

**BEFORE THE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE, PUNE**

ORIGINAL APPLICATION NO. 117 OF 2024 (WZ)

Tulshidas Sridhar Naik & Ors.

...Applicants

Versus

State of Goa & Ors.

...Respondents

VAKALATNAMA

The answering Respondent No. 4 abovenamed, do hereby appoint M.V.Kini Law Firm, Mumbai, to act, appear and plead on its behalf in the abovementioned proceedings.

IN WITNESS WHEREOF, we have unto set and subscribe our hands to this writing.

Dated this 22 November, 2024

For Respondent No. 4

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7027

Accepted:

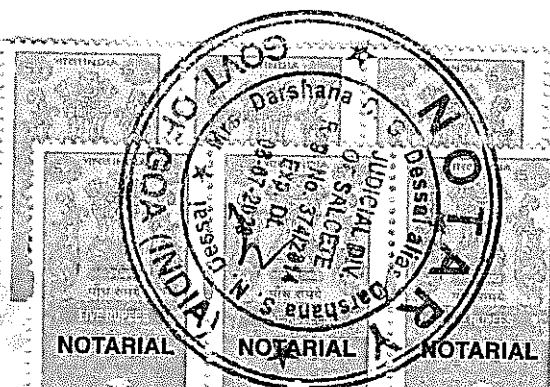


M.V.Kini Law Firm
Advocates for the Respondent,
Kini House,
D.N.Road, Fort, Mumbai - 400001
Email: abhay@mvkini.com
Ph: +91 9819039009

The above signature of Shri/Smt. *Allan J. Pereira* here by attester the Notarial Office at *Vasco da Gama* Goa

Handwritten signature of Notary
D. S. Desai
D. S. Desai
NOTARY
VASCODA GAO

Handwritten: Reg no 5855/20
Dow 22/11/2024
Place *maugu*



No. NH-12014/-06/2021-22-Goa(Z-4)/385
Office of the Project Director
Government of India, Ministry of Road Transport & Highways
(Project Monitoring Unit, Goa)
Near Govt. Polytechnic, Altinho Panaji, Goa 403001, Email: pmumorthgoa@gmail.com

Dated: 10th September, 2024

To,
The Chief Engineer (NH),
State PWD, Goa,
Altinho Panaji - 403001.

Subject: Land Acquisition for construction of high level new Borim bridge along with approaches across river Zuari along with bypass to borim bridge between km. 4/00 to Km.12/00 (Proposed length = 5.73Km on NH-566 in the state of Goa [Job No. NH-566-GOA-2022-23-02] - NGT Notice - Reg.

Sir,

Please find enclosed herewith a copy of the Notice received from the National Green Tribunal, Western Zone in O.A No. 117/2024 WZ pertaining to the case of Tulshidas Sridhar Naik & others vs State of Goa & others.


3. In this regard, it is requested to take note of Ministry's Circular No. NH-11011/19/2020-P&M/LA dated 16.03.2020 (copy enclosed) and defend the case on behalf of the Union of India. It may be ensured that the interests of Union of India are protected. The Ministry may be apprised of the action taken in the matter from time to time.

Encl: As above.

Yours Sincerely,


(Vishal Pandey)
Project Director, PMU Goa

Copy to: The EE, Works Division XV, NH, PWD Goa.


Chief Engineer
(NH). Roads & Bridges
Public Works Department
Altinho, Panaji, Goa

**BEFORE THE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE, PUNE**

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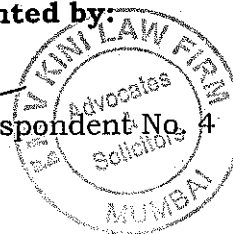
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Place: Mumbai

Date: 22.11.2024

Presented by:

Advocates for Respondent No. 4



**BEFORE THE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE, PUNE**

ORIGINAL APPLICATION NO. 117 OF 2024 (WZ)

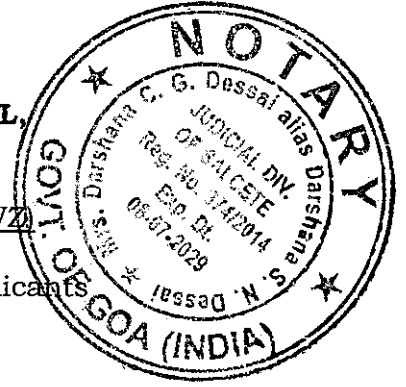
Tulshidas Sridhar Naik & Ors.

...Applicants

Versus

State of Goa & Ors.

...Respondents



REPLY ON BEHALF OF RESPONDENT NO. 4

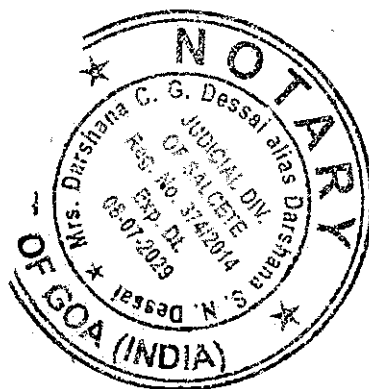
The Respondent No. 4 most humbly submits as under:

1. The Respondent No. 3 i.e., the Executive Engineer Works Division XV (NH) of PWD and reports to the Respondent No. 4. Further, the Respondent No. 5 is MoRTH, Government of India has authorized the Respondent No. 4 to defend on its behalf as well. Therefore, this Reply may be treated as Reply on behalf of Respondent Nos. 3 to 5. Accordingly, the answering Respondent i.e., Respondent No. 4 most humbly submits as under:

2. The Applicants have filed the subject original application seeking inter alia reconsideration and/or redesign and selection of alternative for "Proposed Construction of High Level New Borim Bridge on NH-17B (NH-566) in the State of Goa" (hereinafter referred to as "Project") among other reliefs. It is imperative to submit that the Applicants have specifically sought direction against the answering Respondent to not proceed with the Project in its current design/alignment without prior Environmental Clearance under the EIA Notification of 2006.

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3. The answering Respondent submits that this Hon'ble Tribunal vide order dated 31.05.2024 was pleased to record that the Project bridge forms part of National Highway (NH) 566, which was earlier named NH 17B, notified under Notification dated 09.02.1998 issued by the Ministry of Surface Transport (Roads Wing). Further, this Hon'ble Tribunal vide the said order dated 31.05.2024, also was pleased to record the submissions of the Applicants that the area of the Project exceeds 1,50,000 mtrs. and as such would require prior Environmental Clearance as per Item 8(b) of the Schedule to the EIA Notification, 2006. Furthermore, this Hon'ble Tribunal vide the said order dated 31.05.2024 directed the Applicants to show evidence/proof and produce documentary evidence as to how it is being stated that the area of the Project would exceed 1,50,000 mtrs. Accordingly, this Hon'ble Tribunal adjourned the matter for admission to 24.07.2024. A copy of the order passed by this Hon'ble Tribunal dated 31.05.2024 is annexed herewith and marked as **Annexure R-1**.



4. The answering Respondent submits that the Applicants in compliance with the order of this Hon'ble Tribunal dated 31.05.2024, have filed an Affidavit dated 12.07.2024. The answering Respondent submit that this Hon'ble Tribunal vide order dated 09.08.2024 was pleased to record that the total area for the Project as per the said Affidavit of the Applicants, particularly Para 7 thereof, was more than 1,50,000 mtrs. which was necessary as per Schedule I off EIA Notification, 2006 to cover it in category 8 'B', which provides for Townships and Area Development projects, exceeding built up area more than 1,50,000 sq. mtrs., would require prior EC. Accordingly, this Hon'ble Tribunal was pleased to prima facie find that the

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Applicants had made out a case and accordingly admit the original application with the directions to the Respondents to file their replies. A copy of the order passed by the Hon'ble Tribunal dated 09.08.2024 is annexed herewith and marked as **Annexure R-2**.

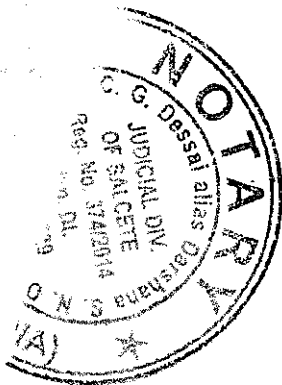
5. Hence, this reply.
6. The answering Respondent submits that the Subject Original Application is misconceived on incorrect reading of EIA Notification, 2006 and as such deserves to be rejected on this count alone. It is most humbly submitted that as per Schedule of EIA Notification, 2006, the Project falls squarely under 7(f) thereof which is applicable for Highways. Admittedly, the Project is going to be on the Highway and as such will be part of the Highway. As per entry 7(f), the threshold was described as:

"Expansion of National High ways greater than 30 KM, involving additional right of way greater than 20m involving land acquisition and passing through more than one State".

7. Further, the said threshold of the Highway has been amended by the Ministry of Environment and Forests, Government of India vide notification dated 22.08.2013, and as per the amendment:

"(b) in the Schedule against sub-item (f) of the item 7, in column (3), for the entry (ii), the following entry shall be substituted namely: -

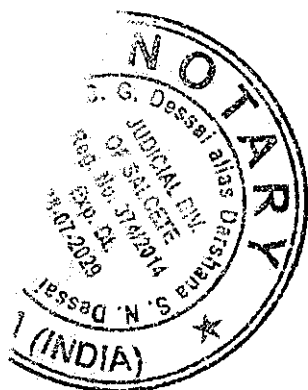
(ii) Expansion of National Highways greater than 100km involving additional right of way or land acquisition greater than 40m on existing alignments and 60m on re-alignments or by-passes."



[Handwritten Signature]

A copy of the notification dated 22.08.2013 is annexed herewith and marked as **Annexure R-3**.

8. It is submitted that admittedly, the Project constitutes a length of 5.277 kms, which is obviously less than 100 kms and the alignment does not exceed the permissible limit. Therefore, it is submitted that the Project does not require prior Environmental Clearance.
9. Notwithstanding the aforesaid, it is the specific case of the Applicants that the Project is covered by entry 8(b) of Schedule of EIA Notification, 2006, which is incorrect. The entry 8(b) of the said Schedule expressly pertains to 'Townships and Area Development Projects', which is inapplicable to the subject Project, particularly in the light of entry 7(f) of the said Schedule.
10. Moreover, the Applicants have failed to substantiate as to the reason for a Highway Project to be considered as Townships and Area Development Projects and on this count as well the Application deserves to be rejected.
11. The Applicants have wrongly relied on *Project Director, Project Implementation Unit vs. P.V. Krishnamoorthy & Ors., 2021, 3 SCC 572*, in which the Hon'ble Supreme Court had observed that "Applying the tenet underlying this notification, it is amply clear that before the process of acquisition of land is ripe for declaration under Section 3-D of the 1956 Act, it would be open to the executing agency (NHAI) to make an application to the competent authority for environment clearance. That process can be commenced parallelly or alongside the acquisition process

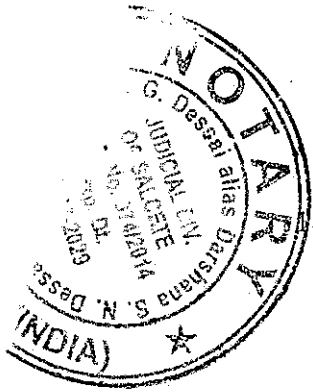


Signature

after a preliminary notification under Section 3-A of the 1956 Act, for acquisition is issued". The aforesaid finding was in the context of a Highway Project being covered by Notification dated 22.08.2013 and hence, not applicable in the instant case.

12. It is submitted that the answering Respondent has already applied for delineation and clearance for CRZ. It is also submitted that the Project does not involve any diversion of forest land, and felling of trees shall be carried out after obtaining requisite permission from the competent authority. The office of Goa Coastal and Environment Management Society, Goa (GC&MS), has granted delineation as sought for by the answering Respondent vide letter dated 20.05.2024, received by the answering Respondent on 08.08.2024.

13. Therefore, the answering Respondent submits that the Original Application as filed may kindly be rejected in the interest of justice.



Place: Goa

Date: 22.11.2024

A handwritten signature in black ink, appearing to be 'Raj'.

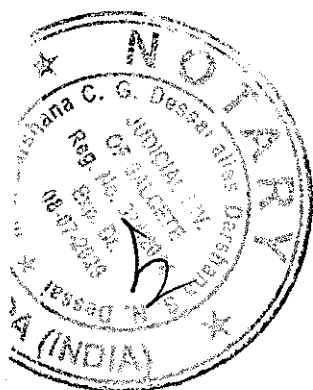
For Respondent No. 4

I, **Shri Allan J. G. Pereira**, working as **Chief Engineer, (NH,R & B)**, having my office at Public Works Department, Government of Goa, Altinho, Panaji, Goa- 403 001, state on solemn affirmation that the contents of this Reply are on the basis of personal knowledge and documents maintained at our office and the same are true and correct to the best of my knowledge and belief. In witness whereof, I have signed this day.

Place: *Goa*

Date: *22.11.2024*

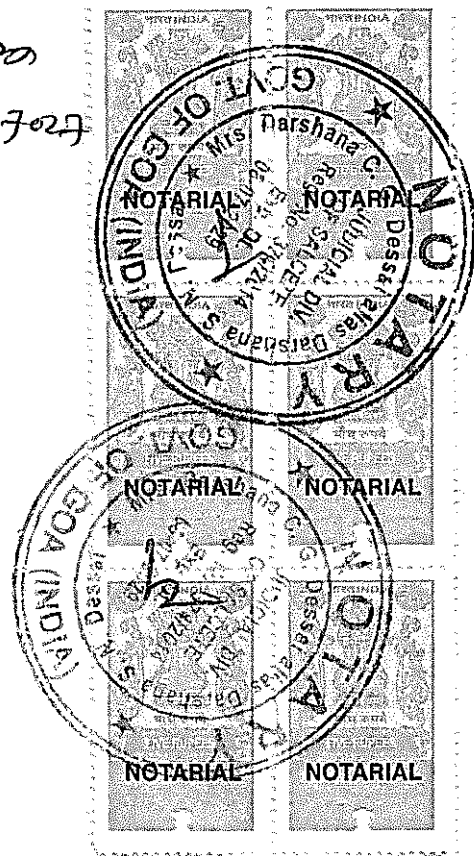
For Respondent No. 4



Statement affirmed before me by
Shri/Smt. *Allan J. G. Pereira*
who is identified to me by
Shri/Smt. *Aras 9084 7370707*
to whom I personally know on
his *22* day of *11* 2024

Reg. No. *5854/2024*

Mrs. Dorehana S. Mank Desai alias
Mrs. Dorehana S. Mank Desai
NOTARY
SALCETE-GOIA



Annexure R-1

Item No.4

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

[Through Physical Hearing (with Hybrid Option)]

ORIGINAL APPLICATION NO.117 OF 2024 (WZ)

Tulshidas Sridhar Naik & Ors.

Applicants

Versus

State of Goa & Ors.

Respondents

Date of hearing : 31.05.2024

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicants : Ms. Ronita Bhattacharya, Advocate

ORDER

1. This Original Application has been filed by 15 applicants, out of which applicant Nos.1 to 4 are claiming to be the residents of village Borim, Taluka Ponda, Goa whereas applicant Nos.5 to 15 are claiming to be the residents of Loutulim village, Salcete Taluka, though in paragraph No.5 of this application, there is an error by mentioning that applicant Nos.1 to 6 and 17 to 23 are residents of Borim village, Ponda Taluka, Goa. Learned counsel for the applicant states that she would move amendment application and get the said errors corrected.

2. It is stated in the application that Zuari river is stated to be the largest river in Goa, passing through Talukas of Tiswadi, Ponda, Mormugao, Salcete, Sanguem and Quepem, which is a tidal river affected by the tides of the Arabian Sea. Extensive areas of saline wetlands of river Zuari have been reclaimed about 4000 years ago by the indigenous communities of the villages. They have made bandhs of clay and other natural material, large expanses of fertile agricultural lands, an intricate systems of fish breeding water bodies and tidally operated sluice gates linking them to the river, which are collectively known as the Khazan

[NPJ]

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lands. These lands are protected under Clause 8(V)(3) of the CRZ Notification, 2011, which is an area requiring special consideration for CRZ of Goa. River Zuari forms the lifeline for agricultural activities for local farmers. The existing Borim Bridge is running over Zuari river and connects the village of Borim and other parts of Ponda taluka to Margao city and other parts of Salcete taluka and South Goa District. The Bridge forms part of the National Highway (NH) 566, which was earlier named NH 17B, notified under Notification dated 09.02.1998 by the Ministry of Surface Transport (Roads Wing). The existing Borim Bridge is two-lane bridge and spans around 431 mtr in length, which sufficiently caters to the volume of vehicles travelling from Borim and other parts of Ponda taluka to Margao city and other parts of Salcete taluka and South Goa district. The existing bridge has been recently approved to undergo repairs with the design life of another 20 years. Even then, the respondents are proceeding with the proposal to construct a new high level bridge, which would destroy huge areas of ecologically sensitive lands on the pretext that the existing Borim Bridge is beyond repairs. Respondent No.3 - the Executive Engineer, Works Division XV (NH), Public Works Department appointed a Consultant - M/s Technogem Consultants Pvt. Ltd on 25.10.2016 to prepare detailed project report for the new bridge, who has submitted Inception Report on 07.01.2017, which is annexed as Annexure-A2 colly at pages 98 onwards of the paper-book.

3. The learned counsel for the applicants has drawn our attention during argument to page No.101, which is a part of said Inception Report, wherein at Clause 3.4, under the head 'Alternative Alignment No.7' (said to have been approved by the Chief Engineer (NH, R&B), PW.D., Panaji vide letter dated 04.05.2017 addressed to the Chief Engineer(P-6), Government of India, Ministry of Road Transport and Highways, it contains following facts with respect to location:

[NPJ]

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"Alternative 7 alignment for the new Zuari Bridge is proposed at a distance of 1780 m at D/s side of the existing Zuari River Bridge. With this alternative, total length of the NH-17B between Dhavli junction and Loutulim and from existing Km.3/860 to Km.11/860 will be 5.75 Km against 8.00 Km. The proposed alignment will be directly joined to the proposed VUP of missing link project at Loutulim."

4. Further it is mentioned in this Alternative Alignment No.7 that the proposed Bridge location would be –

- 1780 m at U/s side of the existing Zuari River Bridge,
- Width of Zuari River at this location = 360 m,
- Width of mangroves along the banks of River Zuari = 30 m to 40 m.

5. Having drawn our attention to this, learned counsel for the applicants states that she has calculated the area of the project in question to be exceeding 1,50,000 mtrs as it would work out to be an area of 1,77,630 mtrs, which is stated in para 33 of the memo of application and it is urged by her that this project would require prior EC as per item 8(b) of the Schedule to the EIA Notification, 2006.

6. At this stage, we made a query from the learned counsel for the applicants as to how it is being presumed by the applicants that prior EC would not be obtained for this project before initiation of construction of the bridge, she has drawn our attention to Annexure-A24, which is a letter dated written by the Executive Engineer, PWD, Ponda-Goa addressed to the Special Land Acquisition Officer, Panaji (annexed at pages 476 to 478 of the paper-book), wherein it is recorded in para No.7 as under:

"Regarding Environment Clearance – No environment clearance is required since the project length is less than 100 km width of additional ROW is less than 60 m, please refer attached Ministry of Environment & Forest Notification S.O. 2559€ dated 22.08.2013.

[NPJ]

Page 3 of 5

Regarding Forest Clearance – Noted – No diversion of forest land is required. However, the permission for felling of trees will be obtained at the appropriate stage.

In para 8 of the said letter, it is recorded as under:

“The file for C.R.Z. clearance & delineation of C.R.Z. line is in process from the O/o Environment & Climate Change for obtaining CRZ clearance & delineation of CRZ line.”

7. Having cited above, it is argued by the learned counsel that there was one survey number admittedly falling under CRZ area where the project in question is going to be built. Hence, CRZ clearance would be sought as is clear by the above paragraphs.

8. We also tried to know from the learned counsel for the applicants as to which are the survey numbers which are being acquired/have been acquired for construction of the present project/bridge and whether details of the same have been given in the application, she states that she has not mentioned the same and has drawn our attention to Notification dated 19.10.2023, annexed at pages 115 to 130 of the paper-book and states that the survey numbers which form part of this Notification are in the process of being acquired. Some of those survey numbers belong to the applicants also, but their names and specific survey numbers have not been stated by the learned counsel and she assures that the same shall be made clear by way of amendment.

9. It is further mentioned in the application that in the Inception Report under Chapter-9, it is stated that the final EIA report should have been submitted before acquisition was commenced, but no EIA Studies have been carried out by the Consultant nor has EIA report been submitted. The Inception Report also states that the final detailed project report should have been submitted before the acquisition was commenced. However, no final detailed report has been prepared in the

[NPJ]



Page 4 of 5

case in hand. It is also submitted that no consideration of environmental impact has been made while selecting the alignment (Alternate Alignment No.7).

10. With the above argument, a prayer has been made by the applicants that respondent No.1-Chief Secretary, Government of Goa, respondent No.3-Executive Engineer, Works Division XV (NH), Public Works Department, respondent No.4 – Chief Engineer (NH, R&B), Public Works Department and respondent No.5 – Ministry of Road Transport & Highways be directed to reconsider or re-design and selection of the alternative for proposed construction of High Level New Borim Bridge on NH-17B (NH-566)in the State of Goa, because the present design/alignment of the project fails to identify and consider the presence of CRZ areas, forest areas and environmental preservation and the impact on these eco-sensitive areas and the people dependent on these areas and respondent Nos.3 and 4 be directed not to proceed with the project without first obtaining a prior Environment Clearance under the EIA Notification, 2006.

11. With respect to the prayers cited above, we direct the learned counsel for the applicants to show the evidence/proof as to how it is being stated that the area of the project would exceed 1,50,000 mtrs because we have not been provided any details thereof or any documentary evidence in that regard. Therefore, we direct her to produce on record sufficient evidence in this regard within a period of four weeks.

12. Put up this matter for admission on 24.07.2024.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

May 31, 2024
O.A. No.117/2024(WZ)
npj

[NPJ]

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Annexure R-2

Item No.3

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

**Original Application No.117/2024 (WZ)
I.A. No.238/2024(WZ)**

Tulshidas Sridhar Naik & Ors.

.....Applicants

Versus

State of Goa & Ors.

....Respondents

Date of hearing: 09.08.2024

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Ms. Ronita Bhattacharya, Advocate

ORDER

1. By our previous order dated 31.05.2024, we had directed the learned counsel for applicants to show the evidence/proof as to how the area of the project would exceed 1,50,000 mtrs., in this regard, an affidavit dated 12.07.2024 has been filed stating therein that the project, NH-566 is proposed along a completely new alignment from 4.320 kms. to 9.597 kms. of the NH-566, thereby constituting a length of 5.277 kms. In para no.7, the total areas have been calculated in tabular form, which come to 2,27,800 sq. mtrs., which are obviously more than 1,50,000 mtrs., which was necessary as per the Schedule- I of the EIA Notification 2006 to cover it in Category- 8 'B', which provides for Townships and Area Development projects, exceeding built up area $\geq 1,50,000$ sq. mtrs., would require prior EC. Therefore, in the case in hand, the Project Proponent ought to have obtained EC before acquisition of the land. For this, reliance is placed by the learned counsel for applicants upon the Judgment of Hon'ble Supreme Court in the matter of *Project Director, Project Implementation Unit vs. P.V. Krishnamoorthy & Ors.* [(2021) 3 SCC

572], in which our attention is drawn to para no.95, which is quoted herein below for the sake of convenience:-

“Applying the tenet underlying this notification, it is amply clear that before the process of acquisition of land is ripe for declaration under Section 3-D of the 1956 Act, it would be open to the executing agency (NHAI) to make an application to the competent authority for environmental clearance. That process can be commenced parallelly or alongside the acquisition process after a preliminary notification under Section 3-A of the 1956 Act, for acquisition is issued.”

2. In view of above, it is further submitted by the learned counsel for applicants that the Notification under Section 3(A) was issued in October 2023 and the proceeding up to the Notification of 3(C) has been completed and final Notification under Section 3(D) of the said Act is left to be done. Hence, in terms of the above-mentioned Judgment, a prior EC is required to be obtained by the Project Proponent.

3. During argument, the learned counsel for applicants has drawn our attention to the map of the project in question, which is annexed at page no.703 of the paper book and at page nos.704 to 715 of the paper book, Survey Numbers and areas, which are covered in the New Borim Bridge, are also given in tabular form, which are 240 in number and total areas of the project in question, which are found covered within CRZ, are found to be 1,62,118 sq. mtrs.

4. Thereafter, our attention is drawn by the learned counsel for applicants to the Minutes of the 401st Meeting of the GCZMA held on 28.05.2024, in which at case no.2.3, the project in question has been dealt with and at page no.27 of the said Minutes, it is recorded “The total estimated land required for the project is 40.3 ha. and most of the private land under acquisition is agricultural”.

5. It is further argued by the learned counsel for applicants that the main prayer with respect to change in alignment of the project in question has been prayed. The respondent Nos.3 & 4- PWD Department

had engaged a private agency, which had considered 7 alternative alignments, details of which are given in short in tabular form at page no.864 of the paper book. The learned counsel for applicants urges before us that though there is already a bridge, which is functional and there was no need to undertake the bridge to be started/constructed, in case the same was necessary to be built, the Alternative- 1 was comparatively better than the Alternative- 7, which has been finalized in the present case, as per the opinion of the Consultant, whose recommendations are annexed at page no.865 of the paper book along-with reasons.

6. The learned counsel for applicants also urges before us that if any information is sought to be obtained by this Tribunal, with respect to the fact whether this project would require EC or not, the same can be given by the MoEF&CC, rather than the NHAI.

7. We find *prima facie* case adversely impacting environment is made out, therefore, we deem it appropriate to admit this application and accordingly admit the same.

8. Registry is directed to issue Notice to the respondents, returnable within 04(four) weeks.

9. Applicants are directed to take necessary steps for service to the respondents by both ways (Dasti as well as by Registered Post) and also on available e-mail/WhatsApp and submit service affidavit within one week.

10. Applicants are also directed to supply copy of the application and relevant documents to the respondents within a week.

11. Respondents are directed to submit their reply affidavits within four weeks through e-filing portal of NGT and also circulate the same to the applicants as also other respondents by available e-mail.

12. Rejoinder, if any, is directed to be submitted within one week thereafter.

I.A. No.238/2024(WZ)

13. By our previous order dated 31.05.2024, we had noted the number of the applicants is wrong and the same needs to be corrected. For this, the learned counsel for applicants has filed I.A. No.238/2024(WZ), in which prayer is made for permission to be allowed to amend the present Original Application as per the Annexure A-1 annexed with the said I.A.

14. Since this Original Application is an admission stage and correction is being made in compliance with our previous order, we allow this I.A. and direct the applicants that amendments be incorporated at appropriate place within two days and thereafter, an amended memo of parties be also filed.

I.A. No.238/2024(WZ) stands disposed of accordingly.

15. Registry is directed to list this matter for further consideration on 22.10.2024

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

August 09, 2024
Original Application No.117/2024 (WZ)
P.Kr

Annexure R-3

रजिस्ट्री सं० डी० एल०-33004/99

REGD. NO. D. L.-33004/99



भारत का राजपत्र

The Gazette of India

EXTRAORDINARY
भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 1960]
No. 1960]

नई दिल्ली, बृहस्पतिवार, अगस्त 22, 2013/श्रावण 31, 1935
NEW DELHI, THURSDAY, AUGUST 22, 2013/SHRAVANA 31, 1935

पर्यावरण और वन मंत्रालय

अधिसूचना

नई दिल्ली, 22 अगस्त 2013

का.आ.2559(अ)-केन्द्रीय सरकार ने, भारत सरकार की पर्यावरण और वन मंत्रालय में पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उप-नियम (3) के खंड (घ) के साथ पठित पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा 3 की उपधारा (2) के खंड (5) और उप-धारा (1) के अधीन जारी अधिसूचना संख्या का.आ. 1533 (अ) तारीख 14 सितंबर, 2006 द्वारा निदेश दिया है कि इस अधिसूचना के प्रकाशन की तारीख से ही नई परियोजनाओं या उक्त अधिसूचना की अनुसूची में सूचीबद्ध विद्यमान परियोजनाओं या कार्यकलापों के विस्तार या आधुनिकीकरण के लिए अपरिहार्य क्षमतावर्धन के लिए प्रक्रिया या प्रौद्योगिकी में परिवर्तन और या उत्पाद मिश्रण, भारत के किसी भी भाग में यथास्थिति केन्द्रीय सरकार या उक्त अधिनियम की धारा 3 की उप-धारा (3) के अधीन केन्द्रीय सरकार द्वारा सम्यक् रूप से गठित राज्य स्तरीय पर्यावरण संघात निर्धारण प्राधिकरण की उसमें विनिर्दिष्ट प्रक्रिया के अनुसरण में पूर्व पर्यावरण निकासी के पश्चात् ही हाथ में लिया जाएगा;

और भारत सरकार ने पर्यावरण और वन मंत्रालय में राजमार्गों, भवनों और विशेष आर्थिक क्षेत्र परियोजनाओं के लिए पर्यावरणीय निकासी प्रदान करने से संबंधित पर्यावरण संघात निर्धारण अधिसूचना, 2006 के उपबंधों का पुनर्विलोकन करने के लिए कार्यालय जापन सं. 21-270/2008-आईए.III, तारीख 11 दिसंबर, 2012 और पर्यावरण और वन मंत्रालय के गगनचुंबी भवनों के संबंध में कार्यालय जापन तारीख 7 फरवरी, 2011 द्वारा सदस्य, (पर्यावरण और वन तथा विज्ञान और प्रौद्योगिकी), योजना आयोग की अध्यक्षता में एक उच्च स्तरीय समिति का गठन किया था ;

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(1)

और समिति के संदर्भ के निबंधनों (टीओआर) में एक निबंधन पर्यावरण संघात निर्धारण अधिसूचना के अधीन 60 मीटर के मार्गाधिकार और 200 किलोमीटर लंबी राजमार्ग विस्तार परियोजनाओं के लिए पर्यावरण निकासी की अपेक्षाओं का पुनर्विलोकन करना था ;

और समिति ने मंत्रालय को अपनी रिपोर्ट प्रस्तुत कर दी है और इस टीओआर पर समिति ने राजमार्ग विस्तार परियोजनाओं को विस्तारण की अपेक्षा और पर्यावरण संघात निर्धारण से छूट देने की सिफारिश की है या राजमार्ग विस्तार परियोजनाओं के लिए पर्यावरण प्रबंधन परियोजना माडल टीओआर, जिसे मंत्रालय की वेबसाइट पर पोस्ट किया जाएगा के अनुसार तैयार किया जा सकता है और पर्यावरण निकासी की अपेक्षा के संबंध में समिति ने सिफारिश की है कि 100 किलोमीटर तक राष्ट्रीय राजमार्ग परियोजनाओं का विस्तार जिसमें अतिरिक्त मार्गाधिकार या विद्यमान संरेखणों पर 40 मीटर तक अर्जन और पुनःसंरेखण पर 60 मीटर या उप-मार्गों को अधिसूचना की परिधि से बाहर रखने की सिफारिश की है ;

और समिति की रिपोर्ट की पर्यावरण और वन मंत्रालय में जांच की गई है । पहले ही अधिसूचना सं. का. आ. 3067(अ) तारीख 1 दिसंबर, 2009 द्वारा सभी राज्य राजमार्ग विस्तार परियोजनाओं को सिवाय उन परियोजनाओं के जो पहाड़ी क्षेत्रों (1000 मीटर एएमएसएल) और पारिस्थितिकीय रूप से संवेदनशील क्षेत्रों में है, को पर्यावरण संघात निर्धारण अधिसूचना 2006 से छूट प्रदान कर दी गई है ।

और अन्य बातों के साथ पूर्वोक्त को ध्यान में रखते हुए पर्यावरण और वन मंत्रालय ने कार्यालय जापन सं. 21-270/2008-आईए. III, तारीख 11 दिसंबर, 2012 द्वारा गठित उच्च स्तरीय समिति की पूर्वोक्त सिफारिशों को स्वीकार करने का विनिश्चय किया है ;

अतः, अब, केन्द्रीय सरकार, पर्यावरण (संरक्षण) नियम, 1986 के नियम 5 के उपनियम (4) के साथ पठित पर्यावरण (संरक्षण) अधिनियम, 1986 की धारा 3 की उपधारा (2) के खंड (5) और उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के पर्यावरण और वन मंत्रालय की अधिसूचना सं. का.आ. 1533(अ) तारीख 14 सितंबर, 2006 में उक्त नियम 5 के उपनियम (3) के खंड (क) के अधीन सूचना की अपेक्षा से अभिमुक्ति देने के लिए निम्नलिखित और संशोधन करती है, अर्थात् :-

2. उक्त अधिसूचना में,-

(क) पैरा 7 के उपपैरा II के मद (i) के स्थान पर निम्नलिखित मद रखी जाएगी, अर्थात्:-

'(i) "विस्तारण" उस प्रक्रिया को निर्दिष्ट करता है, जिसके द्वारा प्रवर्ग 'क' परियोजना क्रियाकलापों के मामले में विशेषज्ञ आंकलन समिति और प्रवर्ग 'ख 1' परियोजनाओं या क्रियाकलापों के मामले में, राज्य स्तर विशेषज्ञ आंकलन समिति, जिसके अंतर्गत विद्यमान परियोजनाओं या क्रियाकलापों के विस्तार या आधुनिकीकरण या उत्पाद मिश्रण में परिवर्तन उस परियोजना या क्रियाकलाप, जिसके लिए पूर्व पर्यावरणीय अनापत्ति ईप्सित की गई है, के संबंध में पर्यावरण समाधात निर्धारण रिपोर्ट (ईआईए) तैयार करने के लिए सभी सुसंगत पर्यावरणीय चिंताओं को संबोधित करते हुए विस्तृत और समय निर्देश के निबंधनों का अवधारण और विशेषज्ञ आंकलन समिति या संबंधित राज्य स्तर आंकलन समिति विहित आवेदन प्ररूप 1/प्ररूप1क में दी गई जानकारी के आधार पर जिसके अंतर्गत आवेदक द्वारा प्रस्तावित निर्देश के निबंधन हैं, किसी विशेषज्ञ आंकलन समिति या संबंधित राज्य स्तर आंकलन समिति के किसी उप समूह द्वारा स्थल भ्रमण यदि संबंधित विशेषज्ञ आंकलन समिति या संबंधित राज्य स्तर विशेषज्ञ आंकलन समिति द्वारा आवश्यक समझा जाए, आवेदक द्वारा सुझाए गए निर्देश के निबंधन, यदि प्रस्तुत किए जाएं और अन्य सूचना जो विशेषज्ञ आंकलन समिति या राज्य स्तर विशेषज्ञ आंकलन समिति के पास उपलब्ध हों, सम्मिलित हैं:

परंतु निम्नलिखित को विस्तारण की आवश्यकता नहीं होगी-

(i) अनुसूची के मद 8 में प्रवर्ग ख के रूप में सूचीबद्ध सही परियोजनाएं और कार्यकलाप (नगरों या वाणिज्यिक परिसरों या आवासन का संनिर्माण) ;

(ii) अनुसूची के मद 7 की उपमद (च) के अधीन स्तंभ (3) और स्तंभ (4) की प्रविष्टि (ii) के अधीन आने वाली राजमार्ग विस्तार परियोजनाएं ;

परंतु यह और कि -

अ. खंड (i) में निर्दिष्ट परियोजनाएं और कार्यकलापों का अंकन प्ररूप 1 या प्ररूप 1क और अवधारणा योजना के आधार पर किया जाएगा ;

आ. खंड (ii) में निर्दिष्ट परियोजनाएं पर्यावरण और वन मंत्रालय द्वारा विनिर्दिष्ट माडल टीओआर के आधार पर ईआईए और ईएमपी रिपोर्ट तैयार करेंगी ;

(ख) अनुसूची में मद 7 की उप मद (च) के सामने स्तंभ (3) में प्रविष्टि (ii) के स्थान पर निम्नलिखित प्रविष्टि रखी जाएगी, अर्थात्:-

"(ii) राष्ट्रीय राजमार्गों का 100 किलोमीटर से अधिक विस्तार जिनमें अतिरिक्त 40 मीटर से अधिक विद्यमान संरेखणों पर और पुनः संरेखणों या उपमार्गों पर 60 मीटर क्षेत्राधिकार या भूमि अर्जन अंतर्बर्तित है।"

[फा.सं.21-270/2008-आईए.111]

अजय त्यागी, संयुक्त सचिव

टिप्पण : मूल नियम भारत के राजपत्र असाधारण, भाग II, खंड 3, उपखंड (ii) में अधिसूचना सं. का.आ. 1533(अ), तारीख 14 सितंबर, 2006 द्वारा प्रकाशित किए गए थे और तत्पश्चात् जिम्नानुसार संशोधित किए गए :

1. का.आ. 1733(अ), तारीख 11 अक्तूबर, 2007;
2. का.आ. 3067(अ), तारीख 1 दिसंबर, 2009;
3. का.आ. 695(अ), तारीख 4 अप्रैल, 2011;
4. का.आ. 2896 (अ), तारीख 13 दिसंबर, 2012; और
5. का.आ. 674(अ), तारीख 13 मार्च, 2013

MINISTRY OF ENVIRONMENT AND FORESTS NOTIFICATION

New Delhi, the 22nd August, 2013

S.O. 2559(E).- Whereas by notification of the Government of India in the Ministry of Environment and Forests vide number S.O.1533(E), dated the 14th September, 2006 issued under sub-section (1) and clause (v) of sub-section (2) of section (3) of the Environment (Protection) Act, 1986 read with clause (d) of sub-rule (3) of rule 5 of the Environment (Protection) Rules, 1986, the Central Government directed that on and from the date of its publication, the required construction of new projects or activities or the expansion or modernization of existing projects or activities listed in the Schedule to the said notification entailing the capacity addition with change in process or technology and or product mix shall be undertaken in any part of India only after prior environmental clearance from the Central Government or as the case may be, by the State level Environment Impact Assessment Authority, duly constituted by the Central Government under sub-section (3) of section 3 of the said Act, in accordance with the procedure specified therein;

And whereas the Government of India in the Ministry of Environment and Forests had constituted a High Level Committee under the Chairmanship of Member (Environment and Forests and Science and Technology), Planning Commission, vide OM No.21-270/2008-IA.III dated the 11th December, 2012 to review the provisions of Environmental Impact Assessment Notification, 2006 relating to granting Environmental Clearances for Roads, Buildings and Special Economic Zone projects and provisions under the OM dated the 7th February, 2012 issued by the Ministry of Environment and Forests regarding guidelines for High Rise Buildings;

And whereas one of the terms of reference (ToR) of the Committee was to review the requirement of Environmental Clearance for highway expansion projects up to the right of way of 60 meters and length of 200 kms under Environmental Impact Assessment notification;

And whereas the Committee has submitted its report to the Ministry and on this ToR, the Committee has recommended exempting highway expansion projects from the requirement of scoping and that Environmental Impact Assessment or Environment Management Plan for highway expansion projects may be prepared on the basis of model ToRs to be posted on Ministry's website and in respect of requirement of environmental clearance, the Committee has recommended that expansion of National Highway projects up to 100 kms involving additional right of way or land acquisition up to 40 mts on existing alignments and 60 mts on re-alignments or by-passes may be exempted from the preview of the notification;

And whereas the report of the Committee has been examined in the Ministry of Environment and Forests. Earlier, vide notification S.O. 3067(E), dated the 1st December 2009 all State Highway expansion projects, except those in hilly terrain (above 1000 m AMSL) and ecologically sensitive areas, have already been exempted from the purview of the Environmental Impact Assessment notification, 2006.

And whereas, keeping inter-alia in view the foregoing, the Ministry of Environment and Forests has decided to accept the aforesaid recommendations of the High Level Committee constituted vide OM No.21-270/2008-IA.III, dated the 11th December 2012;

Now, therefore in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 of the Environment (Protection) Act, 1986 (29 of 1986) read with sub-rule (4) of rule (5) of the Environment (Protection) Rules, 1986, the Central Government hereby makes the following further amendment to the notification of the Government of India, in the Ministry of Environment and Forests number S.O. 1533(E), dated the 14th September, 2006 after having dispensed with the requirement of notice under clause (a) of sub-rule (3) of the said rule 5 in public interest, namely:—

2. In the said notification, —

(a) in paragraph 7, in sub-paragraph II, for item (i), the following item shall be substituted, namely: —

(i) "Scoping" refers to the process by which the Expert Appraisal Committee in the case of Category A projects activities, and State level Expert Appraisal Committee in the case of Category 'B' projects or activities, including applications for expansion or modernization or change in product mix of existing projects or activities, determine detailed and comprehensive Terms of Reference (TOR) addressing all relevant environmental concerns for the preparation of an Environment Impact Assessment (EIA) Report in respect of the project or activity for which prior environmental clearance is sought and the Expert Appraisal Committee or State level Expert Appraisal Committee concerned shall determine the terms of reference on the basis of the information furnished in the prescribed application Form I or Form IA including terms of reference proposed by the applicant, a site visit by a sub-group of Expert Appraisal Committee or State level Expert Appraisal Committee concerned only if considered necessary by the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned, terms of Reference suggested by the applicant if furnished and other information that may be available with the Expert Appraisal Committee or State Level Expert Appraisal Committee concerned:

Provided that the following shall not require Scoping:—

- (i) all projects and activities listed as Category 'B' in item 8 of the Schedule (Construction or Township or Commercial Complexes or Housing);
- (ii) all Highway expansion projects covered under entry (ii) of column (3) and column (4) under sub-item (f) of item 7 of the Schedule:

Provided further that—

- A. the projects and activities referred to in clause (i) shall be appraised on the basis of Form I or Form IA and the conceptual plan;
 - B. The projects referred to in clause (ii) shall prepare EIA and EMP report on the basis of model TOR specified by Ministry of Environment and Forests;
- (b) in the Schedule, against sub-item (f) of item 7, in column (3), for the entry (ii), the following entry shall be substituted, namely:—

"(ii) Expansion of National Highways greater than 100 km involving additional right of way or land acquisition greater than 40m on existing alignments and 60m on re-alignments or by-passes."

[F. No. 21-270/2008-IA.III]
AJAY TYAGI, Jt. Secy.

Note: The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) vide notification number S.O. 1533(E), dated the 14th September, 2006 and subsequently amended as follows:—

1. S.O. 1737 (E), dated the 11th October, 2007;
2. S.O. 3067 (E), dated the 1st December, 2009;
3. S.O. 695 (E), dated the 4th April, 2011;
4. S.O. 2896 (E), dated the 13th December, 2012; and
5. S.O.674(E), dated the 13th March, 2013