

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

IN ORIGINAL APPLICATION NO. 1360 OF 2024

IN THE MATTER OF:

Prem Prakash Thapliyal

.... Applicant

Vs.

State Of Uttarakhand And Others

....Respondents

INDEX

S. No.	Particulars	Page No.
1.	Rejoinder on behalf of the applicant in response to the Affidavits-in-Reply filed by Respondents No. 1 and 2.	719-733
2.	Annexure -P/10 A copy of the notification S.o. 1832(E) dated 21.04.2023 issued by the Ministry of Environment, Forest and Climate Change.	734-736
3.	Annexure -P/11 A copy of the judgment in <i>Vijay Ram Sharma vs. State Of Uttarakhand</i> , W.P. (PIL) No. 66 of 2014 dated 02.07.2015.	737-743
4.	Annexure -P/12 A copy of the judgment in <i>Vijay Ram Sharma vs. State Of Uttarakhand</i> , W.P. (PIL) No. 66 of 2014 in the review applications, order dated 12.01.2017.	744-753
5.	Annexure -P/13	754-768

	A copy of the order in <i>In Re : T.N. Godavarman Thirumulpad</i> WP (Civil) 202 of 1995 dated 24.10.2024.	
6.	Annexure -P/14 A copy of the order in <i>Civil Appeal No 4287 of 2023 in Mukesh Joshi vs. State of Uttarakhand & Ors.</i> dated 07.08.2023.	779_782

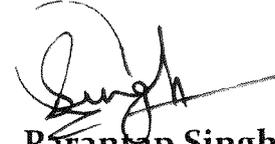
7. **Proof of Service**

783

Date: 08.12.2025

Place: New Delhi

Applicant / Prem Prakash
Thapliyal
Through



Parantap Singh, Advocate,
2nd Floor, C 578,
Defence Colony,
New Delhi 110024
Mob: 9112330639

Email: adv.parantapsingh@gmail.com

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Under Section 18(1) read with Sections 14, 15, 16 & 17 of National Green Tribunal
Act, 2010

IN ORIGINAL APPLICATION NO. 1360 OF 2024

IN THE MATTER OF:

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**REJOINDER ON BEHALF OF THE APPLICANT IN RESPONSE TO THE
AFFIDAVITS-IN-REPLY FILED BY RESPONDENTS NO. 1 AND 2**

Most Respectfully Showeth:

1. The Applicant has filed the present application under Section 18(1) read with Sections 14, 15, 16 & 17 of National Green Tribunal Act, 2010 raising the substantial question regarding mining activities in contravention of legislative and judicial pronouncements in the eco-sensitive zone of the doon valley.

FACTS IN BRIEF

2. That the present rejoinder affidavit is respectfully submitted on behalf of the applicant, Prem Prakash Thapliyal, in reply to the affidavits filed by the State of Uttarakhand, Directorate of Geology and Mining, and

Uttarakhand Pollution Control Board, in Original Application No. 1360/2024 before the Hon'ble National Green Tribunal, Principal Bench at Delhi. The applicant challenges the impugned tender notification no. 5244/DDN_003 dated 20.11.2024, which seeks to permit mining activities in the Doon Valley, on the ground that such action is in direct contravention of the binding Doon Valley Notification, 1989, as amended, and the categorical prohibitions laid down by the Hon'ble Supreme Court, the High Court of Uttarakhand and this Hon'ble Tribunal. The principal legal issue is whether any mining activity, including riverbed mining, can be permitted in the Doon Valley, particularly within 10 km of the Asan Conservation Reserve, in light of the absolute statutory and judicial embargoes in force.

3. It is most humbly submitted that the Doon Valley has been declared an eco-sensitive area by virtue of the Doon Valley Notification dated 01.02.1989, issued under Section 3(2)(v) of the Environment (Protection) Act, 1986, which expressly prohibits the establishment or operation of red category industries, including mining, without prior approval of the Union Ministry of Environment, Forest and Climate Change. This prohibition has been reaffirmed by the amendment notification dated 06.01.2020, which adopts the Central Pollution Control Board's classification, maintaining mining as a red category activity. The Hon'ble Supreme Court, in its binding pronouncements, has unequivocally directed complete cessation of mining in the Doon Valley, recognizing its fragile ecology and the irreparable harm caused by such activities. The High Court of Uttarakhand has further affirmed that mining in these areas is impermissible. The applicant's prayer for a blanket ban is further fortified by scientific evidence establishing the ecological fragility and landslide-prone nature of the region, and by the statutory requirement that no mining can take place within 10 km of

the Asan Conservation Reserve without mandatory clearances, which are absent in the present case. The Asan Conservation Reserve (ACR) in Dehradun, Uttarakhand, is a vital 444-hectare man-made wetland on the Asan River, known as India's first Ramsar Site in the state, crucial for migratory birds (330+ species) like vultures and pochards, and supports fish like the endangered Putitora mahseer, offering birdwatching, boating, and a key conservation area near the Yamuna confluence

4. The respondents, in their affidavits and tender documents, have failed to demonstrate how any new rules or notifications would override the existing statutory and judicial prohibitions on mining in the Doon Valley. There is a conspicuous absence of prior approval from the Union Ministry of Environment, Forest and Climate Change, as mandated by the Doon Valley Notification, and no clearance from the National Board for Wildlife for areas within 10 km of the Conservation Reserve. The respondents have not produced any Environmental Impact Assessment, site-specific studies, or evidence of compliance with the precautionary and sustainable development principles enshrined in law. The attempt to rely on state rules or to re-categorize mining activities contrary to the central notification is legally unsustainable. In view of the binding nature of the Supreme Court and High Court judgments, the statutory embargo under the Doon Valley Notification, and the failure of the respondents to address these legal and factual deficiencies, it is most respectfully submitted that the impugned tender notification and all consequential mining activities are liable to be quashed, and a blanket ban on mining in the Doon Valley be reaffirmed in the interest of environmental protection and the rule of law.
5. That further as per the replies of the respondents herein it might be inferred that the 2 lots which have been reverted back to the

government in line with the judgment of this Hon'ble Court in Junaid ayyubi OA 692 of 2022, have now been divided into 7 new lots up for the tendering process. That as such a clear response for to the same might be warranted at the end of the respondent parties. Further if the same be the case that the earlier lots which have been surrendered due to non compliance of environmental standards have now been subdivided into smaller lots, that such a process would be arbitrary and illegal. For the same reliance is placed on notification S.o. 1832(E) dated 21.04.2023 of the Ministry of Environment, Forest and Climate Change. Herein it has been clarified that in case of mining projects the splitting up of an earlier Environmental Clearance to hand over the same to new persons is not permissible. A copy of the notification S.o. 1832(E) dated 21.04.2023 is annexed and marked herewith as **ANNEXURE P-10**.

6. Further reliance is also placed on the decision of *Vijay Ram Sharma vs. State Of Uttarakhand & Ors.* wherein the relief sought was

“(1) To direct the respondents to forthwith stop any mining activities being carried out within 10 Kms. from the National Park, Sanctuary or Protected Area within the entire State of Uttarakhand without the clearance of the National Board of Wildlife and/or Ministry of Environment and Forests.

(2) To direct the respondents to forthwith stop any mining activity throughout the State which is being conducted without the procurement of the Environment Impact Assessment or without Environment Clearance.

(3) To issue a writ, order or direction in the nature of certiorari quashing the Office memorandum No. 785/VIII-1/27-kha/2014 dated 25-4-2014 (Annexure No.20 to the petition) whereby and whereunder the respondents have held the illegal mining being done by the private respondents as legal and valid mining.”

Herein the Hon'ble High Court while relying on another decision of the court with respect to Rajaji national park and no mining within 10 kms without due clearances under Wild Life (Protection) Act of the same directed as follows:

“8. Shri M.C. Pant, learned counsel for the 4th respondent would submit that the Chief Wildlife Warden should be given direction to determine the boundaries. It is submitted by Shri D.S. Patni, learned counsel for the petitioner that the boundaries have already been determined. In such circumstances, we would think that similar directions can be issued as we have given in the earlier judgment. **We would direct the additional respondent No.12, in association with an officer to be deputed by the District Magistrate, who is familiar with surveying, to measure the distance of the property of respondent Nos. 4, 5, 6, 7, 8 and 9 from the boundary of “Assan Wetland Conservation Reserve” and if it is found that it is beyond ten kilometers, we further direct that the respondent Nos. 4 to 8 will be free to carry on the mining as per law.**

9. As far as the 9th respondent also is concerned, unless it is found that the distance is within 10 Kms, **the 9th respondent will be free to continue to mine as per law; whereas if it is found that it is within 10 Kms., as we have prima facie found in respect of respondent Nos. 4 to 8, if it is within 10 Kms., the mining will not be allowed to be carried out by the 2nd respondent.** The survey will be carried out and measurement will be done within a period of three weeks from the date of production of a certified copy

of this judgment before the additional 12th respondent. The District Magistrate will indeed cooperate by deputing a person as ordered at the earliest on intimation being given by the additional 12th respondent. It is also made clear that the measurement will be made with due notice to the party respondents, namely, respondent Nos. 4 to 9 & respondent No. 10 also.”

7. A copy of the judgment in *Vijay Ram Sharma vs. State Of Uttarakhand* dated 0.07.2015 is annexed and marked herewith as ANNEXURE A-11. A copy of the judgment in *Vijay Ram Sharma vs. State Of Uttarakhand* in the review petition dated 12.01.2017 is annexed and marked herewith as ANNEXURE A-12.
8. It is further pertinent to bring to this Hon'ble Courts attention that the impugned tender proposes to give away lots that are in close vicinity to the Asan Conservation Reserve and in this regard the Hon'ble Supreme Court has taken note of the said judgment and vide its order dated 24.10.2024 in *In Re : T.N. Godavarman Thirumulpad, W.P. (Civil) 202 of 1995* held as follows:

“4. We therefore find that it will not be appropriate to lay down universal guidelines so far as the restrictions to be imposed in the Conservation Reserve and Community Reserve are concerned. The Union of India has already framed guidelines which can be followed by the State Governments on case to case basis for deciding as to what restrictions are to be imposed in a particular Conservation Reserve and Community Reserve.

5. Insofar as the Asan Wetland Conservation Reserve is concerned the Division Bench of the High Court of Uttarakhand vide its order dated 02.07.2015 has already imposed certain restrictions.”

A copy of the order in *In Re : T.N. Godavarman Thirumulpad, W.P. (Civil) 202 of 1995* dated 24.10.2024 is annexed and marked herewith as ANNEXURE A-13. As such it is clear that near the Asan conservation

reserve no mining is to be take place and the same decision on the same has attained finality.

UNCLEAR STAND TAKEN BY THE STATE

9. That the two reply affidavits filed by the Respondents are by the Secretary, Department of Geology and Mining and that of the Member secretary, Uttarakhand Pollution Control Board dated 20.05.2025 and 19.05.2025 respectively. That the two responses do not make the position clear at all and merely rely on various notification, rules and judgments.
10. That Secretary, Department of Geology and Mining stated as per the Doon valley notification issued by the MoEF&CC, mining approval must be obtained from the union ministry before starting any mining activity. Yet the said letter fail to mention as to whether any such approval has even been sought before granting such rights to private individuals.
11. Further the reply dated 20.05.2025 of the director of geology and mining to the secretary mining Uttarakhand government takes note of the proceedings in the matter of Junaid Ayubi wherein the order dated 30.01.2023 in MA No. 121 of 2023 before this Hon'ble tribunal was challenged before the Hon'ble Supreme Court in Diary No. 22038 of 2023 in the State Of Uttarakhand Vs. Junaid Ayubi. Herein the Hon'ble Supreme Court was was pleased to direct that:

“The learned Senior Counsel appearing for the State pointed out that the State will take steps to transfer environmental clearance to the appellant in Civil Appeal No.4287 of 2023. We, therefore, dispose of the appeal with liberty to take steps accordingly.

Civil Appeal 4287 of 2023

xxx

...We make it clear as far as the issue of compensation is concerned, if an adverse order is passed by the Tribunal, the appellant can always challenge the same in accordance with law.

As and when Environmental Clearance is transferred in the name of the appellant, it will be open for the appellant to apply for modification of the impugned judgment.

A copy of the order in *Civil Appeal No 4287 of 2023 in Mukesh Joshi vs. State of Uttarakhand & Ors.* dated 07.08.2023 is annexed and marked herewith as ANNEXURE A-14.

12. That pertinently the said matter was yet again taken up by this Hon'ble Tribunal and orders were passed on 17.07.2025 and has been placed on record by Respondent No. 2 as Annexure N. That it is reiterated that in case the present lots stand connected to the present lots being allocated as per the impugned tender. The entire process stands vitiated based on the judgment of this Hon'ble Tribunal and notifications of the MoEF&CC. Further it is clear that prior environmental clearances cannot be split up and distributed, especially by way of increasing the total number of proponents from 2 to 7. That it is also humbly submitted that the entire process renders the earlier granted Environmental Clearance nugatory. Further the same position is clarified by notification S.o. 1832(E) dated 21.04.2023 of the Ministry of Environment, Forest and Climate Change it has been added to the notification vide number S.o.1533 (E), dated the 14.09.2006, that:

“(14) A prior-Environmental Clearance granted for a specific project, except mining projects may be split amongst two or more legal persons, entitled to undertake the project and transferred during the validity to another legal person on

application made by the transferor in the format specified on PARIVESH portal to the concerned Regulatory Authority along with requisite documents. The concerned Regulatory Authority shall split and transfer the prior-Environmental Clearance, on recommendation of the concerned Expert Appraisal Committee to the other legal persons for the respective projects.”

LACK OF- PERMISSIONS AND CATEGORICAL REJECTIONS

13. That respondent no. 1 the member secretary, UKPCB has accepted that ‘no mining activities shall be undertaken in the doon valley without prior approval of the Ministry of Environment, Forest and Climate change (MoEF&CC). Yet not such approval has been attached or presented to this Hon’ble Tribunal. Further it also clarifies the new categorization of mining. (excluding manual excavation) into cluster mining and standalone mining as red and orange categories. However it is yet not clarified as to how the impugned tender will not fall in cluster mining. That in so far as the issue of cluster mining is concerned it is humbly submitted that to verify the same this Hon’ble Tribunal may be pleased to seek a report as to the distances of the proposed leases in the impugned tender, since the mining area in question is over 20 hectares.
14. Hence it is clear that there are divergent views and an absolute lack of knowledge of the due process and the mandate so set out vide judgments orders and guidelines set out by this Hon’ble Tribunal, the Hon’ble High Court of Uttarakhand and the Hon’ble Supreme Court. Furthermore, the same would show that despite a blanket ban on such mining activities in the Doon valley herculean efforts are being made to distribute mining rights to the highest bidder and cause extreme environmental degradation in the Doon valley while bypassing the law.
15. Further reliance has been placed on the decision of the State of Uttarakhand to make an environmental impact assessment even before

issuing a letter of intent. However, the same has also not been placed on record or even asserted whether the same was done in the present case. It is also submitted that as per the counter of respondent no. 2 the letter dated 09.08.2024 marked as annexure K itself notes and indicates that mining has not been taking place due to orders of the Hon'ble Supreme Court and Hon'ble NGT. Yet while issuing the impugned tender no consideration is given to the environmental concerns whatsoever.

16. That it is also submitted that Approval for mining has also not been sought independently from MoEF& CC. as also stated in the order of this tribunal in *Ayubi* order dated 17.07.2025 in M.A. No.121/2023 in Original Application No. 692/2022.
17. That for the reply filed by Respondent No. 2 it is humbly submitted that it has been sought to be portrayed that the ambit of *Rural Litigation & Entitlement Kendra vs. State of UP and Ors* order dated 30.08.1988 AIR 1988 SC 2187 only covered limestone extraction. That grave exception ought to be taken to such a stand since the essence of the aforementioned judgment was clearly not to stand alone ban mining of limestone but to stop all kinds of environmental degradation being caused in the doon valley and its surrounding areas.
18. That Further reliance has also been placed on Uttarakhand Sub Mineral (Sand, Gravel, Boulder) Chugan Policy-2016 wherein there are no provisions of arbitrary transfer of prior permissions to tender bidders. Reliance has also been placed on Minor Mineral Policy, 2001 for the state of Uttarakhand to override the safeguards placed by this Hon'ble Tribunal and Hon'ble Supreme Court of India.
19. It is humbly submitted and reiterated that the location of the impugned mining leases is in most eco sensitive zone. That the doon valley is surrounded by highly diverse natural wonders such as the Rajaji

National Park, Lachhiwala Range to the south, Kalesar Wildlife Sanctuary, Mussoorie to the north, Asan Conservation Reserve to the west. Further the answering respondents while adverting various facts has completely failed to state whether the impugned notification will fall within red category or not. It is the case of the petitioner that as per as the amended rules taken in defence, the impugned notification would still holistically fall within the red category range.

INCOMPLETE AND MISLEADING REPLIES

20. That it is humbly submitted that the impugned short-term re-tender notification dated 21-11-2024 is ultra-vires Section 3(2)(v) of the Environment (Protection) Act, 1986 and the binding Doon Valley Notification S.O.102(E) dated 01-02-1989 (as amended by S.O.94(E) dated 06-01-2020), which absolutely prohibits establishment or expansion of Red-category industries, including river-bed mining, in the Doon Valley without prior written approval of the Union Ministry of Environment, Forest and Climate Change (MoEF&CC), and no such approval exists. The Directorate of Geology & Mining invited bids for 20 ha of river-bed mining in Vikasnagar, Doon Valley on 21-11-2024. The State's own reply affidavit admits that mining is governed by the Doon Valley Notification and that prior MoEF&CC approval is mandatory, yet none was obtained before floating the tender. Reliance is also placed on *In Re : T. N. Godavarman Thirumulpad Vs Union Of India & Ors 2023 INSC 442*.
21. It is submitted that Rule 20(1) of the Uttarakhand Sub-Mineral (Prevention) Rules, 2023, invoked in the tender, cannot override the Central Government's Doon Valley Notification issued under a Parliamentary statute, and under the doctrine of repugnancy. The facts

show that the State's reliance on Rule-20(1) is misplaced and contrary to the Central notification. Accordingly, reliance on Rule-20(1) is misconceived and the tender founded thereon is liable to be struck down.

22. That the respondents failed to obtain mandatory prior approval from the Union MoEF&CC under Clause-2(ii) of the Doon Valley Notification and failed to secure clearance of the National Board for Wildlife for areas falling within 10 km of the Asan Conservation Reserve, thereby breaching the compulsory statutory procedure before inviting, processing or granting any mining lease. Nine leases approved in Asan Conservation Area are within the 10-km Eco-Sensitive Zone, yet neither the tender documents nor the State's affidavit disclose any MoEF&CC or NBWL approval.
23. That the respondents' assertion that the proposed mining sites lie beyond 10 km of the Asan Conservation Reserve is contradicted by their own list of nine approved leases situated "in the Asan Conservation Area, Vikasnagar", evidencing a misapplication of facts to justify mining within the prohibited buffer. The list annexed to the State's affidavit shows leases of Sh. Shubham Sharma & others inside the Conservation Area. No site-specific distance verification studies have been produced. The Principle of Precaution and inter-generational equity recognised under Section 20 NGT Act and the obligation of accurate environmental appraisal under EIA Notification 2006 require strict compliance. It is further submitted that the State Environment Impact Assessment Authority (SEIAA) lacks subject-matter jurisdiction to grant Environmental Clearance for mining projects situated inside the Doon Valley Eco-Sensitive Area, the power being reserved to the Union MoEF&CC under Clause-2 of the 1989 Notification read with Section 3(2)(v) Environment (Protection) Act, 1986; consequently any EC or

tender process premised on SEIAA competence is without jurisdiction and null.

24. It is further pleaded that the respondents have produced no Environmental Impact Assessment, no MoEF&CC approval letters, no NBWL clearance, and no site-specific landslide or river-morphology studies, thus failing to discharge the evidentiary burden of demonstrating that the proposed mining is environmentally sustainable and legally compliant. The reply affidavits rely on generic descriptions of regulatory frameworks but annex no primary documents evidencing clearances or impact studies for the tendered area. Section 19(1) NGT Act provides that the Tribunal is not bound by strict rules of evidence but is guided by principles of natural justice, and the burden lies on project proponents to establish environmental safety. The facts show that the respondents have not discharged this burden.
25. That allowing mining of river-bed minerals in tributaries within the Doon Valley directly undermines the National Mission for Clean Ganga and contravenes national environmental policy objectives aimed at protecting river ecosystems, thereby offending public policy and the public trust doctrine. Respondents have not addressed how sediment extraction and attendant pollution will impact the Ganga river system; the Tribunal has previously held such mining threatens biodiversity and water quality. Section 20 NGT Act requires application of the public trust doctrine, and Para 2.0 of MoEF&CC Sustainable Sand Mining Guidelines incorporated by EIA Notification 2006 is directly relevant.

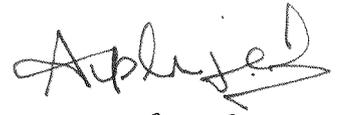
In light of the aforementioned submissions, it is prayed that this Hon'ble Tribunal in the interest of justice, equity and good conscience may be pleased to pass such further order or orders as may be fit proper and

732

necessary in the facts and circumstances of the case and thus render justice.



ADVOCATE
FOR APPLICANT



Signature of Applicants

VERIFICATION

I, PREM PRAKASH THAPLIYAL, do hereby and verify that the contents of paras 1 to 25 are true to my personal knowledge and paras 1 to 25 believed to be true on legal advice and that I have not suppressed any material fact.

Verified on this the 7 day of December, 2024 at N.D.



Signature of applicant

733

BEFORE THE NATIONAL GREEN TRIBUNAL
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IN ORIGINAL APPLICATION NO. 1360 OF 2024

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.... Applicant

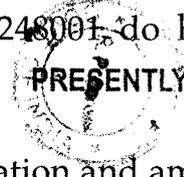
Vs.

State Of Uttarakhand And Others

....Respondents

AFFIDAVIT

I Prem Prakash Thapliyal, the applicant, Son of Girish Chandra, Resident of 112 nav Vihar colony, chukhuwala, Dehradun, Uttarakhand, 248001, do hereby solemnly affirm and state as under:



1. That I am the applicant in the above titled application and am conversant with the facts and circumstances described in the present case and as such, I am competent to swear this affidavit.
2. That the contents of the present rejoinder are true and correct and nothing material had been concealed therefrom.

A. Prakash
Deponent

VERIFICATION

Verified on this 3 of 12 2025 that the contents of the abovementioned affidavit are true and correct and nothing material has been concealed therefrom.

[Signature]

IDENTIFIED BY

A. Prakash
Deponent



ATTESTED
NOTARY PUBLIC
DELHI

07/12/2025



भारत का राजपत्र
The Gazette of India

सी.जी.-डी.एल.-अ.-22042023-245326
CG-DL-E-22042023-245326

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 1750]
No. 1750]

नई दिल्ली, शुक्रवार, अप्रैल 21, 2023/वैशाख 1, 1945
NEW DELHI, FRIDAY, APRIL 21, 2023/VAISAKHA 1, 1945

पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय

अधिसूचना

नई दिल्ली, 21 अप्रैल, 2023

का.आ. 1832(अ)—तत्कालीन पर्यावरण और वन मंत्रालय, पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा (3) की उपधारा (1) और उप-धारा (2) के खंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत के राजपत्र, असाधारण, भाग II, खंड 3, उपखंड (ii) में प्रकाशित, संख्या का.आ. 1533 (अ), तारीख 14 सितंबर, 2006 द्वारा अधिसूचना जारी की गई है।

और, उक्त अधिसूचना के पैरा 11 वैधता अवधि के दौरान एक विधिक व्यक्ति से दूसरे विधिक व्यक्ति को पूर्व पर्यावरणीय मंजूरी (ईसी) स्थानांतरित करने का उपबंध करता है।

और, उक्त अधिसूचना में वैधता अवधि के दौरान एक पर्यावरण मंजूरी को विभाजित करने और इसे एक से अधिक विधिक व्यक्ति को स्थानांतरित करने के लिए स्पष्ट उपबंध नहीं करती है;

और, पर्यावरणीय मंजूरी के ऐसे विभाजन की प्रक्रिया के संबंध में और अधिक एकरूपता और पारदर्शिता लाने के लिए, मंत्रालय सुसंगत उपबंधों को करना आवश्यक समझता है;

और पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 का उप-नियम (4) यह उपबंध करता है कि जब भी केंद्रीय सरकार को ऐसा प्रतीत होता है कि ऐसा करना सार्वजनिक हित में है, उक्त नियम के उप-नियम (3) के खंड (क) के अधीन नोटिस की अपेक्षा से छुटकारा प्राप्त कर सकता है;

और, केन्द्रीय सरकार की राय है कि इस अधिसूचना को जारी करने के लिए उक्त नियम 5 के उप-नियम (3) के खंड (क) के अधीन नोटिस की अपेक्षा से छुटकारा प्राप्त करना जनहित में है;

अतः अब केन्द्रीय सरकार, पर्यावरण (संरक्षण) अधिनियम, 1986 (1986 का 29) की धारा 3 की उप-धारा (1) और उप-धारा (2) के खंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, जनहित में, अधिसूचना संख्या 1533 में निम्नलिखित संशोधन करती है, अर्थात् :-

उक्त अधिसूचना में, पैरा 11 में उप-पैरा (1) के पश्चात्, निम्नलिखित उप-पैरा अंतःस्थापित किया जाएगा, अर्थात्:-

“(1क) खनन परियोजनाओं को छोड़कर, किसी विशेष परियोजना के लिए प्रदान की गई पूर्व पर्यावरणीय मंजूरी दो या अधिक विधिक व्यक्तियों के मध्य किया गया विभाजन, परियोजना शुरू करने के लिए हकदार है और अपेक्षित दस्तावेजों के साथ संबंधित विनियामक प्राधिकरण को परिवेश पोर्टल पर विनिर्दिष्ट प्रारूप में हस्तांतरणकर्ता द्वारा किए गए आवेदन पर किसी अन्य विधिक व्यक्ति की वैधता के दौरान स्थानांतरित करेगा। संबंधित विनियामक प्राधिकरण संबंधित परियोजनाओं के लिए अन्य विधिक व्यक्तियों हेतु संबंधित विशेषज्ञ मूल्यांकन समिति की सिफारिश पर पूर्व पर्यावरणीय मंजूरी को विभाजित और अंतरित करेगा।”

[फा. सं. आईए 3-22/4/2023-आईए. III]

डॉ. सुजीत कुमार बाजपेयी, संयुक्त सचिव

टिप्पण : मूल नियम, भारत के राजपत्र, का.आ. 1533 (अ), तारीख 14 सितम्बर, 2006 को प्रकाशित किए गए थे और का.आ. 3194 (अ), तारीख 14 जुलाई, 2022 द्वारा अंतिम संशोधन किया गया।

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 21st April, 2023

S.O. 1832(E)—Whereas, the erstwhile Ministry of Environment and Forests, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section (3) of the Environment (Protection) Act, 1986 (29 of 1986) has issued the notification vide number S.O.1533 (E), dated the 14th September, 2006, published in the Gazette of India, Extra ordinary, part II, section-3, sub section (ii);

And whereas, para 11 of the said notification provides for transferring the prior Environmental Clearance (EC) from one legal person to another legal person during the validity period;

And whereas, the said notification does not have explicit provision for splitting an Environmental Clearance and transferring it to more than one legal person during the validity period;

And whereas, with regard to the process of such splitting of EC and to bring about greater uniformity and transparency, the Ministry deems it necessary to make relevant provisions;

And whereas sub-rule (4) of rule 5 of the Environment (Protection) Rules, 1986 provides that whenever it appears to the Central Government that it is in public interest to do so, it may dispense with the requirement of notice under clause (a) of sub- rule (3) of the said rules;

And whereas, the Central Government is of the opinion that it is in public interest to dispense with the requirement of notice under clause (a) of sub -rule (3) of rule 5 of the said rules to issue this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government hereby, in public interests makes the following amendment in the notification number 1533, namely:-

In the said notification, in the Para 11, after sub-paragraph (1), the following sub-paragraph shall be inserted, namely:-

“(1A) A prior-Environmental Clearance granted for a specific project, except mining projects may be split amongst two or more legal persons, entitled to undertake the project and transferred during the validity to another legal person on application made by the transferor in the format specified on PARIVESH portal to the concerned Regulatory Authority along with requisite documents. The concerned Regulatory Authority shall split and transfer the prior-Environmental Clearance, on recommendation of the concerned Expert Appraisal Committee to the other legal persons for the respective projects.

[F. No. IA3-22/4/2023-IA.III]

Dr. SUJIT KUMAR BAJPAYEE, Jt. Secy.

Note : The principal notification was published in the Gazette of India, vide number S.O. 1533(E), dated the 14th September, 2006 and was last amended, vide notification number S.O.3194(E), dated the 14th July, 2022.

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737
Annexure P-11

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL
Writ Petition (PIL) No. 66 of 2014

Vijay Ram Sharma Petitioner

Versus

State of Uttarakhand and others Respondents

Present: Mr. D.S. Patni, Advocate for the petitioner.
Mr. Pradeep Joshi, Standing Counsel for the State of
Uttarakhand/respondent Nos. 1, 2 & 11.
Mr. T.C. Agrawal, Advocate for the Union of India
/respondent No.3.
Mr. M.C. Pant, Advocate for respondent No.4.
Mr. Vinay Kumar, Advocate for respondent No.9.
Mr. Piyush Garg, Advocate for respondent No.10.

Coram : Hon'ble K.M. Joseph, C.J.
Hon'ble V.K. Bist, J.

JUDGMENT

Date: 2nd July, 2015

K.M. Joseph, C.J. (Oral)

The reliefs sought in this Public Interest Litigation are as follows:-

- “(1) To direct the respondents to forthwith stop any mining activities being carried out within 10 Kms. from the National Park, Sanctuary or Protected Area within the entire State of Uttarakhand without the clearance of the National Board of Wildlife and/or Ministry of Environment and Forests.
- (2) To direct the respondents to forthwith stop any mining activity throughout the State which is being conducted without the procurement of the Environment Impact Assessment or without Environment Clearance.
- (3) To issue a writ, order or direction in the nature of certiorari quashing the Office memorandum No. 785/VIII-1/27-kha/2014 dated 25-4-2014 (Annexure No.20 to the petition) whereby and whereunder the



respondents have held the illegal mining being done by the private respondents as legal and valid mining.”

2. We have already considered the issue covered by prayer No.1 in Writ Petition (PIL) No. 41 of 2015. In this case, we would advert to Paragraphs 12, 13 & 14. The same are extracted hereunder :-

“12. Coming to the issue on merits, *prima facie*, as things stand, going by the proceedings of the Member Secretary, which we have adverted to, the mining area is within 10 kilometers of Rajaji National Park. We will not wish to say anything more on this in view of the nature of the order, which we propose to pass. As far as the effect of the Notification issued in the year 2006 under the Environment (Protection) Act and the further Notification issued in the year 2013 is concerned, we would think that the effect is as follows:

The Government has categorized projects into ‘A’ and ‘B’. ‘B’ projects are those projects, which require clearance at the hands of the State Authority; whereas ‘A’ projects are required to be dealt with by the Central Government. This is a general condition. They have decided to treat categories, which would otherwise fall in Category ‘B’ as being liable to be treated under Category ‘A’ in certain circumstances. If, for instance, the project is located within a particular distance of the National Park, even though it will otherwise fall under category ‘B’, it would to be treated as falling under Category ‘A’. It is, accordingly, that it is provided in the Notification of the year 2014 that even if it is located within five kilometers from the boundary of the protected area under the Wildlife (Protection) Act and the National Park, it has to be



treated as falling under Category 'A'. Category 'A' projects require deeper scrutiny and more elaborate inquiry, as already noted. But, we would think that this issue is not to be confused with the requirement, which flows from the order dated 02.12.2009, where the Government has provided that in respect of environmental clearance of projects located within 10 kilometers of the National Park, there must be a clearance obtained under the Wildlife (Protection) Act. We would think that, as things stand, this requirement in the order dated 02.12.2009 has not been overridden by the subsequent Notification. If this is the view to be taken on a conspectus of the orders and Notifications and if the distance is noted as within 10 kilometers, in regard to which, we have already held that there is material on record in the form of the proceedings of the Member Secretary, then mining being done by the party respondents cannot be permitted.

13. However, the learned counsel for the party respondents would submit that there may be a direction for measurement of the property, if the Court is inclined to grant any order.

14. In such circumstances, we dispose of the writ petition as follows:

In view of our *prima facie* view that mining activity is being carried out within ten kilometers of Rajaji National Park, we direct the 5th respondent to forthwith enforce prohibition of mining being done by respondent nos. 8 to 10. We further direct respondent no. 6, in association with an officer to be deputed by the District Magistrate, who is familiar with surveying,



to measure the distance of the property of respondent nos. 8, 9 and 10 from the boundary of Rajaji National Park and if it is found that it is beyond ten kilometers, we further direct that they will be free to carry on mining as per law; whereas if it is found that it is within ten kilometers, as we have *prima facie* found, our order that mining will not be carried out will continue to be enforced. The survey will be carried out and measurement will be done within a period of three weeks from the date of production of a certified copy of the judgment before the sixth respondent. The District Magistrate will indeed cooperate by deputing a person as ordered at the earliest on intimation being given by the sixth respondent. It is also made clear that the measurement will be made with due notice to the party respondents and the petitioner. In regard to Prayer No. (iv), we direct that the principle, which we have laid down, will be borne in mind by all the official respondents in the matter of any fresh grant or renewal of clearance or lease and, in regard to those, who have already been granted, we leave it open to the petitioner to challenge the same arraying the affected parties.”

3. In this case, there is no case for the party respondents that they have obtained clearance under the Wild Life (Protection) Act. As far as the distance goes, we find that the petitioner has produced material in the form of the answers to the questions under the Right to Information Act, contained in Annexure 12. It would appear to show that the distance is below 10 Kms., i.e. in respect of respondent Nos.4, 5, 6, 7, and 8. The distance appears to be, *prima facie*, less than 10 Kms. Undoubtedly, it is true that Shri M.C. Pant, learned counsel appearing on behalf of the 4th respondent would



submit that a short counter affidavit is filed, wherein it is pointed out that actually the measurement is not correct. As far as the other respondents are concerned, no counter affidavit is filed. In other words, Annexure 12 would go to show that in respect of respondent Nos. 4, 5, 6, 7 and 8, the distance is less than 10 Kms. from the land which relates to “Assan Wetland Conservation Reserve”, which is a protected area.

4. No doubt, in respect of respondent no.4 a short counter affidavit is filed, raising the allegations that the petition is not filed *bona fide*. According to the 4th respondent, the petitioner filed this petition at the instance of the mining lobby of which the 10th respondent was an active follower. No doubt, there is no rejoinder to the same. It is settled law that even in Public Interest Litigation assuming that if a person comes in private interest, the Court will still consider, whether there is any genuine public interest in the projected public interest litigation. Even proceeding on the basis of unrebutted allegations, we can draw the conclusion that the petition is filed at the instance of mining lobby, there are two aspects which deter us from rejecting the petition on the ground of lack of *bona fides*. In the first place, similar question has already been decided by us in Writ Petition (PIL) No.41 of 2015. Secondly, the refusal to grant relief would not be in public interest as if the mining is being done contrary to law, then we would think that even if the petition is afflicted with absence of *bona fides* as projected by the learned counsel for the 4th respondent, the cause is one which will advance public interest and we have also settled the law in this regard in the earlier writ petition. In such circumstances and, in the facts of this case, we would not accept the contention of the 4th respondent.

5. The 4th respondent has a further case, no doubt, that the measurement in Annexure 12 cannot be acted upon. We would think that though there is no rebuttal in the form of rejoinder



742

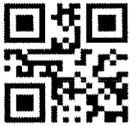
affidavit we would think that when there is *prima facie* material which cannot, of course, be treated as conclusive and in view of the order we propose to pass, we would not say anything more.

6. Shri Vinay Kumar, learned counsel for respondent No. 9 points out that the leases are not challenged.

7. Accordingly, following the judgment of Writ Petition (PIL) No. 41 of 2015 we direct the 2nd respondent to forthwith enforce prohibition of mining being done by private respondents Nos. 4, 5, 6, 7 & 8.

8. Shri M.C. Pant, learned counsel for the 4th respondent would submit that the Chief Wildlife Warden should be given direction to determine the boundaries. It is submitted by Shri D.S. Patni, learned counsel for the petitioner that the boundaries have already been determined. In such circumstances, we would think that similar directions can be issued as we have given in the earlier judgment. We would direct the additional respondent No.12, in association with an officer to be deputed by the District Magistrate, who is familiar with surveying, to measure the distance of the property of respondent Nos. 4, 5, 6, 7, 8 and 9 from the boundary of "Assan Wetland Conservation Reserve" and if it is found that it is beyond ten kilometers, we further direct that the respondent Nos. 4 to 8 will be free to carry on the mining as per law.

9. As far as the 9th respondent also is concerned, unless it is found that the distance is within 10 Kms, the 9th respondent will be free to continue to mine as per law; whereas if it is found that it is within 10 Kms., as we have *prima facie* found in respect of respondent Nos. 4 to 8, if it is within 10 Kms., the mining will not be allowed to be carried out by the 2nd respondent. The survey will be carried out and measurement will be done within a period of three weeks from the date of production of a certified copy of this



judgment before the additional 12th respondent. The District Magistrate will indeed cooperate by deputing a person as ordered at the earliest on intimation being given by the additional 12th respondent. It is also made clear that the measurement will be made with due notice to the party respondents, namely, respondent Nos. 4 to 9 & respondent No. 10 also.

10. We also further direct that the principle we have laid down, namely, in regard to the requirement of permission under the Wildlife (Protection) Act, will be borne in mind by all the official respondents in the matter of any fresh grant or renewal of lease and, in regard to those, who have already been granted, we leave it open to the petitioner to challenge the same arraying the affected parties. We have not pronounced anything on the validity of the leases as such otherwise.

11. The petition is disposed of accordingly.

(V.K. Bist, J.)
02.07.2015

(K.M. Joseph, C.J.)
02.07.2015

P. Singh





2017:UHC:296

Annexure-A-12

744

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (PIL) No. 66 of 2014

With

Review Application No. 856 of 2015

Review Application No. 858 of 2015

Delay Condonation Application in Review No. 14328 of 2015

Delay Condonation Application in Review No. 14329 of 2015

Review Application No. 5823 of 2016

Delay Condonation Application in Review No. 5822 of 2016

Impleadment Application No. 9673 of 2016

Vijay Ram Sharma Petitioner

Versus

State of Uttarakhand and others Respondents

Mr. D.S. Patni, Advocate for the petitioner.

Mr. Paresh Tripathi, Chief Standing Counsel for the State of Uttarakhand.

Mr. Piyush Garg, Advocate for respondent no. 10.

Mr. Kishore Kumar, Advocate for the review applicants in Review Application No. 858 of 2015.

Mr. M.C. Pant, Advocate for respondent no. 4.

With

Writ Petition (PIL) No. 41 of 2015

Mohd Dilshad Petitioner

Versus

Union of India and others Respondents

With

Recall Application No. 660 of 2016

Ms. Menka Tripathi, Advocate for the petitioner.

Mr. A.S. Rawat, Special Counsel with Mr. Paresh Tripathi, Chief Standing Counsel for the State of Uttarakhand.

Mr. J.P. Joshi, Senior Advocate assisted by Mr. Sushil Vashistha, Advocate for the intervenor.

Dated: 12th January, 2017

**Coram: Hon'ble K.M. Joseph, C.J.
Hon'ble V.K. Bist, J.**

K.M. JOSEPH, C.J. (Oral)

Heard learned counsel for the parties on the applications for condonation of delay in filing the review petitions. In the circumstances, the delay will stand condoned and the applications will stand allowed.



745

2. MCC No. 856 of 2015 has been filed by a person, who was a party, namely, respondent no. 4. MCC No. 858 of 2015 has been filed by a person, who was not a party. MCC No. 5823 of 2016 has been filed by the State of Uttarakhand and another.

3. These three review petitions have been filed in the Writ Petition (PIL) No. 66 of 2014, whereas, MCC No. 660 of 2016 has been filed in Writ Petition (PIL) No. 41 of 2015.

4. The first petition, which was disposed of, was Writ Petition (PIL) No. 41 of 2015. Writ Petition (PIL) No. 66 of 2014 was disposed of following the judgment in Writ Petition (PIL) No. 41 of 2015.

5. The issue relates to the requirement of obtaining consent under the Wildlife (Protection) Act for doing mining activities in the vicinity of National Park, Sanctuary and Protected areas.

6. See the prayers in Writ Petition (PIL) No. 66 of 2014, which are on the same lines:

- "1) To direct the respondents to forthwith stop any mining activity being carried out within 10 Kms from the National Park, Sanctuary or Protected Area within the entire State of Uttarakhand without the clearance of the National Board of Wildlife and/or Ministry of Environment and Forests.
- 2) To direct the respondents to forthwith stop any mining activity throughout the State which is being conducted without the procurement of the Environment Impact Assessment or without Environment Clearance.



746

- 3) To issue a writ, order or direction in the nature of certiorari quashing the Office memorandum no. 785/VIII-1/27-Kha/2014 dated 25-4-14 (Annexure no. 20 to the petition) whereby and whereunder the respondents have held the illegal mining being done by private respondents as legal and valid mining."

7. We have heard Mr. D.S. Patni, learned counsel for the petitioner in writ petition no. 66 of 2014, Mr. Piyush Garg, learned counsel for respondent no. 10 in writ petition no. 66 of 2014, Mr. Kishore Kumar, learned counsel for the review applicants in Review Application No. 858 of 2015, Mr. M.C. Pant, learned counsel for respondent no. 4 in writ petition no. 66 of 2014, Ms. Menka Tripathi, learned counsel for the petitioner in writ petition no. 41 of 2015, Mr. A.S. Rawat, learned Special Counsel with Mr. Paresh Tripathi, Chief Standing Counsel for the State of Uttarakhand and Mr. J.P. Joshi, learned senior counsel for the intervener in Writ Petition No. 41 of 2015.

8. This Court proceeded to take the view that despite the notification, which was issued on 09.09.2013, in view of the order dated 02.12.2009, the requirement to obtain consent under the Wildlife (Protection) Act will continue. As far as MCC Nos. 856 and 858 of 2015 are concerned, they are filed by persons who obtained mining lease near the Assan Wetland Conservation Reserve, which is located in the Doon Valley. This Court has in paragraph no. 3 held that it is a protected area. Primarily, what is argued by Mr. M.C. Pant and Mr. Kishore Kumar, who wish to have mining operations in and around the



747

Assan Wetland Conservation Reserve, is that the property, which is the subject matter of mining is less than 5 hectares. Secondly, they would contend that the judgment may not apply to Assan Wetland Conservation Reserve as the embargo will not apply to the Assan Wetland Conservation Reserve.

9. In fact, Mr. Paresh Tripathi, learned Chief Standing Counsel appears in Review Petition No. 5823 of 2016 and which review petitioners had challenged the original judgment of this Court before the Hon'ble Apex Court, wherein the Hon'ble Apex Court passed the following order:

"Mr. Rakesh Dwivedi, learned senior counsel seeks leave to withdraw this special leave petition reserving liberty for the petitioner to urge before the High Court in the review petition the salient point that the Notification in question does not apply to conservation reserve.

The special leave petition is dismissed as withdrawn with liberty prayed for.

We make it clear that in case the review petition fails the petitioner shall have the liberty to approach this Court to urge the limited issue whether the Notification in question actually applies to conservation reserve."

10. He would point out that Assan Wetland Conservation Reserve land is not a notified area. In this regard, reliance is placed on averments made in paragraph 6 of Review Petition No. 5823 of 2016, which read as follows:

"6. That the Ministry of Environment and Forests, Government of India vide communication dated 31.07.2013 to all the State Chief Secretaries, Chief Wildlife Wardens conveyed that the area of 10 Kms. From the boundary of the protected areas will be the eco-sensitive zone of such protected area. The list enclosed with the said communication



748

mentioned details of the Wildlife Sanctuaries and National Park of 19 States including State of Uttarakhand. The National Park and Wildlife Sanctuary mentioned against the State of Uttarakhand included following only:-

- 1) Corbett National Park
- 2) Gangotri National Park
- 3) Govind National Park
- 4) Nanda Devi National Park
- 5) Rajaji National Park
- 6) Valley of Flowers National Park
- 7) Ascot Musk Deer Wildlife Sanctuary
- 8) Binsay Wildlife Sanctuary
- 9) Govind Pasu Vihar Wildlife Sanctuary
- 10) Kedarnath Wildlife Sanctuary
- 11) Mussorie Wildlife Sanctuary
- 12) Sona Nadi Wildlife Sanctuary"

11. He would submit that in the said list, Assan Wetland Conservation Reserve does not figure. Therefore, it goes to show that it is not covered by the embargo against mining.

12. Mr. J.P. Joshi, learned senior counsel appearing on behalf of the applicant/intervener in MCC No. 660 of 2016, who is not a party, primarily seeks to rely on the notification dated 07.10.2014, which according to him was not considered.

13. We may first notice that the review petitioners in Writ Petition (PIL) No. 66 of 2014 have not sought review of the order passed in Writ Petition (PIL) No. 41 of 2015. That apart, we would also see that there is no merit in the matter. We must consider the matter in the confines of the review jurisdiction. The arguments advanced, as already noticed, by Mr. M.C. Pant and Mr. Kishore Kumar is that Assan Wetland Conservation Reserve will not come within the scope of the prohibition.



749

14. Per contra, it is pointed out by Mr. Piyush Garg that the protected area is defined in the Wildlife (Protection) Act as follows :

“(24A) “protected area” means a National Park, a sanctuary, a conservation reserve or a community reserve notified under sections 18, 35, 36A and 36C of the Act.

15. He would submit that this area has been notified. The said notification reads as follows:

MINISTRY OF ENVIRONMENT & FORESTS
(Department of Environment, Forests & Wildlife)
New Delhi, the 1st February, 1989
NOTIFICATION

Notification under 3(2) (v) of Environment (Protection) Act, 1986, and Rule 5(3)(d) of Environment (Protection) Rules, 1986, restricting location of industries, mining operations and other development activities in the Doon Valley in Uttar Pradesh.

S.O. 102(E)- Whereas notification under sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, inviting objections against the imposition of restriction on location of industries, mining operations and other development activities in the Doon Valley, in Uttar Pradesh was published vide No. S.O. 923 (E), dated the 6th October, 1988.

And whereas all objections received have been duly considered by the Central Government:

Now, therefore, in exercise of the Powers conferred by Clause (d) of sub-rule (3) Rule (5) of the said rules, the Central Government hereby imposes restrictions on the following activities in the Doon Valley, bounded on the North by Mussoorie ridge, in the North-East by Lesser Himalayan ranges, on the South-West by Shivalik ranges; river Ganga in the South-East and river Yamuna in the North-West, except those activities



750

which are permitted by the Central Government after examining the environment impacts:

(i) Location / sitting of industrial units—It has to be as per guidelines given in the annexure or guidelines as may be issued from time to time by the Ministry of Environment & Forests, Government of India.

(ii) Mining—Approval of the Union Ministry of Environment & Forests must be obtained before starting any mining activity.

(iii) Tourism---It should be as per Tourism Development Plan (TDP) to be prepared by the State Department of Tourism and duly approved by the Union Ministry of Environment & Forest.

(iv) Grazing—As per the plan to be prepared by the State Government and duly approved by the Union Ministry of Environment & Forests.

(v) Land Use—As per Master Plan of development and Land Use Plan of the entire area, to be prepared by the State Government and approved by the Union Ministry of Environment & Forests.

(No. J-20012/38/86-1A)

K.P. GEETHAKRISHNAN
Secretary

ANNEXURE

Guidelines for permitting / restricting industrial units in the Doon Valley area

Industries will be classified under Green, Orange and Red Categories, as shown below for purposes of permitting / restricting such industrial units in the Doon Valley from the environment and ecological considerations.

CATEGORY GREEN

A. LIST OF INDUSTRIES IN APPROVED INDUSTRIAL AREAS, WHICH MAY BE DIRECTLY CONSIDERED FOR ISSUE OF NO OBJECTION CERTIFICATE WITHOUT



751

REFERENCE TO (MINISTRY OF ENVIRONMENT & FORESTS) (IN CASE OF DOUBTS REFERENCE WILL BE MADE TO MINISTRY OF ENVIRONMENT & FORESTS)

All such non-obnoxious and non-hazardous industries employing upto 100 person. The obnoxious and hazardous industries are those using inflammable explosive, corrosive or toxic substances.

16. Mr. Paresh Tripathi, learned Chief Standing Counsel even though made an attempt to contend that even though it is not notified, does not reply when this question was posed to him. Therefore, it appears that Assan Wetland Conservation Reserve was notified as a protected area under the Wildlife (Protection) Act. The significance of this lies in the notification dated 14.09.2006. Besides this, the respondents also would point out that the Assan Wetland Conservation Reserve is also notified as an eco-sensitive area by notification dated 01.02.1989. Therefore, we would not find any merit as such in the contention of the review petitioners led by the Mr. Paresh Tripathi, Chief Standing Counsel, Mr. M.C. Pant and Mr. Kishore Kumar. Our attention was drawn to a communication dated 01.12.2015 addressed to the Principal Secretary (Forest), which reads as follows :

"F.No.6-109/2015 WL
Dated:1st December 2015

The Principal Secretary (Forest)
Government of Uttarakhand
Dehradun.

Sub: Collection of minor minerals from Yamuna nadi bayan kinara Dhola river in the district



752

Dehradun, Uttarakhand to channelise the natural course and project the river banks and adjoining forest area and habitat from flood, Uttarakhand. The proposed site is 7.78 km away from the Asan Conservation Reserve.

Ref: Letter No.1930/X-2-2015-19(05) dated 31st July 2015 from the Principal Secretary, Government of Uttarakhand.

Sir,

Kindly refer to tout above mentioned proposal, Ministry would like to know the reasons for seeking recommendation of Standing Committee of NBWL. Projects located within 10 Km or notified ESZ around National Parks/Sanctuaries/Tiger Reserves & requiring EC need to be referred to Standing Committee of NBWL for recommendation.

It is, therefore, request to you to furnish the basis of seeking recommendation of SC-NBWL for the aforesaid proposal.

Yours faithfully,

(Rajasekhar Ratti)
Scientist 'C'/Deputy Director (WL)
Email: ra.rati@gov.in

Copy to: The Chief Wildlife Warden, Government of Uttarakhand, Dehradun.

17. We would think that this cannot form the foundation for us to come to the conclusion that Assan Wetland Conservation Reserve is excluded. There is a notification under Section 3(2) (v) of Environment (Protection) Act. There is also a notification under the Wildlife (Protection) Act, treating it as a protected area. The further aspect, which is to be noticed in all these cases is that the effect of the order dated 02.12.2009 has been culled



753

out by us in our judgment. This is despite the notification issued under the Environment Protection Act amending the earlier notification of 2006. We have held that the projects, which are of greater importance are to be screened at the national level and the projects which are of lesser importance they are to be screened as Category B at the State level. It may be true that in regard to areas, where mining is done if it is less than 5 hectares, it would not be treated as Category A to be screened at the central level, though general conditions would apply, as has been made clear in the latest notification relied on by Mr. J.P. Joshi, learned senior counsel. This only has the effect of permitting screening to take place at the state level and not at the central level. It does not have anything to do with the obligation to secure consent under the Wildlife (Protection) Act.

18. Lastly, attempt was made to draw our attention to the judgment of the Hon'ble Apex Court in the case of **Goa Foundation Vs. Union of India** and others reported in (2014) 6 **Supreme Court Cases 590**. The question whether the Court has banned mining, we think, need not detain us in deciding these review petitions.

19. In such circumstances, the review petitions fail and are dismissed. No order as to costs.

(V.K.Bist, J.)
12.01.2017

(K.M. Joseph, C. J.)
12.01.2017

Rahul



ITEM NO.21

COURT NO.3

SECTION PIL-W

Annexure P-13
754

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 202/1995

IN RE : T.N. GODAVARMAN THIRUMULPAD

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

Date : 24-10-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA
HON'BLE MR. JUSTICE K.V. VISWANATHAN

Counsel for parties

Mr. K. Parameshwar, Sr. Advocate (A.C.)
Ms. Kanti, Adv.

Mr. Gaurav Sharma, Sr. Adv.
Mr. Ramesh Allanki, Adv.
Ms. Aruna Gupta, Adv.

Mr. Dama Sheshadri Naidu, Sr. Adv.
Mr. Ramesh Allanki, Adv.
Ms. Aruna Gupta, AOR
Mr. Ashish Jacob Mathew, Adv.

Ms. Aishwarya Bhati, A.S.G.
Mrs. Archana Pathak Dave, A.S.G.
Mrs. Ruchi Kohli, Sr. Adv.
Mr. Mukesh Kumar Maroria, AOR
Ms. Suhasini Sen, Adv.
Mr. S.s. Rebello, Adv.
Mr. Shyam Gopal, Adv.
Mr. Raghav Sharma, Adv.
Mr. Sughosh Subramaniam, Adv.
Mr. Gaurang Bhushan, Adv.

Mr. Gaurav Kumar Bansal, AOR
Ms. Mrinal Gopal Elker, AOR

Ms. Srishti Agnihotri, AOR

Signature Not Verified
Digitally signed by
NARENDRA PRASAD
Date: 2024.10.25
10:40:06 IST
Reason: 

Ms. Sanjana Grace Thomas, Adv.
Mr. D.P. Singh, Adv.
Ms. Tara Elizabeth Kurien, Adv.

Mr. Syed Jafar Alam, AOR

Mr. Vishnu Kant, AOR

Ms. Dr. Monika Gusain, Sr. Adv.
Mr. Akshay Amritanshu, AOR
Ms. S. Harini, Adv.
Mr. Samyak Jain, Adv.
Ms. Drishti Saraf, Adv.
Ms. Pragya Upadhyay, Adv.
Mr. Saurabh Gupta, Adv.

Ms. Shibani Ghosh, AOR
Mr. Rishad A. Chowdhury, Adv.

Mr. Nalin Kohli, Sr. Adv.
Ms. Ruchira Gupta, Adv.
Mr. Shishir Deshpande, AOR
Ms. Pooja Tripathi, Adv.
Mr. Amit Kumar, Adv.
Ms. Harshita Sharma, Adv.
Mr. Abhishek Verma, Adv.

Ms. Pallavi Langar, AOR

Mr. Mayank Aggarwal, AOR
Ms. Aarushi Malik, Adv.
Mr. Pradeep Kumar Aggarwal, Adv.

Ms. Anitha Shenoy, Sr. Adv.
Ms. Shomona Khanna, Adv.
Ms. Rashmi Nandakumar, AOR
Ms. Ayushma Awasthi, Adv.
Ms. Yashmita Pandey, Adv.

Mr. Sunil Kumar Verma, AOR
Mr. Saju Jakob, Adv.
Ms. Sherpa Kingzum, Adv.
Mr. Shine Varghese, Adv.
Ms. Mili Verma, Adv.
Sherpa Kangzum, Adv.
Mr. Albert B., Adv.
Mr. Shubham Kashyap, Adv.

Mr. K. R. Sasiprabhu, AOR

Ms. Usha Nandini V., AOR

Mr. Jaideep Gupta, Sr. Adv.

Mr. Nishe Rajen Shonker, AOR
Mrs. Anu K. Joy, Adv.
Mr. Alim Anvar, Adv.
Riddhi Bose, Adv.
Ms. Rachita Chawla, Adv.
Ms. Sampriti Bakshi, Adv.
Ms. Rishi Agrawal, Adv.

Mr. Nikhil Goel, Sr. Adv.
Mr. Roy Abraham, Adv.
Ms. Anne Mathew, AOR

Ms. Vibha Datta Makhija, Sr. Adv.
Mr. Aastik Dhingra, Adv.
Mr. Anurag Tandon, AOR
Mr. Ranjan Mohan Das, Adv.
Mr. Karan Mangain, Adv.
Mr. Praveen Gaur, Adv.
Nehal Sri L.V., Adv.

Mr. Shuvodeep Roy, AOR
Mr. Saurabh Tripathi, Adv.
Mr. Deepayan Dutta, Adv.

Mr. Abhishek Atrey, AOR
Ms. Vidyottma Jha, Adv.

Mr. Raghenth Basant, Sr. Adv.
Mr. A. Karthik, AOR
Mr. Harish Vasudevan, Adv.
Mr. Vishnu Pazhanganat, Adv.
Ms. Smrithi Suresh, Adv.
Mr. Sugam Agrawal, Adv.
Ms. Hima Bhardwaj, Adv.
Ms. Kaushitaki Sharma, Adv.

Ms. Srishti Agnihotri, AOR

Mr. G.S. Makker, AOR

Mr. M.K. Maroria, AOR

Mr. Shyam Divan, Sr. Adv.
Mr. Nina Nariman, Adv.
Ms. Tahira Karanjawala, Adv.
Mr. Arjun Sharma, Adv.
Mr. Sukanya Das, Adv.
Sharanya Ghosh, Adv.
Mr. Samarth Suri, Adv.
For M/s. Karanjawala & Co.

Mr. V. Giri, Sr. Adv.
Mr. Roy Abraham, Adv.

Mr. Joice George, Adv.
Mr. Himinder Lal, Adv.

Mr. Krishna Ballabh Thakur, AOR

Mr. T. R. B. Sivakumar, AOR
Mr. Shreyas Gacche, Adv.

Mr. Akshay mann, Adv.
Mr. Pranali T., Adv.
Mr. Mukesh Kumar, Adv.
Mr. K. Mrutyunjaya Rao, Adv.

Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande, AOR
Mr. Bharat Bagla, Adv.
Ms. Aditya Krishna, Adv.
Ms. Preet S. Phanse, Adv.
Mr. Adarsh Dubey, Adv.

Mr. Chanchal Kumar Ganguli, AOR
M/S. Plr Chambers And Co., AOR
Mr. Syed Mehdi Imam, AOR
Mr. T. Harish Kumar, AOR
M/S. Mitter & Mitter Co., AOR
M/S. Lawyer S Knit & Co, AOR

Mr. Gurmeet Singh Makker, AOR
Mr. Gaichangpou Gangmei, AOR
Mr. Raj Kishor Choudhary, AOR

Ms. Madhu Moolchandani, AOR
Mr. Rakesh K. Sharma, AOR
Ms. S. Janani, AOR
M/S. Arputham Aruna And Co, AOR
Mrs. Nandini Gore, AOR
Mr. Raj Kumar Mehta, AOR
M/S. M. V. Kini & Associates, AOR
Ms. Pratibha Jain, AOR
Mr. Tejaswi Kumar Pradhan, AOR
Mrs. Kanchan Kaur Dhodi, AOR
Mr. Surya Kant, AOR
Mr. E. C. Vidya Sagar, AOR
Ms. Sujata Kurdukar, AOR
Ms. Sharmila Upadhyay, AOR
Mr. Rajeev Singh, AOR
Mr. Prashant Kumar, AOR
Mr. Dharmendra Kumar Sinha, AOR
Mr. P. Parmeswaran, AOR
Mr. Shiva Pujan Singh, AOR
Mrs. B. Sunita Rao, AOR
Mr. Kamal Mohan Gupta, AOR
Mr. Sudarsh Menon, AOR

758

Mr. Ramesh Babu M. R., AOR
Mr. Vikrant Singh Bais, AOR
Mr. Lakshmi Raman Singh, AOR
Mrs. Manik Karanjawala, AOR

Mr. Bhavani Shankar Gadnis, Adv.
Mr. A. Venayagam Balan, AOR
Mr. Gaurav Pal, Adv.

Mr. Ejaz Maqbool, AOR
Mr. Rajesh, AOR
M/S. Corporate Law Group, AOR
Mr. Abhishek Chaudhary, AOR
Ms. Charu Mathur, AOR
Mr. Rajiv Mehta, AOR
Mr. C. L. Sahu, AOR
Ms. Sumita Hazarika, AOR
Ms. Abha R. Sharma, AOR
Ms. Asha Gopalan Nair, AOR
Mr. Rajesh Singh, AOR

Ms. K. V. Bharathi Upadhyaya, AOR
Mr. Sufiyan Hasan, Adv.
Ms. Hema Malik, Adv.

Mr. T. N. Singh, AOR
Mr. T. V. George, AOR
Mr. Krishnanand Pandeya, AOR
Mr. Neeraj Shekhar, AOR
Mr. Sudhir Kulshreshtha, AOR

Mr. Himanshu Shekhar, AOR
Mr. Parth Shekhar, Adv.
Mr. Shubham Singh, Adv.
Ms. Moni Tomar, Adv.
Mr. Mukesh Kumar Verma, Adv.
Mr. Nikhil Kumar, Adv.
Mr. Md Sontu Mia, Adv.
Ms. Monica Haseja, Adv.
Ms. Sarita Kumari, Adv.
Mr. Kishor Kumar Pandey, Adv.
Mr. Mata Prasad Pathak, Adv.
Mr. Vijay Singh, Adv.
Mr. Santosh Kumar, Adv.
Mr. Maheshwaram Yadava Reddy, Adv.

Mr. B V Deepak, AOR
Mr. Gopal Singh, AOR
Mr. Punit Dutt Tyagi, AOR
Mr. Rathin Das, AOR
Mr. Ratan Kumar Choudhuri, AOR
Mr. E. M. S. Anam, AOR

Mrs. Rekha Pandey, AOR
Mr. Mohd. Irshad Hanif, AOR
Mr. Sudhir Kumar Gupta, AOR
Mr. A. N. Arora, AOR
Mr. Irshad Ahmad, AOR
Mr. G. Prakash, AOR
Ms. Binu Tamta, AOR
Ms. Hemantika Wahi, AOR
Mr. Pradeep Kumar Bakshi, AOR
Mr. P. V. Yogeswaran, AOR
Mr. Jitendra Mohan Sharma, AOR
Ms. Malini Poduval, AOR
Ms. C. K. Sucharita, AOR
Mrs. Anjani Aiyagari, AOR
Ms. Sushma Suri, AOR
Mr. K. L. Janjani, AOR
Mr. Naresh K. Sharma, AOR
Ms. A. Sumathi, AOR
Mr. Jai Prakash Pandey, AOR
Mr. Ajit Pudussery, AOR
Mrs. Bina Gupta, AOR
Mrs. Rani Chhabra, AOR
Ms. Divya Roy, AOR
Mr. Tarun Johri, AOR
Mr. Radha Shyam Jena, AOR
Mr. Ram Swarup Sharma, AOR
Mr. Shibashish Misra, AOR
M/S. Parekh & Co., AOR
M/S. K J John And Co, AOR
Mr. V. Balachandran, AOR
Mr. S. C. Birla, AOR
Mr. P. R. Ramasesh, AOR
Mr. K. V. Vijayakumar, AOR
Mr. Umesh Bhagwat, AOR
Mrs. M. Qamaruddin, AOR
Mr. H. S. Parihar, AOR
Ms. Baby Krishnan, AOR
Ms. Bina Madhavan, AOR
Mr. Ashok Mathur, AOR
Mr. P. N. Gupta, AOR
Mr. Sarad Kumar Singhania, AOR
Mr. E. C. Agrawala, AOR
Mr. Kuldip Singh, AOR
Mr. Ranjan Mukherjee, AOR
Mr. T. Mahipal, AOR
Mr. Rajat Joseph, AOR
Mr. Gopal Prasad, AOR
Ms. Jyoti Mendiratta, AOR
Mr. S. Udaya Kumar Sagar, AOR
Mr. M. Yogesh Kanna, AOR
Ms. Vanshaja Shukla, AOR

Mr. Chirag M. Shroff, AOR

Mrs. Mahima C Shroff, Adv.
Mr. Dhananjay Kataria, Adv.

Ms. Mayuri Raghuvanshi, AOR
Mr. Vivek Jain, AOR
Mr. Sudeep Kumar, AOR
Ms. Rani Mishra, AOR

Mr. Sameer Abhyankar, AOR
Mr. Rahul Kumar, Adv.
Mr. Aryan Srivastava, Adv.
Ms. Ayushi Bansal, Adv.
Mr. Aakash Thakur, Adv.
Mr. Sarthak Dora, Adv.

Mr. Ajay Agarwal, A.A.G.
Mr. Rajeev Kumar Dubey, Adv.
Mr. Ashiwan Mishra, Adv.
Mr. Kamendra Mishra, AOR

Mr. Somesh Chandra Jha, AOR
Ms. Ruchira Goel, AOR

Mr. Parth Awasthi, Adv.
Mr. Pashupathi Nath Razdan, AOR

Mr. Tarun Gupta, AOR
Mr. Shovan Mishra, AOR
Mr. P. S. Sudheer, AOR
Mr. Sunny Choudhary, AOR
Mr. Siddhartha Jha, AOR

M/S. V. Maheshwari & Co., AOR
Mr. Kamal Deep Kumar, Adv.
Mr. Amar Shankar, Adv.
Mr. Dhruv Singh, Adv.
Mr. Naved Anwar, Adv.

Mr. Sanjeev Kumar, AOR
Mr. Prashant Kumar Umrao, AOR
Mr. Naveen Kumar, AOR
Mr. P. K. Manohar, AOR
Mr. Vinod Sharma, AOR
Ms. Surbhi Mehta, AOR
Mr. Rajeev Singh, AOR
Ms. Parul Shukla, AOR

Mr. B.K. Pal, AOR
Mr. James P. Thomas, AOR
Mr. S. Gowthaman, AOR

Mr. Rajiv Kumar Choudhry, AOR

Mr. Anurag Tandon, AOR

Mr. Samir Ali Khan, AOR
Mr. Pranjal Sharma, Adv.

Ms. Shalini Kaul, AOR
Mr. Sunil Kumar Sharma, AOR

Ms. Swati Ghildiyal, AOR
Ms. Devyani Bhatt, Adv.
Ms. Neha Singh, Adv.
Ms. Sneha Menon, Adv.

Mr. Siddharth Sharma, AOR

Mrs. Aishwrya Bhati, A.S.G.
Mrs. Archana Pathak Dave, A.S.G.
Mr. Raj Bahadur Yadav, AOR
Mrs. Ruchi Kohli, Adv.
Mr. Uday Prakash Yadav, Adv.
Mr. Suhasini Sen, Adv.
Mr. S S Rebello, Adv.
Mr. Shyam Gopal, Adv.
Mr. Raghav Sharma, Adv.
Mr. Sughosh Subramaniam, Adv.

Ms. K. Enatoli Sema, AOR
Ms. Limayinla Jamir, Adv.
Mr. Amit Kumar Singh, Adv.
Ms. Chubalemla Chang, Adv.
Mr. Prang Newmai, Adv.

Mr. Shubhranshu Padhi, AOR
Mr. Nishe Rajen Shonker, AOR
Mr. Nishit Agrawal, AOR
Mr. Krishna Ballabh Thakur, AOR
Ms. Aruna Gupta, AOR

Applicant-in-person

Mrs. Pragya Baghel, AOR

Ms. Deepanwita Priyanka, AOR

Mr. Raghvendra Kumar, AOR

Mr. Sravan Kumar Karanam, AOR
Ms. Tayade Pranali Gowardhan, Adv.

Mr. Saurabh Rajpal, AOR

Mr. Gopal Balwant Sathe, AOR

Mr. Sarvam Ritam Khare, AOR

Mr. K. M. Nataraj, A.S.G.

Mr. Mrinal Elkar Mazumdar, Adv.

Mr. Mukesh Kumar Verma, Adv.

Mr. Neeraj Kumar Sharma, Adv.

Indira Bhakar, Adv.

Mr. Harish Pandey, Adv.

Mr. Shashwat Parihar, Adv.

Mr. Vinayak Sharma, Adv.

Mr. Anuj Srinivas Udupa, Adv.

Mr. Piyush Beriwal, Adv.

Mr. Shreekant Neelappa Terdal, AOR

Mr. Krishna Kant Dubey, Adv.

Ms. Sunieta Ojha, AOR

Mr. Dinesh Chandra Pandey, AOR

Mr. Shrey Kapoor, AOR

Mr. Rahul Jain, AOR

Mr. Kaushik Choudhury, AOR

Mr. Aravindh S., AOR

Mr. Abbas B, Adv.

Ms. Tharanisri, Adv.

Mrs. Kirti Renu Mishra, AOR

Mr. Atul Sharma, AOR

Mr. Anirudh Sanganeria, AOR

Mr. Chinmay Deshpande, Adv.

Mr. Subhasish Mohanty, AOR

Ms. Pallavi Langar, AOR

Ms. Mrinal Gopal Elker, AOR

Mr. Dhaval Mehrotra, AOR

Mr. Ravindra Kumar, Sr. Adv.

Mr. Binay Kumar Das, AOR

Ms. Priyanka Das, Adv.

Ms. Neha Das, Adv.

Mr. Shivam Saxena, Adv.

Mr. Vikas Bharti, Adv.

Ms. Lakshmi N. Kaimal, AOR

Mr. Shiv Mangal Sharma, A.A.G.

Mr. Saurabh Rajpal, Adv.

Mr. Amogh Bansal, Adv.

Ms. Nidhi Jaswal, AOR

Mr. Arjun D Singh, Adv.

Ms. Ankita Sharma, AOR

Mr. Naveen Kumar, AOR

Mr. V. N. Raghupathy, AOR

M/S. D.s.k. Legal, AOR

Ms. Shibani Ghosh, AOR

Mr. Chandra Bhushan Prasad, AOR

Mr. Vikas Singh, Sr. Adv.

Ms. Manika Tripathy, AOR

Mr. Ashutosh Kaushik, Adv.

Mr. Barun Dey, Adv.

Mr. Rony John, Adv.

Mr. Vansh Kalra, Adv.

M/S. Cyril Amarchand Mangaldas, AOR

Mr. Sandeep Kumar Jha, AOR

Mr. Shiv Mangal Sharma, A.A.G.

Ms. Nidhi Jaswal, Adv.

Ms. Shalini Singh, Adv.

Mr. Saurabh Rajpal, Adv.

Mr. Shiv Mangal Sharma, A.A.G.

Mr. Milind Kumar, AOR

Mr. Mohit Paul, AOR

Ms. Saroj Tripathi, AOR

Mr. D.kumanan, AOR

Ms. Adarsh Nain, AOR

Mr. Guntur Pramod Kumar, AOR

Ms. Prerna Singh, Adv.

Mr. Dhruv Yadav, Adv.

Mr. Amrish Kumar, AOR

Ms. Purnima Krishna, AOR

Mr. Yuraj Nandal, Adv.

Ms. Pallvi Hooda, Adv.

Mr. Shiv Bhatanagar, Adv.

Ms. Tannu, Adv.

Dr. Surender Singh Hooda, AOR

Mr. Aldanish Rein, AOR

Ms. Seita Vaidyalingam, AOR

Mr. Anando Mukherjee, AOR

Ms. Anzu. K. Varkey, AOR

704

Ms. Astha Sharma, AOR
Mr. Shreyas Awasthi, Adv.
Ms. Ripul Swati Kumari, Adv.

Mr. Sujit Kumar Mishra , AOR

Mr. Avijit Mani Tripathi, AOR

Nishanth Patil, AOR
M/s. Venkat Palwai Law Associates, AOR
Mr. Ajay Marwah, AOR
Mr. Ravindra S. Garia, AOR

Mr. Gurminder Singh, AG Punjab/Sr. Adv.
Mr. Karan Sharma, AOR

Ms. Sugandha Anand , AOR

Mr. Pukhrambam Ramesh Kumar, AOR
Mr. Karun Sharma, Adv.
Ms. Rajkumari Divyasana,, Adv.
Mr. R. Rajaselvan, Adv.

Mr. A.N.S. Nadkarni, Sr. Adv.
Mr. Kumar Mihir, Adv.

UPON hearing the counsel the Court made the following
O R D E R

(1) I.A. NOS. 234745 & 234762 OF 2024 AND I.A. NO. 234746 OF 2024

1. Learned counsel appearing for the State seeks four weeks' time to file reply affidavit.
2. List these applications on 11.12.2024

(2) CONTEMPT PETITION(C) ...@ DIARY NO. 39857 OF 2024

1. *Prima facie*, it appears that State of Andhra Pradesh has not complied with the directions issued by this Court in paragraph 17 of the order dated 10.04.2006.
2. In that view of the matter, issue notice, returnable on 11.12.2024.
3. Dasti, in addition, is permitted.
4. In addition to the usual mode, liberty is granted to the petitioner to serve notice through the Standing Counsel for

765

the State of Andhra Pradesh.

5. Personal presence of the alleged contemnor(s) is dispensed with until further orders.

[3] I.A. NOS. 172422, 172425, 172427, 172429, 179359 OF 2024

1. Taking into consideration the important aspect of the matter and in order to maintain the integrity of the Forest Department, we are of the view that the present issue requires to be considered in a larger perspective.

2. We therefore request the learned Amicus Curiae to examine the issue since it will have a ramification all over the country and assist this Court.

3. List on 11.12.2024.

[4] CONTEMPT PETITION (CIVIL) NO. 938/2021
IN CIVIL APPEAL NOS. 12234- 12235 OF 2018

1. A copy of the Report, if any, submitted by the CAMPA Executive Committee for the State of Goa be supplied to the learned Amicus Curiae.

2. List on 20.11.2024.

(5) I.A.NO. 172781 OF 2024 WITH I.A.NO. 172375 OF 2024
IN WRIT PETITION (CIVIL) NO. 171/1996

List on 20.11.2024.

(6) I. A. NOS. 153500 & 153501 OF 2024
WITH I. A. NO. 153502 OF 2024

1. List on 11.11.2024.

1. Reply affidavit, if any, be filed in the meantime.

(7) I. A. NOS. 157777 AND 157782 OF 2023

1. Vide order dated 14.02.2024 this Court had called upon the Union of India to have deliberations with the State Governments to find out as to whether any restriction with regard to mining activities within the radius of ten kilometer of the Conservation Reserve and Community Reserve could be imposed.

2. Ms. Aishwarya Bhati, learned Additional Solicitor General of India, has placed on record an affidavit of the Union of India sworn by Dr. Sudheer Chintalpati, which is taken on record. The said affidavit refers to deliberations in the meeting of the Union of India with the State Governments. The Minutes of the Meeting dated 04.09.2024 are also placed on record. A perusal of the Minutes of Meeting would reveal that the participants expressed their concerns with regard to implementing strict regulations inside the Conservation Reserve and Community Reserve.

3. It is to be noted that insofar as the Conservation Reserve and Community Reserve are concerned, participation of the local population has a pertinent role to play. Unless there is a motivation for the local population to declare the areas as a Conservation Reserve or Community Reserve, it may not be possible to declare such areas as Conservation Reserve and Community Reserve. As could be seen from the affidavit that many of the State Governments have not even notified any Conservation Reserve and Community Reserve.

4. We therefore find that it will not be appropriate to lay down universal guidelines so far as the restrictions to be imposed in the Conservation Reserve and Community Reserve are concerned. The Union of India has already framed guidelines which can be followed by the State Governments on case to case basis for deciding as to what restrictions are to be imposed in a particular Conservation Reserve and Community Reserve.

5. Insofar as the Asan Wetland Conservation Reserve is concerned the Division Bench of the High Court of Uttrakhand vide its order dated 02.07.2015 has already imposed certain restrictions.

6. In that view of the matter, these applications shall stand disposed of.

(8) I. A. NOS. 1408, 1457, 1462 OF 2005, 1787 OF 2007,
1863- 1864 OF 2007, 3453 OF 2012
IN RE : CARDAMOM CULTIVATION IN KERALA
WITH I. A. NO. 178808 OF 2023 AND I. A. NO. 192984 OF
2023 AND I. A. NO. 212703 OF 2023 AND I. A. NO. 10936 OF 2024
AND I. A. NO. 10949 OF 2024 AND I. A. NO. 183978/2024 AND
I. A. NO. 238781/2024

1. List on 04.12.2024.
2. Until further orders, we direct that the State of Kerala shall not allot any fresh patta for cardamom cultivation nor shall it permit further land from the area notified as CHR to be converted for commercial exploitation.
3. Reply/documents, if any, may be filed in the meantime.

(9) I.A. NOS. 85332 AND 85124 OF 2023 WITH I.A. NOS. 60136
AND 60352 OF 2024 WITH I.A. NOS. 64180 AND 64434 OF 2024
WITH I.A. NO. 67379 OF 2024

List on 20.11.2024.

(10) IA No. 20650/2023

List on 20.11.2024.

(11) I. A. NOS. 79569 AND 79576/2019 WITH I. A. NOS. 159670
AND 159677/2019 WITH I. A. D. NOS. 14261 AND 14262/2021,
I. A. NOS. 40599 AND 40624/2023, I. A. NO. 220675/2023

1. A copy of the Inquiry Report received from Principal District Judge, Raigad-Alibag be supplied to the counsel for the parties.
2. List on 20.11.2024.

(12) I.A. NO. 245699 OF 2024

List on 20.11.2024.

768

IA Nos. 31095, 31104 and 31118 of 2019

1. These applications were mentioned today.
2. As prayed, list these applications on 11.11.0224.

(NARENDRA PRASAD)
DEPUTY REGISTRAR

(ANJU KAPOOR)
COURT MASTER



ITEM NO.14

COURT NO.11

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 4287/2023

MUKESH JOSHI

Appellant(s)

VERSUS

STATE OF UTTARAKHAND & ORS.

Respondent(s)

(IA No.132298/2023-INTERLOCUTARY APPLICATION and IA No.128490/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.128491/2023-EXEMPTION FROM FILING O.T.)

WITH

Diary No(s). 22038/2023 (XVII)

(IA No.142879/2023-CONDONATION OF DELAY IN FILING and IA No.142877/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.142876/2023-EX-PARTE STAY and IA No.142878/2023-EXEMPTION FROM FILING O.T. and IA No.142880/2023-CONDONATION OF DELAY IN REFILEING / CURING THE DEFECTS)

Date : 07-08-2023 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE SANJAY KAROL

For Appellant(s) Mr. Mukul Rohatgi, Sr. Adv.
Mrs. D. Bharathi Reddy, AOR
Mr. Vikas Negi, Adv.
Mr. Nishant Sharma, Adv

Mr. Gopal Shankarnarayan, Sr. Adv.
Ms. Preetika Dwivedi, AOR
Mr. Abhisek Mohanty, Adv.
Ms. Jhanvi Dubey, Adv.

For Respondent(s) Mr. Ajit Sharma, AOR
Mr. A. Renganath, Adv.

Mr. Mukesh Verma, Adv.
Mr. Pawan Kumar Shukla, Adv.
Mr. Pankaj Kumar Singh, Adv.
Mr. Yash Pal Dhingra, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Diary No(s).22038/2023)

The appeal is disposed of in terms of the signed order.

Pending applications, if any, also stand disposed of.

Civil Appeal No(s). 4287/2023

The appeal is disposed of as withdrawn in terms of the signed order.

(INDU MARWAH)
COURT MASTER (SH)

(AVGV RAMU)
COURT MASTER (NSH)

(signed order is placed on the file)

781

THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4287/2023

MUKESH JOSHI

Appellant(s)

VERSUS

STATE OF UTTARAKHAND & ORS.

Respondent(s)

WITH

CIVIL APPEAL NOS. _____ /2023
(@ Diary No(s). 22038/2023)

O R D E R

CIVIL APPEAL NO. _____ /2023(@ Diary No(s). 22038/2023)

Delay condoned.

The learned Senior Counsel appearing for the State pointed out that the State will take steps to transfer environmental clearance to the appellant in Civil Appeal No.4287 of 2023.

We, therefore, dispose of the appeal with liberty to take steps accordingly.

Pending applications, if any, also stand disposed of.

Signature Not Verified
Digitally signed by
Indu Manoj
Date: 2023.08.10
10:46:09 IST
Reason:

CIVIL APPEAL NO. 4287/2023

Learned Senior Counsel appearing for the appellant seeks

permission to withdraw the appeal as he wants to avail the remedy reserved by the Tribunal in terms of paragraph 16 of the impugned judgment. To enable him to avail the remedy, the appeal is disposed of as withdrawn.

We make it clear as far as the issue of compensation is concerned, if an adverse order is passed by the Tribunal, the appellant can always challenge the same in accordance with law.

As and when Environmental Clearance is transferred in the name of the appellant, it will be open for the appellant to apply for modification of the impugned judgment.

.....J.
[ABHAY S. OKA]

.....J.
[SANJAY KAROL]

New Delhi
August 7, 2023.

True Copy



OA 1360/2024 Prem Prakash
Thapliyal



me 12:43 pm
to ANJALI.ARRAJPUT



Respected Ma'am

Please find attached the rejoinder affidavit in the above mentioned matter filed by me today.



Reply

Forward

