

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

AT PUNE

ORIGINAL APPLICATION NO. 75 OF 2024 (WZ)

MARUTI M. KADAM

..

APPLICANT

VS

APURVA NATVAR PARIKH & CO.PVT. LTD
AND OTHERS

..

RESPONDENTS

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PUNE



DATE: 10/01/2025

ADVOCATE FOR RESPONDENT No.1

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REPLY ON BEHALF OF RESPONDENT NO.1

MAY IT PLEASE THE HON'BLE TRIBUNAL

THE RESPONDENT NO.1 MOST RESPECTFULLY SUBMITS

THAT :-

1. At the outset, it is submitted that, the present Original Application has been filed by the Applicant for an ulterior motive to harass the Respondent No.1 and the same may kindly be rejected in toto. Nothing shall be deemed to be admitted by the present Respondents except so far as it is expressly admitted herein under. It is submitted that the present Original Application is nothing but an exercise to harass the present Respondents and indulge into the extortion and trying to blackmail the present Respondents.

PRELIMINARY OBJECTIONS

2. The Respondent No.1 submit that the Applicant is neither an aggrieved person in the eyes of law nor has made out the case of substantial questions relating to environment as mandated u/s 2 (m) of the National Green Tribunal Act, 2010.
3. The Respondent No.1 submit that no substantial issue has been made out for the adjudication before this Hon'ble Tribunal. The Respondent No.1 further submits that the Applicant herein has no locus to file present Original Application and is also not an aggrieved party to the present proceedings. The Hon'ble Supreme Court has held that , the issue of locus of Applicant is to be decided by this Hon'ble Tribunal. The Hon'ble Supreme Court in the Judgement of '*Uday Welfare Trust Vs. State of U.P.*' has clearly held that, this Hon'ble Tribunal has to consider the bonafide of the litigant approaching the Hon'ble Tribunal as the question of operation of Industry and employment of numerous employees is depending on the order of this Hon'ble Tribunal. Hereto annexed herewith and marked as **ANNEXURE - R-1** is the copy of the Judgment of the Hon'ble Supreme Court in the Judgement of '*Uday*

Welfare Trust Vs. State of U.P.'. The Hon'ble Supreme Court in another case of *Anand Gram Society* has also held that the locus of the Applicant has to be verified by the Hon'ble Tribunal. Hereto annexed herewith and marked as **ANNEXURE - R-2** is the copy of the Judgment of the Hon'ble Supreme Court in *Anand Gram Society* case.

FACTS OF THE CASE

4. The Respondent No.1 submits that, the Respondent No.1 is the owner of the land bearing CTS No.29/6, situated at Mulund village, Mumbai. The land has been reserved by the Municipal Corporation of Greater Mumbai for a School. By an Indenture of the Sub-Lease dated 10th January, 2020 duly registered with the Sub-Registrar of Kurla No. 4 under Serial No. BDR-532/2020, the plot has been Sub leased to T. B. Desai Family Public Charitable Trust as Sub-Lessee for a period of 30 years for running a School. The said land is located in the residential zone and the same is close to the Sanjay Gandhi National Park. It is submitted by the Respondent No.1 that the area around the Sanjay Gandhi National Park is an eco-sensitive zone and that the Ministry of Environment Forest and Climate Change vide its Notification dated 05.12.2016 notified the eco-sensitive zone.

Copy of the Notification dated 05.12.2016 is annexed with this reply and marked as **ANNEXURE - R-3**.

5. The Respondent No.1 in terms of the said Notification, applied for a construction of School Building at the said land and the office of the Deputy Conservator of Forest (Thane Forest Division) vide its NOC dated 19.03.2019 granted the permission to the Respondent No.1 for the construction of school building at the said land, copy of which is annexed with this reply and marked as **ANNEXURE - R-4**. The school was further recognized by the Education Department of the Government of Maharashtra vide its Letter of Recognition (Manyata Patra) dated 29.02.2024, copy of which is also annexed with this reply and marked as **ANNEXURE - R-5** and has also received the NOC for affiliation of the ICSE board from the Education Department of the Government of Maharashtra.

6. It is further submitted that both the said permissions have not been challenged by the Applicant before any Authority. Furthermore, it is submitted that to ensure economic viability, the school building is being constructed in stages. Part -1 & 2 of the School Building is completed up to the 5th Floor and BMC has issued OC till the 2nd

Floor viz Part -1 and Part -2 OC up to the 5th Floor is under process.

The external structural work of the building has been completed up to the 7th floor, with only internal civil and finishing work remaining for the 6th and 7th floors.

7. The Applicant has made allegations regarding noise pollution at the site. It is submitted that Respondent No.1 has carried out the construction of the said school building in accordance to the permissions granted by the various authorities and have not breached any of the conditions. The MPCB in the report has recorded that there was noise pollution on certain occasions, however they have failed to appreciate that it is not attributable to the Respondent No.1 and there are various sources for the same. Also the work is being carried out in off school hours and maximum up to 10 pm . But as per the MPCB report the night time noise levels were observed up to 51.2 dB(A). Therefore the readings taken are incorrect. Hence, the Respondent No.1 cannot be held responsible for the same.
8. It is thus, submitted that, the Applicant has failed to make out a case relating to the substantial question relating to the environment and

this Hon'ble Tribunal ought not to have entertain the present application as the intention of the Applicant in filing the present case is clearly to harass the Respondent No.1. The Respondent No.1 thus, prays that, the present Original Application be dismissed by awarding the cost to the Applicant as per the provisions of section 23 of the National Green Tribunal Act, 2010.

PUNE
DATE : 10/01/2025

A handwritten signature in blue ink, appearing to read 'Dr. C. S. ...', with a large flourish underneath.

ADVOCATE FOR RESPONDENT NO.1



BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,

WESTERN ZONE BENCH PUNE

AT PUNE

ORIGINAL APPLICATION NO. 75 OF 2024 (WZ)

MARUTI M. KADAM ..

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APURVA NATVAR PARIKH & CO.PVT. LTD
AND OTHERS ..

RESPONDENTS

AFFIDAVIT

MAY IT PLEASE THE HON'BLE TRIBUNAL:

I, Tejas Parekh, adult, authorised signatory of Apurva Natvar Parikh & Co Pvt Ltd having office at 96,Chembur Mankhurd Link Road,Mumbai-400043, do hereby state on solemn affirmation as under: -

I am the authorised signatory of the Respondent No.1 above named vide Board Resolution dated 25th July, 2022. As such, I have gone through the Reply and annexure thereto being filed today. I find that the contents therein are true and correct to the best of my knowledge and belief and which may be treated as part and parcel of the present affidavit.

WHATEVER STATED ABOVE is true and correct to the best of my knowledge and belief. In witness whereof I have signed hereunder at Mumbai on 10th day of January 2025

Tejas Parekh

DEPONENT

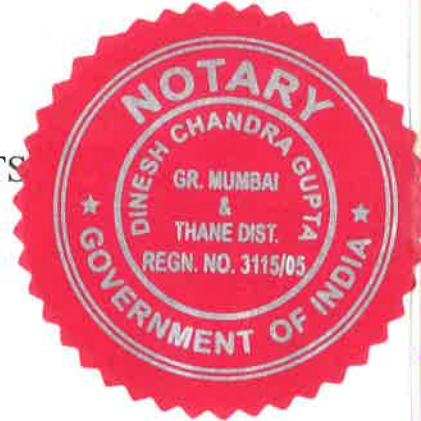
BEFORE ME
D Gupta
DINESH C. GUPTA
NOTARY GOVT. OF INDIA
GR MUMBAI & THANE DIST

10 JAN 2025



NOTED IN NOTARIAL REGISTER
Serial No. 631 Page No. 93
Register No. 24 Dated 10.01.25

10 JAN 2025



ANNEXURE-R-1

2022 SCC OnLine SC 1469

In the Supreme Court of India
(BEFORE B.R. GAVAI AND B.V. NAGARATHNA, JJ.)

Civil Appeal Nos. 2407-2412 of 2021
State of Uttar Pradesh and Others ... Appellant(s);
Versus
Uday Education and Welfare Trust and Others ... Respondent(s).

With

Civil Appeal Nos. 3144-3146 of 2022
Civil Appeal Nos. 3132-3134 of 2022
Civil Appeal Nos. 3135-3137 of 2022
Civil Appeal No. 3138 of 2022
Civil Appeal Nos. 4061-4062 of 2022
Civil Appeal No. 3141 of 2022
Civil Appeal Nos. 2547-2548 of 2020
Civil Appeal Nos. 3142-3143 of 2022
Civil Appeal Nos. 3147-3149 of 2022

Civil Appeal Nos. 2407-2412 of 2021, Civil Appeal Nos. 3144-3146 of 2022, Civil Appeal Nos. 3132-3134 of 2022, Civil Appeal Nos. 3135-3137 of 2022, Civil Appeal No. 3138 of 2022, Civil Appeal Nos. 4061-4062 of 2022, Civil Appeal No. 3141 of 2022, Civil Appeal Nos. 2547-2548 of 2020, Civil Appeal Nos. 3142-3143 of 2022 and Civil Appeal Nos. 3147-3149 of 2022

Decided on October 21, 2022

The Judgment of the Court was delivered by

B.R. GAVAI, J.:— A For the reasons stated in the applications for impleadment/intervention, the same are allowed.

2. This bunch of appeals challenges the order dated 18th February 2020, passed by the learned National Green Tribunal, Principal Bench, New Delhi (hereinafter referred to as "the learned NGT") in Original Application Nos. 313, 335 and 396 of 2019, thereby quashing and setting aside the notice dated 1st March 2019 issued by the State of Uttar Pradesh for establishing new wood based industries (hereinafter referred to as "WBIs") and also setting aside all the provisional licenses given in pursuance thereof.

3. The appeals also challenge the orders dated 18th March 2020, 2nd December 2020, and 21st December 2020 vide which the review applications filed by the State of Uttar Pradesh and the provisional license holders have been rejected.

4. Civil Appeal Nos. 2407-2412 of 2021 are filed by the State of Uttar Pradesh. The rest of the Civil Appeals are filed by the provisional license holders, who were granted licenses in pursuance of the notice dated 1st March 2019, issued by the State of Uttar Pradesh.

FACTUAL BACKGROUND

5. For the sake of convenience, we will refer to the facts as found in Civil Appeal Nos. 2407-2412 of 2021 filed by the State of Uttar Pradesh.

6. There are series of orders passed by this Court and the Central Empowered Committee (hereinafter referred to as "CEC") appointed by this Court, issuing various

directions for prohibiting/regulating the felling of trees as well as the establishment of WBIs. We will refer to them extensively in the subsequent paragraphs.

7. In pursuance of the order passed by this Court dated 5th October 2015 in Writ Petition (Civil) No. 202 of 1995 (*T.N. Godavarman Thirumalpad v. Union of India*), the Ministry of Environment and Forest and Climate Change ("MOEFCC" for short) issued Wood Based Industries (Establishment and Regulation) Guidelines 2016 (hereinafter referred to as "2016 Guidelines") vide Notification No. S.O. 3456 (E) dated 11th November 2016.

8. Subsequent to the 2016 Guidelines, timber assessment for Trees Outside Forest ("TOF" for short) in the State of Uttar Pradesh for WBIs was done for the period between February 2017 and December 2017 by the Forest Survey of India ("FSI" for short). The FSI thereafter submitted its report, which contains district wise, species wise and diameter class wise number of stems (trees), volume and annual potential production of timber from TOF in rural areas of all the districts of the State.

9. In pursuance of the 2016 Guidelines, the matter was placed before the State Level Committee ("SLC" for short) for grant of licenses to various WBIs. The SLC in its meeting held on 4th May 2018, considered the matter about the grant of licenses to various WBIs after taking into consideration the availability of wood in the State of Uttar Pradesh for determining the amount of timber available for new WBIs. In the said meeting, it was also decided that, in order to determine the correct number of new licenses to be issued to WBIs under different categories against the timber available in the State, a reassessment may be done by the Indian Plywood Industries Research and Training Institute ("IPIRTI" for short).

10. In the meeting of the SLC, held on 7th September 2018, since it was found that the capacity of plywood units is taken as fixed by the 2016 Guidelines, which, in turn, was based on the assessment of IPIRTI, a decision was taken that there was no need for the fresh assessment of the capacity by IPIRTI.

11. In pursuance of the aforesaid decision, E-lottery was held on 12th December 2018 for grant of licenses to various WBIs for the establishment of WBIs in 8 categories. Between 12th December 2018 and 31st December 2018, online letters of offer were issued to 1348 successful applicants. Subsequently, in the months of February and March 2019, provisional licenses were issued to 1215 successful applicants in the 8 categories to set up their WBIs. Subsequent thereto, on 1st March 2019, a notice was issued by the Government of Uttar Pradesh communicating the grant of provisional licenses to the newly selected WBIs.

12. Being aggrieved thereby, Original Application No. 313 of 2019 came to be filed by Uday Education and Welfare Trust before the learned NGT in March 2019. Vide order dated 28th March 2019, the learned NGT directed the State Government to submit a report from the Joint Committee comprising of the representative of Principal Secretary (Forest), U.P. and the Principal Chief Conservator of Forest, U.P. to examine the issues.

13. Being aggrieved by the notice dated 1st March 2019 issued by the State Government, Original Application Nos. 335 and 396 of 2019 also came to be filed by Samvit Foundation and U.P. Timber Association respectively before the learned NGT.

14. In pursuance of the directions issued by the learned NGT, the Joint Committee Report came to be submitted on 3rd August 2019. Vide order dated 6th August 2019 passed in Original Application nos. 313, 335 and 396 of 2019, the learned NGT directed the State Government to review the notice dated 1st March 2019 with regard to the establishment of new WBIs by 1350 units strictly in terms of the judgment of this Court in the case of *T.N. Godavarman v. Union of India*. Vide order dated 1st

October 2019, the learned NGT directed the status quo to be maintained.

15. The State of Uttar Pradesh filed an Interlocutory Application No. 732 of 2019 in O.A. Nos. 313, 335 and 396 of 2019, seeking modification of the order dated 6th August 2019 and the order dated 1st October 2019. Vide order dated 18th December 2019, the learned NGT issued directions to the State Government to provide certain data. Subsequently, vide the impugned order dated 18th February 2020, the learned NGT allowed the said Original Applications and quashed and set aside the notice dated 1st March 2019 issued by the State Government for establishing new WBIs and all the provisional licenses given.

16. Being aggrieved thereby, Civil Appeal (Diary) No. 12004 of 2020 was filed before this Court. Vide order dated 26th October 2020, this Court dismissed the said appeals as withdrawn with a liberty to file review application before the learned NGT. Vide orders dated 18th March 2020, 2nd December 2020, and 21st December 2020, the learned NGT rejected the Review Applications.

17. The appellants, therefore, approached this Court being aggrieved by the orders passed by the learned NGT in the Original Applications as well as in the Review Petitions.

SUBMISSIONS

18. We have heard Shri Vikas Singh, Shri P.S. Patwalia and Mr. Rana Mukherjee, learned Senior Counsel appearing on behalf of the State of Uttar Pradesh, Shri V. Giri, Shri Syed Waseem Qadri, Shri V.K. Uniyal, Shri Vinay Navare, Shri V.K. Shukla, learned Senior Counsels, Ms. Prerna Singh, and Mr. Rudraksh Gupta, learned counsels appearing on behalf of the appellants, who were granted provisional licenses. We have also heard Shri Dhruv Mehta and Shri Brijender Chahar, learned Senior Counsels appearing on behalf of the respondent No. 1.

19. Shri Vikas Singh, learned Senior Counsel, submitted that the decision of the State Government to establish WBIs is in accordance with the 2016 Guidelines issued by the MOEFCC. He submits that the timber requirement by 1215 new WBIs, which were issued provisional licenses is only 12.35 lakh cubic meters per year, whereas the total timber available in the State is 80.30 lakh cubic meters per year. It is, therefore, submitted that, as such, the requirement is not even 20% of the total availability of timber. Learned Senior Counsel submitted that the only authorized agency in the country to conduct a survey of the forest as well as TOF is FSI. It is submitted that the object of IPIRTI is not to conduct a survey of either forest or TOF. It is submitted that, as a matter of fact, the learned NGT itself has directed such a study to be conducted by FSI, who has already undertaken similar studies for many States like Punjab, Maharashtra and others. It is submitted that when the survey with regard to availability of timber in the State of Uttar Pradesh was done by the very same agency, the learned NGT fell in gross error in again directing the State Government to conduct such a survey through the FSI.

20. It is submitted that even the MOEFCC had supported the stand taken by the State of Uttar Pradesh and, therefore, the learned NGT ought not to have interfered with the decision of the State Government.

21. Shri P.S. Patwalia, learned Senior Counsel also submitted that the decision of the State Government was in tune with the decision of this Court dated 18th May 2007 and 5th October 2015 passed in Writ Petition (Civil) No. 202 of 1995 (*T.N. Godavarman Thirumulpad v. Union of India*). It is submitted that when an expert body like the FSI had done an elaborate study, there was no reason for the learned NGT to have sat in appeal over the same. He further submits that though a detailed affidavit has been filed on behalf of the State of Uttar Pradesh in compliance with the order of the learned

NGT dated 18th December 2019, regarding the availability of timber, the learned NGT has totally ignored the same.

22. Shri V. Giri, learned Senior Counsel, submits that the learned NGT erred in passing orders which have vitally affected the rights of the citizens who were granted provisional licenses. He submits that the order impugned is totally in breach of the principles of natural justice. It is submitted that, from the perusal of the record, it is clear that the State of Haryana while calculating its requirement for wood also takes into consideration the import from the State of Uttar Pradesh. It is submitted that when there is excess wood available in the State of Uttar Pradesh, there is no reason why the same should be permitted to be exported to the State of Haryana at the cost of entrepreneurs in the State of Uttar Pradesh.

23. Shri Vinay Navare, learned Senior Counsel, submitted that the timber used in the WBIs is from the trees which are agro-based. He submits that though the State of Uttar Pradesh had adopted an elaborate procedure right from June 2018 till the grant of licenses, the applicants before the learned NGT had taken no steps. Shri Navare submits that only after the provisional licenses were issued and 632 out of 1215 WBIs provisional license holders had already been established and commenced operations, the applications were entertained and the orders were passed to the prejudice of the WBIs. It is submitted that Section 19(1) of the National Green Tribunal Act, 2010 (hereinafter referred to as "the NGT Act") mandates following of the principles of natural justice. It is submitted that though the applications for impleadment were made by the WBIs, the applicants were not granted an opportunity of being heard.

24. Shri V.K. Uniyal, learned Senior Counsel submitted that the learned NGT had erred in using the word "allotted". It is submitted that there is no question of allotment of timber to the WBIs and they are required to purchase the same from the open market.

25. Shri V.K. Shukla, learned Senior Counsel submitted that the State Government decided to grant provisional licenses for 8 different categories of WBIs. The requirement of raw material for different categories of WBIs is different. It is submitted that the learned NGT has grossly erred in considering all categories of WBIs together and setting aside the licenses granted to all of them. It is submitted that the said industries are established in pursuance of the National Agro Forestry Policy of 2014 and as such the learned NGT ought not to have interfered.

26. Ms. Prerna Singh, learned counsel appears for the appellants, who have been granted provisional licenses for plywood (press only) category. She submits that for plywood (press only) industries, there is no requirement of consumption of timber directly. It is submitted that initially veneer is manufactured out of round/fresh timber. Veneer then so manufactured is glued and pressed together to manufacture plywood. It is submitted that the learned NGT has considered the requirement of timber as twice the actual requirement. She submits that in the State of Uttar Pradesh, veneer is manufactured in surplus, which is exported to the State of Haryana.

27. Shri Rudraksh Gupta, learned counsel, submits that the learned NGT has failed to take into consideration the report of the National Poplar Commission of India.

28. All the learned counsel appearing on behalf of the appellants, in unison, submit that the original applicants before the Court were not *bonafide* litigants. It is submitted that there are reasons to believe that the proceedings were initiated at the instance of either the existing WBIs in the State of Uttar Pradesh to prevent competition or they were filed at the instance of the WBIs in the State of Haryana who were importing timber from the State of Uttar Pradesh at cheaper rates.

29. Shri Dhruv Mehta, learned Senior Counsel appearing on behalf of the respondent No. 1, on the contrary, submits that this Court has repeatedly held that the principles of sustainable development, the precautionary principle and the polluter

pays principle are to be followed consistently. He raised a preliminary objection on the ground that in view of Section 22 of the NGT Act, the scope of an appeal before this Court could be limited to that of Section 100 of the Civil Procedure Code, 1908. It is, therefore, submitted that unless a substantial question of law is raised, the appeal could not be tenable.

30. Shri Dhruv Mehta submits that this Court vide order dated 12th December 1996 has specifically prohibited the felling of trees in any forest, public or private. He further relies on the report of CEC dated 15th March 2005 to buttress his submission that WBIs can be permitted only if they exclusively use timber derived from poplar and eucalyptus species or agriculture waste products. It is submitted that the said guidelines also specifically provided that if the unit is found to have used any timber other than poplar and eucalyptus whether from a legal source or otherwise, the license granted to the unit shall be liable to be cancelled. He further relies on the report of CEC dated 12th October 2006. He submits that an assessment has to be done on the basis of the district-wise survey about timber availability from the TOF category. He submits that the said report of CEC itself would reveal that the assessment of the State is much less than what was initially projected by the State Government. He submits that unless the timber availability for the new WBIs is assessed and the SLC examines and recommends its approval, it is not permissible to establish new WBIs.

31. Shri Mehta further submits that the report of CEC dated 18th April 2007, accepted by this Court vide its order dated 18th May 2007, would show that the availability of timber for WBIs in the State of Uttar Pradesh is only 45.70 lakh cubic meters per year. Learned Senior Counsel submits that taking into consideration the fact that presently many imported machines from China are being used, the capacity of the existing units has gone much higher and, therefore, the timber which is available in the State of Uttar Pradesh would not be sufficient to meet the demand of the existing industries.

32. Shri Mehta submits that when SLC in its meeting dated 4th May 2018 had decided to get a report from IPIRTI, there was no occasion for it to review its decision in its subsequent meeting dated 7th September 2018. He submits that the Senior Officer of the Forest Department of the rank of Chief Conservator of Forest, Kanpur Division, Kanpur recommended that the report from IPIRTI should be obtained before deciding to issue the new licenses. It is submitted that the letters of the said officer dated 11th September 2019 and 20th April 2018 have been ignored by the SLC.

33. Shri Dhruv Mehta further submits that Annexure-I to the 2016 Guidelines is in contravention of the recommendations of CEC, which takes the requirement of timber for plywood unit as "NIL".

34. The learned Senior Counsel submits that vide Notification dated 20th July 2012, the State of Uttar Pradesh had notified 7 species of trees in the prohibited category. However, vide another Notification dated 31st October 2017, the said trees were taken out of the prohibited category. The learned NGT had set aside the said Notification of 2017 by order dated 11th September 2018. It is submitted that the said order of the learned NGT has been accepted by the State of Uttar Pradesh and a fresh notification has been issued on 7th January 2020, again bringing the said trees in the prohibited category. The learned Senior Counsel submits that while assessing the availability of timber, the trees under the said prohibited category have also been taken into consideration. He submits that if 20.75 lakh cubic meters is deducted from the availability of the timber, then the timber available in the State would be much less.

35. The learned Senior Counsel further submits that the survey has not been conducted for all the districts and has been conducted only for 30 districts and,

therefore, the survey itself is erroneous.

36. The learned Senior Counsel further submits that FSI, while conducting the survey, has not taken into consideration the rotation period and, therefore, the survey is erroneous on the said count also. Learned Senior Counsel, in support of his submissions, relies on the judgment of this Court in the cases of *Common Cause v. Union of India*¹, *Mantri Techzone Private Limited v. Forward Foundation*², *Municipal Corporation of Greater Mumbai v. Ankita Sinha*³ and *Pragnesh Shah v. Dr. Arun Kumar Sharma*⁴.

37. Shri Dhruv Mehta, relying on the judgment of this Court in the case of *Ankita Sinha* (supra), submits that this Court itself has considered the learned NGT to be a special Tribunal and held that it will even have jurisdiction to take suo motu cognizance of the environmental issues. He, therefore, submits that the arguments made on behalf of the appellants with regard to locus are without substance.

38. Shri Vikas Singh, learned Senior Counsel, in rejoinder, submits that the only distinction between the prohibited trees and non-prohibited trees is that the non-prohibited trees can be felled without permission, whereas prohibited trees can be felled only in certain circumstances and only after the requisite permission is granted. He submits that the perusal of the FSI survey would reveal that even after the timber requirement for 1215 new units is taken into count, the State, still, will have 26.36 lakh cubic meters in reserve. He submits that if the new WBIs are permitted, it would result in more farmers going in for agro forestry in the State, which, in turn, will increase the forest cover. It is submitted that said 1215 units are likely to give employment to around 80000 people. Learned Senior Counsel, therefore, submits that the impugned orders deserve to be quashed and set aside.

EARLIER ORDERS OF THIS COURT

39. For appreciating the rival submissions, it will be apposite to refer to certain orders passed by this Court.

40. This Court in the case of *T.N. Godavarman* (supra) passed an order on 12th December 1996. The relevant part thereof is as under:

"6. Each State Government should within two months, file a report regarding -
(i) the number of saw mills, veneer and plywood mills actually operating within the State, with particulars of their real ownership;
(ii) the licenced and actual capacity of these mills for stock and sawing;
(iii) their proximity to the nearest forest;
(iv) their source of timber.

7. Each State Government should constitute within one month, an Expert Committee to assess:

(i) the sustainable capacity of the forests of the State qua saw mills and timber based industry;
(ii) The number of existing saw mills which can safely be sustained in the State;
(iii) The optimum distance from the forest, qua that State, at which the saw mill should be located."

41. Vide subsequent order dated 4th March 1997⁵, this Court directed thus:

"6. All unlicensed saw mills, veneer and plywood industries in the State of Maharashtra and the State of Uttar Pradesh are to be closed forthwith and the State Government would not remove or relax the condition for grant of permission/licence for the opening of any such saw mill, veneer and plywood industry and it shall also not grant any fresh permission/licence for this purpose. The Chief Secretary of the State will ensure strict compliance of this direction and file a compliance report within two weeks."

42. Vide order dated 9th May 2002, this Court constituted CEC for monitoring of the implementation of the orders passed by this Court and for placing non-compliances of the cases before it.

43. Vide order dated 29th October 2002⁶, this Court further directed thus:

"44. No State or Union Territory shall permit any unlicensed sawmills, veneer, plywood industry to operate and they are directed to close all such unlicensed unit forthwith. No State Government or Union Territory will permit the opening of any sawmills, veneer or plywood industry without prior permission of the Central Empowered Committee. The Chief Secretary of each State will ensure strict compliance with this direction. There shall also be no relaxation of rules with regard to the grant of licence without previous concurrence of the Central Empowered Committee.

45. It shall be open to apply to this Court for relaxation and or appropriate modification or orders qua plantations or grant of licences."

44. Vide order dated 1st September 2006, this Court allowed licenses to be issued to the closed sawmills, Veneer and Plywood units as per availability of timber and eligibility and seniority as per CEC recommendation.

45. In pursuance of the orders passed by this Court, SLC was constituted by the State of Uttar Pradesh for verification and compilation of information about closed WBIs.

46. The FSI conducted its assessment and assessed the annual availability of wood from TOF in the State of Uttar Pradesh at 55.61 lakh cubic meters vide report dated 3rd April 2007.

47. On the basis of the report of the FSI, the SLC assessed the annual availability of timber for WBIs from TOF at 53.01 lakh cubic meters. CEC further reduced the same to 43.70 lakh cubic meters. However, it added 2.00 lakh cubic meters per year as timber available from government forests, and, therefore, assessed the annual availability of timber at 45.70 lakh cubic meters.

48. It is to be seen that in its report itself, the CEC included 17.77 lakh cubic meters of timber from the prohibited species. This Court considered the report of CEC and passed the following order on 18th May 2007:

"The matters relate to Saw Mills, Plywood and Veneer Units.

The CEC has considered the availability of wood for the industries, which was assessed as 43.70 lakh cu. mt from trees outside forests and 02.00 lakh cu. mt from Government Forests.

It has also assessed the units into four categories.

We accept the CEC's recommendations. The Saw Mills, Plywood and Veneer Units may be permitted, on the basis of the recommendations made by the CEC. Licences may be given by the State Level Committees.

If there are any objections regarding grant of licences, the parties would be at liberty to submit their applications before the CEC for consideration."

49. It could thus be seen that in 2007 itself, this Court had accepted the recommendations of the CEC wherein the CEC had computed the total availability of timber and had also taken into consideration the availability of timber from the prohibited category.

50. Vide order dated 29th February 2008, this court considered the issue regarding the manufacturing of Medium Density Fiber board (MDF) and Particle board in the States of Punjab, Uttarakhand and Karnataka. While considering the same, this Court passed the following order:

"The matter relates to the manufacturing of Medium Density Fiber board (MDF)

and Particle Board in the States of Punjab, Uttarakhand and Karnataka. CEC has filed its report and stated that there is a growing trend to use more and more MDF/Particle Board in place of industrial timber. The MDF/Particle Board help in reducing the pressure on natural forests. The lops and tops and small wood available from the plantations of eucalyptus, poplar, etc. raised on the non-forest can be used by MDF/Particle Board plants."

51. In view of the permissions granted by this Court, the licenses were granted to the unlicensed sawmills which were closed on account of the orders passed by this Court taking into consideration the availability of timber between 2007 and 2010. However, it is to be noted that the said licenses were granted only to the units which were closed and not to the new units.

52. The matter again came up for consideration before this Court on 30th April 2010, when this Court passed the following order:

"(II) after meeting the requirement of the licensed wood based industry, the units permitted by this Hon'ble Court and the units whose category is yet to be finalised, the plywood/veneer units falling in category IV may be considered for grant of license to the extent of timber availability and strictly in the order of seniority, subject to the one-time payment of Rs. 9 lakhs per press in respect of the veneer units and compliance of the other conditions that have been stipulated. The one-time payment of penalty will be in addition to the normal licence fee and the other charges, if any, payable to the U.P. Forest Department. As decided earlier, the above said amount should be kept in a designated interest bearing bank account and should be utilized only after the scheme in this regard is approved by this Hon'ble Court;"

53. It could thus be seen that this Court permitted granting of additional licenses if additional timber was found to be available.

54. The CEC in its meeting held on 26th May 2010 with the SLC and representatives of WBIs Associations in the State of Uttar Pradesh, after taking into consideration the capacity of timber for Vertical Band Saw (VBS) sawmill, modified/reduced the value of capacity of timber for VBS sawmills upto 10 Horse Power from 540 to 270 cubic meters per year for the State of Uttar Pradesh in line with other States. As such, additional 9,58,230 cubic meters of timber became available for licenses from 3,549 such VBS units. In view of this position between 2010 and 2015, licenses came to be issued by the State of Uttar Pradesh to unlicensed WBIs, which were closed earlier by the order of this Court, as per the criteria recommended by the CEC and accepted by this Court.

55. The matter again came up for consideration before this Court on 5th October 2015 with regard to WBIs, when this Court passed the following order:

"CATEGORY I - MATTERS RELATING TO WOOD BASED INDUSTRIES:

We have heard Shri Harish Salve, learned *amicus curiae*, Shri Ranjit Kumar, learned Solicitor General of India, Shri K.K. Venugopal, learned senior counsel and other learned senior counsel/counselors. Accordingly, we pass the following orders:

- (i) The State Level Committees for Wood-Based Industries ("SLCs") are, subject to the compliance of the prescribed guidelines and procedure, authorized to take decisions regarding the grant of license/permission to the wood-based industries;
- (ii) In each State/UT for which the SLC has so far not been constituted, the SLC under the Chairmanship of the Principal Chief Conservator of Forests with a representative of the Ministry of Environment and Forest and Climate Change ("MoEFCC") and an officer of the State Forest Department/Industries

Department not below the rank of the Chief Conservator of Forests/equivalent rank will immediately be constituted;

- (iii) The MoEF is authorized to issue appropriate guidelines in conformation with the orders and directions issued by this Court and also the existing guidelines to the SLCs relating to assessment of timber availability for wood-based industries and grant of license/permission to the wood-based industries including addition of new machineries and also utilization of amounts recovered from the wood-based industries and connected matters;
- (iv) Any person aggrieved by the decision taken by the SLC may file an appeal before the MoEFCC seeking appropriate relief within 60 days' time. If, for any reason, any person is aggrieved by the orders so passed in the appeal, he may prefer an appropriate petition/application/appeal before the appropriate forum/Court for grant of appropriate relief(s).

We also permit the MoEFCC to condone the delay, if any, in filing an appeal, if sufficient cause is made out by the applicant(s)/appellant(s)''

56. It is thus seen that vide the said order, SLCs were authorized to take decisions regarding the grant of license/permission to the WBIs. Vide the said order, it was also directed to constitute SLC under the Chairmanship of the Principal Chief Conservator of Forest with a representative of MOEFCC and an officer of the State Forest Department/Industries Department not below the rank of the Chief Conservator of Forests/equivalent rank. This Court further directed the SLCs to be constituted in each State/Union Territory for which the SLC was not yet constituted. The MOEF was also authorized to issue appropriate guidelines in conformity with the orders and directions issued by this Court and also the existing guidelines to the SLCs relating to the assessment of timber availability for WBIs. Appeals could be filed before MOEFCC against the decision of the SLC.

MOEFCC GUIDELINES

57. In accordance with the directions issued by this Court vide order dated 5th October 2015, the MOEFCC issued 2016 Guidelines on 11th November 2016. The 2016 Guidelines provided for the constitution of the SLC as well as the powers and functions of SLC. Under clause 4 of the 2016 Guidelines, the SLC was authorised to assess the availability of timber for wood based industrial units in the State/UT every five years. The SLC was also authorised to approve appropriate locations for setting up of wood based industrial units. It was also authorized to approve the name of wood based industrial units which may be considered for grant of fresh license or enhancement of the existing licensed capacity.

58. Clause 5 of the 2016 Guidelines provides for the assessment of the availability of timber for wood based industrial units. It requires that the quantity of timber would be assessed by commissioning the study, preferably in collaboration with institutes/universities of repute, once in five years. Under clause 6 of the 2016 Guidelines, the timber requirement for various units as assessed by IPIRTI was given in Annexure I. The said Annexure I reads thus:

"The Indian Plywood Industry Research and Training Institute (IPIRTI), Bangalore an autonomous body under the Ministry of Environment, Forest and Climate Change has assessed the timber requirement per unit for peeling length of 4 feet and 8 feet size in the plywood/veneer units as 5 cu.mt and 11 cu.mt. respectively per day on an average of 8 working hours per day. By assuming that the peeling units work for 8 hours per day on an average for 300 days in a year the normal timber requirement of the peeling length of 4 feet size in veneer units is 1500 cu.mt. The total timber requirement for the stand alone veneer units may be assessed by calculating the equivalent number of 4 feet length machines and by taking its normal installed capacity as 1500 cu.mt. per annum.

The timber requirement of a plywood unit may be taken as 'nil' on the ground that the round timber is used as timber in the veneer units only and that the plywood units are the secondary users which use the veneer as the raw material produced by the veneer units. The plywood units use presses of various sizes such as 8 × 4 × 6, 8 × 4 × 12, 8 × 4 × 15, 4 × 4 × 7, 4 × 4 × 10. A 8 × 4 × 10 capacity press can produce upto 10 plywood pieces of 8' × 4' size per hour whereas a 8 × 4 × 15 capacity press can produce upto 15 plywood pieces of 8' × 4' size per hour and so on. The normative installed capacity of the plywood units will accordingly depend upon the number and the type of presses. This number and type of presses installed in each of the plywood unit may be assessed and thereafter equivalent number or presses of 8 × 4 × 10 capacity may be calculated. The normative annual timber requirement for a integrated plywood unit having a 8 × 4 × 10 capacity press may be taken as 2000 cu.mt. per annum, and accordingly the total requirement of timber for the plywood units should be calculated."

59. It could thus be seen that even as per the assessment of the IPIRTI, the timber requirement of a plywood unit is required to be taken as 'NIL' on the ground that the round timber is used as timber in the veneer units only and that the plywood units are the secondary users which use the veneer as raw material. It could thus be seen that the plywood units use presses of various sizes.

60. In pursuance of the 2016 Guidelines, the SLC was reconstituted in the State of Uttar Pradesh under the Chairmanship of Principal Chief Conservator of Forest/Head of Forest Department on 17th May 2017. Vide Notification dated 11th September 2017, the MOEFCC amended the 2016 Guidelines.

61. Subsequently, in accordance with the 2016 Guidelines, the SLC assessed the availability of timber for WBIs in the State of Uttar Pradesh, through the FSI. For assessing the availability of timber, the FSI conducted a survey and arrived at the annual potential production of timber from TOF in rural areas of all the districts of the State. FSI assessed the annual potential production from TOF at 77.74 lakh cubic meters. Subsequent to the survey and assessment, the SLC in its meeting dated 4th May 2018 considered the matter for grant of license to various WBIs. The SLC decided to get the reassessment done by IPIRTI to determine the correct number of new licenses to be issued to WBIs under different categories against the available timber. However, subsequently, the SLC, in its meeting dated 7th September 2018, found that IPIRTI had not done any new study/assessment of the consumption of timber by various WBIs in any State/Union Territory. It was also found that the State of Haryana had adopted the timber consumption figures based on the CEC figures of 2007. It was therefore unanimously resolved by the SLC that there was no need for any fresh study/assessment for the consumption of timber by WBIs to be conducted by IPIRTI and to adopt the figures for WBIs as were referred to in the 2016 Guidelines. It further found that the CEC in its meeting dated 26th May 2010 had reduced the annual consumption of timber of sawmills upto 10 Horse Power or less HP to 270 cubic meters from 540 cubic meters.

62. On the basis of the decision of the SLC, e-lottery was held. After following the procedure, provisional licenses were issued to 1215 successful applicants in 8 categories of WBIs in February and March 2019. After the issuance of provisional licenses, on 1st March 2019, the State Government issued a Notice with regard to grant of provisional licenses to the newly selected WBIs which came to be challenged before the learned NGT by way of filing the aforesaid Original Applications by the respondents. The learned NGT after passing various interlocutory directions finally passed the impugned order and quashed and set aside the notice dated 1st March 2019 issued by the State Government and provisional licenses given in pursuance

thereof. As such we are required to examine the correctness of the decision of the learned NGT.

CONSIDERATIONS

63. The learned NGT while passing the impugned order has set aside the notice of the State of Uttar Pradesh on the following grounds:

- (1) that the WBIs can be allowed to operate only after ensuring timber and raw material availability to sustain such industries and this has to be determined in actual terms and not on mere assumptions;
- (2) that it is difficult to accept the stand of the State of Uttar Pradesh that there was availability of timber/raw material to sustain the new WBIs;
- (3) that it is the stand of the State of Uttar Pradesh that the total potential availability of timber per year in the State of Uttar Pradesh is 80.30 lakh cubic meters, which includes 2.56 lakh cubic meters from the Government forests and 77.74 lakh cubic meters from TOF. Out of 80.30 lakh cubic meters, 71.8 lakh cubic meters were stated to be available from 22 species and 8.50 lakh cubic meters from the other species. Out of 22 species, there are 10 species that are prohibited from felling and as such, 20.75 lakh cubic meters from these 10 species are liable to be excluded;
- (4) that the major contribution is from Eucalyptus (28 lakh cubic meters) and Poplar species (15 lakh cubic meters), a total of which is 43 lakh cubic meters. Thus, the figure is not actual but presumptive;
- (5) that the standard error percentage adopted by the FSI is not correct and is much higher;
- (6) that the total availability of timber for consumption including that from the government forests would not be more than 40-45 lakh cubic meters per year;
- (7) that the potential availability of 77.74 lakh cubic meters from TOF as given in the affidavit has been overestimated.

64. It is to be noted that after this Court allowed the licenses to be issued to the closed sawmills vide order dated 1st September 2006, the SLCs were constituted. The permissions were to be granted on the recommendations of the CEC. Vide order dated 18th May 2007, this Court had also accepted the recommendation of the CEC. Vide another order dated 30th April 2010, this Court permitted additional licenses to be granted if additional timber was available. Accordingly, licenses were granted between 2010 and 2015. Vide subsequent order dated 5th October 2015, this Court allowed the grant of license/permission to unlicensed WBIs in the country. This Court had directed the reconstitution of the SLCs for WBIs. In pursuance of the directions issued by this Court, the 2016 Guidelines were issued by the MOEFCC. As per the 2016 Guidelines, the SLC was reconstituted in the State of Uttar Pradesh on 17th May 2017.

65. One of the duties which was cast upon the SLC was to assess the availability of timber for wood based industrial units in the State. The SLC was to assess the availability of timber by commissioning studies, preferably in collaboration with institutes/universities of repute, once in five years. In accordance with the 2016 Guidelines, the FSI conducted the survey and submitted its report in March 2018. It will be relevant to refer to the relevant part of the Foreword of the said report of the FSI.

"In the recent past, a number of requests were received for establishment of wood based industries in the state for which the raw material would come from outside the forest areas. Since accurate assessment of TOF is needed for effective planning & management, Uttar Pradesh Forest Department requested FSI to make Agro-Climatic zone wise assessment on the basis of inventory already done during its regular course of inventory conducted in the State. As per the final report, the

total stems as estimated from the study is 299.43 million with a volume of 79.40 m. cum. The total yield in the Uttar Pradesh is estimated 7.8 million cum.

The report gives an assessment of the growing stock existing outside state forest reserves. The report has also indicated district-wise, species-wise and girth class-wise number of stems and volume in each Agro-Climatic Zone wise of inventoried districts. I am confident that this report would provide useful data for arriving at informed policy and programme interventions to give a fillip to forestry sector in the state besides providing benchmark data for tree crop in non-forest area."

66. After conducting the survey, the FSI has come to a finding that the State of Uttar Pradesh had an annual potential production of 77,74,521 cubic meters of timber. For conducting the survey, the FSI acquired satellite data for the inventoried districts of Uttar Pradesh State from National Remote Sensing Centre, Hyderabad. The entire gambit of scientific methodology was applied. The data processing was carried out independently for all the inventoried districts of Uttar Pradesh. It will be relevant to refer to the following part of the report of the FSI:

"The data processing was carried out independently for all the inventoried districts of Uttar Pradesh. Estimates of stems per ha and volume per ha were generated according to species and diameter class for block, linear and scattered stratum under each district. Estimated stems and their volumes were generated according to species and diameter class by aggregating stem per hectare and volume per hectare over the entire Rural CNF Area of each stratum for each district by combining the estimated stems and volumes under block, linear and scattered stratum. By aggregating the estimates of stems and volume of all the three strata, the estimates of stems and volumes according to species and diameter class has been prepared for Rural area separately."

67. The FSI had also divided the State of Uttar Pradesh into 9 Agro-climatic zones to generate the estimate of growing stock and annual potential production. District-wise production was estimated before concluding that 77,74,521 cubic meters of timber was the annual potential production. The contention of the respondents that the rotation method was not applied is totally incorrect. It will be relevant to refer to paragraph 5.4 of the said report, which reads thus:

"5.4 Estimates of Annual Potential Production of Wood from TOF (Rural)

Yield of a forest depends on several factors such as its structure, growth, density, productive capacity of site etc. The estimate of yield been generated for rural area using growing stock estimates. The Uttar Pradesh Forest Department was supplied the complete list of tree species which were found in the survey. The Uttar Pradesh Forest Department was asked to indicate tree species being used as 'timber' and 'non timber' and rotation period of specified timber species. *The Uttar Pradesh Forest Department informed that they do not have rotation period of all species and requested Forest Survey of India to use their rotation period used for estimation of annual potential production of wood.* The species are arranged into two groups; one containing the species having timber values and another containing rest by agro-climatic zone wise. The yield has been calculated using Von Mentel formula as given below:

$$\text{Yield} = 2\text{GS}/\text{R}$$

Where GS : Growing Stock

R : rotation period

Using the information of timber value, growing stock and rotation period in the above mentioned formulae species wise yield were calculated. The Agro-Climatic Zone wise yield has been given in Annexure-11."

[emphasis supplied]

68. The standard error was also determined by applying the appropriate scientific method.

69. The FSI, hence, considered various aspects before concluding and submitting its 101 page report.

70. It could thus be seen that the estimation as arrived at by the FSI was by applying a proper and adequate scientific method.

71. However, it is surprising that the learned NGT has brushed aside such a scientific exercise by merely observing that the figures arrived at were by estimation and not realistic.

72. The FSI has published a paper on "Trees Outside Forest Resources in India". The contributors to the said paper are (1) Dr. Subhash Ashutosh, DG, FSI; (2) Prakash Lakhchaura, DDG, FI, (3) Kamal Pandey, DD, FI; (4) Dr. Sourav Ghose, Proj. Scientist D; (5) Sushila Tripathi; and (6) H.K. Tripathi. The paper shows that the timber and panel products of TOF origin have emerged as the major alternative to timber from forests and thus TOF have significantly obviated pressure from forests. The report shows that, the extent of TOF in the country has been assessed at 29.38 m hectare, which is around 8.94% of the total geographical area of the country. The report further shows that based on the recommendations of the National Commission on Agriculture (NCA, 1976), the Government of India launched a social forestry program in the late seventies on a large scale. The paper further shows that, these days satellite data in a wide range of spectral, spatial, radiometric and temporal resolutions are available from various Remote Sensing Agencies of several countries. It further shows that there has been a rapid advancement in the development of digital image processing software. It, therefore, observes that the desired mapping of natural resources with reasonable accuracy is possible. The report refers to the methodology of assessment of TOF in different countries of the world and refers to various authorities. It refers to different types of methodologies used for different periods; the first one being from 1991 to 2001; the second period being from 2001 to 2016; and the third period being from 2016 onwards. The report shows that the State of Maharashtra has the highest potential annual yield of timber in India followed by the States of Uttar Pradesh and Karnataka.

73. It will be relevant to refer to the conclusion of the said paper, which is as follows:

"5. Conclusion

TOF play a significant role in the socioeconomic lives of people both in rural and urban areas of the country by enriching the people and society at large economically as well as ecologically. The management of TOF assumes high significance in the country for realizing much higher potential which it offers in generating wood based economy and ecosystem services including carbon sequestration. Periodic assessment of TOF resources including its spatial distribution is prerequisite for its scientific management in the country. FSI is mandated with this task however there is need for continuous improvement in the methodology and inclusion of more number of variables in the assessment. The organization will have to be further strengthened particularly in terms of man power, to address the emerging information needs on TOF. There has been regular refinement in methodologies in the last three decades to quantify TOF resources using various statistical designs and estimates with better precision. The advancement of technologies in the field of remote sensing, satellite image processing and availability of high resolution satellite data made the methodology much precise and easier. The progression of science may further refine the existing method of TOF assessment in near future.

TOF also act as an important source for timber and fuel wood to meet the

demands of fast growing population of the country. There is a need to put focus on increasing the growing stock per hectare or yield of TOF by better management and planning. There is also a need for a separate policy on TOF to ensure its expansion and sustainable management for multiple ecological benefits, timber production, carbon sequestration and for obviating pressure from the natural forests.

Occupying nearly 9% of the geographical area of the country, TOF are significant natural, renewable resource which make vital contribution to the agro-ecology, socio-economy of the rural areas, environmental amelioration in the urban areas and feed wood based industries with the raw material and thus generate significant employment. TOF form a nearly 38% of the carbon sink in forest & tree cover of the country. TOF offers the path for achieving the national policy goal of 33% of forest & tree cover in the country. Through expansion of TOF, particularly in agro-forestry and on culturable waste lands, India can substantially increase its carbon sink to achieve its international commitments of NDC and LDN by 2030."

74. It could thus be seen that the FSI has also emphasized the need of promoting TOF. It has been observed that TOF are significant natural, renewable resources which make vital contributions to the agro-ecology, socio-economy of the rural area, and environmental amelioration in the urban area and feed WBIs with raw material and thus generate significant employment.

75. It is our considered view that, when the estimation was done by the FSI by applying the scientific method and had arrived at the conclusion based on satellite data, such a report could not have been brushed aside by the learned NGT lightly.

76. Insofar as the finding of the learned NGT that the survey also takes into consideration the prohibited trees, the felling of which is not permissible, it will be relevant to note that the Notification dated 7th January 2020 issued by the Government of Uttar Pradesh provides that the prohibited trees shall not be felled till 31st December 2025 except under unavoidable circumstances, such as when a tree is dead or dying or it constitutes a danger to persons or property, or its felling is necessary for executing development work approved by the Government, or if the fruit bearing capacity of such tree has declined substantially. Such trees cannot be felled unless permission to fell such tree has been obtained in writing from the competent authority. The tree owners are also required to maintain 10 trees in place of each tree felled. It is thus clear that there is no absolute prohibition for felling the trees which are in the prohibited category. However, the same can be done only in exceptional circumstances.

77. It is to be noted that the prohibited trees also include trees like Mango, Jamun, etc. which are fruit bearing trees. After a particular number of years, the fruit bearing capacity of such trees drastically reduces and as such, the farmers normally fell such trees and go in for replantation of the orchard. Apart from that, it is to be noted that the CEC itself approved the availability of timber for the State of Uttar Pradesh in its report dated 19th April 2007, which included 17.77 lakh cubic meters of prohibited trees. The said report of the CEC was approved by this Court vide its order dated 18th May 2007.

78. It is further to be noted that in pursuance of the order of the learned NGT dated 28th March 2019, a Committee of Experts [Joint Committee comprising of representative of Principal Secretary (Forest), U.P. and Principal Chief Conservator of Forest, U.P.] had submitted its report on 3rd August 2019. Not only this, but in pursuance of the directions issued by the learned NGT on 18th December 2019, another detailed affidavit was filed on behalf of the State Government on 21st January 2020, giving therein the details about the availability of timber. It was specifically stated in the said affidavit that eucalyptus and poplar are the main species of TOF and

80% of the wood is derived therefrom. It was further pointed out that the farmers in the State of Uttar Pradesh were not getting remunerative prices and are forced to sell their produce at a very cheap rate mainly to middlemen. It was also pointed out that there would be an expected investment of about Rs. 3000 crore in the State with the establishment of new WBIs. The same would employ more than 80000 people, mostly in the rural areas of the State. However, all these factors have been ignored by the learned NGT.

79. As such, the learned NGT has grossly erred in deducting the availability of timber from the prohibited trees. By now, it is more than settled that the Courts should not enter into an area that is the domain of the experts. FSI, which is undisputedly an expert body, had arrived at its estimation based on the scientific method. The learned NGT could not have sat in appeal over the opinion of the expert.

80. It is relevant to note that MOEFCC, in pursuance of the directions issued by the learned NGT had filed its opinion on 18th December 2019. It will be relevant to refer to paragraph 8 of the said opinion.

"8. That based on the examination of available documents in light of the provisions of the Wood Based Industries (Establishment and Regulation) Rules, 2016, MoEFCC is of the opinion that the State of U.P. has followed the Wood Based Industries (Establishment and Regulation) Guidelines, 2016 (as amended in 2017) issued by MoEFCC. The availability of wood in the State has also been assessed by the SLC through FSI. The Ministry is, therefore, of the view that the SLC may approve setting up of new industries in the State if it is satisfied that sufficient timber is available legally to run the new wood based industries."

81. The learned NGT has failed to take into consideration the stand of the MOEFCC, which also supported the stand of the State that sufficient timber was available legally to run the new WBIs.

82. Insofar as the contention of the learned counsel for the respondents that, though in the meeting of the SLC dated 4th May 2018, it was decided to get the assessment done by IPIRTI, the SLC in its meeting dated 7th September 2018 did a volte-face and decided not to get the assessment done from IPIRTI, the perusal of the minutes of the meeting of the SLC dated 7th September 2018 would reveal that it was found that the IPIRTI had not done any new study/assessment of the consumption of timber by various WBIs in any State/Union Territory. It was noticed that, as per the report of the FSI, the TOF available was 77,74,522 cubic meters. Adding the timber available in the forest area of 2,57,273 cubic meters, the total quantity of availability of timber was 80,31,795 cubic meters. It is to be noted that the SLC had taken note of the letter dated 29th August 2018 issued by the Director, IPIRTI, where he had communicated that no assessment pertaining to the annual consumption of timber by Veneer and Plywood Industries was undertaken by the IPIRTI during the last two years in any State of the country. It was found that the 2016 Guidelines itself provided for annual consumption of timber based on the report of IPIRTI. In this premise, it was found that there was no need to conduct a fresh study/assessment for the consumption of timber by WBIs by IPIRTI. It was decided to accept the figures as provided in the 2016 Guidelines.

83. It can thus be seen that the decision of the SLC for not getting the assessment done by the IPIRTI is based on sound reasons. When the 2016 Guidelines itself provided for the consumption of timber by WBIs based on the report of the IPIRTI, there was no purpose to again get the assessment done by IPIRTI. The scope of judicial review has been succinctly explained by this court in the case of *Tata Cellular v. Union of India*⁷, which has been consistently followed in a catena of cases. This Court, in the said case, observed thus:

"77. The duty of the court is to confine itself to the question of legality. Its concern should be:

1. Whether a decision-making authority exceeded its powers?
2. Committed an error of law,
3. committed a breach of the rules of natural justice,
4. reached a decision which no reasonable tribunal would have reached or,
5. abused its powers.

Therefore, it is not for the court to determine whether a particular policy or particular decision taken in the fulfilment of that policy is fair. It is only concerned with the manner in which those decisions have been taken. The extent of the duty to act fairly will vary from case to case. Shortly put, the grounds upon which an administrative action is subject to control by judicial review can be classified as under:

- (i) Illegality : This means the decision-maker must understand correctly the law that regulates his decision-making power and must give effect to it.
- (ii) Irrationality, namely, Wednesbury unreasonableness.
- (iii) Procedural impropriety.

The above are only the broad grounds but it does not rule out addition of further grounds in course of time. As a matter of fact, in *R. v. Secretary of State for the Home Department, ex Brind* [[1991] 1 A.C. 696], Lord Diplock refers specifically to one development, namely, the possible recognition of the principle of proportionality. In all these cases the test to be adopted is that the court should, "consider whether something has gone wrong of a nature and degree which requires its intervention".

84. Applying the aforesaid principle to the present case, it cannot be said that the decision-making process has been vitiated either on account of illegality, irrationality or procedural impropriety.

85. With regard to the contention of Shri Dhruv Mehta, learned Senior Counsel, that Annexure I to the 2016 Guidelines providing the timber requirement of a plywood unit to be taken as "NIL" is contrary to the CEC recommendations is concerned, we do not find any substance in the said submission. Firstly, 2016 Guidelines have been issued by the MOEFCC in pursuance of the directions issued by this Court dated 5th October 2015. In any case, the raw material for plywood industries is 'Veneer' and the raw material for veneer is 'timber'. We find substance in the contention of the appellants that, if timber is to be considered again as a raw material for plywood, then it will amount to showing the consumption of the same timber more than once, which is, in fact, not consumed. It is not in dispute that veneer is a raw material for plywood, which is derived from timber. The same timber is used for deriving veneer and such veneer, which is used for manufacturing plywood, cannot be counted twice. In any case, as long as the 2016 Guidelines which are issued in pursuance of the directions issued by this Court are not set aside, the contention in that regard is without substance.

86. That leads us to consider the contention of the respondents that this Court has repeatedly emphasized the principles of sustainable development, the precautionary principle and the polluter pays principle. No doubt that the protection of the environment is of utmost importance. It is the duty of this generation to protect the environment for future generations.

CONCLUSION

87. It cannot be disputed that Section 20 of the NGT Act itself directs the learned Tribunal to apply the principles of sustainable development, the precautionary principle and the polluter pays principle. Undisputedly, it is the duty of the State as

well as its citizens to safeguard the forest of the country. The resources of the present are to be preserved for the future generations. However, one principle cannot be applied in isolation of the other.

88. It is necessary that, while protecting the environment, the need for sustainable development has also to be taken into consideration and a proper balance between the two has to be struck.

89. A body having expertise in the field, i.e. the FSI, upon a scientific study, has concluded that there is sufficient timber available in the State of Uttar Pradesh. Not only that, but the respondents themselves have placed on record a project report on "Study to know the percentage and value of the raw material sourced through U.P. Forests by Plywood and Khair (Kattha) Industries in U.P.". The said report is prepared by RAK Management Consultants on the instructions of the Department of Planning, Economic and Statistics Division, Government of Uttar Pradesh. The said report itself shows that the consultants, during the field survey, observed resentment among the plywood manufacturers against the process of issuing new licenses to the WBIs by the State Government.

90. The report further goes on to show that on average 1500-1700 trucks/tractor trollies of the eucalyptus and popular wood from all over Haryana, Punjab, Himachal Pradesh and Uttar Pradesh go to Yamuna Nagar, Haryana daily. Out of the said trucks/trollies, approximately 300-350 tractor trollies and some other small vehicles per day come from Uttar Pradesh. The report shows that approximately 5 to 6 lakh metric tons of timber per year is exported to Yamuna Nagar. The said material belongs to the western districts of Uttar Pradesh, i.e. Muzaffarnagar, Saharanpur, Shamli, Baghpat and Meerut. It is stated that there is no sufficient market for this produce in the said area. The report further finds that the western districts of Uttar Pradesh, i.e. Meerut, Muzaffarnagar, Saharanpur, Baghpat and Shamli, etc. do not have sufficient number of plywood and veneer units and as such, they are not sufficient for the entire farmers' produce available in the said area. The report itself shows that the western districts need around 80-85 plywood and veneer units. The report goes on further to show that there is dissatisfaction among the already existing industrialists about the assessment made by the FSI.

91. It is further to be noted that the State has specifically pointed out before the learned NGT that on the establishment of WBIs, an investment of about Rs. 3000 crore was likely to be attracted in the State; employment opportunities to over 80000 people will be available and the farmers of the State would get a more remunerative price. This would result in more impetus for large-scale plantation and agro-forestry. The State also emphasized that this will reduce dependence on traditional/cash crops and also reduce migration of people to urban areas. It is also emphasized that if the new WBIs are permitted, it will reduce the import of WBIs produce. However, all these aspects have not been taken into consideration by the learned NGT.

92. It will be relevant to note that the Forest Research Institute, Dehradun, Uttarakhand has published 'Country Report of Poplars and Willows Period : 2012-2015'. The report states that the timber from poplar and willow is the backbone of vibrant plywood, board, match, paper and sports goods industries. The report further states that in tune with Indian Agroforestry Policy 2014, the plantation of poplar has been promoted. It further states that the Planning Commission of India has given special grants to certain States for the diversification of agriculture where farmers are advised to move away from paddy cultivation to sustain agricultural production. Poplar and eucalyptus are among the few trees promoted under this diversification plan. The report states that Poplar plays a significant role in rural development by generating employment for many categories of skilled, semi-skilled and unskilled workers.

93. The paper on "Trees Outside Forest Resources in India" published by the FSI,

cited supra, also emphasizes that TOF are significant natural, renewable resources which make vital contributions to the agro-ecology, socio-economic improvement of the rural areas, environmental amelioration in the urban areas and feed WBIs with raw material and thus generate significant employment. TOF form nearly 38% of the carbon sink in the forest and tree cover of the country. It states that TOF offers the path for achieving the national policy goal of 33% of forest and tree cover in the country. It states that through the expansion of TOF, particularly in agro-forestry and on culturable waste lands, India can substantially increase its carbon sink to achieve its international commitments of NDC and LDN by 2030.

94. As already discussed herein above, the majority of TOF is from two species, i.e. Poplar and Eucalyptus. These trees are fast growing. If a market is available for the said trees, there will be impetus to the farmers for large scale plantations. The rotation in these species is quite fast. This will, in turn, increase the green coverage. We are of the considered view that the learned NGT has taken a lopsided view. It has failed to take into consideration the concerns expressed by the State. The learned NGT has committed patent error in ignoring the expert's report and sitting in appeal over the same. The learned NGT has also failed to take into consideration the stand taken by the MOEFCC, which supported the stand of the State. As already discussed herein above, the State had emphasized many advantages of granting new licenses to WBIs. It was also emphasized that the timber from the State of Uttar Pradesh was being exported to the State of Haryana. However, none of these aspects have been considered by the learned NGT. We are, therefore, of the considered view that the impugned orders of the learned NGT are not sustainable in law.

95. There is another reason, in our view, why the order of the learned NGT would not be sustainable. Though, on the date on which the review applications were rejected, 1215 provisional licenses were already granted and 633 units had already been established and commenced production, the learned NGT has passed the impugned order which adversely affects their interest. Either some of such industries ought to have been impleaded in their representative capacity or a public notice should have been given so that such license holders could have represented their case. However, the said contention is lightly brushed aside by the learned NGT by holding that, since the issue is related to the general decision of the State which is applicable uniformly to all the proposed provisional licensees, it is not necessary to consider the issue raised in the impleadment applications. It is more than a settled law that the principles of natural justice are required to be followed even in administrative actions when such actions adversely affect the rights of the citizens. When the learned NGT exercised its judicial powers, it could not have ignored the principles of natural justice, which, even under Section 19(1) of the NGT Act, it is bound to follow.

96. Another aspect that needs consideration is that a serious issue was raised before the learned NGT by the appellants herein with regard to the credentials and *bonafides* of the original applicants.

97. When the matter was heard by us, we too made pertinent queries to Shri Mehta and Shri Chahar with regard to the credentials of the applicants before the learned NGT. One applicant is Uday Education and Welfare Trust; the second applicant is Samvit Foundation and the third applicant is U.P. Timber Association. Undisputedly, the U.P. Timber Association was a litigant interested in the litigation. However, insofar as the other original applicants, i.e. Uday Education and Welfare Trust and Samvit Foundation, for whom Shri Dhruv Mehta and Shri Brijender Chahar, learned Senior Counsel are appearing, specific queries with regard to the activities undertaken by the said original applicants were made as to whether they were involved in any activity with regard to the protection of the environment; had they at least been engaged in promoting plantation; what were the aims and objectives of the said original applicants; and what are the sources of funding. etc. Shri Mehta and Shri Chahar.

learned Senior counsel, fairly submitted that apart from the fact that they (original applicants) had previously filed some public interest litigations wherein orders were passed in their favour, they had no other information.

98. Shri Dhruv Mehta, learned Senior Counsel has rightly relied on the judgment of this Court in the case of *Ankita Sinha* (supra) to submit that the learned NGT is empowered to take suo motu cognizance. This Court has held that, taking into consideration the nature of functions of the learned NGT, it cannot be equated with other Tribunals and in environmental matters, it will also have a power to take suo motu cognizance. However, when the credentials and *bonafides* of a litigant approaching the learned NGT are seriously raised, the same cannot be ignored.

99. We find that before a litigant is permitted to knock the doors of justice and seek orders which have far reaching effects of affecting the employment of thousands of persons, stopping investment in the State, prejudicing the interests of the farmers; the credentials and *bonafides* of the applicants must be tested. In the present case, there is scope to infer that the litigation could be at the behest of the existing WBIs who wanted to avoid competition and continue to get raw material at a cheaper rate. There is also scope to infer that it could be at the behest of the WBIs in the adjoining Yamuna Nagar district of Haryana where lakhs of tons of timber is exported from the State of Uttar Pradesh. There is scope to infer that it could be in the interest of middlemen who are engaged in exporting timber from Uttar Pradesh to Haryana. We would, therefore, only request the learned NGT that, when credentials and *bonafides* of such litigants are seriously raised and when entertaining the grievance of such litigants, which is likely to adversely affect the rights of many, it should ensure the *bonafides* and credentials of such litigants.

100. Though we are allowing the appeals, setting aside the orders of the learned NGT, and upholding the action of the State Government in granting licenses, we would like to remind the State and its authorities that it is their duty to protect the environment. The State and its authorities should ensure that necessary steps are taken for arresting the problem of declining forest and tree cover. The State and its authorities should make meaningful and concerted efforts to ensure that the green cover in the State of Uttar Pradesh is not reduced and to ensure that it increases.

101. The conservation of forest plays a vital role in maintaining the ecology. It acts as processors of the water cycle and soil and also as providers of livelihoods. As such, preservation and sustainable management of forests deserve to be given due importance in formulation of policies by the State. In this regard, it will be apposite to refer to certain earlier pronouncements of this Court.

- (a) In the case of *Samatha v. State of A.P.*⁸, a three-Judge Bench of this Court after referring to the earlier judgment in the case of *State of H.P. v. Ganesh Wood Products*⁹ observed that, even while considering the grant of renewal of mining leases, the provisions of the Forest (Conservation) Act, 1980 and the Environment (Protection) Act, 1986 would apply. This Court held that the MOEF and all the States have a duty to prevent mining operations affecting forests. It further observed that, whether mining operations are carried on within the reserved forest or other forest area, it is their duty to ensure that the industry or enterprise does not denude the forest to become a menace to human existence nor a source to destroy flora and fauna and biodiversity. It has further been held that if it becomes inevitable to disturb the existence of forests, there is a concomitant duty upon the State to reforest and restore the green cover and to ensure adequate measures to promote, protect and improve both man-made and natural environment, flora and fauna as well as biodiversity. It further held that there can be no distinction between government forests and private forests in the matter of forest wealth of the nation and in the matter of environment and

ecology.

- (b) In the case of *Essar Oil Ltd. v. Halar Utkarsh Samiti*¹⁰, this Court discussed the need for a balance between the economic and social needs and development on the one hand and environment considerations on the other. It was observed that laws on environment should be to create harmony between the two since neither one can be sacrificed at the altar of the other. In this regard, the observations of this Court in the case of *Indian Council for Enviro-Legal Action v. Union of India*¹¹ were quoted as under:

"While economic development should not be allowed to take place at the cost of ecology or by causing widespread environment destruction and violation; at the same time, the necessity to preserve ecology and environment should not hamper economic and other developments. Both development and environment must go hand in hand, in other words, there should not be development at the cost of environment."

- (c) In the case of *Maharashtra Land Development Corporation v. State of Maharashtra*¹² reference was made to *Glanrock Estate Private Limited v. State of Tamil Nadu*¹³ wherein it was observed as under:

"27. Forests in India are an important part of the environment. They constitute [a] national asset. In various judgments of this Court delivered by the Forest Bench of this Court in *T.N. Godavarman Thirumulpad v. Union of India* (Writ Petition No. 202 of 1995), it has been held that 'intergenerational equity' is part of Article 21 of the Constitution.

28. What is intergenerational equity? The present generation is answerable to the next generation by giving to the next generation a good environment. We are answerable to the next generation and if deforestation takes place rampantly then intergenerational equity would stand violated.

29. The doctrine of sustainable development also forms part of Article 21 of the Constitution. The 'precautionary principle' and the 'polluter pays principle' flow from the core value in Article 21.

30. The important point to be noted is that in this case we are concerned with vesting of forests in the State. When we talk about intergenerational equity and sustainable development, we are elevating an ordinary principle of equality to the level of overarching principle."

- (d) Of course, one cannot ignore one of the several dicta of this Court in *T.N. Godavarman Thirumulpad v. Union of India*¹⁴ wherein this Court enunciated the definition of "forest" in the following words:

"4. The Forest Conservation Act, 1980 was enacted with a view to check further deforestation which ultimately results in ecological imbalance; and therefore, the provisions made therein for the conservation of forests and for matters connected therewith, must apply to all forests irrespective of the nature of ownership or classification thereof. The word "forest" must be understood according to its dictionary meaning. This description covers all statutorily recognised forests, whether designated as reserved, protected or otherwise for the purpose of Section 2(i) of the Forest Conservation Act. The term "forest land", occurring in Section 2, will not only include "forest" as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of the ownership. This is how it has to be understood for the purpose of Section 2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof..."

102. Though we find that for the sustainable development of the State and on account of the availability of the timber, sanction of granting licenses can be permitted to continue, however, as a responsible State, it needs to ensure that environmental concerns are duly attended to. We, therefore, direct the State Government to ensure that while granting permission for felling trees of the prohibited species, it should strictly ensure that the permission is granted only when the conditions specified in the Notification dated 7th January 2020 are satisfied. The State Government shall also ensure that when such permissions are granted to the applicants, the applicants scrupulously follow the mandate in the said notification of planting 10 trees against 1 and maintaining them for five years.

103. In the result, the appeals are allowed. The impugned orders passed by the learned National Green Tribunal, Principal Bench, New Delhi in Original Application Nos. 313, 335 and 396 of 2019 as well as in the Review Applications are quashed and set aside.

104. Pending applications, if any, shall stand disposed of. No costs.

¹ (2017) 9 SCC 499

² (2019) 18 SCC 494

³ 2021 SCC OnLine SC 897

⁴ 2022 SCC OnLine SC 79

⁵ (1997) 3 SCC 312

⁶ (2008) 16 SCC 337

⁷ (1994) 6 SCC 651

⁸ AIR 1997 SC 3297 : (1997) 8 SCC 191

⁹ (1995) 6 SCC 363

¹⁰ (2004) 2 SCC 392

¹¹ (1996) 5 SCC 281

¹² (2011) 15 SCC 616

¹³ (2010) 10 SCC 96

¹⁴ (1997) 2 SCC 267 : AIR 1997 SC 1228

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION ANNEXURE-R-2

CIVIL APPEAL Nos.7313-7314 OF 2019

ANAND GRAM SOCIETY HANSENS DISEASE (LEPROSY)
REHABILITATION CENTRE

... APPELLANT

Versus

DY. CONSERVATOR OF FOREST, PUNE & ORS.

... RESPONDENTS

O R D E R

1. Anand Gram Society Hansens Disease (Leprosy) Rehabilitation Centre is in appeal before us challenging judgment dated 26.05.2017 and order dated 23.01.2018, passed by the National Green Tribunal, Western Zone, Pune (for short, 'the Tribunal') in Application No. 115/2015 and OA No. 120/2017.

2. It may be mentioned that the first order dated 26.05.2017 was passed by the Tribunal in Application No. 115/2015 (WZ). The said order was passed at the instance of a resident of Pune, who claimed forest land was being destroyed due to encroachments. The application apparently referred to some survey numbers of different villages where encroachments like (i) construction of road; (ii) construction by Pricast India Infrastructure Pvt. Ltd.; (iii) road made on the forest land; (iv) road for goods transportation and houses; and (v) stone mines for construction of RCC used for building houses were existing.

3. Regardless of the categorical stand taken by some of the respondents that they have nothing to do with the forest land and

have not encroached upon it in any manner, the Tribunal, without assigning any reason, and without any discussion on the issues jumped to a conclusion and issued a sweeping direction to the (i) Principal Chief Secretary (Forest) (ii) Principal Chief Conservator (Forest), (iii) Chief Conservator of Forest, and (iv) Collector, Pune "to take steps to remove all the said encroachments within three weeks in accordance with law and reconstitute the environment". The other respondents were directed to extend full cooperation.

4. Thereafter, it seems that some proceedings akin to contempt proceedings, through O.A. No. 120/2017, were initiated and when the matter was taken up for hearing on 23.01.2018, one Dy. Conservator of Forest was present, who did not have complete instructions on facts, for which the case was passed over. Subsequently, a direction was issued to the Chief Conservator of Forest to conduct spot inspection/survey of the area along with District Collector and submit a report about the factual aspects of the structures built on the land in question. The Director General of Police was directed to provide police assistance to remove the structures etc.

5. The appellant is an NGO, which runs a Public Charitable Trust at Dudulgaon, Pune, Maharashtra and has been working for the welfare and rehabilitation of leprosy patients since 1965. The total area acquired by the appellant-Society is three acres with a 6 meter wide access road of 500 meters length. Since the appellant-Society has also been directed to remove the structures where leprosy patients are being treated for decades, the instant appeals were filed, in which we directed to maintain *status quo* at the

site, vide order dated 13.09.2019.

6. We have heard learned counsel for the parties and carefully perused the material placed on record.

7. We are constrained to highlight that the Tribunal has failed to observe the principles of natural justice and has passed sweeping directions without determining as to whether the subject area is a forest land and if so, whether it has been duly notified under the relevant statutes. Similarly, no opportunity was granted to the bonafide users of the site like the appellant-Society to establish as to whether the Leprosy Cure Centre was being run with or without prior permission of the concerned authorities.

8. The issue as to whether the strict parameters are liable to be relaxed in a case of extraordinary circumstances has not been considered by the Tribunal. What is the purpose of the Charitable Trust, whether it is being run for the welfare of the leprosy patients and providing them timely medical treatment, and whether the Leprosy Cure Centre also deserves to be uprooted from the site treating like any commercial venture, are several factors which the Tribunal ought to have kept in mind before issuing the omnibus directions.

9. The other danger which *quasi* Tribunals like, the National Green Tribunal, must keep in mind is the bonafides and locus of the person who approaches it. In a given case, if the applicant has not come to the Tribunal with clean hands and the entire object of his application is to grind an axe and to settle scores, it is the bounden duty of the Tribunal to accord a reasonable opportunity of being heard to the parties likely to be affected and give an

opportunity to enable them to demonstrate that the concerned applicant has not approached the Tribunal with bonafide intention.

10. In the case in hand, the applicant appears to have approached the Tribunal on one fine morning without even disclosing that the structure by the Society came to be raised way back in the year 1960. Unfortunately, the officers of the Forest Department also did not disclose the correct facts leading to immense hardship to the appellant-Society.

11. For the reasons aforesaid, we allow these appeals; set aside the impugned order of the Tribunal *qua* the appellant and or other similarly affected persons except that the Tribunal shall be at liberty to proceed against those who have encroached upon the forest land for commercial gains.

12. The applicant shall be at liberty to pursue his remedy against all such entities in accordance with law.

13. It is further directed that no order adverse to a party shall be passed without giving a reasonable opportunity of being heard.

14. As a result, the pending interlocutory applications also stand disposed of.

.....J.
(SURYA KANT)

.....J.
(UJJAL BHUYAN)

NEW DELHI;
DECEMBER 17, 2024.

ITEM NO.7

COURT NO.3

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 SCivil Appeal No(s).7313-7314/2019ANAND GRAM SOCIETY HANSENS DISEASE (LEPROSY)
REHABILITATION CENTRE

Appellant(s)

VERSUS

DY. CONSERVATOR OF FOREST, PUNE & ORS.

Respondent(s)

IA No. 228300/2023 - APPLICATION UNDER ORDER V RULE 20 CPC FOR
EFFECTING SERVICE THROUGH PUBLICATIONIA No. 133812/2019 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT

IA No. 133813/2019 - EXEMPTION FROM FILING O.T.

IA No. 133815/2019 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES

IA No. 133814/2019 - STAY APPLICATION)

Date : 17-12-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE UJJAL BHUYANFor Appellant(s) Mr. Sudhanshu S Chaudhari, Sr. Adv.
Mr. Mahesh Prakash Shinde, Adv.
Mr. Vatsalya Vigya, AOR
Ms. Pranjal Chapalgaonkar, Adv.
Ms. Gautami Yadav, Adv.For Respondent(s) Mr. Adarsh Dubey, Adv.
Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande, AORMr. Shivaji M. Jadhav, AOR
Mr. Brij Kishor Sah, Adv.
Mr. Adarsh Kumar Pandey, Adv.
Mr. Vignesh Singh, Adv.
Mr. Aditya S. Jadhav, Adv.
Mr. Ankit Sahu, Adv.
Mr. Amit Kumar Gupta, Adv.Mr. Pai Amit, AOR
Ms. Pankhuri Bhardwaj, Adv.
Mr. Kushal Dube, Adv.

UPON hearing the counsel the Court made the following

O R D E R

The appeals are allowed in terms of the signed order.

As a result, the pending interlocutory applications also stand disposed of.

(SATISH KUMAR YADAV)
ADDITIONAL REGISTRAR

(Signed order is placed on the file)

(PREETHI T.C.)
ASSISTANT REGISTRAR



MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

ANNEXURE-R-3

New Delhi, the 5th December, 2016

S.O. 3645(E).—Whereas, a draft notification, declaring Eco-sensitive Zone around Sanjay Gandhi National Park, Borivali in Mumbai of Maharashtra State, was published in the Gazette of India, Extraordinary, vide notification of the Government of India in the Ministry of Environment, Forest and Climate Change number S.O. 229(E), dated the 22nd January, 2016, inviting objections and suggestions from all persons likely to be affected thereby within a period of sixty days from the date on which copies of the Gazette containing the said notification were made available to the public;

AND WHEREAS, copies of the Gazette containing the said notification were made available to the public on the 22nd January, 2016;

AND WHEREAS, objections and suggestions received from all persons and stakeholders in response to the draft notification have been duly considered by the Central Government;

AND WHEREAS, the Sanjay Gandhi National Park (hereinafter referred to as the National Park) is a unique habitat enclosed in the metropolis of Mumbai and is located in the Thane and Mumbai District of Maharashtra State between N 19° 8.8" to 19° 21" latitude and E 72° 53" to 72° 58" longitudes;

AND WHEREAS the National Park is home to a number of endangered species of flora and fauna and harbours approximately 1300 species of flowering plants, 45 species of mammals, 43 species of reptiles, including 38 species of snakes, 12 species of amphibians, 300 species of birds, 150 species of butterflies;

AND WHEREAS, the area is known for mammalian species such as Leopard (*Panthera pardus*), Wild Boar (*Sus sp*), Four Horned Antelope (*Tetracerus quadricornis*), Blacknaped Hare, Wild Cat (*Felis chaus*), Jackal (*Canis aureus*), and Porcupine (*Hystrix indica*) and also harbours many bird species such as Peacock (*Pavo cristatus*), Lesser Grebe, Purple Heron (*Ardea purpurea*), Smaller Egret, Lesser Whistling Teal, Pariah Kite, Bulbul and many reptiles are also found in the National Park including snakes as Indian Cobra and Viper;

AND WHEREAS, the vegetation of the area ranges from littoral forests to western sub-tropical hill forests and as per the revised classification of Indian Forest Types by Champion and Seth, the National Park has Southern Tropical Moist Mixed Deciduous Forest and Western Sub Tropical Hill Forest and some of the tree species are *Tectona grandis*, *Terminalia tomentosa*, *Acacia catechu*, *Adina cordifolia*, *Mitragyna parviflora*, *Pterocarpus marsupium*, *Holarrhena antidysentrica*, *Butea monosperma*, and *Diospyros melanoxylon* etc.;

AND WHEREAS, it is necessary to conserve and protect the area the extent and boundaries of which is specified in paragraph 1 of this notification around the Sanjay Gandhi National Park as Eco-sensitive Zone from ecological and environmental point of view and to prohibit industries or class of industries and their operations and processes in the said Eco-sensitive Zone;

NOW Therefore, in exercise of the power conferred by sub-section(1) and clauses (v) and (xiv) of sub-section (2) and sub-section (3) of section 3 of the Environment (Protection) Act 1986 (29 of 1986) read with sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government hereby notifies an area to an extent of 100 meters to four kilometers from the boundary of Sanjay Gandhi National Park in the State of Maharashtra as the Sanjay Gandhi National Park Eco-sensitive Zone (hereinafter after referred to as Eco-sensitive Zone) details of which are as under, namely:-

1. Extent and boundaries of Eco-sensitive Zone.—(1) The Eco-sensitive Zone is spread over an area of 59.456 sq.km to an extent of 100 meters to four kilometers from the boundary of Sanjay Gandhi National Park and the boundary description of the Eco-sensitive Zone is given in **Annexure I**.

(2) The map of the Eco-sensitive zone along with latitude and longitude is included in **Annexure II**.

(3) The list of the villages falling within Eco-sensitive Zone is included in Annexure **III**.

2. Zonal Master Plan for Eco-sensitive Zone.—(1) The State Government shall, for the purpose of the Eco-sensitive Zone prepare, a Zonal Master Plan, within a period of two years from the date of publication of this

notification in the Official Gazette, in consultation with local people and adhering to the stipulations given in this notification.

- (2) The said Plan shall be approved by the Competent Authority in the State Government.
- (3) The Zonal Master Plan for the Eco-sensitive Zone shall be prepared by the State Government in such manner as is specified in this notification and also in consonance with the relevant Central and State laws and the guidelines issued by the Central Government, if any.
- (4) The Zonal Master Plan shall be prepared in consultation with all concerned State Departments, namely:-
 - (i) Environment;
 - (ii) Forest;
 - (iii) Urban Development;
 - (iv) Tourism;
 - (v) Municipal;
 - (vi) Revenue;
 - (vii) Agriculture;
 - (viii) Maharashtra State Pollution Control Board;
 - (ix) Irrigation;
 - (x) Public Works Department;

for integrating environmental and ecological considerations into it.

- (5) The Zonal Master Plan shall not impose any restriction on the approved existing land use, infrastructure and activities, unless so specified in this notification and the Zonal Master Plan shall factor in improvement of all infrastructure and activities to be more efficient and eco-friendly.
- (6) The Zonal Master plan shall provide for restoration of denuded areas, conservation of existing water bodies, management of catchment areas, watershed management, groundwater management, soil and moisture conservation, needs of local community and such other aspects of the ecology and environment that need attention.
- (7) The Zonal Master Plan shall demarcate all the existing worshipping places, village and urban settlements, types and kinds of forests, agricultural areas, fertile lands, green area, such as, parks and like places, horticultural areas, orchards, lakes and other water bodies.
- (8) The Zonal Master Plan shall regulate development in Eco-sensitive Zone as to ensure Eco-friendly development for livelihood security of local communities.

3. Measures to be taken by State Government.—The State Governments shall take the following measures for giving effect to the provisions of this notification, namely:-

- (1) **Land use.**—Forests, horticulture areas, agricultural areas, parks and open spaces earmarked for recreational purposes in the Eco-sensitive Zone shall not be used or converted into areas for commercial or industrial related development activities:

Provided that the conversion of agricultural lands, including the lands included in the category of the no development zones in the Development Plan of the adjoining cities, within the Eco-sensitive Zone may be permitted on the recommendation of the Monitoring Committee, and with the prior approval of the State Government, to meet the residential needs of local residents, and for the activities listed against serial numbers 10, 16, 22, 32 and 35 in column (2) of the Table in paragraph 4, namely:-

- (i) Eco-friendly cottages for temporary occupation of tourists, such as tents, wooden houses, etc. for Eco-friendly tourism activities;
- (ii) Widening and strengthening of existing roads, construction of new roads and other infrastructure works such as Mumbai metro rail, etc.;

- (iii) Renovation and augmentation and upgradation of civic amenities including creation of infrastructure for water supply and storage and other civic amenities, including augmentation and upgradation of existing transmission lines, telecommunication towers, etc and establishment of new underground transmission cables and communication cables, etc;
- (iv) Small scale industries not causing pollution,
- (v) Rainwater harvesting, and
- (vi) Cottage industries including village industries, convenience stores, local amenities, public utility and community buildings:

Provided further that no use of tribal land shall be permitted for commercial and industrial development activities without the prior approval of the State Government and without compliance of the provisions of article 244 of the Constitution or the law for the time being in force, including the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007):

Provided also that any error appearing in the land records within the Eco-sensitive Zone shall be corrected by the State Government, after obtaining the views of Monitoring Committee, once in each case and the correction of said error shall be intimated to the Central Government in the Ministry of Environment, Forest and Climate Change:

Provided also that the above correction of error shall not include change of land use in any case except as provided under this sub-paragraph.

Provided also that there shall be no consequential reduction in green area, such as forest area and agricultural area and efforts shall be made to reforest the unused or such unproductive agricultural areas.

(2) **Natural Springs.**—The catchment areas of all natural springs shall be identified and plans for their conservation and rejuvenation shall be incorporated in the Zonal Master Plan and the guidelines shall be drawn up by the State Government in such a manner as to prohibit development activities at or near these areas as which are detrimental to such areas.

(3) **Tourism.**—

(a) The activity relating to tourism within the Eco-sensitive Zone shall be as per the Tourism Master Plan, which shall form part of the Zonal Master Plan.

(b) The Tourism Master Plan shall be prepared by the Department of Tourism, Government of Maharashtra in consultation with Department of Revenue and Forests, Government of Maharashtra.

(c) The activity of tourism shall be regulated as under, namely:-

(i) all new tourism activities or expansion of existing tourism activities within the Eco-sensitive Zone shall be in accordance with the guidelines issued by the Central Government in the Ministry of Environment, Forest and Climate Change and the eco-tourism guidelines issued by National Tiger Conservation Authority, (as amended from time to time) with emphasis on eco-tourism, eco-education and eco-development and based on carrying capacity study of the Eco-sensitive Zone;

(ii) new construction of hotels and resorts shall not be permitted within one kilometer from the boundary of the Sanjay Gandhi National Park or the extent of Eco-sensitive Zone, whichever is nearer, except for accommodation for temporary structures for tourists related to Eco-friendly tourism activities:

Provided that beyond one kilometer from the boundary of protected area till the extent of the Eco-sensitive Zone, the establishment of new hotels and resorts shall be permitted only in pre-defined and designated areas for Eco-tourism facilities as per Zonal Master Plan;

(iii) till the Zonal Master Plan is approved, development for eco-tourism and expansion of existing tourism activities shall be permitted by the concerned regulatory authorities based on the actual site specific scrutiny and recommendation of the Monitoring Committee.

(4) **Natural Heritage.**—All sites of valuable natural heritage in the Eco-sensitive Zone, such as the gene pool reserve areas, water bodies, rock formations, waterfalls, springs, gorges, groves, caves, points, walks, rides, cliffs, etc. shall be identified and preserved and plan shall be drawn up for their protection and

conservation, within six months from the date of publication of this notification and such plan shall form part of the Zonal Master Plan.

(5) **Man-made heritage sites.**—Buildings, structures, artifacts, areas and precincts of historical, architectural, aesthetic, and cultural significance shall be indentified in the Eco-sensitive Zone and plans for their conservation shall be prepared within six months from the date of publication of this notification and incorporated in the Zonal Master Plan.

Noise pollution.—The Environment Department of the State Government or Maharashtra State Pollution Control Board shall implement the regulations for control of noise pollution in the Eco-sensitive Zone in accordance with the provisions stipulated of The Noise Pollution (Regulation And Control) Rules, 2000 under the Environment (Protection) Act, 1986.

(6) **Air pollution.**—The Environment Department of the State Government or Maharashtra State Pollution Control Board shall draw up guidelines and regulations for the control of air pollution in the Eco-sensitive Zone in accordance with the provisions of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981) and the rules made thereunder.

(7) **Discharge of effluents.**—The discharge of treated effluent in Eco-sensitive Zone shall be in accordance with the provisions of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) and the rules made thereunder.

(9) **Solid wastes.**—Disposal of solid wastes shall be as under:-

(i) the solid waste disposal in Eco-sensitive Zone shall be carried out as per the provisions of the Solid Waste Management Rules, 2016 published by the Government of India, Ministry of Environment and Forests and Climate Change vide notification number S.O. 1357 (E), dated the 8th April, 2016 as amended from time to time;

(ii) the local authorities shall draw up plans for the segregation of solid wastes into biodegradable and non-biodegradable components;

(iii) the biodegradable material shall be recycled preferably through composting or vermiculture;

(iv) The inorganic material may be disposed in an environmental acceptable manner at site identified outside the Eco-sensitive Zone and no burning or incineration of solid wastes shall be permitted in the Eco-sensitive Zone.

(10) **Bio-medical waste.**— The bio-medical waste disposal in the Eco-sensitive Zone shall be carried out as per the provisions of the Bio-Medical Waste Management Rules, 2016 published by the Government of India, Ministry of Environment, Forest and Climate Change vide Notification number GSR 343 (E), dated the 28th March, 2016 as amended from time to time.

(11) **Vehicular traffic.**—The vehicular movement of traffic shall be regulated in a habitat friendly manner and specific provisions in this regard shall be incorporated in the Zonal Master Plan and till such time as the Zonal master plan is prepared and approved by the Competent Authority in the State Government, the Monitoring Committee shall monitor compliance of vehicular movement under the relevant Acts and the rules and regulations made thereunder.

(12) **Industrial Units.**—

(a) No establishment of new wood based Industries within the proposed Eco-sensitive Zone shall be permitted except the existing wood based Industries set up as per the Law.

(b) No establishment of any new Industry causing water, air, soil, noise pollution within the proposed Eco-sensitive Zone shall be permitted.

4. List of activities prohibited or to be regulated within the Eco-sensitive Zone.—All activities in the Eco sensitive Zone shall be governed by the provisions of the Environment (Protection) Act, 1986 (29 of 1986), and the rules made thereunder and be regulated in the manner specified in the Table below, namely:-

TABLE

S. No.	Activity	Remarks
Prohibited Activities		
1.	Commercial Mining, stone quarrying and crushing units.	New and existing mining (minor and major minerals), stone quarrying and crushing units shall be prohibited except for the domestic needs of bona fide local residents with reference to digging of earth for construction or repair of houses and for manufacture of country tiles or bricks for housing for personal use. The license/lease of existing mines and stone crushers shall not be extended. If license violates the existing rules under different Acts, the license will be terminated The mining operations shall strictly be in accordance with the interim order of the Hon'ble Supreme Court dated 04.08.2006 in the matter of T.N. Godavarman Thirumulpad Vs. UOI in W.P.(C) No. 202 of 1995 and order of the Hon'ble Supreme Court dated 21.04.2014 in the matter of Goa Foundation Vs. UOI in W.P.(C) No. 435 of 2012.
2.	Setting up of saw mills.	No new or expansion of any existing saw mills shall be permitted within the Eco-sensitive Zone.
3.	Setting up of Industries causing water or air or soil or noise pollution	No new or expansion of polluting Industries in the Eco-sensitive Zone shall be permitted
4.	Establishment of hydroelectric projects and thermal power plants	Prohibited (except as otherwise provided) as per applicable laws.
5.	Use or production of any hazardous substances.	Prohibited (except as otherwise provided) as per applicable laws.
6.	Discharge of untreated effluents and solid waste in natural water bodies or land area.	Prohibited (except as otherwise provided) as per applicable laws.
7.	New wood based industry.	Establishment of new wood based industry shall not be permitted within the limits of Eco-sensitive Zone: Provided the existing wood-based industry may continue unless prohibited under any law for the time being force
8.	New encroachments and their regularization.	Encroachments of all kinds shall be prohibited.
9.	Lease out of submergence areas by irrigation department.	Total ban on lease for farming, fishing or any other activity in the submergence area, not related to the stated purpose (water supply & ancillary works thereto) of the lakes and tanks.
Regulated Activities		
10.	Establishment of hotels and resorts.	No new commercial hotels and resorts shall be permitted, within one kilometer of the boundary of the Protected Area or the extent of Eco-sensitive Zone whichever is nearer, except related to eco-friendly tourism activities:

S. No.	Activity	Remarks
		<p>Provided that beyond one km. from the boundary of the Sanjay Gandhi National Park area and up to the extent of the Eco-sensitive Zone, all new eco-tourism activities or expansion of existing activities shall be in conformity with the Zonal Master Plan.</p>
11.	Construction activities.	<p>Construction shall be permitted within the Eco-sensitive Zone as per the provisions of the approved Development Plan and other applicable rules and regulation under the Maharashtra Regional and Town Planning Act:</p> <p>Provided that the under construction/renovation of commercial buildings including group housing societies, offices, and services such as Information Technology/Information Technology Enabled Services, Parks, Roads, Power Transmission lines and cables, Telecommunication Towers and cables, Sewage lines, civic amenities, etc., and new construction projects such as Mumbai Metro Rail Shed, and creation of new civic amenities such as water supply related infrastructure and facilities and Operation & Maintenance of infrastructure, facilities of civic amenities sanctioned by concerned Local Self Government under approved Development Plan under the Maharashtra Regional and Town Planning Act, may be permitted within ESZ subject to applicable rules and regulations.</p> <p>Provided further that commercial redevelopment, reconstruction, repairs of existing structures which includes group housing societies, sanctioned by concerned Local Self Government under approved Development Plan under the Maharashtra Regional and Town Planning Act, may be allowed within Eco-sensitive Zone subject to applicable rules and regulations:</p> <p>Provided further that the commercial redevelopment reconstruction, repairs of existing structures which includes group housing societies, sanctioned by concerned Local Self Government under approved Development Plan under the Maharashtra Regional and Town Planning Act, may be allowed within the Eco-sensitive Zone subject to applicable rules and regulations.</p> <p>The construction activity related to small scale industries not causing pollution shall be permitted as per applicable rules and regulations, if any, with the prior permission from the competent authority.</p> <p>The Approved Development Plan shall be in conformity with the Zonal Master Plan taking into consideration the conservation aspects of the Eco-sensitive Zone.</p>
12.	Felling of trees.	<p>There shall be no felling of trees on the forest or Government or revenue or private lands without prior permission of the competent authority in the State Government.</p>

S. No.	Activity	Remarks
		The felling of trees shall be regulated in accordance with the provisions of the concerned Central or State Act and the rules made thereunder.
13.	Commercial water resources including ground water harvesting.	The extraction of surface water and ground water shall be permitted only for bona fide agricultural use and domestic consumption of the occupier of the land. Extraction of surface water and ground water for industrial or commercial use including the amount that can be extracted, shall require prior written permission from the concerned regulatory authority: The construction activities of water supply infrastructure facilities of Municipal Corporation/Council related to maintenance, rehabilitation and augmentation are permitted. No extraction of surface water or ground water shall be permitted; however sale of bottled water, water in containers and tankers for the requirement as applicable shall be permitted. Steps shall be taken to prevent contamination or pollution of water from any source including agriculture.
14.	Erection of electrical cables and telecommunication towers.	Regulated as per applicable laws. Construction/Augmentation and renovation of Power Transmission lines and cables, Telecommunication Towers and cables is permitted. New underground cabling is promoted.
15.	Fencing of existing premises of hotels and lodges.	Regulated as per applicable laws. A tall fence shall be erected over the existing boundary wall of the Sanjay Gandhi National Park.
16.	Widening and strengthening of existing roads, bridges, infrastructure and construction of new roads, public utility or community buildings.	Shall be done as per applicable laws to these activities without adverse impact within the Eco-sensitive Zone.
17.	Movement of vehicular traffic at night.	Regulated for commercial purpose under applicable laws.
18.	Introduction of exotic species.	Regulated as per applicable laws.
19.	Protection of hill slopes and river banks.	Regulated as per applicable laws.
20.	Discharge of treated effluents in natural water bodies or land area.	Recycling of treated effluent shall be encouraged and for disposal of sludge or solid wastes shall be in accordance with the applicable regulations
21	Commercial Sign boards and hoardings.	Regulated as per applicable laws.
22.	Small scale industries not causing pollution.	Non-polluting, non-hazardous, small-scale and service industry, agriculture, floriculture, horticulture or agro-based industry producing products from indigenous goods from the Eco- Sensitive Zone, and which do not cause any adverse impact on environment shall be permitted.

S. No.	Activity	Remarks
23.	Collection of Forest produce or Non-Timber Forest Produce (NTFP).	No collection centre shall be permitted within hundred metres from the boundary of Wild Life Sanctuary or National Park
24.	Air and vehicular pollution.	Regulated as per applicable laws.
25.	Use of polythene bags by shopkeepers.	Regulated as per applicable laws.
26.	Drastic Change of Agriculture systems.	Regulated as per applicable laws.
27.	Commercial use of firewood.	Regulated (except as otherwise provided) as per applicable laws.
28.	Undertaking activities related to tourism such as over-flying the National Park Area by aircraft, hot-air balloons, drones, etc.	Regulated (except as otherwise provided) as per applicable laws.
29.	Solid Waste Management.	Regulated (except as otherwise provided) as per applicable laws.
30.	Eco-Tourism.	Regulated (except as otherwise provided) as per applicable laws.
Promoted Activities		
31.	Ongoing agriculture and horticulture practices by local communities along with dairies, dairy farming, aquaculture and fisheries.	Permitted under applicable laws
32.	Rain water harvesting.	Shall be actively promoted.
33.	Organic farming.	Shall be actively promoted.
34.	Adoption of green technology for all activities.	Shall be actively promoted.
35.	Cottage industries including village industries, convenience stores, local amenities, public utility and community buildings.	Shall be actively promoted.
36.	Use of renewable energy sources.	Bio gas, solar light etc. to be promoted
37.	Agro-Forestry.	Shall be actively promoted
38.	Skill Development.	Shall be actively promoted
39.	Environment Awareness.	Shall be actively promoted

5. Monitoring Committee.— (1) The Central Government for effective monitoring of the Eco-sensitive Zone, hereby constitutes a Monitoring Committee, which shall comprise of the following, namely:-

- (a) Municipal Commissioner/ Additional Municipal Commissioner, - Chairman
Municipal Corporation of Greater Mumbai (MCGM).
- (b) Chief Conservator of Forests and Director, Sanjay Gandhi - Member
National Park.

- | | | | |
|-----|---|---|------------------|
| (c) | Additional Municipal Commissioner, Municipal Corporation of Thane | - | Member |
| (d) | Deputy Collector Mumbai Suburban District. | - | Member |
| (e) | Deputy Collector, Thane District | | Member |
| (f) | Deputy Collector, Palghar District | - | Member |
| (g) | One representative of Non Governmental Organisation working in the field of environment to be nominated by the Government of Maharashtra for a term of one year in each case. | - | Member |
| (h) | One expert in the area of ecology and environment to be nominated by the Government of Maharashtra | - | Member |
| (i) | Regional Officer, Maharashtra State Pollution Control Board, Mumbai/Thane. | - | Member |
| (j) | Town Planning Officer, Mumbai/Thane/Palghar. | - | Member |
| (k) | Assistant Conservator of Forest (L.R.P.) Thane. | - | Member |
| (l) | Member of State Biodiversity Board | - | Member |
| (m) | Deputy Conservator of Forests, Thane Forest Division | - | Member Secretary |

6. Terms of Reference

- (a) The Monitoring Committee shall monitor the compliance of the provisions of this notification.
- (b) The tenure of the Monitoring committee is for three (3) years.
- (c) The activities that are covered in the Schedule to the notification of the Government of India in the erstwhile Ministry of Environment and Forest number S.O. 1533(E), dated the 14th September, 2006, and are falling in the Eco-sensitive Zone, except for the prohibited activities as specified in the Table under paragraph 4 thereof, shall be scrutinized by the Monitoring Committee based on the actual site-specific conditions and referred to the Central Government in the Ministry of Environment, Forests and Climate Change for prior environmental clearances under the provisions of the said notification.
- (d) The activities that are not covered in the Schedule to the notification of the Government of India, Ministry of Environment and Forest and Climate Change number S.O. 1533 (E), dated the 14th September, 2006 and are falling in the Eco-sensitive Zone, except for the prohibited activities as specified in the Table under paragraph 4 thereof, shall be scrutinised by the Monitoring Committee based on the actual site-specific conditions and referred to the concerned regulatory authorities.
- (e) The Member Secretary of the Monitoring Committee or the concerned Collector(s) or the concerned Forest Officers shall be competent to file complaints under section 19 of the Environment (Protection) Act, 1986 against any person who contravenes the provisions of this notification.
- (f) The Monitoring Committee may invite representatives or experts from concerned Departments, representatives from Industry Associations or concerned stakeholders to assist in its deliberations depending on the requirements on issue to issue basis.
- (g) The Monitoring Committee shall submit the annual action taken report of its activities as on 31st March of every year by 30th June of that year to the Chief Wildlife Warden of the State as per pro forma given in **Annexure IV**.
- (h) The Central Government in the Ministry of Environment, Forest and Climate Change may give such directions, as it deems fit, to the Monitoring Committee for effective discharge of its functions.
7. The Central Government and State Government may specify additional measures, if any, for giving effect to provisions of this notification.
8. The provisions of this notification are subject to the orders, if any, passed, or to be passed, by the Hon'ble Supreme Court of India or the High Court or National Green Tribunal (NGT).

Annexure I

A. Description of Boundaries of proposed Eco-sensitive Zone of Sanjay Gandhi National Park

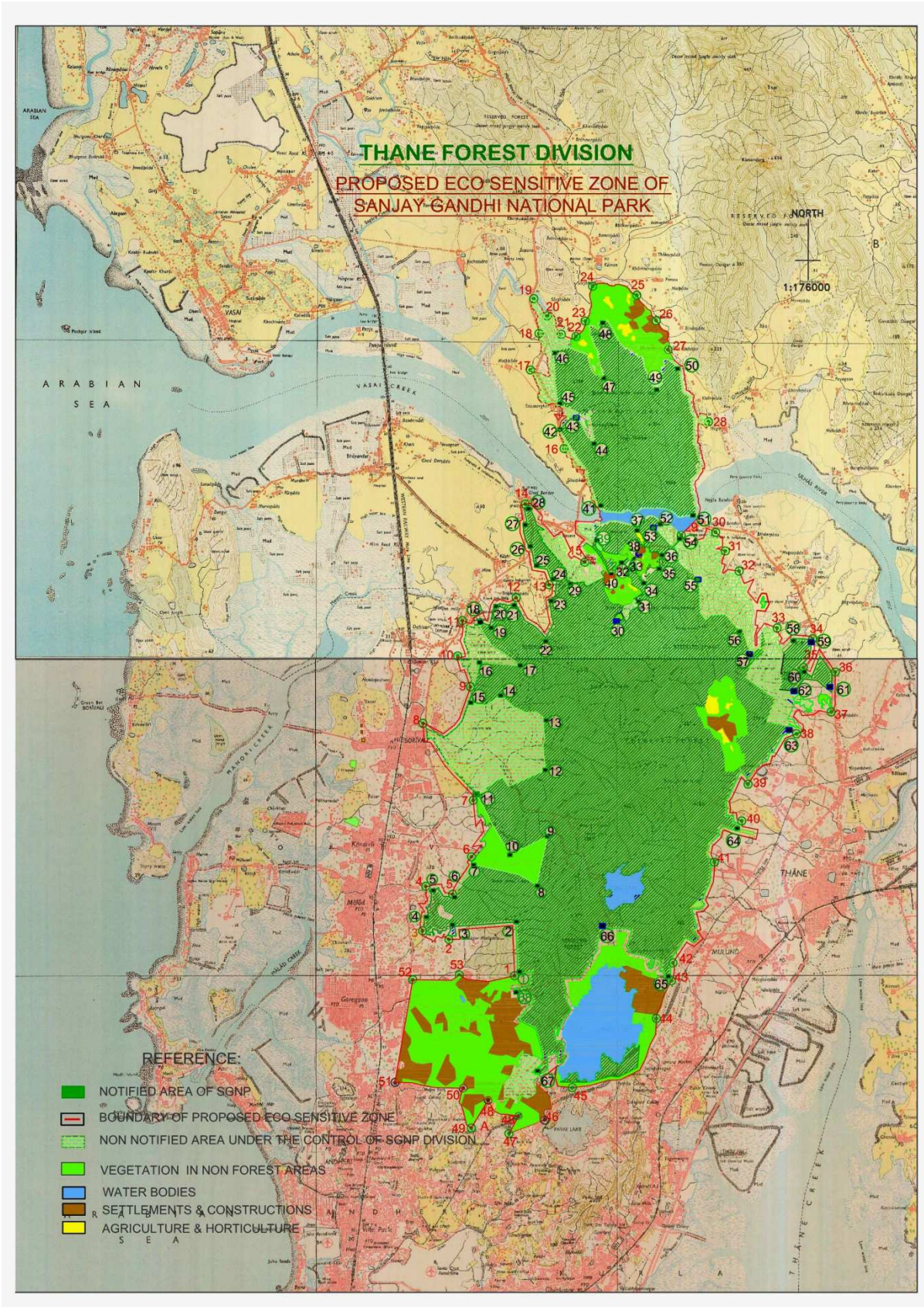
Direction	Bounded by
North	Boundary of Sasunavghar (Malji pada) Nala. [Latitude 19020'48.91"N] [Longitude 72053'32.47"E]
East	Boundary of Nagle (pt), Owala (pt.), Borivade (pt.) Vadavali (pt.), Kavesar (pt), Kolshet (pt.), Manpada (pt.), Majiwada (pt.), Pachpakhadi (Pt.), Mulund (Pt.), Nahur (Pt.), Clerabad (Pt.), Vihar. [Latitude 19014'39.38"N] [Longitude 72053'11.73"E]
South	Area of Aarey Dairy Division Boundary, Villages Sai (Pt.). [Latitude 19007'45.13"N] [Longitude 72052'46.89"E]
West	Area of Aarey Dairy Division Boudary, Malad (Pt.), Akurli (pt.), Poisar (Pt.), Magathane (Pt.), Kanheri (Pt.), Dahisar(Pt.), Kashi (Pt.), Mira (Pt.), Ghodbunder (Pt.), Varsave (Pt.), Sasunavghar (Pt.) [Latitude 19013'53.22"N] [Longitude 72051'45.76"E]

B. GPS readings of the Location points on the Boundary of Notified Area of the Sanjay Gandhi National Park,

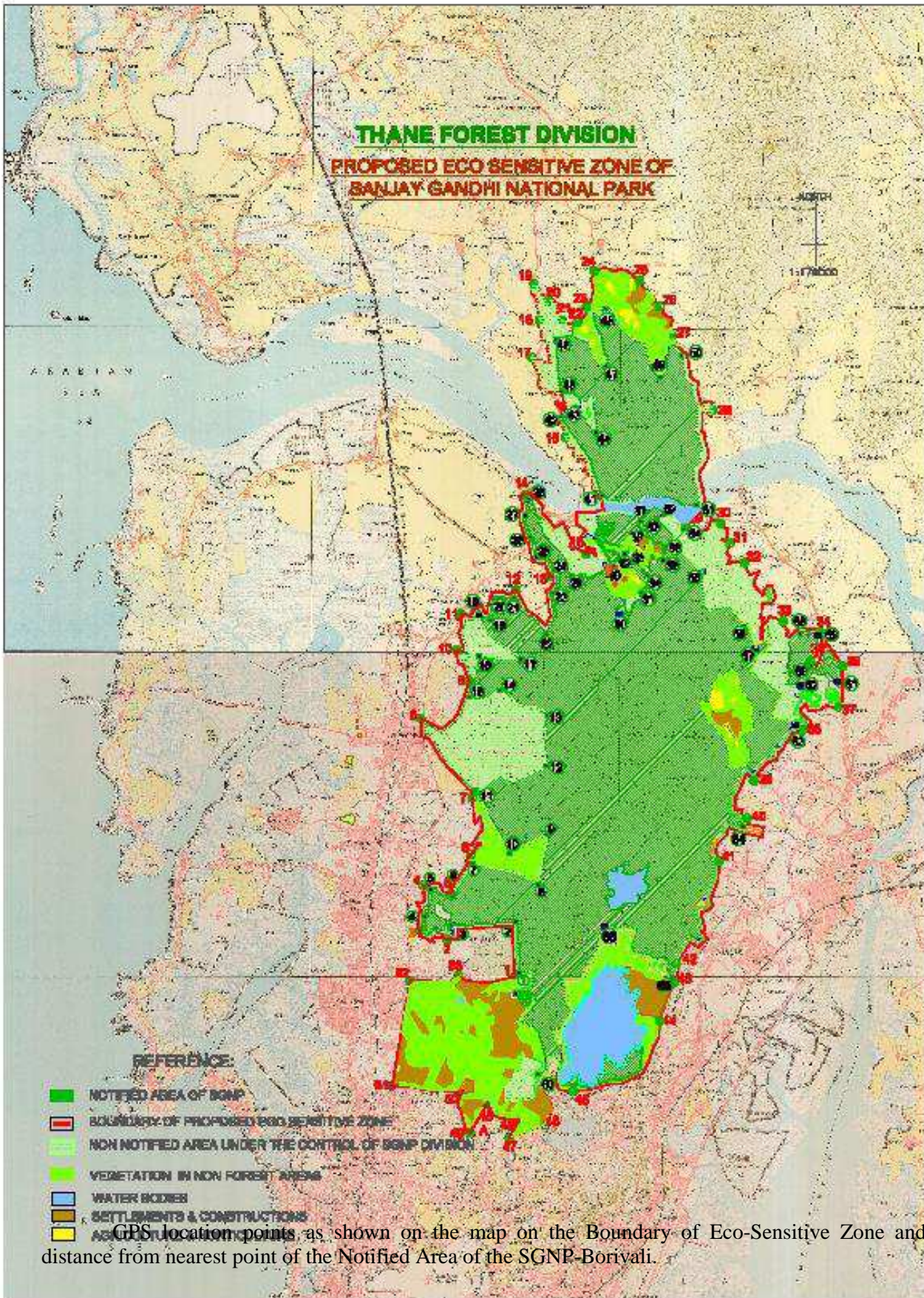
Point No.	Latitude (North)	Longitude (East)
1	19°10'8.16"	72°53'24.20"
2	19°10'54.76"	72°53'21.39"
3	19°10'52.86"	72°52'24.25"
4	19°11'3.42"	72°51'57.48"
5	19°11'29.34"	72°52'11.50"
6	19°11'16.29"	72°52'28.47"
7	19°11'39.98"	72°52'37.72"
8	19°11'27.68"	72°53'37.85"
9	19°12'15.25"	72°53'47.49"
10	19°11'59.78"	72°53'10.39"
11	19°12'49.65"	72°52'53.93"
12	19°13'19.23"	72°53'46.01"
13	19°14'6.58"	72°53'47.26"
14	19°14'30.32"	72°53'2.28"
15	19°14'24.12"	72°52'29.69"
16	19°15'2.33"	72°52'41.47"
17	19°14'58.68"	72°53'22.63"
18	19°15'36.10"	72°52'41.70"
19	19°15'37.22"	72°52'50.51"
20	19°16'1.54"	72°52'58.31"
21	19°16'5.97"	72°53'10.06"
22	19°15'26.30"	72°53'45.42"
23	19°16'17.91"	72°53'50.70"

Point No.	Latitude (North)	Longitude (East)
24	19°16'45.43"	72°53'28.84"
25	19°16'57.91"	72°53'23.54"
26	19°17'11.76"	72°53'25.25"
27	19°17'11.02"	72°53'33.71"
28	19°17'35.83"	72°53'25.07"
29	19°16'11.23"	72°54'17.76"
30	19°15'52.51"	72°55'11.79"
31	19°16'9.14"	72°55'26.93"
32	19°16'36.03"	72°55'2.82"
33	19°16'41.23"	72°55'15.57"
34	19°16'22.88"	72°55'24.78"
35	19°16'34.36"	72°55'42.66"
36	19°16'47.70"	72°55'44.04"
37	19°17'7.19"	72°55'16.90"
38	19°16'43.05"	72°55'18.63"
39	19°17'5.25"	72°54'34.73"
40	19°16'25.43"	72°54'50.96"
41	19°17'27.38"	72°54'40.61"
42	19°18'42.31"	72°53'57.51"
43	19°19'0.11"	72°54'12.05"
44	19°18'34.46"	72°54'30.47"
45	19°19'8.68"	72°53'56.70"
46	19°20'3.00"	72°53'50.52"
47	19°19'36.40"	72°54'40.11"
48	19°20'28.82"	72°54'38.73"
49	19°19'23.77"	72°55'34.30"
50	19°19'44.11"	72°55'58.89"
51	19°17'22.34"	72°56'13.89"
52	19°17'18.29"	72°55'37.79"
53	19°16'49.75"	72°55'45.22"
54	19°17'7.38"	72°56'1.54"
55	19°16'15.25"	72°56'19.81"
56	19°15'17.36"	72°57'3.70"
57	19°14'24.40"	72°57'40.96"
58	19°15'21.93"	72°57'36.87"
59	19°15'33.26"	72°58'10.71"
60	19°14'50.47"	72°58'3.69"
61	19°14'30.88"	72°58'29.70"
62	19°14'8.58"	72°57'32.63"
63	19°13'55.19"	72°57'53.22"
64	19°12'21.27"	72°56'58.75"
65	19° 9'58.36"	72°55'43.04"
66	19°10'52.55"	72°54'41.24"
67	19° 8'32.17"	72°53'37.74"
68	19° 9'49.24"	72°53'22.17"

Annexure II



Map of proposed Eco-sensitive Zone



GPS location points as shown on the map on the Boundary of Eco-Sensitive Zone and its distance from nearest point of the Notified Area of the SGNP-Borivali.

Sr. No.	Latitude (North)	Longitude (East)	Notified Boundary To ESZ
	(° ' ")	(° ' ")	Distance in meters
1	19°10'7.33"N	72°53'20.36"E	100
2	19 10 42.01	72 52 21.82	100
3	19 10 41.65	72 51 56.55	100
4	19 11 27.24	72 51 59.99	100
5	19 11 20.03	72 52 24.92	100
6	19 12 03.61	72 52 44.92	530
7	19 12 33.41	72 52 38.67	507
8	19 14 01.10	72 51 51.00	1315
9	19 14 41.89	72 52 28.62	100
10	19 15 04.87	72 52 26.54	445
11	19 15 34.25	72 52 28.24	400
12	19 16 09.27	72 53 09.77	100
13	19 16 17.51	72 53 47.27	100
14	19 17 38.17	72 53 22.57	400
15	19 16 35.7	72 54 21.79	430
16	19°18'44.12"N	72°53'54.18"E	100
17	19 19 42.19	72 53 36.70	465
18	19 20 08.69	72 53 43.42	270
19	19 20 48.96	72 53 32.00	1506
20	19 20 32.48	72 53 42.83	918
21	19 20 37.33	72 53 49.27	1029
22	19 20 14.17	72 54 02.26	300
23	19 20 16.55	72 54 19.91	232
24	19 20 40.08	72 54 31.92	400
25	19 20 56.58	72 55 11.92	1065
26	19 20 30.07	72 55 35.20	1234
27	19 20 04.68	72 55 47.52	755
28	19°18'57.47"N	72°56'23.32"E	260
29	19 17 13.36	72 55 50.05	278
30	19 16 54.85	72 56 14.70	335
31	19 17 02.18	72 56.35.87	1050
32	19 16 25.52	72 57 02.91	1300
33	19 15 30.43	72 57 22.05	500

34	19 15 31.11	72 58 06.74	100
35	19 14 59.98	72 58 06.68	100
36	19 14 44.52	72 58 29.48	100
37	19 14 15.97	72 58 14.68	610
38	19 13 49.34	72 57 51.14	100
39	19 13 10.04	72 57 12.78	100
40	19 12 28.47	72 57 03.00	100
41	19 11 49.28	72 56 35.04	100
42	19 09 54.26	72 55 46 .88	100
43	19 09 53.97	72 55 42.13	133
44	19° 9'30.55"N	72°55'36.69"E	862
45	19 08 22.37	72 54 07.46	100
46	19 08 07.10	72 53 52.00	880
47	19 07 45.34	72 53 11.68	1618
48	19 08 01.73	72 53 20.47	1053
48A	19 08 16.61	72 52 51.16	1430
49	19 07 50.02	72 52 35.15	2225
50	19 08 26.73	72 52 26.93	2060
51	19 08 31.42	72 51 19.31	4000
52	19 10 10.93	72 51 34.02	3216
53	19 10 04.35	72 52 15.28	2011

Annexure-III

A. List of village/township, inside the Eco-sensitive Zone along with 'Lat-Long' with respect of the Protected Area (Coordinates of at least one point therein)

S. No.	Villages	Latitude (North)	Longitude
1	Tusli Lake in village Tulsi	19° 11' 25.99"	72° 55' 00.72"
2	Clerabad	19° 09' 59.11"	72° 55' 42.14"
3	Mulund	19°10' 47.09"	72°56' 19.99"
4	Nahur	19°10' 02.33"	72°55' 52.84"
5	Gundgoan (Vihar Lake)	19° 10' 10.59"	72° 55' 19.52"
6	Vihar (Vihar Lake)	19° 08' 45.58"	72° 55' 22.43"
7	Kanjur	19° 08' 32.66"	72° 55' 13.80"
8	Paspoli	19° 08' 19.32"	72° 54' 26.38"
9	Saie	19° 08' 22.89"	72° 54' 31.23"
10	Area of Aarey (Dairy Development Division)	19° 09' 59.24"	72° 51' 31.90"
11	Aarey	19° 10' 04.75"	72° 52' 31.31"

S. No.	Villages	Latitude (North)	Longitude
12	Marol (Moroshi)	19° 08' 22.27"	72° 53' 37.37"
13	Malad	19° 10' 50.99"	72° 52' 54.28"
14	Akurli	19° 11' 51.86"	72° 52' 42.88"
15	Poisar	19° 12' 45.92"	72° 52' 37.54"
16	Kandivali	19° 12' 28.52"	72° 50' 38.93"
17	Magathane	19° 13' 07.72"	72° 52' 23.75"
18	Kanheri	19° 13' 52.58"	72° 51' 45.53"
19	Shimpoli	19° 13' 10.14"	72° 50' 45.17"
20	Borivali Tarf Malad	19° 14' 07.70"	72° 50' 15.02"
21	Dahisar	19° 14' 16.12"	72° 52' 22.34"
22	Kashi	19° 15' 43.13"	72° 52' 48.54"
23	Mira	19° 15' 27.70"	72° 53' 47.65"
24	Ghodbunder	19° 17' 31.44"	72° 53' 22.10"
25	Varsava	19° 16' 37.12"	72° 54' 24.26"
26	Chene	19° 16' 28.17"	72° 55' 01.30"
27	Owala (Old Village - including new village (Bhayanderpada)	19° 17' 06.44"	72° 56' 23.27"
28	Vadavali	19° 15' 28.32"	72° 57' 18.84"
29	Borivade	19° 15' 24.04"	72° 57' 35.51"
30	Kavesar	19° 15' 33.30"	72° 57' 55.78"
31	Kolshet	19° 14' 58.33"	72° 58' 28.02"
32	Manpada	19° 14' 13.46"	72° 58' 26.87"
33	Majiwada	19° 13' 43.89"	72° 57' 43.25"
34	Pachpakhadi	19° 12' 15.06"	72° 57' 15.79"
35	Yeur	19° 14' 01.49"	72° 56' 40.71"
36	Sasunavghar	19° 19' 15.85"	72° 53' 37.82"
37	Mori	19° 20' 53.73"	72° 54' 35.26"
38	Poman	19° 20' 22.36"	72° 55' 42.07"
39	Kaman	19° 20' 59.72"	72° 54' 56.78"
40	Shilottar	19° 20' 00.32"	72° 55' 46.02"
41	Nagale	19° 18' 57.18"	72° 56' 23.63"

B. Villages and survey numbers with its area included in the Eco-sensitive Zone

Sl. No.	Taluka	Name of Villages	Eco-sensitive Zone				Total (Ha.)
			Private Land Survey No.	Private Land (Ha.)	Forest land Survey no.	Forest Area (Ha.)	
1	Kurla	Mulund	377/351pt, 380pt, 247pt, 232pt, 247pt, 248pt, 249pt, 251pt, 250pt, 245pt.	18.5900	377/351pt	2.8000	21.3900
2		Nahur	150pt (17Apt), 147pt, 146pt, 155pt, 176/148, 165, 167.	15.6800	177/148pt	2.8730	18.5530
3	Borivali	Gundgoan (Vihar Lake)	Vihar Lake.	293.1100	124pt,	45.5270	338.6370
4		Vihar (Vihar Lake)	61, 62, 63, 58, Vihar Lake.	510.7900			510.7900
5		Area of Aarey Dairy Division & areas handed by Aarey to other State Departments	-	1114.7400			1114.7400
6	Borivali	Area of the Filmcity - Maharashtra Film, Stage and Cultural Development Department. (under village Aarey-pt, Saei- pt & Gundgaon pt)	1/1, 1/3 pt, 1/4pt, 188pt (124pt), 19pt.	210.8300			210.8300
7	Andheri	Marol (Moroshi)	169	97.0000	CTS Nos.	76.0000	173.0000
8	Borivali	Saie	162, 168, 6, 7, 160, 118pt, 8, 179, 9, 10, 128, 19, 18, 5, 169, 12, 15, 170, 17, 16, 173, Lake.	137.3100	19pt	3.3150	140.6250
9		Clerabad	55,56.	10.6817	57pt	0.3950	11.0767
10		Malad	239/1pt, 269, 267pt, 271, 272, 253pt, 273pt, 274pt, 275pt, 276, 277pt, 278pt, 237pt, 221pt, 227pt, 226pt, 224, 223pt, 234, 222pt, 225pt, 228pt, 233pt, Kurar village part area.	95.1200			95.1200
11		Akurli	88pt, 86pt, 87A-pt.	17.2300	87A-pt	99.7090	116.9390
12		Poisar	41pt, 42Apt.	16.1200	42/A-pt, 46	119.4910	135.6110

Sl. No.	Taluka	Name of Villages	Eco-sensitive Zone				Total (Ha.)
			Private Land Survey No.	Private Land (Ha.)	Forest land Survey no.	Forest Area (Ha.)	
13		Magathane	148pt, 80, 88pt, 99pt, 98pt, 97pt, 96pt, 105pt, 95pt, 94pt, 57pt, 58pt, 50pt, 34pt, 47pt, 48pt, 89pt, 34B-pt.	26.2800	34B-pt	575.3310	601.6110
14		Kanheri	17pt, 16pt, 18Apt, 18B, 19pt, 21pt, 10pt, 97pt, 20pt, 9pt.	19.7700	11, 12, 13, 14, 15.	12.6060	32.3760
15		Dahisar	345C-pt, 210pt, 211pt, 164pt, 163pt, 151pt, 149pt, 147pt, 146pt, 101pt, 100pt, 99pt, 98pt.	39.7400	345A-pt	87.8330	127.5730
16	Thane	Kashi	89pt, 83pt, 82,79pt, 80, 90pt, 103pt, 77pt, 69pt, 68pt, 66pt, 58pt, 65, 64pt, 61pt, 62, 100pt, 101, 60, 55pt, 96pt, 102pt, 54pt, 52pt, 104pt, 53,63, 47pt, 67pt, 43pt, 44pt, 45pt, 94pt, 50pt.	34.0900			34.0900
17		Mira	95pt, 96pt, 94pt, 93pt, 92, 85pt, 84pt, 83pt, 79pt, 78pt, 77pt, 76pt, 69pt, 68pt, 67pt, 66pt, 65pt, 98pt, 70.	23.0000			23.0000
18		Ghodhunder	Khadi part, 244, 205, 241pt, Gavthan, Gavthan (pt) 236, 235, 237, 202, 203pt, 200, 240, 198, 14pt, 17pt, 18pt, 19pt, 191, 193pt, 188, 187pt, 186, 184, 183pt, 185pt, 177, 178pt, 215, 176pt, 174pt, 173, 216pt, 182pt, 180pt.	38.0400	217 pt	0.5570	38.5970
19		Versava	5pt, 6, 7, 10, 9pt, 11, 13, 14, 15, 16pt, 2, Gavthan, 109pt, 105pt, 106, 107, 108, 103, 102, 101pt, 91, 88, 89, 90, 87pt, 85pt, 86, 80pt, 78, 79, 77, 69, 68, 67, 66, 65, 72pt, 70, 71, 58, 62, 63, 64, 61, 57, 59, 60, 56pt, 52pt, 53pt, 54pt, 34pt, 21pt, 36pt, 35pt, 42pt, 27pt, 28, 29, 30.	58.6500	3pt, 34pt, 31, 32pt, 33pt.	102.0840	160.7340
20		Chene	Whole Area.	185.3700	101pt, 9pt,	13.9150	199.2850
21		Owala	Khadi part, 296, 286, 287, 288, 291pt, 285pt, 274pt,	92.6500	120/11, 273/3, 273/5,	415.1470	507.7970

Sl. No.	Taluka	Name of Villages	Eco-sensitive Zone				Total (Ha.)
			Private Land Survey No.	Private Land (Ha.)	Forest land Survey no.	Forest Area (Ha.)	
			273pt, 275pt, 276pt, 268pt, 269pt, 271, 272pt, 250pt, 245pt, 244, 243pt, 241pt, 240, 238, 239, 162pt, 161pt, 124pt, 121pt, Lake, 251pt, 249pt, 247pt, 237pt. 119, 120/1-10, 122pt, 117pt, 118pt, 106pt, 115pt, 113pt, 124pt.			291, 297	
22		Vadavali	19pt.	1.9100			1.9100
23		Borivade	1/2, 1/1pt, 2/6, 2/5, 2/4, 2/3, 2/2, 2/1, 3pt, 4/2, 4/1, 4/3, 6/3pt, 5/2, 6/1, 6/2, 8/5pt, 8/4, 8/1pt, 74pt., 75pt., 78pt, 91/3, Gavthan, 91/1pt, 91/2pt, 92pt.	11.5900	83/1, 2, 4, 9, 10, 5/1, 84/1/1, 85/1/2, 86/1/2, 79, 80.	136.8300	148.4200
24		Kavesar	142, 143pt, 145pt, 154pt, 151pt, 147pt, 149, 150, 158pt, 159, 160, 161, 163pt, 162pt, 165pt, 166pt, 168pt, 170pt, 169pt, 196pt, 193pt, 185pt, 196, 197, 198, 141pt, 139pt, 146pt.	42.0000			42.0000
25		Kolshet	291pt, 100pt, 99pt, 114pt, 113pt, 112, 111pt, 110pt, 109/107, 108pt, 107, 106, 285pt.	10.8400			10.8400
26		Manpada	57/3, 57/1pt, 57/2, 59A/30/1pt, 59A/31pt, 59/32, 59/27, 58/1pt, 59B-pt, 59/1pt, 59/16pt, 59/18pt, 59/19pt, 59A/28pt, 59A/20, 59A/2, 59A/3, 59A/4, 59A/5, 59A/13, 59A/11pt, 70, 59A/10, 71, 59/C, 59A/6, 59A/7, 59A/8, 59A/9.	49.4054	59/1pt	68.1410	117.5464
27		Majiwada	380pt, 254pt, 260pt, 261pt, 269, 263pt, 264pt, 268pt.	66.8900	419pt	1.7200	68.6100
28		Pachpakhadi	432pt, 431pt, 430pt, 423pt, Dheari nursary area, 263pt, 264pt, 265pt, 266pt, 267pt, 520pt, 373pt, 371pt, 270pt, 287pt, 288pt, 286pt, 285pt, 289pt, 291pt, nala area-pt, 163pt, 160pt, 159, 158pt.	42.0000	519pt, 520pt	4.8350	46.8350
29		Yeur	Whole Area.	197.4530	42/1, 14, 20,	6.1690	203.6220
30	Vasai	Sasunavghar	312/A/1/(80), 312pt, 249pt, Gavthan, 38(81),	103.3200	312pt, 249	130.5810	233.9010

Sl. No.	Taluka	Name of Villages	Eco-sensitive Zone				Total (Ha.)
			Private Land Survey No.	Private Land (Ha.)	Forest land Survey no.	Forest Area (Ha.)	
			Gavthan, 232(79), 244(77), 245(73), 248(76), 362pt, 251, 328, 68, 13(66), 12(67), 14(64), 16(65), 15(63), 17(62), 18(61), 374(60), 19(59), 11(69), 355(77), 21(78), 22(79), 23(80), 28(82), 26(83), 27(84), 24(81), 28(85), 32 (86), 33(88), 34(87), 35(91), 36(90), 37(92), 38(96), 39(97), 71(154), 72(157), 74(156), 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 23, Karnala pada 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57.				
31		Mori	Whole Area.	164.5300			164.5300
32		Poman	220, 188, 187, 217, Pada, 216, 212, 214, 185, 219, 249, 184, 183, 221, 222, 186, 181, 182, 17, 175, 176, 174, 179, 223, 178, 177, 211, 169, 173, 172, 171, 247, 170, pada, 168, 167, 163, 164, 160, 161, 162, 166, 165.	79.1300			79.1300
33		Kaman	99, 149, 148, 147.	12.1400			12.1400
34		Shilottar	5, 4, 3, 1pt, 21pt, 6.	3.6300			3.6300
35	Borivali	Shimpoli	-		20	4.8460	4.8460
36		Borivali Tarf Malad			143, 146, 147	7.2490	7.2490
37		Kandivali			164A	0.7520	0.7520
38		Tulsi	Lake	120.0000			120.0000
39		Nagle	7, 72pt, 6, 65pt, 92pt, 5, 4pt, 16pt, 15pt, 14pt, 21pt, 20pt, 70, 69, 22, 11, 67, 24pt, 10pt, 25pt, 29pt, 66, 30pt, 32pt, 33pt, 35pt, 34pt, 59pt, 37pt, 38pt, 39pt.	39.3202	23	6.2625	45.5827
40		Paspoli	22pt, 23pt.	18.7100			18.7100
41		Kanjur		3.0000			3.0000

Sl. No.	Taluka	Name of Villages	Eco-sensitive Zone				Total (Ha.)
			Private Land Survey No.	Private Land (Ha.)	Forest land Survey no.	Forest Area (Ha.)	
	Total			4020.6603		1924.9685	5945.6288

N.B.: 1. The above survey numberwise list is as per available village maps and records of the office of the DCF, Thane.

Performa of Action Taken Report: - Eco-sensitive Zone Monitoring Committee.—

1. Number and date of meetings :
2. Minutes of the meetings: mention main noteworthy points. Attach Minutes of the meeting as separate Annexure.
3. Status of preparation of Zonal master Plan including Tourism master Plan :
4. Summary of cases dealt for rectification of error apparent on face of land record : Details may be attached as Annexure
5. Summary of cases scrutinised for activities covered under the Environment Impact Assessment Notification, 2006: Details may be attached as separate Annexure.
6. Summary of cases scrutinised for activities not covered under the Environment Impact Assessment Notification, 2006: Details may be attached as separate Annexure.
7. Summary of complaints lodged under Section 19 of the Environment (Protection) Act, 1986 :
8. Any other matter of importance:

[F. No. 25/47/2014-ESZ-RE]

Dr. T. CHANDINI, Scientist 'G'



उप वनसंरक्षक, ठाणे वन विभाग
यांचे कार्यालय

मॅरेथॉन सर्कल, लाल बहादूर शास्त्री मार्ग, नौपाडा, ठाणे
(पश्चिम) - 400602



OFFICE OF THE
DEPUTY CONSERVATOR OF
FORESTS
THANE FOREST DIVISION

Marathon Circle, LBS Marg, Naupada, Thane (West) -
400602

☎ ०२२-२५४२१३७३, Email : dcfthane@gmail.com, dycfthane@mahaforest.gov.in

पत्र

विषय : संजय गांधी राष्ट्रीय उद्यान इको सेन्सीटीव्ह झोन
सनियंत्रण समितीच्या बैठकीत घेण्यात आलेल्या
निर्णयाबाबत ...

जा.क्र. कक्ष-१/२०/जमीन/ ७०३५ /२०१८-१९
ठाणे - ४००६०२ दिनांक : १९ मार्च, २०१९

✓ प्रति,

मेसर्स अपूर्वा नटवर पारिख अँड कं. प्रा.लि.,
९६, चेंबूर-मानखुर्द लिंक रोड,
मुंबई - ४०० ०४३.

- संदर्भ : १) पर्यावरण, वन आणि जलवायु परिवर्तन मंत्रालयाकडील अधिसूचना क्र.
का.आ.३६४५(अ), दिनांक ०५.१२.२०१६.
२) आपलेकडील दिनांक २३.०८.२०१८ रोजीचा प्रस्ताव.
३) संजय गांधी राष्ट्रीय उद्यान इको सेन्सीटीव्ह झोन सनियंत्रण समितीची दिनांक
०८.०३.२०१९ रोजीची बैठक.

आपलेकडील संदर्भ क्र. ०२ अन्वये आपणाद्वारे मौजे मुलूंड, ता.कुर्ला येथील सर्वे क्र.
२४८/२, न.भू.क्र.२९/६ क्षेत्र २४८६.६ चौ.मी. क्षेत्रात शाळेच्या इमारतीचे बांधकामासाठी संजय गांधी
राष्ट्रीय उद्यान इको सेन्सीटीव्ह झोन सनियंत्रण समितीची परवानगी मिळणेकरीता प्रस्ताव सादर
करण्यात आला आहे.

सदर प्रस्तावाबाबत इमारत प्रस्ताव विभाग, बृहन्मुंबई महानगरपालिका व वन्यजीव विभाग
यांचेकडील अभिप्राय प्राप्त झाले आहेत. त्याअनुषंगाने प्रस्तावावर मा. अतिरिक्त महानगरपालिका
आयुक्त (पश्चिम उपनगरे), बृहन्मुंबई महानगरपालिका यांच्या अध्यक्षतेखालील संजय गांधी राष्ट्रीय
उद्यान इको सेन्सीटीव्ह झोन सनियंत्रण समितीच्या दिनांक ०८.०३.२०१९ रोजीच्या बैठकीमध्ये
सविस्तर चर्चा झाली आहे.

प्रस्तुतचा प्रस्ताव दिनांक ०५.१२.२०१६ रोजीच्या अधिसूचनेतील परिच्छेद क्र. ४ मधील
प्रपत्रातील Regulated Activities या श्रेणीमधील उपक्रम आहे. तसेच सदर प्रस्तावांतर्गत शाळेच्या
इमारतीचे बांधकाम असल्याने सदर कामास परवानगी देता येईल, असे उपस्थित सदस्यांचे एकमत
झाले असून त्याआधारे मौजे मुलूंड, ता.कुर्ला येथील सर्वे क्र. २४८/२, न.भू.क्र.२९/६ क्षेत्र २४८६.६
चौ.मी. क्षेत्रात शाळेच्या इमारतीचे बांधकामासाठी खालील अटींवर सनियंत्रण समितीची परवानगी
देण्यात येत आहे.

१. सदरची परवानगी मौजे मुलूंड, ता.कुर्ला येथील सर्वे क्र. २४८/२, न.भू.क्र.२९/६ क्षेत्र २४८६.६ चौ.मी. क्षेत्रात शाळेच्या इमारतीचे बांधकामासाठीच राहिल.
२. शासन धोरणानुसार संजय गांधी राष्ट्रीय उद्यानाच्या संरक्षण व संवर्धनासाठी निधी म्हणून पर्यावरण संवेदनशील क्षेत्रातील प्रकल्प किंमतीच्या ०२ टक्के रक्कम जेव्हा मागणी करण्यात येईल तेव्हा संजय गांधी राष्ट्रीय उद्यान/ सक्षम प्राधिकरणाकडे जमा करण्यास तयार असल्याचे हमीपत्र सादर करण्यात यावे.
३. आवश्यकतेनुसार वने तसेच पर्यावरण विषयक प्रचलित कायदे/अधिनियमांतर्गत इतर संबंधीत नियामक विभाग/प्राधिकरणाची परवानगी प्राप्त करून घेणे आवश्यक राहिल.
४. प्रस्तावांतर्गत दुरुस्तीच्या कामांकरीता वृक्षतोड करण्यात येणार नाही.
५. प्रकल्पाच्या कामांमुळे वन (संवर्धन) अधिनियम, १९८० तसेच वन्यजीव (संरक्षण) अधिनियम, १९७२ चा भंग होणार नाही याची सर्वतोपरी दक्षता घेण्यात यावी.



सदस्य सचिव,
संजय गांधी राष्ट्रीय उद्यान इको सेन्सीटीव्ह झोन सनियंत्रण
समिती
तथा
उप वनसंरक्षक
ठाणे वन विभाग, ठाणे

- प्रतिलिपी : अतिरिक्त महानगरपालिका आयुक्त (पश्चिम उपनगरे), बृहन्मुंबई महानगरपालिका, छत्रपती शिवाजी टर्मिनस समोर, मुंबई - ४००००१ यांच्याकडे माहितीस्तव सादर.
- प्रतिलिपी : महानगरपालिका उप आयुक्त (परि-७), बृहन्मुंबई महानगरपालिका, तिसरा मजला, आर/दक्षिण विभाग कार्यालय इमारत, महात्मा गांधी क्रॉस रोड नं. २, स.व.प. जलतरण तलावाच्या बाजूला, कांदिवली (पश्चिम), मुंबई - ४०००६७ यांच्याकडे माहितीसाठी सस्नेह अग्रेषित.

OFFICE OF THE
DEPUTY CONSERVATOR OF
FORESTS
THANE FOREST DIVISION
Marathon Circle, LBS Marg, Naupada, Thane (West) -
400 602.

**Sub. : Regarding decision taken at the meeting of
Sanjay Gandhi National Park Eco-Sensitive Zone
Monitoring Committee.**

Outward No. : Desk-1/20/land/7035/2018-19
Thane - 400 602 Dated 19.03.2019

To,

**M/s. Apurva Natvar Parikh & Co. Pvt. Ltd.
96, Chembur - Mankhurd Link Road,
Mumbai - 400 043.**

- Ref. : 1] Notification No. 3645(E) dated 05.12.2016 issued by Ministry of
Environment, Forest and Climate Change.
2] Your proposal dated 23.08.2018.
3] Meeting of Sanjay Gandhi National Park Eco-Sensitive Zone
Monitoring Committee held on 08.03.2019.**

You have presented proposal to Sanjay Gandhi National Park Eco-Sensitive Zone Monitoring Committee for approval of construction of School Building on the land bearing Survey No. 248/2 CTS No. 29/6 Area 2486.6 square meter.

Regarding the said Proposal, we have received Opinion from Building Proposal Department, MCGM and Wild Life Department. In the meeting of Monitoring Committee of Sanjay Gandhi National Park, Eco-Sensitive Zone, Monitoring Committee held on 08.03.2019, chaired by Additional Municipal Commissioner (Western Suburbs) MCGM, detailed discussions were held regarding your proposal.

Contd...2.

Your proposal is covered by Serial No. 4 (Regulated Activities) under the aforesaid Notification dated 05.12.2016. The members of the Monitoring Committee present unanimously felt that the permission can be given since the proposal relates to the construction of School building and hence the permission is given by the Monitoring Committee for construction of the School building on Survey No. 248/2, CTS No. 29/6 Area 2486.6 sq. mtrs. subject to the following terms and conditions :-

- 1] The aforesaid permission is granted only for the construction of School building situated at Village Mulund, Taluka Kurla, on Survey No. 248/2 CTS No. 29/6 Area 2486.6 sq. mtr.
- 2] As per the Policy of Government of Maharashtra, Undertaking shall be given to deposit 2% of the Project Cost for an area of the project falling within Eco-Sensitive Zone as the "Conservation and Protection Fund" for Sanjay Gandhi National Park as and when demanded by Sanjay Gandhi National Park Eco-Sensitive Zone Monitoring Committee / Competent Authority.
- 3] Permissions, if necessary, as per requirements shall be obtained as per the acts/ rules and regulations of the Forest, Environment Department and other departments / authorities.
- 4] No tree felling in respect of proposal for repairs under the project.
- 5] The care should be taken that provisions of the Forest Conservation Act, 1980 and Wildlife Protection Act, 1972 are not breached / violated due to construction of the project.

Member Secretary
**Sanjay Gandhi National Park, Eco-Sensitive
Zone, Monitoring Committee**
&
**Deputy Conservator of Forest
Thane Forest Division.**

c.c. : Additional Municipal Commissioner (Western Suburbs)
MCGM, Opp. CST,
Mumbai - 400 001. - **For information**

c.c. : MCGM, Deputy Commissioner (Circle-7)
R. South Ward, 3rd Floor, M.G. Cross Road No.2,
Near Swimming Pool, Kandivali West,
Mumbai - 400 067 - **For information**



महाराष्ट्र शासन

शालेय शिक्षण व क्रीडा विभाग,

मंत्रालय (विस्तार), दालन क्र.४४७,

मादाम कामा रोड, हुतात्मा राजगुरु चौक, मुंबई-३२.

ANNEXURE-R-5

दूरध्वनी क्र:-

Email ID:- sm2.sesd-mh@gov.in

क्रमांक:-एसएफएस-१०२१/प्र.क्र.४८९/एसएम-२

दिनांक:- २९ फेब्रुवारी, २०२४

मान्यता पत्र

प्रति,

अध्यक्ष / सचिव,

टी. बी. देसाई फॅमिली पब्लिक चॅरीटेबल ट्रस्ट,

चेंबुर, मुंबई.

विषय- महाराष्ट्र स्वयं अर्थसहाय्यित शाळा (स्थापना व विनियमन) अधिनियम, २०१२ अंतर्गत स्वयं अर्थसहाय्यित तत्त्वावर नवीन शाळा सुरु करण्यासाठी किंवा विद्यमान शाळांचा दर्जावाढ करण्यासाठी मान्यता पत्र...

टी. बी. देसाई फॅमिली पब्लिक चॅरीटेबल ट्रस्ट, चेंबुर, मुंबई संचलित दि ग्रीन एकरस् अॅकॅडमी, सीटीएस नं. २९/६, मुलूंड पश्चिम, ता. कुर्ला, जि. मुंबई उपनगर.

संदर्भ- इरादा पत्र क्रमांक एसएफएस-१०२१/प्र.क्र.४८९/एसएम-२, दि. २४.०८.२०२१.

महाराष्ट्र स्वयं अर्थसहाय्यित शाळा (स्थापना व विनियमन) अधिनियम, २०१२ अंतर्गत टी. बी. देसाई फॅमिली पब्लिक चॅरीटेबल ट्रस्ट, चेंबुर, मुंबई या संस्थेने शैक्षणिक वर्ष २०२१-२२ पासून दि ग्रीन एकरस् अॅकॅडमी, सीटीएस नं. २९/६, मुलूंड पश्चिम, ता. कुर्ला, जि. मुंबई उपनगर (प्राथमिक ते उच्च माध्यमिक, इ. १ ली ते इ.१२ वी, इंग्रजी माध्यम, सर्व शाखा, आय.सी.एस.ई.) ही स्वयंअर्थसहाय्यित तत्त्वावर नवीन शाळा सुरु करण्याकरिता अर्ज सादर केला होता.

२. आपल्या अर्जाच्या संदर्भात, महाराष्ट्र स्वयं अर्थसहाय्यित शाळा (स्थापना व विनियमन) अधिनियम, २०१२ आणि महाराष्ट्र स्वयं अर्थसहाय्यित शाळा (स्थापना व विनियमन) नियम, २०२० अंतर्गत शैक्षणिक वर्ष २०२१-२२ पासून टी. बी. देसाई फॅमिली पब्लिक चॅरीटेबल ट्रस्ट, चेंबुर, मुंबई संचलित दि ग्रीन एकरस् अॅकॅडमी, सीटीएस नं. २९/६, मुलूंड पश्चिम, ता. कुर्ला, जि. मुंबई उपनगर (प्राथमिक ते उच्च माध्यमिक, इ. १ ली ते इ.१२ वी, इंग्रजी माध्यम, सर्व शाखा, आय.सी.एस.ई.) स्वयंअर्थसहाय्यित तत्त्वावर शाळेचे बांधकाम सुरु करण्याकरिता, अटी व शर्तीसह इरादा पत्र दिले होते. आता शैक्षणिक वर्ष २०२४-२५ पासून सदर नवीन शाळा सुरु करण्याची मान्यता, पुढील अटी व शर्तीस अधीन राहून देण्यात येत आहे:-

३. अटी व शर्ती :-

- १) प्रस्तावित शाळा, बालकांचा मोफत व सक्तीच्या शिक्षणाचा हक्क अधिनियम, २००९ आणि महाराष्ट्र बालकांचा मोफत व सक्तीच्या शिक्षणाचा हक्क नियम, २०११ यांद्वारे निर्धारित केलेल्या सर्व मानकांची, अटींची व शर्तींची आणि या अधिनियमान्वये शासनाने दिलेल्या निदेशांची किंवा शासनाने, वेळोवेळी निर्दिष्ट केलेल्या मानकांची किंवा प्रमाणकांची किंवा अटींची आणि शर्तींची पूर्तता करील.
- २) नोंदणीकृत संस्थेने किंवा न्यासाने किंवा कंपनीने, महाराष्ट्र स्वयं अर्थसहाय्यित शाळा (स्थापना व विनियमन) अधिनियम, २०१२ याद्वारे निर्धारित केलेल्या सर्व मानकांचे, अटीचे व शर्तीचे आणि या

- अधिनियमान्वये शासनाने दिलेल्या निदेशांचे किंवा शासनाने, वेळोवेळी निर्दिष्ट केलेल्या मानकांचे किंवा अटींचे आणि शर्तीचे पालन करणे आवश्यक आहे.
- ३) सी.बी.एस.ई. किंवा सी.आय.एस.सी.ई. किंवा सी.ए.आय.ई. किंवा आय.बी. इत्यादी मंडळाच्या संलग्नतेसाठी इच्छुक शाळा व्यवस्थापनांनी, शासनाने वेळोवेळी दिलेल्या निदेशांनुसार, शासनाकडून ना-हरकत प्रमाणपत्र घेणे अनिवार्य आहे.
 - ४) शाळा व्यवस्थापन, शासनाने मंजूर केलेल्या शैक्षणिक वर्षाची सुरुवात करण्यापूर्वी संबंधित जिल्ह्याच्या शिक्षण अधिकाऱ्यास कळवील.
 - ५) या अधिनियमाच्या तरतुदींअन्वये नवीन शाळेची स्थापना करण्यासाठी किंवा शाळेचा दर्जावाढ करण्यासाठी दिलेली परवानगी, ती ज्या शैक्षणिक वर्षासाठी मंजूर केली आहे, त्याच वर्षासाठी असेल.
 - ६) जर शाळा व्यवस्थापन, १८ महिन्यांच्या आत, शाळा सुरु करण्यास अपयशी ठरल्यास, दिलेले मान्यता पत्र रद्द होईल.
 - ७) शाळा व्यवस्थापनास, मंजूर केलेले शिक्षणाचे माध्यम, शाळेचे ठिकाण, भविष्यात, शासनाच्या परवानगीशिवाय बदलता येणार नाही.
 - ८) जर शाळा व्यवस्थापनाने, शासनाने मंजुरी दिलेल्या ठिकाणाव्यतिरिक्त अन्य ठिकाणी शाळा स्थापन केली असेल तर, त्या शाळेची परवानगी रद्द होईल.
 - ९) अशी तरतूद करण्यात आली आहे की, स्वयं अर्थसहाय्यित शाळेतील शिक्षक व शिक्षकेतर कर्मचाऱ्यांची भरती शासनाच्या प्रचलित नियमांनुसार व विनियमांनुसार करण्यात यावी.
 - १०) जिल्हानिहाय माहिती भरतेवेळी, ज्या शाळेस परवानगी देण्यात आली आहे, ती शाळा, स्वतंत्र प्रवर्ग म्हणून "स्वयंअर्थसहाय्यित शाळा" अशी माहिती भरतील व यु.डी.आय.एस.इ. क्रमांक मिळवितील. यासंबंधात, राज्य प्रकल्प संचालक, महाराष्ट्र प्राथमिक शिक्षण परिषद, मुंबई यांस, नोडल अधिकारी म्हणून घोषित करण्यात आले आहे.
 - ११) शाळा व्यवस्थापन, शाळा परिसराच्या प्रवेशद्वारावर "स्वयंअर्थसहाय्यित परवानगीप्राप्त शाळा" असा फलक लावतील.
 - १२) या अधिनियमाच्या कोणत्याही किंवा त्याखाली केलेल्या नियमांच्या तरतुदींचा भंग केल्याच्या किंवा अधिनियमान्वये दिलेल्या कोणत्याही निदेशांचे किंवा शासनाने वेळोवेळी निर्दिष्ट केलेल्या मानकांचे किंवा प्रमाणकांचे अथवा अटी व शर्तीचे अनुपालन करण्यात कसूर केल्याच्या कारणावरून, कोणत्याही वेळी, राज्य शासन, दिलेले मान्यता पत्र रद्द करू शकेल.



(विवेक सपकाळ)

कार्यासन अधिकारी, महाराष्ट्र शासन.

प्रत माहितीसाठी -

१. आयुक्त, शिक्षण, महाराष्ट्र राज्य, पुणे.
२. राज्य प्रकल्प संचालक, महाराष्ट्र प्राथमिक शिक्षण परिषद, मुंबई.
३. संचालक, (माध्यमिक व उच्च माध्यमिक), महाराष्ट्र राज्य, पुणे.
४. संचालक, (प्राथमिक), महाराष्ट्र राज्य, पुणे.
५. विभागीय शिक्षण उपसंचालक, मुंबई विभाग, मुंबई.
६. शिक्षण निरीक्षक (उत्तर विभाग), चेंबुर, मुंबई.
७. निवड नस्ती एसएम-२ (४८९/२९).

Translation of the Document in English

Government of Maharashtra
Department of School Education and Sports,
Mantralaya (Extension), Hall No. 447,
Madam Cama Road, Hutatma Rajguru Chowk, Mumbai-32.

Phone No.:_

Email ID: sm2.sesd-mh@gov.in

Reference No.: SFS-1021/Pr. No. 489/SM-2

Date: 29,February, 2024

Letter of Recognition

To,
The Chairman/Secretary,
T.B. Desai Family Public Charitable Trust,
Chembur, Mumbai.

Subject: Recognition letter under the Maharashtra Self-Financed Schools (Establishment and Regulation) Act, 2012, for establishing a new self-financed school or upgrading an existing school.

The T.B. Desai Family Public Charitable Trust, Chembur, Mumbai, operates The Green Acres Academy at CTS No. 29/6, Mulund West, Tal. Kurla, Dist. Mumbai Suburban.

Reference: Letter of Intent No. SFS-1021/Pr. No. 489/SM-2, dated August 24, 2021.

Under the Maharashtra Self-Financed Schools (Establishment and Regulation) Act, 2012, the T.B. Desai Family Public Charitable Trust, Chembur, Mumbai, had submitted an application to establish The Green Acres Academy at CTS No. 29/6, Mulund West, Tal. Kurla, Dist. Mumbai Suburban (Primary to Higher Secondary, Grades 1 to 12, English medium, all streams, ICSE) on a self-financed basis starting from the academic year 2021-22.

2.Regarding your application, under the Maharashtra Self-Financed Schools (Establishment and Regulation) Act, 2012, and Maharashtra Self-Financed Schools (Establishment and Regulation) Rules, 2020, permission was granted with conditions to start construction of The Green Acres Academy from the academic year 2021-22.

Now, from the academic year 2024-25, recognition is granted to start this new school, subject to the following terms and conditions:

3.Terms and Conditions:

1. The proposed school shall comply with all standards, conditions, and guidelines prescribed under the Right of Children to Free and Compulsory Education Act, 2009, and Maharashtra Rules, 2011, as well as any guidelines issued by the Government from time to time.

2. The registered organization, trust, or company must comply with all standards, conditions, and guidelines prescribed under the Maharashtra Self-Financed Schools (Establishment and Regulation) Act, 2012.
3. Schools intending to affiliate with CBSE, ICSE, CAIE, IB, etc., must obtain a No Objection Certificate (NOC) from the government as per the guidelines issued from time to time.
4. The school management must inform the concerned District Education Officer prior to starting operations for the approved academic year.
5. Permission granted for the establishment or upgrade of the school is valid only for the academic year for which it is approved.
6. If the school fails to commence operations within 18 months, the recognition letter will be canceled.
7. The approved medium of instruction, location, or other key details of the school cannot be changed without prior government approval.
8. If the school is established at any location other than the one approved, the recognition will be canceled.
9. Recruitment of teaching and non-teaching staff for the self-financed school must be conducted as per the prevailing rules and regulations.
10. During district-level data submissions, the approved school must be categorized as a "self-financed school" and must obtain a UDISE code. For this purpose, the State Project Director, Maharashtra Primary Education Council, Mumbai, is appointed as the nodal officer.
11. The school management shall display a board at the school entrance stating, "Self-Financed Recognized School."
12. The state government reserves the right to cancel the recognition at any time if any provisions of the Act, rules, or conditions are violated, or if there is a failure to comply with any standards or guidelines issued by the government from time to time.

(Vivek Sapkal)

Administrative Officer,
Government of Maharashtra.

For Information:

1. Commissioner of Education, Maharashtra State, Pune.
2. State Project Director, Maharashtra Primary Education Council, Mumbai.
3. Director (Secondary and Higher Secondary), Maharashtra State, Pune.
4. Director (Primary), Maharashtra State, Pune.
5. Deputy Director of Education, Mumbai Division, Mumbai.
6. Education Inspector (Northern Division), Chembur, Mumbai.
7. File SM-2 (489/21).

