

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

ORIGINAL APPLICATION NO.779 /2024

Dinesh Gupta

..Applicant/Petitioner

Vs.

State of Punjab and others

....Respondents


I N D E X

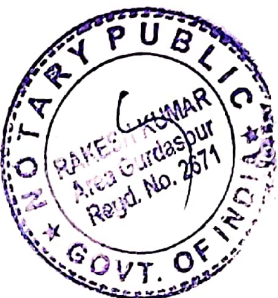
SR. NO.	PARTICULARS	DATED	PAGES
1	Short Reply by way of Affidavit of Atal Kumar, PFS, Divisional Forest Officer, Gurdaspur Forest Division, Gurdaspur, in compliance of the order dated 14.10.2024, passed by the Hon'ble National Green Tribunal in Original Application No.779 of 2024 titled as Dinesh Gupta Vs State of Punjab and others, on behalf of respondents No.1 to 3.		1-8
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Place: Gurdaspur

Deponent

Dated: 02-01-2025


Atal Kumar, PFS
Divisional Forest Officer
Gurdaspur Forest Division,
Gurdaspur.



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

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ORIGINAL APPLICATION NO.779 /2024

DINESH GUPTA S/O KRISHAN LAL GUPTA, Aged 55 Years R/O
Kothi No 1 Ward No 14, Mohalla Prem Nagar Saingarh, Near
Deffodil Public School, Tehsil Pathankot, District Gurdaspur
145001

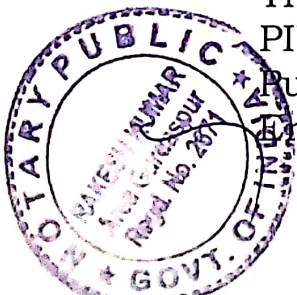
MOB. NO.9417014574

E mail Id lenitpharmaceuticals@gmail.com

...Applicant/Petitioner

VERSUS

1. STATE OF PUNJAB
Through Chief Secretary
Chief Secretary Office, 6th Floor,
Punjab Civil Secretariat -1, Sector 1,
Chandigarh, 160001, Punjab
Email Id: CS@punjab.gov.in
2. PRINCIPAL CHIEF CONSERVATOR OF FOREST
Forest Complex, Sector 68, Sahibzada Ajit Singh Nagar
Nagar Mohali Punjab 160062
Email Id: pccfcomplex@gmail.com
3. DFO (District Forest Officer)
Civil Lines Shehzada Nangal, Gurdaspur, Punjab 143521
Email Id: dfogurdaspur@gmail.com
4. NATIONAL HIGHWAY AUTHORITY OF INDIA
Through Project Head/State Head
PIU-Amritsar E-09, Dream City, Amritsar-143115
Punjab
Email Id: piumamritsar@nhai.org



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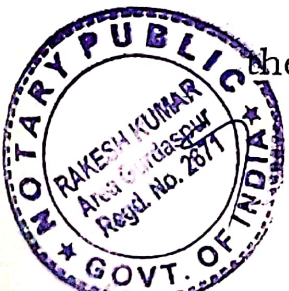
...Respondents.

Short Reply by way of Affidavit of Atal Kumar, PFS, Divisional Forest Officer, Gurdaspur Forest Division, Gurdaspur, in compliance of the order dated 14.10.2024, passed by the Hon'ble National Green Tribunal in Original Application No.779 of 2024 titled as Dinesh Gupta Vs State of Punjab and others, on behalf of respondents No.1 to 3.

RESPECTFULLY SHOWETH

I, the above named deponent do hereby solemnly affirm and declare as under:-

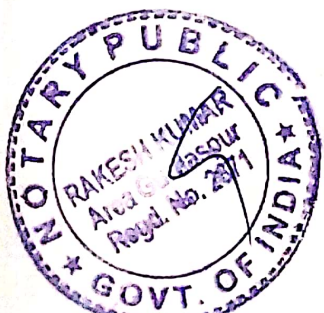
1. That the above noted Original Application is pending adjudication before this Hon'ble National Green Tribunal and is now fixed for hearing on 27.01.2025.
2. That the Forest and Wild Life department has been impleaded in the present Original Application as respondent No. 1 to 3, because the matter pertains to the cutting of trees allegedly from the forest land and without any requisite permission/approval. And the deponent being the Divisional Forest Officer is well conversant with the facts of the case and being competent has duly been authorized to



file the present short reply by way of affidavit on behalf of the Respondent Nos. 1 to 3.

3. That this Original Application has been filed by the applicant/petitioner while alleging that about illegal felling of green trees during the construction of vehicular underpass on NH-54 from KM stone 43.000 to Km stone 44 200 specifically in the area of Sohal Village, Taluka and District Gurdaspur has been done and thus violation of Supreme Court's Judgment on Linear Project passed in Civil Appeal Nos.1628-1629 of 2021. Noble M. Paikada V Union of India has been conducted. This Original Application came up for hearing before this Hon'ble Tribunal on 14.10.2024, and this Hon'ble Tribunal was pleased to pass the following order. The operative part of the order is reproduced as under:-

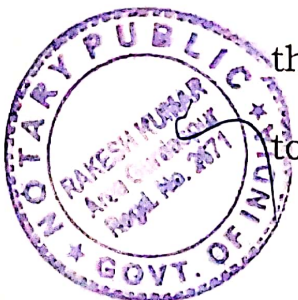
"5. Let notice be issued to respondents for filing their response/reply by way of affidavit before the Tribunal at least one week before the next date of hearing through e-filing. The applicant is directed to serve the respondents and file an affidavit of service at least one week before the next date of hearing. If any respondent directly files the reply without routing it through his



advocate then the said respondent will remain virtually present to assist the Tribunal.

9. List on 27.01.2025."

4. That at the very outset, the answering respondents want to bring into the notice of this Hon'ble Tribunal that the land in question is not a "Protected Forest" or "Reserved Forest" or any other 'Forest category under Indian Forest Act 1927, due to that no Forest Act or Rule is applicable on this land. As a matter of fact, the owner of this land is National Highways Authority of India, who has acquired this land from the farmers for the construction of vehicular underpass at KM stone 43.5 on NH 54(Formerly Old NH 15) at village Sohal Tehsil Taluka and District Gurdaspur, as part of a road construction project, the total stretch involved in this construction is 1.2 Kilomeers, from kilometer 43.000 to Kilometer 44.200. Because the NHAI has been established under the National Highways Authority of India Act, 1998 with the main objective of developing, maintaining and managing highways in the country as entrusted/vested by the Central Government, which undertakes projects related to the development of National Highways at various



[Handwritten signature]

locations all over India. These projects are formulated and implemented according to the policy guidelines of the Govt. for meeting the growing needs of the road transport in the country.

5. That however, it would be relevant to mention here that a MOU has been executed between the NHAI and the answering respondent department. The relevant part of this MOU pertains to the answering respondent department is reproduced as under:-

"1. The Forest Department shall from the 24th day of month December & year 2019 take over the management of the said lands for the purpose of plantations of suitable trees of native as well as commercial species. The said lands shall not be deemed to be or declared as "Protected Forest" or "Reserved Forest" or any other 'Forest category under Indian Forest Act 1927. However, the said land will be managed in accordance with this agreement as per terms and conditions agreed upon by both the Forest Department and NHAI.

2. State Forest Department through their local authorities and workers will be responsible for plantation of tree and shrub species and maintain spacing between ROW to ROW and Plant to Plant for implementation of approved Green Highways Projects (GHPs) as enclosed (A copy of the project to be annexed) following the Green Highways Policy 2015 and IRC SP-21 2009 Guidelines and other guidelines as agreed upon in project formulation and implementation during project period. The State Forest Department will also take



care for protection of the plantations and trees, fencing, boundary pillars etc.”

37

Copy of MOU is attached herewith as **ANNEXURE R-1**, for the kind perusal of this Hon'ble Tribunal.

6. That, moreover, in compliance of the above order dated 14.10.2024 of this Hon'ble Tribunal, after constituting a joint committee, spot /site inspection of the land in question was also conducted. The relevant part of the site/spot inspection is reproduced as under:-

“Today, on 12.12.2024, various officers/ employees of the committee constituted by DC in connection with the said case inspected the trees/plants mentioned by the applicant from NH-54 km 43.700 to 44.100 as per the report sought by the Tribunal in the application and it was found that these plants were cut down by NHAI from the land acquired from the landlords as per para number 14 of the agreement. It would be worth mentioning here that the old road was 33 meters, which was acquired by the NHAI from the left side upto 19.50 meters and from the right side upto 7.50 meters from the landowners. These ornamental and bamboo plants were planted in the land acquired by NHAI from the landowners during the year 2020-21. This plantation was done by the Forest Department as



[Handwritten signature]

per the MOU. No act of the Forest Department is applicable to this plantation.”

Copy of site inspection report dated 12.12.2024 of Joint Committee is attached herewith as **ANNEXURE R-2**, for the kind perusal of this Hon'ble Tribunal.

7. That, neither any deforestation in any forest land has been done nor any forest land has been diverted for non forestry purpose, as alleged by the petitioner/ applicant. This fact is also confirm from the joint committee, spot /site inspection report mentioned above.
8. That, the deponent/answering respondent is bound to comply with all the orders passed by any competent court of law including this Hon'ble Tribunal, as such in compliance of the order of this Hon'ble Tribunal mentioned above, this short reply by way of affidavit on behalf of the respondent No. 1 to 3 is being filed by the answering respondent at this stage. However, the answering respondent reserves his right to file detailed reply in case, as and when this Hon'ble court otherwise directs to file detailed reply, or need arises, the answering respondent undertake to do so.



A handwritten signature in blue ink, appearing to be a stylized representation of the name "Rakesh".

It is, therefore, humbly prayed that an appropriate order may kindly be passed, in the interest of justice, equity and fair play.

Place: Gurdaspur

Dated: 02-01-2025

Deponent

Atal Kumar
Atal Kumar, PFS
Divisional Forest Officer
Gurdaspur Forest Division,
Gurdaspur.

VERIFICATION

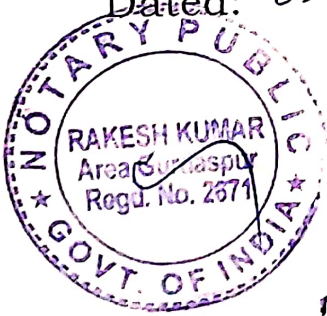
Verified that the contents of para 1 to 8 of my above short reply by way of affidavit are true and correct to my knowledge and the information as derived from the official record. No part of it is false and nothing has been concealed therein.

Place: Gurdaspur

Dated: 02-01-2025

Deponent

Atal Kumar
Atal Kumar, PFS
Divisional Forest Officer
Gurdaspur Forest Division,
Gurdaspur.



The Contents of the Affidavit/Document have been Explained to the Deponent/Execute. He/She admitted the same to be correct and attested as Identiv by
Date: 24/1/25

Notary Public, Gurdaspur

24-01-2025

BETWEEN

NHAI AND STATE FOREST DEPARTMENT FOR PLANTATION ON NHAI LANDS

(TO BE EXECUTED THROUGH REGIONAL OFFICERS OF STATE FOREST DEPARTMENTS AND NHAI)

This Agreement made this 24th day of month December & year 2019 between the Presidents of Union of India acting through Project Director, PIU Jalandhar, National Highways Authority of India having its registered office at 5&6 Sector 10, Dwarka New Delhi 110075 (hereinafter called the NHAI which term shall include the successors) of the one part.

And

The Forest Department,.....*Punjab*.....state having its registered office at *S.ec..68, S.A.S. Nagar* (hereinafter called the Forest Department which term shall include his successors of the other part). The agreement will be signed between the concerned Project Director. Project Implementation Unit of NHAI or any officer authorized by Regional Officer concerned (not below the rank of project director) & the concerned Forest officer (not below the rank of DFO) having jurisdiction over the project the site.

Whereas

1. NHAI has been established under the National Highways Authority of India Act, 1998 with the main objective of developing, maintaining and managing highways in the country as entrusted/vested by the Central Government.
2. NHAI undertakes projects related to the development of National Highways at various locations all over India. These projects are formulated and implemented according to policy guidelines of the Govt. for meeting the growing needs of the road transport in the Country.
3. Forest Department, *Punjab*..... is the government agency for carrying out the plantation activity in the state and it has sufficient expertise and infrastructure to take up plantations of this magnitude.
4. The NHAI proposes to the Forest Department of *Punjab* state to take up the plantation project implementation period from 24.12.2019 to

h2 →

h2

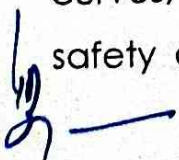
Now this agreement witnesses and the parties hereby agree as follows:

1. The Forest Department shall from the 24th day of month December & year 2019 take over the management of the said lands for the purpose of plantations of suitable trees of native as well as commercial species, The said lands shall not be deemed to be or declared as "Protected Forest" or "Reserved Forest" or any other 'Forest' category under Indian Forest Act 1927. However, the said land will be managed in accordance with this agreement as per terms and conditions agreed upon by both the Forest Department and NHAI.
2. State Forest Department through their local authorities and workers will be responsible for plantation of tree and shrub species and maintain spacing between ROW to ROW and Plant to Plant for implementation of approved Green Highways Projects (GHPs) as enclosed (A copy of the project to be annexed) following the Green Highways Policy 2015 **and IRC SP-21 2009 Guidelines and other** guidelines as agreed upon in project formulation and implementation during project period. The State Forest Department will also take care for protection of the plantations and trees, fencing, boundary pillars etc.
3. NHAI will release funds to Forest Department according to NHAI OM No 464 dated 19.07.17 as following payment schedule of project period subject to submission of Utilization certificate.



S. No.	Stage of implementation	Payment schedule (% of Project Cost)
1	Zero year (mobilization of advance after signing of agreement)	50%
2	First year (after planting work)	10%
3	Second year (Post plantation Management maintenance, casualty replacement etc)	10%
4	Third year (maintenance, casualty replacement etc)	10%
5	Fourth year (plantation maintenance)	10%
6	Fifth year (plantation maintenance)	10%
	Total:	100%

4. NHAI will bear the cost escalation, if not included in project, due to increase in minimum daily wages notified from time to time by competent authorities of the State Government.
5. Forest Department will ensure that the survival of plants should be nearly 90% at the time of handing over the plantation to NHAI. Average height of the plants should not be less than height achieved by the same species growing naturally in that area, except for the reasons beyond human control.
6. Rates suggested in the project are for budgeting purpose. Amount unutilized in one item may be utilized for another item within overall budget limit.
7. The certificate of utilization of funds along with number of trees/plants surviving will be provided to NHAI after every six 'month.
8. All instructions issued by the NHAI and advisories issued in this matter by the authorities of the NHAI regarding road visibility, planting along inside of curves, minimum distance of planting line from the road, measure for the safety of road shall be strictly followed by the Forest Department while





planning the plantation program. The choice of species of plant, models of plantation, cultural operations employed in management and protection of plantation and imposition of reasonable restriction of inter cropping on plantation tree, grazing, burning of grass etc. will be determined by the Forest Department, as per the National Green Highways Policy 2015, IRC Guidelines and applicable rules of the state.

9. NHAI shall hand over the said land to Forest Department free from all encumbrances and encroachments. An inventory of trees already growing on said land shall be jointly taken by NHAI and Forest Department at the time of handing over land to Forest Department and these trees will continue to be of NHAI. Felling of such trees can be done by NHAI in accordance with relevant Rules/Acts applicable if any, in respect of that area. Revenue from these trees will accrue to NHAI only.
10. Forest Department will use the said land made over only for plantation or for a purpose ancillary there to. However plant nurseries may be developed for developing seedlings for plantations on said land undertaken by the Forest Department. No permanent structure shall, however, be built on such land. NHAI reserves the right to site inspection from time to time.
11. The ownership of the land shall remain vested in the NHAI as here to, and only management thereof will be handed over to the Forest Department for plantation purpose.
12. After raising the plantation, the State Forest Department shall maintain an inventory of all trees on the said land. The abstract of the enumerated trees will be shared with NHAI for information and record.
13. The NHAI shall be entitled and permitted to utilize earth for repairs and formations, to cut branches of trees and also to execute works required for normal functioning of the National Highways in consultation with the concerned Divisional Forest Officer/ Forest Ranger or authority designated to do so by the Forest Department on the said land. The NHAI shall decide the nature of such works and no compensation shall be paid by the NHAI.

14. The NHAI may resume the said lands or any part thereof at any time, without payment of any compensation to the Forest Department. The Forest Department will remove trees from such land or part of land on NHAI's request, or will give permission to NHAI to remove trees.
15. The NHAI staff would be free to carry out their normal work in connection with maintenance of National Highways, they shall not be prevented while moving in the performance of their duties on such lands.
16. Forest Department will be competent to deal any damage or loss of plantation/trees by other than NHAI officials, according to the provisions of the applicable acts and rules of the state.
17. Forest Department will be given possession of land free from all encumbrances. In case of encroachment on such land, the NHAI authorities shall get it vacated and fix boundary pillars before handing over.
18. This MoU will be applicable with effect from the date it is signed by both parties.

The essence of this MOU is to implement the plantation activity in the most effective manner using the expertise, knowledge and resources of both the organizations in furtherance of their common objectives.

This MoU signed on by the Authorized Officer of concerned State Forest Department and Project Director, PIU Jalandhar, NHAI of the day of 24th of month December & year 2019


 (...Jarnail Singh PFS...)
 State Forest Department DFO Gurdaspur.
 Place: Jalandhar.
 Date: 24/12/19


 (Y.P.S. Jadon)
 Project Director
 Place: Jalandhar
 Date:

INSPECTION REPORT

Subject:- Regarding constitution of joint Committee in Original Application No. 779/ 2024 Dinesh Gupta V/S State of Punjab & Ors.


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---Sd-----
SDO, PPCB
Batala, Gurdaspur

---Sd-----
Divisional Forest Officer,
Gurdaspur.

---Sd-----
SDO, PWD
Division Gurdaspur.

---Sd-----
Site Engineer,
NHAI.



Divisional Forest Officer
Gurdaspur Forest Division
Gurdaspur

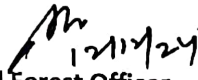
ਪੜਤਾਲੀਆ ਰਿਪੋਟ


ਵਿਸ਼ਾ: Original Application No. 779/ 2024 Dinesh Gupta V/S State of Punjab & Ors. ਵਿੱਚ ਸੰਯੁਕਤ ਕਮੇਟੀ ਗਠਿਤ ਕਰਨ ਸਬੰਧੀ।


XXXXXXXXXXXX

ਅੱਜ ਮਿਤੀ 12.12.2024 ਨੂੰ ਮਾਨਯੋਗ ਡਿਪਟੀ ਕਮਿਸ਼ਨਰ ਗੁਰਦਾਸਪੁਰ ਜੀ ਵੱਲੋਂ ਉਕਤ ਕੇਸ ਸਬੰਧੀ ਗਠਿਤ ਕੀਤੀ ਗਈ ਕਮੇਟੀ ਦੇ ਵੱਖ-ਵੱਖ ਅਧਿਕਾਰੀਆਂ/ਕਰਮਚਾਰੀਆਂ ਵੱਲੋਂ ਐਨ.ਐਚ.-54 ਕਿਲੋ ਮੀਟਰ 43.700 ਤੋਂ 44.100 ਤੱਕ ਦਾ ਮਾਨਯੋਗ ਐਨ.ਜੀ.ਟੀ. ਕੋਰਟ ਵੱਲੋਂ Original Application No. 779/ 2024 Dinesh Gupta V/S State of Punjab & Ors ਵਿੱਚ ਮੰਗੀ ਗਈ ਰਿਪੋਟ ਅਨੁਸਾਰ ਸ਼ਿਕਾਇਤ ਕਰਤਾ ਵੱਲੋਂ ਜਿਨ੍ਹਾਂ ਕੱਟੇ ਗਏ ਪੌਦਿਆਂ ਬਾਰੇ ਜਿਕਰ ਕੀਤਾ ਗਿਆ ਹੈ (ਕਿਲੋ ਮੀਟਰ 42.960 ਤੋਂ 44.100 ਤੱਕ) ਦਾ ਮੁਆਇਨਾ ਕੀਤਾ ਗਿਆ ਅਤੇ ਪਾਇਆ ਗਿਆ ਕਿ ਇਹ ਪੌਦੇ ਐਨ.ਐਚ.ਏ.ਆਈ. ਵੱਲੋਂ ਜ਼ਿੰਮੀਦਾਰਾਂ ਦੀ ਇਕਵਾਇਰ ਕੀਤੀ ਗਈ ਜਮੀਨ ਵਿੱਚੋਂ ਐਮ.ਓ. ਯੂ. ਦੇ ਪੈਰਾ ਨੰਬਰ 14 ਅਨੁਸਾਰ ਕੱਟੇ ਗਏ ਸਨ। ਇਥੇ ਇਹ ਵੀ ਦੱਸਣਯੋਗ ਹੋਵੇਗਾ ਕਿ ਇਹ ਪੁਰਾਣਾ ਰੋਡ 33 ਮੀਟਰ ਸੀ ਜੋ ਕਿ ਐਨ.ਐਚ.ਏ.ਆਈ. ਵੱਲੋਂ ਖੱਬੇ ਪਾਸੇ ਤੋਂ 19.50 ਅਤੇ ਸੱਜੇ ਪਾਸੇ ਤੋਂ 7.50 ਮੀਟਰ ਤੱਕ ਜ਼ਿੰਮੀਦਾਰਾਂ ਪਾਸੋਂ ਇਕਵਾਇਰ ਕੀਤੀ ਗਈ ਸੀ। ਇਹ ਓਰਨਾਮੈਂਟਲ ਅਤੇ ਬੈਂਬੂ ਪਲਾਂਟਸ ਐਨ.ਐਚ.ਏ.ਆਈ. ਵੱਲੋਂ ਜ਼ਿੰਮੀਦਾਰਾਂ ਪਾਸੋਂ ਇਕਵਾਇਰ ਕੀਤੀ ਗਈ ਜਮੀਨ ਵਿੱਚ ਸਾਲ 2020-21 ਦੌਰਾਨ ਲਗਾਏ ਗਏ ਸਨ। ਇਹ ਪਲਾਂਟੇਸ਼ਨ ਵਣ ਵਿਭਾਗ ਵੱਲੋਂ ਐਮ.ਓ.ਯੂ. (ਕਾਪੀ ਨੰਬਰ) ਅਨੁਸਾਰ ਹੀ ਕਰਵਾਈ ਗਈ ਸੀ। ਇਸ ਪਲਾਂਟੇਸ਼ਨ ਤੇ ਵਣ ਵਿਭਾਗ ਦਾ ਕੋਈ ਵੀ ਐਕਟ ਲਾਗੂ ਨਹੀਂ ਹੁੰਦਾ।


SDO, PPCB 12/12/24
Batala, Gurdaspur.


Divisonal Forest Officer,
Gurdaspur.


SDO, PWD
Divison Gurdaspur.


Site Engineer,
NHAI.