<sup>th</sup> November, 1995, the Governor of Haryana hereby prohibits the following acts for a period of fifteen years with effect from the date of publication of this order in the official Gazette, in the area more particularly specified in the schedule given below, which has been notified under section 3 of the said Act, - vide Haryana Government, Forest Department, Notification No. S.O.113/P.A. 2/1900/S.3/97, date the 17<sup>th</sup> November, 1997.

- a) The cutting of trees or timber except eucalyptus and poplar or the collection or removed or subjection to any manufacturing process of any forest produce other than flower, fruit and honey, save for bonafide.

domestic or agricultural purposes or for purpose of the rightholders in the land, provided that the owners of the land may sell trees or timber after obtaining a permit to do so from the Divisional Forest Officer, of the concerned division, such permit will prescribe such conditions for sale as may from time to time appear necessary in the interest of forest conservancy. In notified are of Panchkula District, Ambala District and Yamuna Nagar District of the State of Haryana, Specified in the below mentioned schedule, Khair trees (acacia Cotechu) shall be purchased solely by Haryana Forest Development Corporation limited at the prices fixed by the Board of Directors of the Haryana Forest Development Corporation Limited.

C

  
Divisional Forest Officer  
Sirsa Forest Division Sirsa

## SCHEDULE

District	Tehsil	Villages
Panchkula	Kalka	Area lying on North side of mettaled & unmetalled road connecting Chandigarh , Panchkula, Ramgarh, Raipur Rani, Naraingarh, Sadhaura, Bilaspur, Chhachrauli, Dadupur, and reaching Jamuna river near Villages Nathanpur and Lakur.
Ambala	Naraingarh,	
Y/Nagar	Jagadhri	
Faridabad	Ballabgarh	Area lying on western side of Delhi-Ballabgarh road and northern side of Ballabgarh-Sohna road.
Gurgaon	Nuh	Areas lying on western side of Delhi-Alwar road.
	Ferozepur Jhirka	All revenue estates of Ferozepur Jhirka Tehsil.
	Gurgaon	All revenue estates of Gurgaon Tehsil.
	Sohna	All revenue estates of Sohnna Tehsil.
	Pataudi	All revenue estates of Pataudi Tehsil.
Mohindergarh	Narnaul	All revenue estates of Narnaul Tehsil.
	Mohindergarh	All revenue estates of Mohindergarh Tehsil.
Rewari	Rewari	All revenue estates of Rewari Tehsil.
	Bawal	All revenue estates of Bawal Tehsil.
	Kosli	All revenue estates of Kosli Tehsil.
Bhiwani	Dadri	Areas lying on western side of Dadri, Bhiwani, Tosham & Hisar Road.
	Bhiwani	
	Loharu	

**S. K. MAHESHWARI,**  
Commissioner and Secretary to  
Government, Haryana, Forest Department

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Divisional Forest Officer  
Sirsa Forest Division Sirsa

*[Authorised English Translation]*HARYANA GOVERNMENT  
FOREST DEPARTMENT

## Notification

The 4th January, 2013

No. S.O. 8/P.A. 2/1900/S. 4/2013.—Whereas the Governor of Haryana is satisfied, after due enquiry, that the regulation, restrictions and prohibitions hereinafter contained are necessary for the purpose of giving effect to the provisions of the Punjab Land Preservation Act, 1900 (Punjab Act 2 of 1900):

Now, therefore, in exercise of powers conferred by Section 4 of the said Act, the Governor of Haryana hereby prohibits the following acts for a period of fifteen years with effect from the date of publication of this order in the Official Gazette in the areas more particularly specified in the Schedule given below, which has been notified under Section 3 of the said Act, *vide* Haryana Government, Forest Department, Notification No. S.O. 8/P.A. 2/1900/S. 3/2012, dated the 19th December 2012.

- (a) The cutting of trees or timber except Eucalytus, Poplar, Bakain, Bamboo, Tul, Amrood and Ailanthus or the collection or removal or subjection to any manufacturing process, of any forest produce other than flower, fruit and honey, save for bona fide domestic or agricultural purposes of the right-holders in the land, provided that the owners of the land may sell trees or timber after obtaining a permit to do so from the Divisional Forest Officer of the concerned division. Such permit will prescribe such conditions for sale as may, from time to time, appear necessary in the interest of forest conservancy. The farmers of the State shall be liberty to sell Khair trees to any person/agency/Haryana Forest Development Corporation Limited of their choice so as to enable them to get remunerative price of their products provided that the owners of the land may sell the Khair trees after obtaining a permit to do so from the Divisional Forest Officer concerned.

*W*  
Divisional Forest Officer  
Sirsa Forest Division Sirsa

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HARYANA GOVT. GAZ. JAN. 8, 2013  
(PAUS. 18, 1934 SAKA)

**SCHEDULE**

District	Tehsil	Village
1	2	3
Panchkula	Kalka	Areas lying on North side of metalled & unmetalled road connecting Chandigarh, Panchkula, Ramgarh, Raipur Rani, Narnangurh, Sadhaura, Bilaspur, Chhachhrauli, Dadupur and reaching Jamuna river near villages Nathanpur and Lakur.
	Panchkula	
Ambala	Narnangarh	
Yamuna Nagar	Jagadhari	
	Chhachhrauli	
Fandabad	Ballabgarh	Areas lying on western side of Delhi-Ballabgarh road and northern road and northern side of Ballabgarh-Sohna road.
	Fandabad	
Mewat	Nuh	Areas lying on western side of Delhi-Alwar road. All Revenue Estates of Ferozepur Jhirka Tehsil.
	Ferozepur Jhirka	
Gurgaon	Gurgaon	All Revenue Estates of Gurgaon Tehsil.
	Sohna	All Revenue Estates of Sohna Tehsil.
	Pataudi	All Revenue Estates of Pataudi Tehsil.
Mohindergarh	Narnaul	All Revenue Estates of Narnaul Tehsil.
	Mohindergarh	All Revenue Estates of Mohindergarh Tehsil.
Rewari	Rewari	All Revenue Estates of Rewari Tehsil.
	Bawal	All Revenue Estates of Bawal Tehsil.
	Kosli	All Revenue Estates of Kosli Tehsil.
Bhiwani	Dadri	Areas lying on western side of Dadri, Bhiwani, Tosham & H. sar Road.
	Bhiwani	
	Loharu	

KRISHNA MOHAN,  
Additional Chief Secretary to Government Haryana,  
Forest Department.

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Divisional Forest Officer  
Sirsa Forest Division Sirsa

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ORDER

Development of Social Forestry is one of the duties of a Gram Panchayat as provided in Section 21(A) of the Haryana Panchayat Raj Act, 1994. Gram Panchayats are required to promote and develop social forestry within their jurisdiction. To regulate the cutting of trees on private land in such areas, it has been decided by State Government that the Gram Panchayat may allow cutting of trees on private land only in the manner prescribed hereinafter.

The applicant may submit an application to the Gram Panchayat or Gram Sachiv for cutting of tree. The Sarpanch shall immediately get the preliminary inspection done. In case the proposal is not found to be justified, the same is to be rejected at this level itself and if it is found to be a fit case or if it falls within the categories of trees detailed below, it shall be considered and decided by the Gram Panchayat. The Gram Panchayat shall be competent to approve the cutting of such tree. The entire process shall be completed within 10 days -

- a. Diseased (name of disease and extent) tree.
- b. Dead / dry Tree
- c. Road blockage and constitutes obstruction to traffic.
- d. Leaning and posing danger to life or property.
- e. Over mature (if estimated age is beyond tree rotation period).
- f. Critical root zone is covered with concrete (root asphyxiation)
- g. Hollowness in Tree
- h. Lacks mechanical strength
- i. Decay in the main trunk due to fungi
- j. Termite infestation in tree.
- k. Silviculturally mature trees.
- l. Uneven canopy weights.
- m. Suitable for transplantation.
- n. Threatens life or property or effects public safety.

In case the tree does not fall in any of the above mentioned categories, the Gram Panchayat will have to seek the opinion of the Biodiversity Management Committee (BMC) constituted at the Panchayat level on the ecological value of the tree before allowing its cutting. If required a joint inspection can be done by the Gram Panchayat and the BMC. On the basis of joint inspection report, the Gram Panchayat shall consider and may allow the request of the applicant for cutting of tree subject to the conditions that the person on whose land the tree stands, shall commit to plant atleast 3 trees of the indigenous species / variety and also protect and ensure their conservation for atleast 3 years. In case the request of the applicant is rejected by the Gram Panchayat, the applicant may approach the BDDPO concerned.

Permission for felling of trees within the jurisdiction of the Forest Department shall be given exclusively by the Forest Department only.

Chandigarh  
Dated: 27.08.2023

Anil Malik, IAS  
Additional Chief Secretary Government of Haryana  
Development & Panchayats Department, Chandigarh  
dated: 31/9/23

Enclst. No. GA-2/2023 97615-874

A copy of the above is forwarded to the following for information and necessary action:

1. The Additional Chief Secretary, Govt. of Haryana, Environment, Forest and Wildlife Department
2. The Principal Chief Conservator of Forest (H&T), Haryana, Panikula
3. All the Deputy Commissioners, Haryana
4. All the Chief Executive Officers, Zila Parishad, Haryana.
5. All the District Development and Panchayat Officers, Haryana
6. All the Block Development and Panchayat Officers, Haryana
7. All the Sarpanch in the State Haryana
8. All Gram Sachiv in the State Haryana

Bullay  
Deputy Superintendent (General)  
Additional Chief Secretary Government of Haryana  
Development & Panchayats Department Chandigarh

Divisional Forest Officer  
Sirsa Forest Division Sirsa