

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

AT PRINCIPAL BENCH, NEW DELHI

(In O.A. No. 168 of 2024)

Kapil Dev & ors. Applicants

vs.

State of Punjab & ors. Respondents

Subject: Submission by the Applicants against Tree Preservation Policy for Non-Forest Government and Public Land – 2024: Toothless tiger as no provision for proceedings under any Environment Act is provided in it whereas illegal axing of tree directly damages the Environment and option of action under IPC 1863 (now BNS 2023) is mere an eyewash.

Hon'ble sir,

Respectfully sheweth,

The petitioners humbly submit as under:

1. That the Department of Forests & Wildlife Preservation has prepared one Tree Preservation Policy for Non-Forest Government and Public Land-2024 (as submitted by PPCB in O.A. 829 of 2024 and 1042 of 2024 before this Hon'ble Tribunal) but such policy has been prepared without applying any mind and the department has cleverly not included/introduced any action under any Environment Act in the policy whereas the Department itself knows that the trees are very

important to combat Air Pollution, noise pollution as well as recharging ground water table. The copy of policy as submitted before this Hon'ble Tribunal by Respondent No. 7 is produced herewith as **Annexure P-10**.

2. That the provision of action against any culprit is always there in IPC (now BNS 2023) but no FIR has ever been registered in last three years by the Police Department under the provisions of IPC on complaints filed by the Municipal Corporation Ludhiana. The incidents of illegal axing, unscientific way of pruning and slow poison to trees is very common in Punjab. Despite the restrictions of axing of tree in villages, the incidents of axing of trees by concerned departments is also very common but despite complaints to the higher authorities and police departments, no FIR is taken against the accused persons. The Photographs pertaining to illegal axing/pollarding/pruning of large number of trees have been produced before this Hon'ble Tribunal in this Original Application.

3. That the Clause No. 4.1 of impugned Tree Preservation Policy for Non-Forest Government and Public Land-2024 is produced as under:

Clause 4.1: The owners of the SAID LAND will take all necessary and possible measures to protect trees from illicit felling, pruning and pollarding by evolving their own mechanisms and use provisions of Indian Penal Code or any other law applicable to penalize offenders, if required so as to

deter illicit felling, pruning and pollarding of trees on the said lands.

4. That as already submitted in Original Application at Page No. 5, the Forest Department (as part of Committee) submitted report before this Hon'ble Tribunal in O.A. 200 of 2024 filed by the Applicants and same is reproduced as under:

Presently there is no legal provision or any mechanism in place with the respondent departments/institutions to penalize the offenders involved in illicit felling/lopping/pruning/pollarding of trees. Only remedy presently available with the respondent departments/ institutions is lodging of a police complaint/FIR for tree offences, **whereas there is need for a legal enabling mechanism in place to impose fines and prosecute offenders in the court by the respective departments/institutions which will act as a deterrent to check these offences.**

5. That the said impugned policy is toothless tiger and the action in IPC (BNS) will be for damage & theft to Public Property only as there is no provision in any section in BNS 2023 for protection action against damage to Environment. Further, there is no provision of seeking objections from the Stakeholders which is very important as even the Forest Department of Punjab is deliberately ignoring the notification of 2019 issued for development of Buffer Zones along Canals in Punjab

and is allowing axing of trees from the locations too. Therefore, provision of suggestions/objections from Stakeholders is very important and no such provision has been given in the impugned policy.

6. That the Government of Punjab had set a target of achieving 15% from 8% Forest & tree Cover in Punjab in 2008-09 but the same has decreased to 3.47% and maximum of such tree cover is there in Forests only and trees in Urban Areas are being axed in the name of development but actually, most of the trees have been cut to benefit the Real Estate developers and that too by going against the notifications. Now the department has set a target of achieving 7.5% by 2030 which clears the intentions of Government of Punjab towards Environment.

7. That this Hon'ble Tribunal, from time to time has pleased to issue directions for numeration as well as protections of trees (O.A. No. 346 of 2019 as well as M.A. No. 229 of 2019 in O.A. No. 346 of 2019) but no such provisions have been included in the impugned policy till date, thus such a policy is mere an eyewash and there will be no control over illegal axing of trees by private persons as well as Government Departments.

PRAYER

Keeping in view of the adamant behaviour of Government of Punjab, the Applicants humbly prays this Hon'ble Tribunal to issue directions for including stringent action under Environment laws for damage to trees

on Non-Forest land by Private persons as well as Government Departments.



Date: 14-11-2024
Place: Ludhiana

Kapil Dev
(Applicant No. 1)

**GOVERNMENT OF PUNJAB
DEPARTMENT OF FORESTS & WILDLIFE PRESERVATION**

**TREE PRESERVATION POLICY FOR NON-FOREST GOVERNMENT AND
PUBLIC LANDS- 2024**

1. PREAMBLE

- 1.1 Punjab, the grain basket of India has about 85% of its area under agriculture and the remaining area is under other land uses like residential/commercial, roads/railways infrastructure, industrial, irrigation canals, forests etc. The forest and tree cover of the state is around 5.92% of the geographical area and as per the Sustainable Development Goals, the State is aiming to increase it to 7.5% by promoting tree plantation and conserving existing tree cover on both forest as well as non-forest lands by the year 2030. Promoting Agroforestry is also one of the key thrust areas to achieve this target. In order to provide a healthy environment, mitigate global warming and to arrest fall of ground water level, efforts are being made to protect existing tree cover on forest as well as non-forest lands and promote diversification of agriculture so as to bring more and more area under tree cover.
- 1.2 The analysis of current legal and administrative provisions pertaining to trees on non-forest government land/public land (henceforth termed as the "SAID LANDS") necessitates a specific policy which brings uniformity of regulations, provides improved inbuilt provisions for protection of trees on SAID LANDS, regulation of removal/felling of trees for developmental and safety purposes from SAID LANDS based on well reasoned justifications apart from compensating environmental losses caused by felling of trees.

2. OBJECTIVES

The objectives of the Policy are as follows –

- 2.1 Provide institutional mechanism to provide adequate protection to trees standing on the SAID LANDS and to facilitate well-reasoned decision making in cases where removal of trees is inevitable for development and safety and other purposes.
- 2.2 To provide adequate mechanism to compensate the environmental loss caused by the felling of trees while implementing developmental projects on the said lands.
- 2.3 Provide adequate tree cover on the SAID LANDS thereby safeguarding and providing a better living environment to the people of the State.

3. EXTENT

- 3.1 The policy is applicable on all non-forest lands owned by the State Government Departments, all State owned institutions, Local Bodies and lands of Panchayats excluding lands notified under Punjab Land Preservation Act, 1900.
- 3.2 The policy will however, not be applicable in cases where any government or semi government research institutes require felling of trees for the purpose of research.

4. REGULATION OF FELLING OF TREES AND PROTECTION OF TREES

- 4.1 The owners of the SAID LAND will take all necessary and possible measures to protect trees from illicit felling, pruning and pollarding by evolving their own mechanisms and use provisions of Indian Penal Code or any other law applicable to penalize offenders, if required, so as to deter illicit felling, pruning and pollarding of trees on the said lands.
- 4.2 Following Committees at sub-divisional level, District level and State level shall be constituted to regulate the policy:

4.2.1 The Sub-Divisional Level Committee:

(a)

Sr. no.	Designation	
(i)	Sub-Divisional Magistrate	Chairman
(ii)	Forest Range Officer	Member Secretary
(iii)	Sub-Divisional Level Officer of Concerned land owning Department or any other officer in case there is no sub-divisional officer	Member
(iv)	Representative of concerned Municipal body	Member
(v)	Block Development and Panchayat Officer of Block Concerned	Member

(b) For the areas under the jurisdiction of the Urban Development Authorities of the Department of Housing and Urban Development, the following committee shall take appropriate decisions instead of committee at sub para (a) above:

Sr. no.	Designation	
(i)	Chief Administrator of the respective authority	Chairman
(ii)	Forest Range Officer	Member Secretary
(iii)	Representative of the Deputy Commissioner concerned	Member
(iv)	Representative of the concerned Municipal body	Member

4.2.2 The District Level Committee:

Sr. no.	Designation	
(i)	Deputy Commissioner	Chairman
(ii)	Divisional Forest Officer	Member Secretary
(iii)	Commissioner or Executive Officer of Municipal Corporation/ Municipal Committee as the case may be.	Member
(iv)	Divisional Level Officer of the SAID LAND (PWD, B&R, Water Resources, PSPCL etc.)	Member
(v)	District Development and Panchayat Officer	Member

(vi)	District Level Head of the concerned land owning Department	Member
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4.2.3 The State Level Committee:

Sr. no.	Designation	
(i)	Financial Commissioner (Forests)	Chairman
(ii)	Administrative Secretary Department of Local Government or his representative	Member
(iii)	Administrative Secretary, Housing & Urban Development, or his representative	Member
(iv)	Administrative Secretary Department of Rural Development and Panchayats or his representative	Member
(v)	Principal Chief Conservator of Forests (HoFF)	Member
(vi)	All Deputy Commissioners in the State of Punjab	Members
(vii)	Officer of the Rank of CCF/APCCF in the Forest Department	Member Secretary

- 4.3 The State level committee shall review the implementation of the policy from time to time and should meet preferably once in every three months. This committee will also suggest necessary changes required in the policy from time to time and look into the inter departmental coordination issues.
- 4.4 The respective Member Secretaries in all the committees as mentioned in para 4.2.1 and 4.2.2 shall place the agenda before the respective Committees as received from the respective departments. The concerned officers of the land owning department will submit the agenda to the Member Secretary to the respective committee.
- 4.5 Sub-Divisional Committee shall decide about developmental cases involving felling of up to 100 trees per case. District level committee shall decide cases involving felling of more than 100 trees per case. The committees shall prescribe the compensatory plantation plans in case of developmental felling of trees.
- 4.6 All Departments/institutions desiring to fell trees for developmental works from the SAID LANDS shall send the details of development project and list of trees to

be felled (as per annexure 1) through its District level head to a Committee at Sub-Division or District level depending upon the number of trees required to be felled in each case. These Sub-Division or District level committees shall scrutinize and decide upon the need of felling of trees from the SAID LANDS for developmental purposes and issue necessary approvals.

- 4.7 In cases involving removal of trees posing imminent threat to life and property and where immediate removal of such trees is essential and unavoidable, instead of referring the case to Sub-Division/District/Municipal Corporation Committees, the in-charge of such premises /institute shall report the matter immediately to the District Head of the concerned department, who shall in turn constitute a departmental committee immediately to inspect and certify the threat imposed by such trees. The report of the committee after due acceptance by the District Head of the Department concerned shall be sent to the concerned premises in-charge and the same shall be treated as permission to fell such trees which are an immediate threat to life and property. District Head of the Department shall also endorse the copy of above letter (along with committee report) to concerned chairpersons of the committees for information. Value of such trees will be got assessed by respective Divisional Forest Officer before felling of trees. The Divisional Forest Officers shall determine the price of such trees within 24 hours of receipt of such reference from the district head of the Department. This will be applicable to all species of trees.
- 4.8 In case of trees which require pruning or removal due to high tension wires, PSPCL will be the nodal department to take up the case to the concerned district/sub-divisional level committee in coordination with the institutions/owners of the trees.
- 4.9 All departments shall adopt the approach of avoidance, reduction and offsetting with respect to need of felling of trees on the SAID LANDS while designing and implementing the developmental projects. Efforts shall be made to preserve

Old/Heritage trees of species like Pipal, Bohar, Neem etc. and recommendation of their felling should be made only in rarest of rare cases.

- 4.10 District Level officers of various departments shall ensure that no felling of trees take place in their jurisdiction without the approval obtained as per the provisions of this policy. In case there is a violation of the policy, apart from the other actions as per the policy and the law applicable, such district level officers shall be proceeded as per the disciplinary proceedings as provided in the Punjab Civil Services Punishment Conduct and Appeal Rules. Further, in case of the educational intuitions in particular, apart from the district level officers, such an action shall also be initiated against the respective institutional head.
- 4.11 In case trees are required to be felled for the research purpose, prior written intimation of the same to the concerned district/sub-divisional level committee should be done by the concerned department.
- 4.12 If a village Panchayat is promoting agroforestry on their own lands and enhancing the tree cover of the state, no restriction in felling of such trees should be imposed provided such Panchayat agree to replant the equivalent area with trees/agroforestry. The Panchayat shall pass a resolution to this effect. In such cases, separate Compensatory plantation should not be made mandatory on Panchayats as mentioned in Para 5 of the Policy.
- 4.13 Decision on any issue which is not covered in this policy, shall be taken at the discretion of the concerned Committee, which shall take an appropriate and well reasoned decision in the best interest of State and Environment.

5 COMPENSATORY PLANTATIONS

- 5.1 All Departments shall mainstream Compensatory plantation in their developmental projects which needs to be a compulsory and an embedded part of development project- proposal itself. There shall be adequate financial provisions for offsetting the effects of proposed felling of trees. This aspect shall also be considered by the committees at sub-division and District level while according the approval for felling of trees.

- 5.2 The normal ratio for taking up of compensatory plantation will be 1:5 (planting 5 saplings for every one tree felled) along with minimum of 5 years maintenance. Plants to be planted should be of good quality and not less than 4 to 5 feet of height.
- 5.3 For taking up of compensatory plantation, every department shall identify a suitable land bank from lands owned by it preferably at same site to the extent possible and if it is not possible then alternatively at the nearest possible site within same District from where trees are to be felled.
- 5.4 Compensatory Plantation shall be taken up by the respective departments on their own. In case, the department does not have land bank suitable for compensatory plantation or not able to take up plantation, same shall be certified by the concerned Head of Department and it shall deposit amount as per the plantation cost models of Forest Department in Green Punjab Mission Fund of State Government in consultation with the concerned Range Officer or Divisional Forest Officer. This amount shall be utilized as per the guidelines of Green Punjab Mission Scheme.
- 5.5 The revenue realized from developmental and other felling on the SAID LANDS shall be ploughed back for compensatory plantation and their maintenance. If this amount is not sufficient for the compensatory plantation, then respective department has to make adequate financial provision.
- 5.6 Actual felling of trees shall start only after securing funds for compensatory plantation in a manner mentioned in 5.4 and 5.5.
- 5.7 The condition of compensatory plantation shall be mandatory for developmental felling and is only suggestive in other category of fellings.

6 MONITORING & EVALUATION

- 6.1 All the departments will create their inventory of trees standing on the SAID LAND by enumerating such trees within one year of notification of this policy in the prescribed format which will be circulated by the Forest Department.
- 6.2 Subsequently, record of such trees standing on the SAID LANDS shall be annually maintained by the concerned departments to safeguard and monitor these trees.
- 6.3 Efforts shall be made to create a digital data base for trees standing on the SAID LANDS by creating an online portal/mobile application for better monitoring of trees. Inventory of trees shall be continuously updated when trees are cut after obtaining the approval of the respective committees in this regard.

- 6.4 Each department shall have its own monitoring and evaluation mechanism to assess and monitor the compensatory plantations undertaken, which shall be reviewed by the State Level Committee from time to time.

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

AFFIDAVIT

(In O.A. No. 168 of 2024)

Kapil Dev & ors. Applicants

vs.

State of Punjab & ors. Respondents

Submission of Er. Kapil Dev (aged 48 years) s/o Sh. Jagdish Chander,
r/o 186-E, BRS Nagar, Ludhiana.

8094



RESPECTFULLY SHOWETH:

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

1. That the deponent is Applicant No. 1 (in person) and is filing an submission before this Hon'ble National Green Tribunal.
2. That the contents of Para no. 1 to 7 dated 14-11-2024 along with Annexures are true to best of my knowledge.

Place: Ludhiana
Dated: 14.11.2024

Certified that the affidavit SPA/GPA has been readover & explained to the deponent/executor who seemed directly to understand the matter at the writing

[Signature]
DEPONENT

Verification:

Verified that the contents of para 1 and 2 of this affidavit are true and correct. No part of it is false, and nothing material has been kept concealed therefrom.

ATTESTED AS IDENTIFIED

Place: Ludhiana
Dated: 14.11.2024

NOTARY PUBLIC, LUDHIANA (PR.)

[Signature]
DEPONENT

14 NOV 2024

Identified that the deponent has signed before me I know him/her personally