

Office of the Divisional Forest Officer, Kashi Wild Life Division Ramnagar, Varanasi

Letter No. 89 / 31

Ramnagar, Dated, July 05, 2023

To,

**The Registrar General,  
Hon'ble National Green Tribunal,  
Principal Bench,  
Faridkot House, Copernicus Marg,  
New Delhi- 110001**

**Sub: Regarding Submission Of Action Taken Report in Compliance of the order dated 20.04.2023 in OA No. 698/2022, in the matter of Dharmendra Kumar Singh Vs. State of U.P & Ors.**

Sir,

Kindly refer the subject mentioned above. In compliance of the order dated 20.04.2023 in OA No. 698/2022, in the matter of Dharmendra Kumar Singh Vs. State of U.P & Ors. The action taken report is enclosed herewith for your kind pursual and further necessary action.

**Enclosures: As above**

Sincerely Yours;

**(Ranveer Mishra),**  
Divisional Forest Officer,  
Kashi Wildlife Division,  
Ramnagar, Varanasi.

**Copy to: Following for information and further necessary action.**

Shri Pradeep Mishra Advocate, Supreme Court, B-235, Sector- XIX,  
Noida, District- G B Nagar, 201301.

**(Ranveer Mishra),**  
Divisional Forest Officer,  
Kashi Wildlife Division,  
Ramnagar, Varanasi.

**"Report"**

**Placed Before Hon'ble National Green Tribunal (NGT) New  
Delhi**

**O.A. No. 698/2022**

**In the matter of Dharmendra Kumar Singh V/S State of U.P. and  
Others**

**1. Background: -**

**National Green Tribunal (NGT) Order dated 20.04.2023—**

1. In compliance of order dated 03.03.2023, Action Taken Report has been filed by Mr. Dinesh Singh, Divisional Forest Officer, Kashi Wildlife Division, Ramnagar, Varanasi vide email dated 28.03.2023.
2. As per direction of this Tribunal, Mr. S. L. Pal, Registrar, Jannayak Chandrashekhar University, Ballia, Uttar Pradesh and Mr. Dinesh Singh, Divisional Forest Officer, Kashi Wildlife Division, Ramnagar, Varanasi have appeared through VC before this Tribunal and we have interacted with them. Both of them have sought time for filing of detailed response with reference to averments made in the application and observations in the report of the joint committee.
3. Replies/response by the Registrar, Jannayak Chandrashekhar University, Ballia, Uttar Pradesh and the Divisional Forest Officer, Kashi Wildlife Division, Ramnagar, Varanasi be filled **within two months** by email at [judicial-ngt@gov.in](mailto:judicial-ngt@gov.in) preferably in the form of Image PDF.
4. List for further consideration on 12.07.2023.
5. In the meanwhile, the Registrar, Jannayak Chandrashekhar University, Ballia, Uttar Pradesh is directed not to carry out any further construction on any part of the land falling within ESZ area of 1.0 kilometer from the boundary of Jai Prakash Narayan (Surha Tal) Bird Sanctuary, Ballia.
6. The District Magistrate and the Superintendent of Police, Ballia and Divisional Forest Officer, Kashi Wildlife Division, Ramnagar, Varanasi are directed to take all requisite steps to ensure that no further construction takes place on the above said Eco Sensitive Zone.
7. A copy of this order be forwarded to the Registrar, Jannayak Chandrashekhar University, Ballia, Uttar Pradesh, Divisional Forest Officer, Kashi Wildlife Division, Ramnagar, Varanasi, the District Magistrate and the Superintendent of Police, Ballia by email for requisite compliance.

**Action Taken:**

**2. As per direction of this Tribunal, Mr. S. L. Pal, Registrar, Jannayak Chandrashekhar University, Ballia, Uttar Pradesh and Mr. Dinesh Singh, Divisional Forest Officer, Kashi Wildlife Division, Ramnagar, Varanasi have appeared through VC before this Tribunal and we have interacted with them. Both of them have sought time for filing of detailed response with reference to averments made in the application and observations in the report of the joint committee.**

2.1 In point number 2 of order dated 20.04.2023 of the Hon'ble National Green Tribunal, Principal Bench, New Delhi in O.A No.698/2022, Dharmendra Kumar Singh Vs State of U.P and Ors. requires detailed response on point Number 10, 11 and 12 of the order dated 03.03.2023 of the Hon'ble National Green Tribunal, which are as follows:

**10. In view thereof the Registrar, Jannayak Chandrashekhar University Ballia Uttar Pradesh is directed not to carry out any further construction on any part of land falling within ESZ area of 1.0 kilometer from the boundary of Jai Prakash Narayan (Surha Tal) Bird Sanctuary Ballia.**

2.2 In compliance of the instructions given by of the Hon'ble National Green Tribunal, Principal Bench, New Delhi in O.A No.698/2022, Dharmendra Kumar Singh Vs State of U.P and Ors. during the hearing dated 3<sup>rd</sup> March 2023 immediately the Divisional Forest Officer Kashi Wildlife Division Ramnagar Varanasi instructed the Registrar Jananayak Chandrashekhar University Ballia vide his letter no. 3127/31, dated 3<sup>rd</sup> March 2023 to stop the on-going construction works in the university premises namely- **(1). Academic building (2). Administrative block (3). Library building (4). Commercial building (5). 100 bedded hostels (Annexure 1).**

2.3 The Divisional Forest Officer, Kashi Wildlife Division, Ramnagar, Varanasi and the Divisional Director, Social Forestry Division, Ballia also visited the spot and stopped the ongoing construction at the site. Photograph attached **(Annexure 2).**

2.4 The Divisional Forest Officer, Kashi Wildlife Division, Ramnagar, Varanasi vide his Letter no. 3152/31, dated 06<sup>th</sup> March 2023 instructed the concerned Forest Range Officer, Turtle Breeding Centre Sarnath,

Varanasi to comply the order dated 3<sup>rd</sup> March 2023 passed by Hon'ble National Green Tribunal New Delhi. **(Annexure 3).**

2.5 For compliance of the order dated 3<sup>rd</sup> March 2023 passed by of the Hon'ble National Green Tribunal, Principal Bench, New Delhi in O.A No.698/2022, Dharmendra Kumar Singh Vs State of U.P and Ors, New Delhi, the District Magistrate Ballia vide his letter no. 1788/आ०ले०जि०-वन वि०, dated 4<sup>th</sup> March 2023 instructed Divisional forest Officer Kashi Wildlife Division Ramnagar Varanasi to comply the order of the Hon'ble National Green Tribunal, Principal Bench, New Delhi in O.A No.698/2022, Dharmendra Kumar Singh Vs State of U.P and Ors and copied the same to Superintendent of Police Ballia, Divisional Director Social Forestry Division Ballia, Registrar Jananayak Chandrashekhar University Ballia, Settlement Officer Ballia, Consolidation Officer Ballia and Sub Divisional Magistrate Ballia. **(Annexure 4)**

2.6 District Magistrate Ballia vide his letter no. 1789/आ०ले०जि०-वन वि०, dated 4<sup>th</sup> March 2023 for the review of compliance of the order dated 3<sup>rd</sup> March 2023 passed by of the Hon'ble National Green Tribunal, Principal Bench, New Delhi in O.A No.698/2022, Dharmendra Kumar Singh Vs State of U.P and Ors., nominated "Nodal Officers" Mr. Rajesh Kumar, ADM (F/R) at District level and Mr. Prashant Kumar Nayak, SDM Ballia at Tehsil level and instructed them to review and ensure the compliance of the order dated 3<sup>rd</sup> March 2023 passed by Hon'ble National Green Tribunal, New Delhi and brief him about the progress of the compliance on every Friday. **(Annexure 5).**

**11.The District Magistrate and the Superintendent of Police Ballia and Divisional Forest Officer Kashi Wildlife Division Ramnagar Varanasi are directed to take all requisite steps to ensure that no further construction takes place on the above said Eco Sensitive Zone.**

2.7 The Divisional Forest Officer Kashi Wildlife Division Ramnagar Varanasi vide his Letter no. 3180/31, dated 10<sup>th</sup> March 2023 requested Divisional Director Social Forestry Division Ballia to ensure the compliance of the order dated 3<sup>rd</sup> March 2023 passed by Hon'ble National Green Tribunal New Delhi in the Eco Sensitive Zone (E.S.Z) of Jai Prakash Narayan Bird Sanctuary (Surha Tal) which is under the administrative control of Divisional Forest Officer Social Forestry Division Ballia. **(Annexure 6).**

2.8 The Divisional Director Social Forestry Division Ballia vide his letter no. 2047/14-1, dated 10<sup>th</sup> March 2023 instructed the Forest Range Officers of Ballia, Maniyar, Chhata and Banshdih Range to

comply the order dated 3<sup>rd</sup> March 2023 passed by the Hon'ble National Green Tribunal, Principal Bench, New Delhi in O.A No.698/2022, Dharmendra Kumar Singh Vs State of U.P and Ors. **(Annexure 7)**.

2.9 The Divisional Forest Officer, Social Forestry Division, Ballia vide letter no.2197/14-1, dated 27.03.2023 replied that there is no permanent construction work going on in the eco sensitive zone. **(Annexure 8)**.

2.10 It is also to inform that Kashi Wildlife Division has installed the Sign Board at 15 places on which the order of Honorable Supreme Court in Writ Petition No.-202/1995 Dated 03.06.2022 is mentioned. Photograph Attached **(Annexure 9)**.

2.11 It is also to inform that awareness is done in the area among villagers to not to raise new construction in the Eco-Sensitive Zone (E.S.Z) and constant vigil is kept on the area by Forest Department, Police and Revenue Department.

**12. The District Magistrate and the Superintendent of Police Ballia and Divisional Forest Officer Kashi Wildlife Division Ramnagar Varanasi are directed to take all requisite steps to ensure that no further construction takes place on the above said Eco Sensitive Zone.**

2.12 In compliance of point no 12, of the order dated 03.03.2023 of the Hon'ble National Green Tribunal, Principal Bench, New Delhi in O.A No.698/2022, Dharmendra Kumar Singh Vs State of U.P and Ors., Kashi Wildlife Division, Ramnagar, Varanasi has installed the Sign Board at 15 places on which the order of Honorable Supreme Court in Writ Petition No.-202/1995 Dated 03.06.2022 is mentioned.

2.13. The Joint compliance report of Divisional Forest Officer, Kashi Wildlife Division, Ramnagar, Varanasi and Divisional Director, Social Forestry Division, Ballia submitted to District Magistrate, Ballia vide letter no. 3363/37, dated 27.03.2023 of the office of Divisional Forest Officer, Kashi Wildlife Division, Ramnagar, Varanasi. **(Annexure 10)**.

2.14 It is to inform that the total area of Jai Prakash Narayan Bird Sanctuary (Surha Tal) is 3432.93 hectares (34.329 Sq Km), which is spread in 44 Different villages out of which 3300.15 hectares land is of farmers (Agricultural Land) and rest 132.78 hectares of land is Gram Sabha land. It is also important to highlight the fact that the total area of Eco sensitive Zone (E.S.Z) of Jai Prakash Narayan Bird Sanctuary (Surha Tal) is 27 sq.km. which is total farmers land

(Agricultural Land). In jai Prakash Narayan Bird Sanctuary (Surha Tal) after notification of Section 21 of Wildlife Protection Act 1972 settlement process is being carried out by Sub Divisional Magistrate, Bansdih, Ballia, the final notification of Jai Prakash Narayan Bird Sanctuary (Surha Tal) under Section 26 A of Wildlife (Protection) Act, 1972 is still awaited and no any compensation has been provided to any farmers by the state government.

**5. In the meanwhile, the Registrar, Jannayak Chandrashekhar University, Ballia, Uttar Pradesh is directed not to carry out any further construction on any part of the land falling within ESZ area of 1.0 kilometer from the boundary of Jai Prakash Narayan (Surha Tal) Bird Sanctuary, Ballia.**

5.1 In compliance of point no. 5 of the order dated 20.04.2023 the Divisional Forest Officer Kashi Wildlife Division Ramnagar Varanasi vide letter no. 4698/31/2023-24, dated 26.06.2023 seeks the compliance report from the Registrar, Jannayak Chandrashekhar University, Ballia. **(Annexure 11).**

5.2 In response of that the Registrar, Jannayak Chandrashekhar University, Ballia vide letter no. जे०एन०सी०यू०/सा०प्र०/5098/2023, dated 27.06.2023 replied that "In compliance of order dated 03.03.2023 of Hon'ble National Green Tribunal, Principal Bench, New Delhi in O.A No.-698/2022 Dharmendra Singh vs State of U.P and Ors. The construction works has been completely stopped from date 04.03.2023 and online proposal has been uploaded on Parivesh Portal on 27.04.2023 to obtain wildlife clearance from the standing committee of the National Board for Wildlife (NBWL), Government of India". **(Annexure 12).**

5.3 The Divisional Forest Officer, Kashi Wildlife Division, Ramnagar, Varanasi also visited the site on date 08.06.2023 and 01.07.2023 found no construction works are going on in the University Premises and the construction works in the University Premise is completely stopped from 04.03.2023.

**6. The District Magistrate and the Superintendent of Police, Ballia and Divisional Forest Officer, Kashi Wildlife Division, Ramnagar, Varanasi are directed to take all requisite steps to ensure that no further construction takes place on the above said Eco Sensitive Zone.**

6.1 The District Magistrate, Ballia vide letter no.- 528/ आ०ले०जि०-वन वि०, dated 04.05.2023 instructed the Divisional Forest Officer, Kashi Wildlife Division, Ramnagar, Varanasi to comply the order dated

20.04.2023 of Hon'ble National Green Tribunal, Principal Bench, New Delhi and copied the letter to the other six concerned officers. **(Annexure-13).**

6.2 The Divisional Forest Officer vide letter dated 19.05.2023 and 20.06.2023 instructed the Range Officer, Turtle Breeding Centre, Sarnath Varanasi to comply the order dated 20.06.2023 of Hon'ble National Green Tribunal, Principal Bench, New Delhi in O.A No.698/2022, Dharmendra Kumar Singh Vs State of U.P and Ors. **(Annexure 14).**

6.2 In compliance of point no. 6 of the order dated 20.04.2023 of Hon'ble National Green Tribunal, Principal Bench, New Delhi in O.A No.698/2022, Dharmendra Kumar Singh Vs State of U.P and Ors., the Divisional Forest Officer, Kashi Wildlife Division, Ramnagar, Varanasi also visited the site on date 08.06.2023 and 01.07.2023 and found no construction works are going on in the University Premises and the construction works in the University Premise is completely stopped from 04.03.2023 and it is also to inform that the construction works are regularly monitored by the local forest staffs and district administration. Photograph attached **(Annexure 15).**

That it is relevant to mention here that in writ Petition No 202/1995 T.N.Godavarman 's Case Hon'ble Apex Court passed order on 03.06.2022 that no new permanent structure shall be permitted to come up for whatsoever purpose within ESZ. The Union of India filed application before Hon'ble Apex Court for modification/clarification of the order passed by Hon'ble Apex Court dated 03.06.2022 **(Annexure 16).**

In addition, it is necessary to bring to light the fact that by the The Union of India before Hon'ble Apex Court that the Government of India has already issued Guidelines on 9 February 2011 for declaration of ESZs around National Parks and Wildlife Sanctuaries. The said Guidelines were framed after consulting the National Board for Wildlife and all the State and Union Territory Governments. The said Guidelines provide a detailed procedure for submitting a proposal for declaration of the areas around National Parks and Wildlife Sanctuaries as ESZs. The said Guidelines itself contain various activities which have been categorized as prohibited, regulated and permitted. It is argued before Hon'ble Apex Court that the direction as contained in order dated 03.06.2022 that no new permanent structure shall be permitted to come up for whatsoever purpose within ESZ would also cause great hardship. After




considering the entire facts Hon'ble Apex Court passed judgment and order dated 26.04.2023 and modify the direction contained in paragraph 56.5 (46.e of the order dated 03.06.2022) of order dated 03.06.2022 and directed that "The MoEF & CC and all the State/Union Territory Governments shall strictly follow the provisions in the said Guidelines dated 9th February 2011 and so also the provisions contained in the ESZs notifications pertaining to the respective Protected Areas with regard to prohibited activities, regulated activities and permissible activities." **(Copy of Judgment dated 26.04.2023 is being filed as Annexure No.17).**

Above action taken report is submitted to Hon'ble NGT in compliance of the order passed on dated 20.04.2023.

  
**(S.L Pal)**  
Registrar  
Jannayak Chandrasekhar University  
Ballia

  
**(Ranvir Mishra)**  
Divisional Forest Officer,  
Kashi Wild Life Division,  
Ramnagar, Varanasi.

कार्यालय प्रभागीय वनाधिकारी, काशी वन्यजीव प्रभाग, रामनगर, वाराणसी  
पत्रांक- 131 दिनांक, चन्दौली, मार्च 03, 2023

सेवा में,

कुलसचिव,  
जननायक चन्द्रशेखर विश्वविद्यालय,  
जनपद बलिया।

विषय :- मा0 राष्ट्रीय हरित अधिकरण (एन0जी0टी0) नई दिल्ली में आयोजित ओ0ए0 संख्या- 698/2022 धर्मेन्द्र कुमार सिंह बनाम स्टेट आफ यू0पी0 एण्ड अदर्स में दिनांक 03.03.2023 को सुनवायी के दौरान मा0 न्यायालय द्वारा दिये गये निर्देश के क्रम में।

महोदय,

मा0 राष्ट्रीय हरित अधिकरण (एन0जी0टी0) नई दिल्ली में आयोजित ओ0ए0 संख्या- 698/2022 धर्मेन्द्र कुमार सिंह बनाम स्टेट आफ यू0पी0 एण्ड अदर्स में मा0 न्यायालय के आदेश दिनांक 04.01.2023 द्वारा जिलाधिकारी, बलिया एवं प्रभागीय वनाधिकारी, काशी वन्यजीव प्रभाग, रामनगर, वाराणसी को दिनांक 03.03.2023 को सुनवाई के दौरान वीडियो कान्फेसिंग के माध्यम से मा0 राष्ट्रीय हरित अधिकरण के न्यायालय की कार्यवाही में उपस्थित रहने हेतु निर्देशित किया गया था। उक्त के क्रम में आज दिनांक 03.03.2023 को सुनवायी के दौरान मा0 अधिकरण द्वारा निर्देशित किया गया है कि जयप्रकाश नारायण पंक्षी विहार (सुरहाताल) के ईको सेन्सिटिव जोन (ई0एस0जेड0) में निर्माणाधीन समस्त भवन जिनका विवरण निम्न प्रकार से है :-

1-	प्रशासनिक भवन, कुल बिल्टअप एरिया	-	4172 वर्ग मी0
2-	ऐकैडमिक ब्लॉक भवन, कुल बिल्टअप एरिया	-	6689 वर्ग मी0
3-	पुस्तकालय भवन, कुल बिल्टअप एरिया	-	4106 वर्ग मी0
4-	कामर्शियल भवन, कुल बिल्टअप एरिया	-	645 वर्ग मी0
5-	100 बेड छात्रावास भवन, कुल बिल्टअप एरिया	-	1563 वर्ग मी0
			1775 वर्ग मी0

का निर्माण कार्य तत्काल बन्द करा दिया जाये। उक्त प्रकरण की अगली सुनवाई की तिथि 20 अप्रैल, 2023 सुनिश्चित हुई है।

अतः मा0 राष्ट्रीय हरित अधिकरण (एन0जी0टी0) नई दिल्ली द्वारा दिये गये निर्देश के क्रम में आप उपरोक्त भवनों के निर्माण का कार्य तत्काल बन्द करा दे, अन्यथा किसी भी विपरीत परिणाम हेतु आप स्वयं उत्तरदायी होंगे।

भवदीय

M.P.  
03/03/2023  
(दिनेश सिंह)

प्रभागीय वनाधिकारी  
काशी वन्यजीव प्रभाग, रामनगर, वाराणसी

2 / .....

पू०सं० 3127 / दिनांकित।

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-

- 1- जिलाधिकारी, बलिया को मा० राष्ट्रीय हरित अधिकरण (एन०जी०टी०) द्वारा सुनवाई के दौरान दिनांक 03.03.2023 को दिये गये आदेश के क्रम में सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।
- 2- वरिष्ठ पुलिस अधीक्षक, बलिया।
- 3- प्रधान मुख्य वन संरक्षक और विभागाध्यक्ष, उ०प्र०, लखनऊ।
- 4- प्रधान मुख्य वन संरक्षक, वन्यजीव, उ०प्र०, लखनऊ।
- 5- मुख्य वन संरक्षक, वन्यजीव, पश्चिमी क्षेत्र, उ०प्र०, कानपुर।
- 6- प्रभागीय निदेशक, सामाजिक वानिकी प्रभाग, बलिया।

*nmj*  
03/03/2023  
(दिनेश सिंह)

प्रभागीय वनाधिकारी  
काशी वन्यजीव प्रभाग, रामनगर, वाराणसी



Mar 24,2023 03:55:52 PM



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Mar 24,2023 04:20:14 PM



Mar 24,2023 04:24:12 PM

कार्यालय प्रभागीय वनाधिकारी, काशी वन्य जीव प्रभाग, रामनगर, वाराणसी  
पत्रांक : 3152 / 31 / 2022-23, रामनगर, दिनांक, मार्च 06, 2023  
सेवा में,

क्षेत्रीय वन अधिकारी,  
कछुआ प्रजनन केन्द्र,  
सारनाथ, वाराणसी।

विषय : नेशनल ग्रीन ट्रिब्यूनल, प्रमुख बेंच, नई दिल्ली द्वारा ओरिजनल एप्लीकेशन नं०-698/2022 धर्मेन्द्र कुमार सिंह बनाम स्टेट ऑफ यू०पी० एवं अन्य में पारित आदेश दिनांक 03.03.2023 के सम्बन्ध में।

संदर्भ : जिलाधिकारी, बलिया का पत्र संख्या-1788/आ०ले०जि०-वन वि०, दिनांक 04.03.2023

उपरोक्त विषयक सन्दर्भित पत्र की छायाप्रति संलग्न कर इस निर्देश के साथ प्रेषित है कि नेशनल ग्रीन ट्रिब्यूनल, प्रमुख बेंच, नई दिल्ली द्वारा ओरिजनल एप्लीकेशन नं०-698/2022 धर्मेन्द्र कुमार सिंह बनाम स्टेट ऑफ यू०पी० एवं अन्य में पारित आदेश दिनांक 03.03.2023 का अनुपालन करना सुनिश्चित करें तथा कृत कार्यवाही से अधोहस्ताक्षरी को भी अवगत करायें।

संलग्नक-उपरोक्तानुसार।

  
(दिनेश सिंह),  
प्रभागीय वनाधिकारी,  
काशी वन्य जीव प्रभाग, रामनगर,  
वाराणसी।

कार्यालय जिलाधिकारी, बलिया  
 पत्र संख्या: 1789 /आ0ले0जि0-वन वि0 दिनांक: मार्च 04, 2023  
 नेशनल ग्रीन ट्रिब्यूनल, प्रमुख बेंच, नई दिल्ली द्वारा ओरिजनल एप्लीकेशन  
 नं0 698/2022 घर्मेन्द्र कुमार सिंह बनाम स्टेट आफ यू0पी0 एवं अन्य में  
 पारित आदेश दिनांक 03.03.2023 के सम्बन्ध में।

प्रमाणीय निदेशक,  
 काशी वन्य जीव प्रभाग,  
 रामनगर, वाराणसी

उपर्युक्त विषयक नेशनल ग्रीन ट्रिब्यूनल, प्रमुख बेंच, नई दिल्ली द्वारा ओरिजनल एप्लीकेशन नं0 698/2022 घर्मेन्द्र कुमार सिंह बनाम स्टेट आफ यू0पी0 एवं अन्य में पारित आदेश दिनांक 03.03.2023 का अवलोकन करें, जिसकी प्रति इस पत्र के साथ संलग्न है। उक्त आदेश के प्रस्तर-10, 11, 12 में निम्न आदेश पारित किया गया है:-

10. In view thereof the Registrar, Jansyak Chandrashekhar University, Ballia, Uttar Pradesh is directed not to carry out any further construction on any part of land falling within ESZ area of 1.0 kilometer from the boundary of Jai Prakash Narayan (Surha Tal) Bird Sanctuary, Ballia.

11. The District Magistrate and the Superintendent of Police, Ballia and Divisional Forest Officer, Kashi Wildlife Division, Ramnagar, Varanasi are directed to take all requisite steps to ensure that no further construction takes place on the above said Eco Sensitive Zone.

12. The District Magistrate, Ballia and the Divisional Forest Officer, Kashi Wildlife Division, Ramnagar, Varanasi are also directed to get the Eco Sensitive Zone area demarcated, identify the encroachments, to take appropriate action for removal of encroachments and to get appropriate sign boards fixed at appropriate places that the same is no construction zone and no further construction be raised thereon and submit Action Taken Report in this regard within one month by email at [Judicial-ngt@gov.in](mailto:Judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

कृपया मा0 नेशनल ग्रीन ट्रिब्यूनल, नई दिल्ली द्वारा पारित उक्त आदेश दिनांक 03.03.2023 का अनुपालन सुनिश्चित करायें। साथ ही प्रस्तर-12 के अनुसार कार्यवाही करते हुए अपनी आख्या दिनांक 18.03.2023 तक उपलब्ध कराना सुनिश्चित करें, अन्यथा आप स्वयं उत्तरदायी होंगे।

संलग्नक: उपर्युक्तानुसार।

29  
 04/3/23  
 (रवीन्द्र कुमार)  
 जिलाधिकारी,  
 बलिया

संख्या एवं तिथि उपर्युक्त

प्रतिलिपि मा0 नेशनल ग्रीन ट्रिब्यूनल, नई दिल्ली द्वारा पारित आदेश दिनांक 03.03.2023 तक प्रति सहित निम्नांकित को सूचनार्थ एवं अनुपालन हेतु प्रेषित।

1. पुलिस अधीक्षक, बलिया।
2. प्रमाणीय निदेशक, सामाजिक वानिकी प्रभाग, बलिया।
3. रजिस्ट्रार, जननायक चन्द्रशेखर विश्वविद्यालय, बलिया।
4. बन्दोबस्त अधिकारी घकबन्दी, बलिया।
5. उप जिलाधिकारी, सदर बलिया।

(रवीन्द्र कुमार)  
 जिलाधिकारी,  
 बलिया

कार्यालय जिलाधिकारी, बलिया

पत्र संख्या: 1789 / आ0ले0जि0-वन0वि0 दिनांक: मार्च 04, 2023

आदेश

मा0 नेशनल ग्रीन ट्रिब्यूनल, प्रमुख बेंच, नई दिल्ली में योजित ओरिजनल एप्लीकेशन नं0 698/2022 घर्मेन्द्र कुमार सिंह बनाम स्टेट आफ यू0पी0 एवं अन्य में मा0 ग्रीन ट्रिब्यूनल द्वारा दिनांक 03.03.2023 को आदेश पारित करते हुए अनुपालन सुनिश्चित कराये जाने के आदेश दिये गये हैं। उक्त आदेश के अनुपालन हेतु इस कार्यालय के पत्र संख्या: 1788/आ0ले0जि0-वन0वि0 दिनांक 04 मार्च, 20023 द्वारा प्रमागीय निदेशक, काशी वन्य जीव प्रभाग, रामनगर, वाराणसी सहित अन्य को निर्देशित किया गया है।

मा0 नेशनल ग्रीन ट्रिब्यूनल द्वारा पारित उक्त आदेश दिनांक 03.03.2023 का प्रमागीय निदेशक, काशी वन्य जीव प्रभाग, रामनगर वाराणसी, प्रमागीय निदेशक, सामाजिक वानिकी प्रभाग, बलिया एवं अन्य सम्बन्धित के माध्यम से अनुपालन सुनिश्चित कराये जाने हेतु जनपद स्तर पर श्री राजेश कुमार, अपर जिलाधिकारी(वि/रा), बलिया एवं तहसील स्तर पर श्री प्रशान्त कुमार नायक, उप जिलाधिकारी, सदर बलिया को "नोडल अधिकारी" नामित करते हुए निर्देशित किया जाता है कि मा0 नेशनल ग्रीन ट्रिब्यूनल द्वारा पारित आदेश का सम्बन्धित से अनुपालन की स्थिति की निरन्तर समीक्षा करते हुए अनुपालन सुनिश्चित करायेगें तथा प्रगति से प्रत्येक शुक्रवार अधोहस्ताक्षरी को अवगत करायेगें।

इसका कड़ाई से अनुपालन सुनिश्चित किया जाय।

संलग्नक: आदेश दिनांक 03.03.2023 की प्रति।

(रवीन्द्र कुमार)  
जिलाधिकारी,  
बलिया

संख्या एवं तिथि सपर्यक्त

प्रतिलिपि निम्नांकित को सूचनार्थ एवं तदनुसार अनुपालन हेतु प्रेषित।

1. पुलिस अधीक्षक, बलिया।
2. प्रमागीय निदेशक, काशी वन्य जीव प्रभाग, रामनगर, वाराणसी।
3. प्रमागीय निदेशक, सामाजिक वानिकी प्रभाग, बलिया।
4. श्री राजेश कुमार, अपर जिलाधिकारी(वि/रा), बलिया।
5. बन्दोबस्त अधिकारी, घकबन्दी, बलिया।
6. श्री प्रशान्त कुमार नायक, उप जिलाधिकारी, सदर बलिया।
7. रजिस्ट्रार जननायक - बन्धुवन्दर विश्व विद्यालय, बलिया

3  
04/03/23  
(रवीन्द्र कुमार)  
जिलाधिकारी,  
बलिया

कार्यालय प्रभागीय वनाधिकारी, काशी वन्य जीव प्रभाग, रामनगर, वाराणसी

पत्रांक : 3180 / 31

रामनगर, दिनांक, मार्च 10 , 2023

सेवा में,

प्रभागीय निदेशक,  
सामाजिक वानिकी वन प्रभाग,  
बलिया।

विषय : नेशनल ग्रीन ट्रिब्यूनल, प्रमुख बेंच, नई दिल्ली द्वारा ओरिजनल एप्लीकेशन नम्बर-698/2022 धर्मेन्द्र कुमार सिंह बनाम स्टेट ऑफ यू0पी0 एवं अन्य में पारित आदेश दिनांक 03.03.2023 के सम्बन्ध में।

सन्दर्भ : जिलाधिकारी, बलिया का पत्र संख्या-1788/आ0ले0जि0, वन विभाग, दिनांक 04 मार्च, 2023

महोदय,

उपरोक्त विषयक नेशनल ग्रीन ट्रिब्यूनल, प्रमुख बेंच, नई दिल्ली द्वारा ओरिजनल एप्लीकेशन नम्बर-698/2022 धर्मेन्द्र कुमार सिंह बनाम स्टेट ऑफ यू0पी0 एवं अन्य में पारित आदेश दिनांक 03.03.2023 का अवलोकन करें, जिसकी प्रति इस पत्र के साथ संलग्न है। उक्त आदेश के प्रस्तर-10, 11, 12 में निम्न आदेश पारित किया गया है -

10. The view thereof the Registrar, Jannayak Chandrashekhar University, Ballia, Uttar Pradesh is directed not to carry out any further construction on any part of land falling within ESZ area of 1.0 Kilometer from the boundary of Jai Prakash Narayan (Suraha Tal) Bird Sanctuary, Ballia.
11. The District Magistrate and the Superintendent of Police, Ballia and Divisional Forest Officer, Kashi Wild Life Division, Ramnagar, Varanasi are directed to take all requisite steps to ensure that no further construction takes place on the above said Eco Sensitive Zone.
12. The District Magistrate, Ballia and the Divisional Forest Officer, Kashi Wild Life Division, Ramnagar, Varanasi are also directed to get the Eco Sensitive Zone area demarcated, identify the encroachments, to take appropriate action for removal of encroachments and to get appropriate sign boards fixed at appropriate places that the same is no construction zone and no further construction be raised thereon and submit Action. Taken Report in this regard within one month by email at [Judicial-ngt@gov.in](mailto:Judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

क्रमशः.....2

(2)

उक्त के क्रम में आप स्वयं विदित हैं कि जय प्रकाश नारायण (सुरहाताल), पक्षी विहार क्षेत्र के ईको सेन्सिटिव जोन में पड़ने वाले क्षेत्रों पर नियन्त्रण करने की कार्यवाही प्रभागीय वनाधिकारी, बलिया के नियन्त्रणाधीन है।

अतः आप अपने स्तर से सम्बन्धित क्षेत्रीय वन अधिकारी को ईको सेन्सिटिव जोन में मा0 नेशनल ग्रीन ट्रिब्यूनल, नई दिल्ली द्वारा पारित आदेश दिनांक 03.03.2023 का सख्ती से अनुपालन करना सुनिश्चित कराये जाने का कष्ट करें। क्षेत्रीय वन अधिकारी, कछुआ प्रोजेक्ट, सारनाथ, काशी वन्य जीव प्रभाग एवं उनके अधीनस्थ कर्मचारियों द्वारा जय प्रकाश नारायण (सुरहाताल), पक्षी विहार क्षेत्र के अन्तर्गत पड़ने वाले क्षेत्रों में कार्यवाही के साथ-साथ ईको सेन्सिटिव जोन में भी मा0 नेशनल ग्रीन ट्रिब्यूनल, नई दिल्ली द्वारा पारित आदेश दिनांक 03.03.2023 का अनुपालन कराने हेतु अपेक्षित सहयोग प्रदान किया जायेगा।

भवदीय,

(दिनेश सिंह),

प्रभागीय वनाधिकारी,

काशी वन्य जीव प्रभाग, रामनगर,  
वाराणसी।

पत्रांक : 3130 / उक्तदिनांकित।

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित -

1. जिलाधिकारी महोदय, बलिया।
2. पुलिस अधीक्षक महोदय, बलिया।
3. रजिस्टार, जननायक विश्वविद्यालय, बलिया।
4. उपजिलाधिकारी, सदर, बलिया।
5. क्षेत्रीय वन अधिकारी, कछुआ प्रोजेक्ट, सारनाथ, काशी वन्य जीव प्रभाग, रामनगर, वाराणसी को इस आशय से प्रेषित कि आप प्रभागीय वनाधिकारी, सामाजिक वानिकी वन प्रभाग, बलिया से समन्वय स्थापित कर कार्यवाही किया जाना सुनिश्चित करें तथा कृत कार्यवाही से प्रत्येक शुक्रवार को अधोहस्ताक्षरी को अवगत करायें।

(दिनेश सिंह),

प्रभागीय वनाधिकारी,

काशी वन्य जीव प्रभाग, रामनगर,  
वाराणसी।

o/c

कार्यालय प्रभागीय निदेशक, सामाजिक वानिकी प्रभाग, बलिया

पत्रांक- 2047 / 14.1 दिनांक, बलिया, मार्च 10, 2023

सेवा में,

क्षेत्रीय वन अधिकारी,  
बलिया, मनियर,  
बांसडीह एवं छाता

विषय :- मा0 राष्ट्रीय हरित अधिकरण, नई दिल्ली में आयोजित ओ0ए0संख्या- 698/2022 धर्मेन्द्र कुमार सिंह बनाम उ0प्र0 राज्य में मा0 अधिकरण द्वारा पारित आदेश दिनांक 01.11.2022।

सन्दर्भ :- 1- प्रभागीय वनाधिकारी, काशी वन्यजीव प्रभाग, रामनगर, वाराणसी का कार्यालय पत्रांक- 3127/31 दिनांक 03.03.2023 एवं 3130/31 दिनांक 10.03.2023।  
2- जिलाधिकारी, बलिया का कार्यालय पत्रांक- 1788/आ0ले0जि0-वन वि0 दिनांक 04.03.2023।  
3- जिलाधिकारी, बलिया का कार्यालय पत्रांक- 1789/आ0ले0जि0-वन वि0 दिनांक 04.03.2023।  
4- पुलिस अधीक्षक, बलिया का कार्यालय पत्रांक- एसटी-31/2023 दिनांक 06.03.2023।

महोदय,

उपरोक्त विषयांकित संदर्भित पत्र के क्रम में अवगत कराना है कि मा0 राष्ट्रीय हरित अधिकरण, नई दिल्ली में आयोजित ओ0ए0संख्या- 698/2022 धर्मेन्द्र कुमार सिंह बनाम उ0प्र0 राज्य में मा0 अधिकरण द्वारा पारित आदेश दिनांक 01.11.2022 के क्रम में मा0 अधिकरण द्वारा गठित समिति की रिपोर्ट प्रभागीय वनाधिकारी, काशी वन्यजीव प्रभाग, रामनगर, वाराणसी के कार्यालय पत्रांक- 2700/10-1 (एन0जी0टी0) दिनांक 27.01.2023 द्वारा प्रधान मुख्य वन संरक्षक, वन्यजीव, उत्तर प्रदेश, लखनऊ को प्रेषित पत्र में दिये गये कि जननायक चन्द्रशेखर विश्वविद्यालय के निर्माणाधीन भवन पारिस्थितिकीय संवेदी जोन में है, के आधार पर दिये गये अनुपालन आख्या को उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड के पत्रांक- Hg0015/C-6/Gen-715/O.A. 698/2022/23 दिनांक 28.02.2023 द्वारा रिपोर्ट भेजी गयी थी। दिनांक 03.03.2023 को सुनवाई के दौरान मा0 अधिकरण के न्यायधीशों द्वारा अनुपालन आख्या पर असहमति व्यक्त करते हुए मा0 अधिकरण द्वारा आदेश पारित किया गया। पारित आदेश के बिन्दु संख्या-10, 11, 12 निम्नानुसार है :-

10. In view thereof the Registrar, Jannayak Chandrashekhar University, Ballia, Uttar Pradesh is directed not to carry out any further construction on any part of land falling within ESZ area of 1.0 kilometer from the boundary of Jai Prakash Naryan (Surhatal) Bird Sanctuary, Ballia.
11. The District Magistrate and the Superintendent of Police, Ballia and Divisional Forest Officer, Kashi Wildlife Division, Ramnagar, Varanasi are directed to take all requisite steps to ensure that no further construction takes place on the above said Eco Sensitive Zone.
12. The District Magistrate, Ballia and the Divisional Forest Officer, Kashi Wildlife Division, Ramnagar, Varanasi are also directed to get the Eco Sensitive Zone area

वन वन्दोवस्त  
आव का करे।

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30/03/23

demarcated, identify the encroachments, to take appropriate action for removal of encroachments and to get appropriate sign boards fixed at appropriate places that the same is no construction zone and no further construction be raised there on and Submit action taken report in this regard within one month by email at [Judicial-ngt@gov.in](mailto:Judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

उक्त के क्रम में आप स्वयं विदित है कि जयप्रकाश नारायण पंक्षी विहार सुरहाताल का ईको सेन्सिटिव जोन पर नियंत्रण बलिया वन प्रभाग का है। अतः आप ईको सेन्सिटिव जोन में मा0 नेशनल ग्रीन ट्रिब्यूनल, नई दिल्ली द्वारा पारित आदेश दिनांक 03.03.2023 का सख्ती से अनुपालन कराया जाना सुनिश्चित करे। इस सम्बन्ध में काशी वन्यजीव प्रभाग, रामनगर, वाराणसी से क्षेत्रीय वन अधिकारी, कछुआ प्रोजेक्ट सारनाथ अपने अधीनस्थ कर्मचारियों के साथ जयप्रकाश नारायण पंक्षी विहार (सुरहाताल) क्षेत्र के अन्तर्गत पड़ने वाले क्षेत्रों में कार्यवाही के साथ-साथ ईको सेन्सिटिव जोन में भी मा0 नेशनल ग्रीन ट्रिब्यूनल, नई दिल्ली द्वारा पारित आदेश दिनांक 03.03.2023 का अनुपालन कराने की कार्यवाही की जा रही है। आप लोगों को निर्देशित किया जाता है कि इस सम्बन्ध में क्षेत्रीय वन अधिकारी, कछुआ प्रोजेक्ट, सारनाथ काशी वन्यजीव प्रभाग, रामनगर, वाराणसी को मा0 अधिकरण के आदेश दिनांक 03.03.2023 के अनुपालन कराने में अपेक्षित सहयोग प्रदान करना सुनिश्चित करे।

  
(वी0के0आनन्द)  
प्रभागीय निदेशक  
मा0वा0प्रभाग, बलिया

पू0सं0 205 / दिनांकित।

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-

- 1- वन संरक्षक, आजमगढ़ वृत्त, आजमगढ़।
- 2- जिलाधिकारी, बलिया।
- 3- पुलिस अधीक्षक, बलिया।
- 4- रजिस्ट्रार, जननायक चन्द्रशेखर विश्वविद्यालय, बलिया।
- 5- प्रभागीय वनाधिकारी, काशी वन्यजीव प्रभाग, रामनगर, वाराणसी।
- 6- उप प्रभागीय वनाधिकारी, बलिया।
- 7- उपजिलाधिकारी, सदर बलिया/बांसडीह।

  
(वी0के0आनन्द)  
प्रभागीय निदेशक  
मा0वा0प्रभाग, बलिया

olc

कार्यालय प्रभागीय निदेशक, सामाजिक वानिकी प्रभाग, बलिया  
(Email ID- dfoballia@gmail.com, dfoballia@yahoo.com)  
पत्रांक-2197/14-1 दिनांक, बलिया, मार्च, 27, 2023

सेवा में,

प्रभागीय वनाधिकारी,  
काशी वन्यजीव प्रभाग,  
रामनगर, वाराणसी

विषय :- मा0 राष्ट्रीय हरित अधिकरण, नई दिल्ली में योजित ओ0ए0 संख्या- 698/2022 धर्मेन्द्र कुमार सिंह बनाम उ0प्र0 राज्य में मा0 अधिकरण द्वारा पारित आदेश दिनांक 03.03.2023

- सन्दर्भ :-
- 1- आपका कार्यालय पत्रांक- 3127/31 दिनांक 03.03.2023।
  - 2- आपका कार्यालय पत्रांक- 3130/31 दिनांक 10.03.2023।
  - 3- जिलाधिकारी, बलिया का कार्यालय पत्रांक- 1788/आ0ले0जि0-वन वि0 दिनांक 04.03.2023।
  - 4- जिलाधिकारी, बलिया का कार्यालय पत्रांक- 1789/आ0ले0जि0-वन वि0 दिनांक 04.03.2023।
  - 5- पुलिस अधीक्षक, बलिया का कार्यालय पत्रांक- एस0टी0-31/2023 दिनांक 06.03.2023।
  - 6- इस कार्यालय का पत्रांक- 2147/14-1 दिनांक 22.03.2023।

महोदय,

उपरोक्त संदर्भित पत्रों के क्रम में अवगत कराना है कि मा0 राष्ट्रीय हरित अधिकरण, नई दिल्ली में योजित ओ0ए0 संख्या- 698/2022 धर्मेन्द्र कुमार सिंह बनाम उ0प्र0 राज्य में मा0 अधिकरण द्वारा पारित आदेश दिनांक 03.03.2023 को सुनवाई के दौरान मा0 अधिकरण के न्यायधीशों द्वारा प्रेषित की गयी अनुपालन आख्या पर असहमति व्यक्त करते हुए मा0 अधिकरण द्वारा आदेश पारित किया गया। पारित आदेश के बिन्दु संख्या 12 -

12. The District Magistrate, Ballia and the Divisional Forest Officer, Kashi Wildlife Division Ramnagar, Varanasi are also directed to get the Eco Sensitive Zone area demarcated, identify the encroachments, to take appropriate action for removal of encroachments and to get appropriate sign boards fixed at appropriate places that the same is no construction zone and no further construction be raised there on and Submit action taken report in this regard within one month by email at Judicial-ngt@gov.in preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.

इस सम्बन्ध में आपके निर्देशानुसार क्षेत्रीय वन अधिकारी, कछुआ प्रोजेक्ट, सारनाथ वाराणसी, काशी वन्यजीव प्रभाग, रामनगर, वाराणसी ने अपने अधीनस्थ कर्मचारियों के साथ जयप्रकाश नारायण पंक्षी विहार (सुरहाताल) क्षेत्र के सीमांकन के साथ-साथ ईको सेन्सिटिव जोन के भी सीमांकन किये जाने के सम्बन्ध में मा0 नेशनल ग्रीन ट्रिब्यूनल, नई दिल्ली द्वारा पारित आदेश दिनांक 03.03.2023 की अनुपालन कराने की कार्यवाही की गयी है। सर्वे एवं सीमांकन की कार्यवाही उत्तर प्रदेश शासन वन अनुभाग-3 संख्या- 1088 (1)/ 14-3-19/89 दिनांक 27.03.1991 में वर्णित सीमा एवं भारत सरकार का राजपत्र का0आ0-1315 (अ) दिनांक

08.03.2019 में दिये गये सीमा विवरण के अनुसार की गयी है। परन्तु जयप्रकाश नारायण पंक्षी विहार (सुरहाताल) की सीमा को और स्पष्ट करने हेतु पक्षी विहार के सीमा पर पिलर फिक्सिंग कराना आवश्यक होगा। जिससे विवाद की स्थिति उत्पन्न न हो। यह भी अवगत कराना है कि पक्षी विहार के किनारे के कई गांव/गांव की सीमायें ईको सेन्सिटिव जोन में स्थित हैं। उक्त के क्रम में जयप्रकाश नारायण पंक्षी विहार (सुरहाताल) के किनारे पड़ने वाले 03 रेंज क्रमशः बलिया, मनियर एवं छाता को निर्देशित किया गया कि आप स्वयं सुरहाताल की बाहरी सीमा से 01 किमी० तक का क्षेत्र जो कि ईको सेन्सिटिव जोन है, का स्थलीय निरीक्षण कर ले यदि कोई नया स्थायी निर्माण पाया जाता है तो सम्बन्धित को नोटिस जारी करते हुए नियमानुसार विधिक कार्यवाही कर इस कार्यालय को अवगत कराये। क्षेत्रीय वन अधिकारियों द्वारा निरीक्षणोपरान्त अपनी आख्या प्रेषित की गयी है। प्रेषित आख्या के अनुसार जयप्रकाश नारायण पंक्षी विहार (सुरहाताल) के ईको सेन्सिटिव जोन में कोई भी नया स्थायी निर्माण नहीं हो रहा है। सुलभ सन्दर्भ हेतु क्षेत्रीय वन अधिकारी, बलिया, मनियर एवं छाता की आख्या की छायाप्रति संलग्नकर आवश्यक कार्यवाही हेतु प्रेषित है।

संलग्नक- उपरोक्तानुसार।

(वी०के०आनन्द)  
प्रभागीय निदेशक  
सा०वा०प्रभाग, बलिया

पृ०सं० / दिनांकित।

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-

- 1- वन संरक्षक, आजमगढ़ वृत्त, आजमगढ़।
- 2- जिलाधिकारी, बलिया।
- 3- मुख्य विकास अधिकारी, बलिया।
- 4- क्षेत्रीय वन अधिकारी, बलिया, छाता एवं मनियर।

(वी०के०आनन्द)  
प्रभागीय निदेशक  
सा०वा०प्रभाग बलिया



## “आवश्यक सूचना”

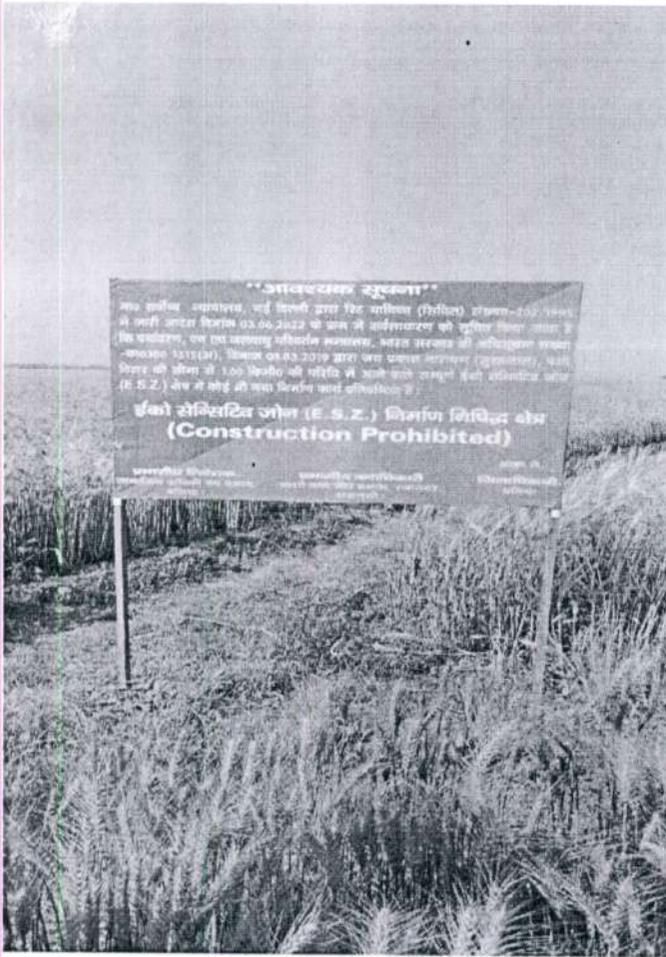
साथ सर्वोच्च न्यायालय, नई दिल्ली द्वारा रिट याचिका (सिविल) संख्या-202/1995 में जारी अदेश दिनांक 03.06.2022 के क्रम में सर्वसाधारण को सूचित किया जाता है कि पर्यावरण, वन एवं जलवायु परिवर्तन मन्त्रालय, भारत सरकार की अधिसूचना संख्या-का०आ० 1315(अ), दिनांक 08.03.2019 द्वारा जय प्रकाश नारायण (सुरहाताल), पट्टी विहार की सीमा से 1.00 किमी० की परिधि में आने वाले सम्पूर्ण ईको सेन्सिटिव जोन (E.S.Z.) क्षेत्र में कोई भी नया निर्माण कार्य प्रतिबन्धित है।

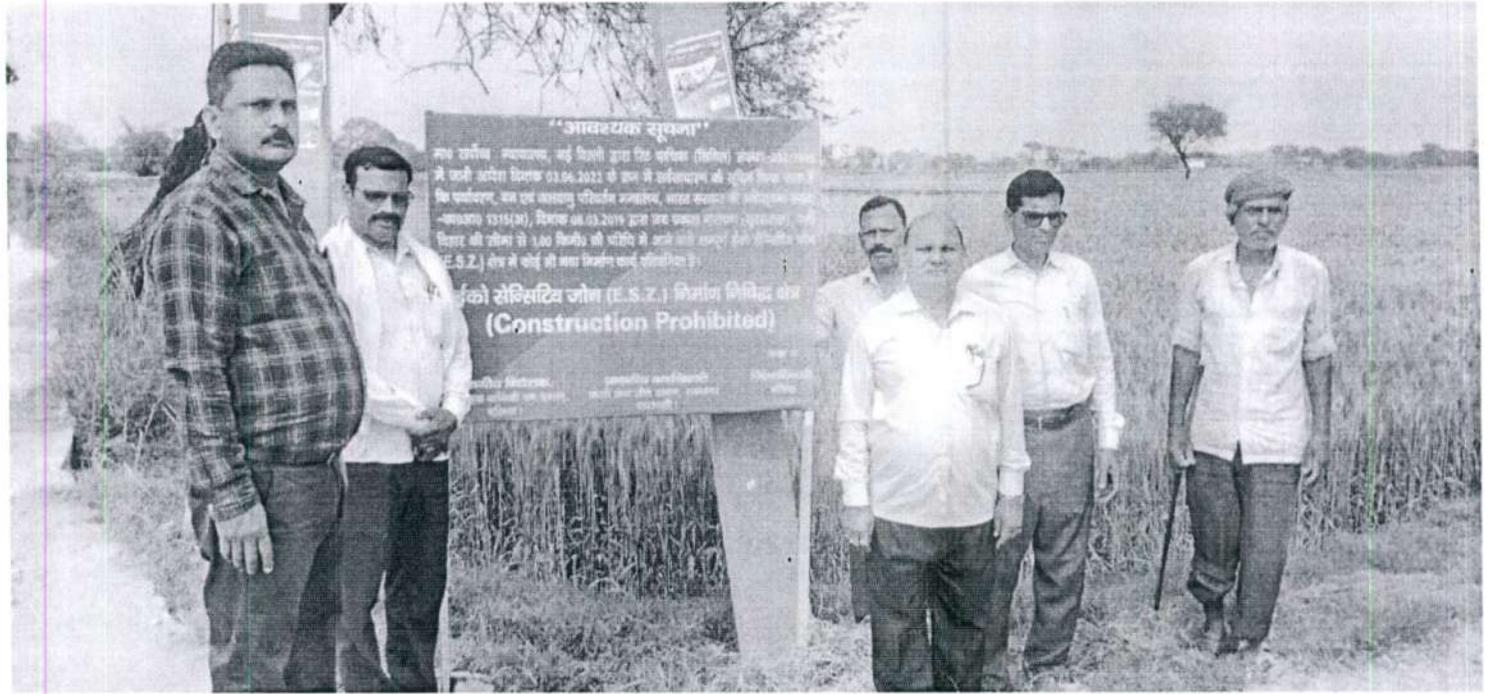
### ईको सेन्सिटिव जोन (E.S.Z.) निर्माण निषिद्ध क्षेत्र (Construction Prohibited)

प्रभागीय निदेशक,  
सांख्यिक आँकड़ों एवं प्रशासन,  
बलिया

प्रभागीय वन्यधिकारी  
कशी चन्द जीव प्रभाल, रामनगर,  
बलिया

आइ.से.  
जिलाधिकारी,  
बलिया







कार्यालय प्रभागीय वनाधिकारी, काशी वन्य जीव प्रभाग, रामनगर, वाराणसी।

पत्रांक: 3363/37

दिनांक: 27 मार्च 2023

सेवा में,

जिलाधिकारी

बलिया।

**विषय:** मा० राष्ट्रीय हरित अधिकरण, प्रमुख बेंच, नयी दिल्ली द्वारा O. A No. 698/2022 धर्मेन्द्र कुमार सिंह बनाम स्टेट ऑफ़ उत्तर प्रदेश एवं अन्य मे पारित आदेश दिनांक 03.03.2023 के अनुपालन के सम्बन्ध में।

**सन्दर्भ:** आपके कार्यालय के पत्र संख्या: 1788/ आ०ले०जि०- वन वि० दिनांक 04.03.2023

महोदय,

उपरोक्त संदर्भित पत्र के द्वारा राष्ट्रीय हरित अधिकरण, प्रमुख बेंच, नई दिल्ली द्वारा O. A No. 698/2022 धर्मेन्द्र कुमार सिंह बनाम स्टेट ऑफ़ उत्तर प्रदेश एवं अन्य मे पारित आदेश दिनांक 03.03.2023 के बिंदु संख्या 10, 11 व 12 का अनुपालन कर आख्या चाही गयी थी। उक्त के सम्बन्ध में संयुक्त आख्या निम्नवत है:

1. In view thereof the Registrar, Jananayak Chandrashekhar University Ballia Uttar Pradesh is directed not to carry out any further construction on any part of land falling within ESZ area of 1.0 kilometer from the boundary of Jai Prakash Narayan (Surha Tal) Bird Sanctuary Ballia.

उक्त के अनुपालन में अधोहस्ताक्षरी द्वारा अपने कार्यालय के पत्र संख्या 3127/31 दिनांक 03.03.2023 द्वारा रजिस्ट्रार, जननायक चंद्रशेखर विश्वविद्यालय, बलिया को जय प्रकाश नारायण पक्षी विहार (सुरहाताल) के E.S.Z क्षेत्र में हो रहे समस्त निर्माण को रोकने हेतु निर्देशित किया तथा स्वयं भी प्रभागीय निदेशक, सामाजिक वानिकी प्रभाग, बलिया के साथ मौके पर जा कर जननायक चंद्रशेखर विश्वविद्यालय, बलिया के हो रहे समस्त कार्यों को रुकवाया गया तथा क्षेत्रीय वनाधिकारी, कछुवा प्रजनन केंद्र, सारनाथ को समय-समय पर निरीक्षण किये जाने हेतु निर्देशित किया गया है, मौके पर समस्त निर्माण कार्य बंद है। (फोटोग्राफ संलग्न है)

2. The District Magistrate and the Superintendent of Police Ballia and Divisional Forest Officer Kashi Wildlife Division Ramnagar Varanasi are directed to take all requisite steps to ensure that no further construction takes place on the above said Eco Sensitive Zone.

उक्त के सम्बन्ध में अवगत कराना है कि जय प्रकाश नारायण पक्षी विहार (सुरहाताल) के ईको सेंसिटिव जोन का क्षेत्र प्रभागीय निदेशक, सामाजिक वानिकी प्रभाग, बलिया के नियंत्रणाधीन है, उनके द्वारा अवगत कराया गया है की जय प्रकाश नारायण पक्षी विहार (सुरहाताल) के इको सेंसिटिव जोन में वर्तमान समय में किसी भी प्रकार का निर्माण कार्य नहीं चल रहा है (पत्र संलग्न है)। साथ ही यह भी अवगत कराना है की काशी वन्य जीव प्रभाग रामनगर वाराणसी द्वारा जय प्रकाश नारायण पक्षी विहार (सुरहाताल) के ईको सेंसिटिव जोन की सीमा पर 15 स्थानों पर साईन बोर्ड लगा दिया गया है, जिस पर मा० सर्वोच्च

न्यायालय, नई दिल्ली के रिट याचिका संख्या – 202/1995 में पारित आदेश दिनांक 03.06.2022 का उल्लेख करते हुए –

“ईको सेंसिटिव जोन (E.S.Z) निर्माण निषिद्ध क्षेत्र /No Construction Zone” अंकित किया गया है। (फोटोग्राफ संलग्न है।)

साथ ही यह भी अवगत कराना है ही ईको सेंसिटिव जोन(E.S.Z) में कोई नया निर्माण न किये जाने हेतु ग्रामवासियों को प्रचार प्रसार के माध्यम से जागरूक किया जा रहा है, तथा वन विभाग व पुलिस विभाग के अधिकारियों/कर्मचारियों द्वारा उक्त क्षेत्र की सतत निगरानी की जा रही है।

3. The District Magistrate Ballia and the Divisional Forest Officer Kashi Wildlife Division Ramnagar Varanasi are also directed to get the Eco Sensitive Zone area demarcated, identify the encroachments to take appropriate action for removal of encroachments and to get appropriate sign boards fixed at appropriate places that the same is no construction zone and no further construction be raised thereon.....

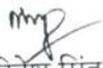
उक्त के सम्बन्ध में अवगत कराना है कि काशी वन्य जीव प्रभाग, रामनगर, वाराणसी द्वारा ईको सेंसिटिव जोन (E.S.Z) का सीमांकन कर 15 जगहों पर बोर्ड लगा दिया गया है, जिस पर मा० सर्वोच्च न्यायालय, नई दिल्ली द्वारा रिट याचिका संख्या – 202/1995 में पारित आदेश दिनांक 03.06.2022 का उल्लेख करते हुए –

“ईको सेंसिटिव जोन (E.S.Z) निर्माण निषिद्ध क्षेत्र / No Construction Zone” अंकित किया गया है।

साथ ही यह अवगत कराना है कि जय प्रकाश नारायण पक्षी विहार (सुरहाताल) का कुल क्षेत्रफल 3432.93 हे० (34.329 वर्ग कि०मी०) है, जो कि कुल 44 विभिन्न ग्रामों में स्थित है। जिसमें 3300.15 हे० भूमि निजी काश्तकारों की तथा शेष 132.78 हे० ग्राम समाज की भूमि है। साथ ही साथ यह भी अवगत कराना है कि ईको सेंसिटिव जोन (E.S.Z) का कुल क्षेत्रफल 27 वर्ग कि०मी० है जो की पूर्णतया निजी काश्तकारों की भूमि है। जय प्रकाश नारायण पक्षी विहार (सुरहाताल) क्षेत्र के अंतर्गत भारतीय वन्यजीव अधिनियम 1972 की धारा-21 के उद्घोषणा के उपरान्त वन बंदोबस्त अधिकारी/ उप जिलाधिकारी बांसडीह द्वारा बंदोबस्त की कार्यवाही की जा रही है, जय प्रकाश नारायण पक्षी विहार (सुरहाताल) का भारतीय वन्यजीव अधिनियम 1972 की धारा-26ए के अंतर्गत अंतिम उद्घोषणा अपेक्षित है तथा किसी भी काश्तकार को सरकार के तरफ से कोई मुआवजा नहीं दिया गया है।

अतः अनुपालन आख्या आवश्यक कार्यवाही हेतु सादर प्रेषित है।

  
(वी० के० आनंद)  
प्रभागीय निदेशक  
सामाजिक वानिकी प्रभाग  
बलिया

  
(दिनेश सिंह)  
प्रभागीय वनाधिकारी  
काशी वन्य जीव प्रभाग  
रामनगर, वाराणसी

कार्यालय प्रभागीय वनाधिकारी, काशी वन्य जीव प्रभाग, रामनगर, वाराणसी  
पत्रांक : 4698 / 31 / 2023-24, रामनगर, दिनांक, जून 26, 2023

सेवा में,

कुल सचिव,  
जननायक चन्द्रशेखर विश्वविद्यालय,  
बलिया।

विषय : मा0 राष्ट्रीय हरित प्राधिकरण, नई दिल्ली द्वारा ओ0ए0 संख्या-698/2022, धर्मेन्द्र कुमार सिंह बनाम उत्तर प्रदेश राज्य व अन्य के सम्बन्ध में।

सन्दर्भ : मा0 राष्ट्रीय हरित प्राधिकरण, नई दिल्ली द्वारा ओ0ए0 संख्या-698/2022, धर्मेन्द्र कुमार सिंह बनाम उत्तर प्रदेश राज्य व अन्य में पारित आदेश दिनांक 20.04.2023 एवं जिलाधिकारी, बलिया का पत्र संख्या-528/आ0ले0जि0-वन वि0, दिनांक 04.05.2023

महोदय,

उपरोक्त विषयक प्रकरण में मा0 न्यायालय के आदेश दिनांक 20.04.2023 जिसकी प्रति आपको भी मा0 अधिकरण द्वारा प्रेषित है, में मा0 अधिकरण द्वारा अपने उपरोक्त आदेश के बिन्दु संख्या-5 में निम्न आदेश निर्गत किया गया है -

"In the meanwhile, the Registrar, Jannayak Chandrashekhar University, Ballia, Uttar Pradesh is directed not to carry out any further construction on any part of land falling within ESZ area of 1.0 kilometer from the boundary of Jai Prakakash Narayan (Surahatal) Bird Sanctuary, Ballia."

आप अवगत हैं कि प्रकरण में दिनांक 12.07.2023 के पूर्व पुनः प्रतिउत्तर दाखिल किया जाना है।

अतः मा0 अधिकरण की पृच्छा अनुरूप उपरोक्त आदेश दिनांक 20.04.2023 के अनुपालन में अपनी अनुपालन आख्या उपलब्ध कराने का कष्ट करें, ताकि ससमय जबाब दाखिल किया जाना सम्भव हो सके।

संलग्नक-उपरोक्तानुसार।

  
भूवदीय,

(रणवीर मिश्र),  
प्रभागीय वनाधिकारी,  
काशी वन्य जीव प्रभाग, रामनगर,  
वाराणसी।

पत्रांक : 4698 / उक्तदिनांकित।

- प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित -
1. जिलाधिकारी महोदय, बलिया।
  2. पुलिस अधीक्षक, बलिया।
  3. प्रभागीय निदेशक, सामाजिक वानिकी प्रभाग, बलिया।
  4. अपर जिलाधिकारी (वि./रा.), बलिया।
  5. बन्दोबस्त अधिकारी, चकबन्दी, बलिया।
  6. उप जिलाधिकारी, सदर, बलिया।

  
(रणवीर मिश्र),

प्रभागीय वनाधिकारी,  
काशी वन्य जीव प्रभाग, रामनगर,  
वाराणसी।



# जननायक चन्द्रशेखर विश्वविद्यालय, बलिया

Jananayak Chandrashekhar University, Ballia

पत्रांक:-जे०एन०शी०यू० / सा०प्र० / 5098 / 2023

दिनांक: 27 जून, 2023

सेवा में,  
श्री रणवीर गिष्र,  
प्रभागीय वनाधिकारी,  
काशी वन्य जीव प्रभाग, रामनगर,  
वाराणसी।

विषय-मा० राष्ट्रीय हरित प्राधिकरण, नई दिल्ली द्वारा ओ०ए० संख्या-698/2022, धर्मेन्द्र कुमार सिंह बनाम उत्तर प्रदेश राज्य व अन्य के सम्बन्ध में।

सन्दर्भ-मा० राष्ट्रीय हरित प्राधिकरण, नई दिल्ली द्वारा ओ०ए० संख्या-698/2022, धर्मेन्द्र कुमार सिंह बनाम उत्तर प्रदेश राज्य व अन्य में पारित आदेश दिनांक: 20 अप्रैल, 2023 एवं जिलाधिकारी, बलिया के पत्र संख्या: 528/आ०ले०जि०-वन वि०, दिनांक: 04 मई, 2023।

महोदय,  
उपर्युक्त विषयक अपने कार्यालय के पत्र संख्या: 4698/31/2022-23 दिनांक: 26 जून, 2023 का सन्दर्भ ग्रहण करने का कष्ट करें, जिसके माध्यम से मा० राष्ट्रीय हरित प्राधिकरण, नई दिल्ली द्वारा ओ०ए० संख्या-698/2022, धर्मेन्द्र कुमार सिंह बनाम उत्तर प्रदेश राज्य व अन्य में पारित आदेश दिनांक: 20 अप्रैल, 2023 के अनुपालन में आख्या उपलब्ध कराये जाने की अपेक्षा की गयी है।

तत्क्रम में सूच्य है कि मा० नेशनल ग्रीन ट्रिब्यूनल, मुख्य बेंच (Court No-2, Item No- 8) के Original Application no 698/2022, धर्मेन्द्र कुमार सिंह बनाम स्टेट आफ यू०पी० एण्ड अदर्स में पारित आदेश दिनांक: 03 मार्च, 2023 के अनुक्रम में दिनांक: 04 मार्च, 2023 से निर्माण कार्य अद्यतन पूर्णरूपेण बन्द है तथा विश्वविद्यालय परिसर में भवनों के निर्माण कराये जाने के क्रम में भारत सरकार वन्य जीव बोर्ड (NBWL) की स्थायी समिति से वन्य जीव क्लीयरेन्स/अनापत्ति प्राप्त किये जाने हेतु परिवेश पोर्टल पर दिनांक: 27 अप्रैल, 2023 को आनलाईन आवेदन किया जा चुका है।

तदनुसार सूचनार्थ प्रेषित।

भवदीय,  
  
(एस०एल० पाल)  
कुलसचिव

- प्रतिलिपि: निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित:-
1. माननीय कुलपति जी।
  2. जिलाधिकारी, बलिया।
  3. सम्बन्धित पत्रावली।

कुलसचिव

कार्यालय जिलाधिकारी, बलिया

पत्र संख्या: 528 / आ0ले0जि0-वन वि0 दिनांक: मई 04, 2023

विषय: मा0 नेशनल ग्रीन ट्रिब्यूनल, प्रमुख बेंच, नई दिल्ली द्वारा ओरिजनल एप्लीकेशन नं0 698/2022 धमेन्द्र कुमार सिंह बनाम स्टेट आफ यू0पी0 एवं अन्य में पारित आदेश दिनांक 20.04.2023 के सम्बन्ध में।

प्रभागीय निदेशक,  
काशी वन्य जीव प्रभाग,  
रामनगर, वाराणसी

उपर्युक्त विषयक मा0 नेशनल ग्रीन ट्रिब्यूनल, प्रमुख बेंच, नई दिल्ली द्वारा ओरिजनल एप्लीकेशन नं0 698/2022 धमेन्द्र कुमार सिंह बनाम स्टेट आफ यू0पी0 एवं अन्य में पारित आदेश दिनांक 20.04.2023 का अवलोकन करें, जिसकी प्रति इस पत्र के साथ संलग्न है। उक्त आदेश के प्रस्तर-2, 3, 4, 5, 6 में निम्न आदेश पारित किया गया है:-

2. As per direction of this Tribunal, Mr. S.L. Pal, Registrar, Jannayak Chandrashekhar University, Ballia, Uttar Pradesh and Mr. Dinesh Singh, Divisional Forest Officer, Kashi Wildlife Division, Ramnagar Varanasi have appeared through VC before this Tribunal and we have interacted with them. Bothe of them have sought time for filing of detailed response with reference to averments made in the application and observations in the report of the Joint Committee.
3. Replies/response by the Registrar, Jannayak Chandrashekhar University, Ballia, Uttar Pradesh and the Divisional Forest Officer, Kashi Wildlife Division, Ramnagar, Varanasi be filed Within Two Months by email at [Judicial-ngt@gov.in](mailto:Judicial-ngt@gov.in) preferably in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF.
4. List for further consideration on 12.07.2023.
5. In the meanwhile, the Registrar, Jannayak Chandrashekhar University, Ballia, Uttar Pradesh is directed not to carry out any further construction on any part of land falling within ESZ area of 1.0 kilometer from the boundary of Jai Prakash Narayan (Surha Tai) Bird Sanctuary, Ballia.
6. The District Magistrate and the Superintendent of Police, Ballia and Divisional Forest Officer, Kashi Wildlife Division, Ramnagar, Varanasi are directed to take all requisite steps to ensure that no further construction takes place on the above said Eco Sensitive Zone.

कृपया मा0 नेशनल ग्रीन ट्रिब्यूनल, प्रमुख बेंच, नई दिल्ली द्वारा पारित उक्त आदेश दिनांक 20.04.2023 का अनुपालन सुनिश्चित करायें।  
संलग्नक: उपर्युक्तानुसार।

34  
64/512  
(रवीन्द्र कुमार)  
जिलाधिकारी,  
बलिया

संख्या एवं तिथि उपर्युक्त

प्रतिलिपि मा0 नेशनल ग्रीन ट्रिब्यूनल, प्रमुख बेंच, नई दिल्ली द्वारा पारित आदेश दिनांक 20.04.2023 की प्रति सहित निम्नांकित को सूचनार्थ एवं अनुपालन हेतु प्रेषित।

1. पुलिस अधीक्षक, बलिया।
2. प्रभागीय निदेशक, सामाजिक वानिकी प्रभाग, बलिया।
3. अपर जिलाधिकारी(वि/रा), बलिया।
4. रजिस्ट्रार, जननायक चन्द्रशेखर विश्वविद्यालय, बलिया।
5. बन्दोबस्त अधिकारी चकबन्दी, बलिया।
6. उप जिलाधिकारी, सदर बलिया।

(रवीन्द्र कुमार)  
जिलाधिकारी,  
बलिया

महकाय  
वन बन्दोबस्त  
आ0ले0जि0-वन वि0  
34/512  
21/6/2023

कार्यालय प्रभागीय वनाधिकारी, काशी वन्य जीव प्रभाग, रामनगर, वाराणसी  
 पत्रांक : मेमो / क0पु0के0सा0वा0, रामनगर, दिनांक, जून 20, 2023  
 सेवा में,

क्षेत्रीय वन अधिकारी,  
 कछुआ प्रजनन केन्द्र,  
 सारनाथ, वाराणसी।

विषय : नेशनल ग्रीन ट्रिब्यूनल, प्रमुख बेंच, नई दिल्ली द्वारा ओरिजनल एप्लीकेशन  
 नं0-698/2022, धर्मेन्द्र कुमार सिंह बनाम उत्तर प्रदेश राज्य व अन्य में पारित  
 आदेश दिनांक 20.04.2023 के सम्बन्ध में।

सन्दर्भ : जिलाधिकारी, बलिया का पत्र संख्या-528/आ0ले0जि0-वन वि0, दिनांक  
 04.05.2023

महोदय,

उपरोक्त विषयक सन्दर्भित पत्र की छायाप्रति संलग्न कर इस निर्देश के साथ  
 प्रेषित है कि नेशनल ग्रीन ट्रिब्यूनल, प्रमुख बेंच, नई दिल्ली द्वारा ओरिजनल एप्लीकेशन  
 नं0-698/2022, धर्मेन्द्र कुमार सिंह बनाम उत्तर प्रदेश राज्य व अन्य में पारित आदेश  
 दिनांक 20.04.2023 का अनुपालन करना सुनिश्चित करें तथा कृत कार्यवाही से  
 अधोहस्ताक्षरी को भी अवगत करायें।

संलग्नक-उपरोक्तानुसार।

भवदीय  
 20/6/2023  
 (रणवीर मिश्र),  
 प्रभागीय वनाधिकारी,  
 काशी वन्य जीव प्रभाग, रामनगर,  
 वाराणसी।

कार्यालय प्रभागीय वनाधिकारी, काशी वन्य जीव प्रभाग, रामनगर, वाराणसी  
 पत्रांक : मिमो / क०पु०के०सा०वा०,  
 रामनगर, दिनांक, मई 19, 2023

सेवा में,

क्षेत्रीय वन अधिकारी,  
 कछुआ प्रजनन केन्द्र,  
 सारनाथ, वाराणसी।

विषय : नेशनल ग्रीन ट्रिब्यूनल, प्रमुख बेंच, नई दिल्ली द्वारा ओरिजनल एप्लीकेशन  
 नं०-698/2022, धर्मेन्द्र कुमार सिंह बनाम उत्तर प्रदेश राज्य व अन्य में पारित  
 आदेश दिनांक 20.04.2023 के सम्बन्ध में।

सन्दर्भ : जिलाधिकारी, बलिया का पत्र संख्या-528/आ०ले०जि०-वन वि०, दिनांक  
 04.05.2023

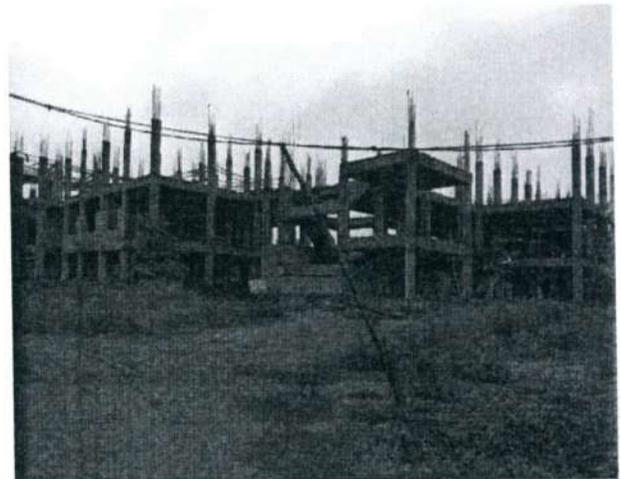
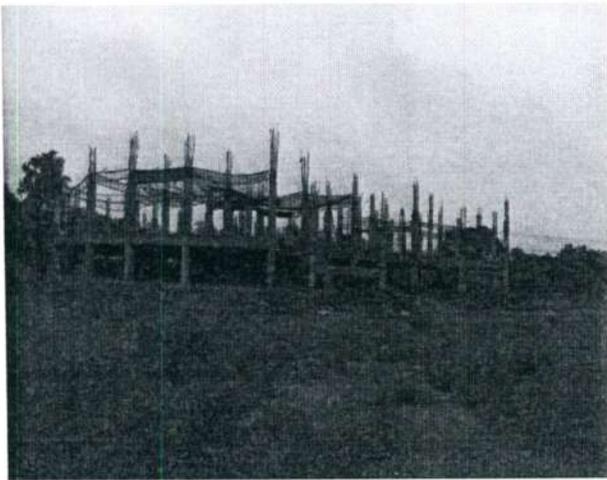
महोदय,

उपरोक्त विषयक सन्दर्भित पत्र की छायाप्रति संलग्न कर इस निर्देश के साथ  
 प्रेषित है कि नेशनल ग्रीन ट्रिब्यूनल, प्रमुख बेंच, नई दिल्ली द्वारा ओरिजनल एप्लीकेशन  
 नं०-698/2022, धर्मेन्द्र कुमार सिंह बनाम उत्तर प्रदेश राज्य व अन्य में पारित आदेश  
 दिनांक 20.04.2023 का अनुपालन करना सुनिश्चित करें तथा कृत कार्यवाही से  
 अधोहस्ताक्षरी को भी अवगत करायें।

संलग्नक-उपरोक्तानुसार।

भवदीय,  
 19/5/2023

(रणवीर मिश्र),  
 प्रभागीय वनाधिकारी,  
 काशी वन्य जीव प्रभाग, रामनगर,  
 वाराणसी।



**IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION**

**I.A. No.1000 of 2003**  
**(Recommendation of CEC dated 20.11.2003)**

**WITH**

**I.A. Nos.982-984 of 2003**

**AND**

**I.A. Nos.1026-1028 of 2004**

**AND**

**I.A. Nos. 1123-1124 of 2004**

**AND**

**I.A. Nos.1197-1199 of 2004**

**AND**

**I.A. Nos. 1210-1211 of 2004**

**AND**

**I.A. Nos.1250-1251 of 2004**

**AND**

**I.A. No. 1412 of 2005**

**AND**

**I.A. No.1512 of 2006**

**AND**

**I.A. No. 1992 of 2007**

**AND**

**I.A. No. 3880 of 2015**

**AND**

**I.A. No. 96949 of 2019**

**AND**

**I.A. No. 117831 of 2019**

**AND**

**I.A. NO. 65571 of 2021**

**In the Matter of:**

**WRIT PETITION (CIVIL) NO. 202 of 1995**

**In Re: T.N. Godavarman Thirumulpad          .....Petitioner(s)**

**Versus**

**Union of India and Ors.                                  .....Respondent(s)**

**J U D G M E N T**

**ANIRUDDHA BOSE, J.**

These proceedings originate from the Writ Petition under Article 32 of the Constitution of India registered as W.P. (Civil) No. 202 of 1995 (T.N. Godavarman Thirumulpad v. Union of India and Ors.), which is in the nature of a public interest litigation. It was instituted for protection of forest lands in the Nilgiris district of the State of Tamil Nadu. Subsequently, the scope of that writ petition was enlarged so as to protect such

natural resources throughout the country. The original writ petitioner has since passed away (on 1<sup>st</sup> June 2016) but in an order passed on 3<sup>rd</sup> February 2017, this Court opined that being a public interest litigation, there was no requirement for bringing on record the legal representatives of the deceased petitioner. The writ petition, in substance, continued with the cause title “in Re: T.N. Godavarman Thirumulpad v. Union of India & Ors”. Various Orders have been passed from time to time in this writ petition to ensure preservation of forest resources of this country in balance with economic activities. By an Order of this Court dated 9<sup>th</sup> May 2002, a Central Empowered Committee (“CEC”) was directed to be formed primarily for monitoring implementation of this Court’s orders and to place the incidents of non-compliance before us. Subsequently, by a notification issued on 17<sup>th</sup> September 2002 by the Ministry of Environment and Forest in exercise of power under Section 3(3) of the Environment (Protection) Act, 1986, this committee was constituted under statutory provisions. CEC has been bringing to the notice of this Court the steps taken for removal of encroachment, implementation of working plans, compensatory

afforestation, plantation and other conservation issues. In this order, we shall be mainly dealing with two sets of issues. The first set relates to mining activities in and around a wildlife sanctuary in the State of Rajasthan- known as “Jamua Ramgarh” (also spelt as Jamwa Ramgarh). The second set of issues is wider in scope, and involves prescribing eco-sensitive zones (ESZ) surrounding the wildlife sanctuaries and national parks. The subject of mining and other commercial activities within the wildlife sanctuaries and national parks (protected forests) shall also be dealt by us in this order. The applications before us require examination in the perspective of a set of recommendations made by the CEC and we have been urged by a set of applicants to make certain modifications of this Court’s earlier directions concerning steps to be taken for protection of forest resources. The applicants seeking modifications of our earlier orders include a set of miners, and, in some cases, the State Governments asking for opening up of the protected forest areas and their buffer zones, on which restrictions have been placed in by our earlier orders, for commercial exploitation. There is dispute as to what would constitute the buffer zones on

ESZ in respect of national parks and wildlife sanctuaries, as there are divergence of views among the various stakeholders.

**2.** The present set of applications arise out of a report of the CEC dated 20<sup>th</sup> November 2003. This report specifically pertains to Jamua Ramgarh wildlife sanctuary. This sanctuary covers an area of about 300 square kilometres. The said report gives a horrific picture of ravaging of a protected forest mainly by private miners mostly with temporary working permits obtained from the Governmental agencies. Following recommendations were made in this report:-

*“17..... (i) all mining leases which wholly or partly fall within the forest area inside the Jamua Ramgarh Sanctuary and also within the safety zone, should be immediately cancelled. The mining activity can be allowed to be resumed only after the new/amended mining leases, after excluding the forest area and the safety zone are sanctioned by the competent authority and the conditions mentioned herein under are fully complied with;*

*(ii) presently a safety zone of twenty five meter has been fixed for Jamua Ramgarh Sanctuary and other sanctuaries in Rajasthan as against 500 meter for Ranthambhore National Park in Rajasthan itself. In Madhya Pradesh safety zone of 250 meter for all the 20 forest area has been fixed. The CEC is of the view that minimum 500 meter safety zone around National Parks and Sanctuaries is necessary where no mining, construction and other projects should be allowed. Without a reasonable safety zone the habitat and wild life in the National Parks and Sanctuaries are adversely affected. Although stringent conditions are imposed at the time of the sanction of the mining leases, none are practically*

*complied with due to weak enforcement of the laws. The mining causes heavy disturbance in the area due to blasting, removal of over burden, chiseling, transportation, flying debris and movement of a large number of labourers and other persons. The safety zone of twenty five meter presently prescribed by the Rajasthan Forest Department is totally inadequate as the rocks torn apart during blasting can travel much beyond the present safety zone. However, increasing the safety zone to the desired level of 500 meter will result in closure of large number of mines. Taking a holistic overall view of the situation, the CEC recommends that for the Jamua Ramgarh wild life sanctuary, for the "existing" mines the safety zone may be fixed as 100 meter wherein no mining should be permitted. "For new" mining leases the safety zone may be fixed as 500 meter.*

*(iii) reclamation and rehabilitation of the area mined inside the sanctuary should be carried out in a time bound manner at the cost of the user agency for which a detailed reclamation and rehabilitation plan along with various items of work, cost involved and time frame should be prepared and implemented on priority basis. The plan presently prepared by the State Government is totally inadequate. It does not provide for reclamation and rehabilitation of the mining pits at all. No provision for removal of stones and rocks scattered in the sanctuary has been made. Intensive plantations and protection has not been provided. The revised plan should incorporate the above and other necessary measures to provide a congenial habitat for wild life. In the event adequate funds for this purpose cannot be recovered from the erstwhile mine lease owners, the same should be made available by the State Government;*

*(iv) mining around the sanctuary should be allowed to restart only after a fool proof mechanism is put in place to ensure recovery of funds for implementation of reclamation and rehabilitation plan by the State Government;*

*(v) exemplary compensation equivalent to the present market value of the entire mineral removed by the respective mine owners by mining inside the sanctuary in violation of the F.C. Act and/or the W. P. Act should be recovered from them on the basis of the recorded production or the estimated figures mentioned in the F.C. Act applications. The money so recovered should be used*

*for protection and development of the sanctuary to its full potential;*

*(vi) the left over minerals scattered inside the sanctuary should be directed to be removed immediately.*

*(vii) the left over mining equipments such as cranes etc. should be confiscated and removed outside the sanctuary at the cost of the erstwhile mine lease holders;*

*(viii) no mining should be permitted adjoining the sanctuary till the boundary of the sanctuary is demarcated on the ground and the boundary pillars are verified with the fixed reference points;*

*(ix) disciplinary action should be taken in a time bound manner against the erring officials in the Mines and the Forest Departments of the State of Rajasthan and the MoEF for allowing mining in violation of the F.C. Act, the W. P. Act and/or this Hon'ble Court's order;"*

**(quoted verbatim from paperbook)**

**3.** This Court had converted this report with its set of recommendations into an Interlocutory Application and was allocated registration number I.A. 1000 of 2003.

**4.** On 20<sup>th</sup> September 2012, a second report was submitted by the CEC. The recommendations made in the second report went beyond the Jamua Ramgarh Sanctuary and dealt with creation of identification and declaration of safety zones around protected forests all across the country. The question of having ESZ around the protected forests was examined by this Court earlier in another Writ Petition [W.P. (Civil) No. 460 of 2004] in

**Goa Foundation v. Union of India.** In the said writ petition, the following order was passed on 4<sup>th</sup> December 2006 [reported in (2011) 15 SCC 791]: -

*“4. The Ministry is directed to give a final opportunity to all States/Union Territories to respond to its letter dated 27-5-2005. The State of Goa also is permitted to give appropriate proposal in addition to what is said to have already been sent to the Central Government. The communication sent to the States/Union Territories shall make it clear that if the proposals are not sent even now within a period of four weeks of receipt of the communication from the Ministry, this Court may have to consider passing orders for implementation of the decision that was taken on 21-1- 2002, namely, notification of the areas within 10 km. of the boundaries of the sanctuaries and national parks as eco-sensitive areas with a view to conserve the forest, wildlife and environment, and having regard to the precautionary principles. If the States/Union Territories now fail to respond, they would do so at their own risk and peril”.*

5. Two writ petitions have been instituted titled as **Goa Foundation v. Union of India** [W.P. (Civil) No.460 of 2004] and **Goa Foundation v. Union of India and Others** [W.P. (Civil) No.435 of 2012], in relation enforcement of various circulars issued for enforcement of environmental laws and to prevent illegal mining in different States including the State of Goa. There are certain overlapping issues involved in the present writ petition and the cases of **Goa Foundation** (supra). The directions

which we propose to issue in this judgment/order shall take into account the orders passed in the cases of **Goa Foundation** (supra) and such directions shall be supplemental to the orders passed in any of the aforesaid two writ petitions if our directions passed in this order relate to areas or subjects covered by any mandate passed in the said two writ petitions.

**6.** A set of Guidelines for Declaration of Eco-Sensitive Zones (ESZ) around National Park and Wildlife Sanctuaries had been formulated by the Ministry of Environment, Forest and Climate Change (MoEF&CC) of the Government of India on 9<sup>th</sup> February 2011 [F. No.1-9/2007 WL – I (pt)]. These Guidelines deal with the process and procedures to be adopted for declaring ESZ. In Clauses 3 and 4 of these Guidelines, it has been stipulated: -

**“3. Purpose for declaring Eco-Sensitive Zones:**

*The purpose of declaring Eco-sensitive Zones around National Parks and Sanctuaries is to create some kind of “Shock Absorber” for the Protected Areas. They would also act as a transition zone from areas of high protection to areas involving lesser protection. As has been decided by the National Board for Wildlife, the activities in the Eco-sensitive zones would be of a regulatory nature rather than prohibitive nature, unless and otherwise so required.*

**4. Extent of Eco-Sensitive Zones:**

**4.1** *Many of the existing Protected Areas have already undergone tremendous development in close vicinity to*

*their boundaries. Some of the Protected Areas actually lying in the urban setup (Eg. Guindy National Park, Tamil Nadu, Sanjay Gandhi National Park, Maharashtra, etc). Therefore, defining the extent of eco-sensitive zones around Protected Areas will have to be kept flexible and Protected Area specific. The width of the Eco-sensitive Zone and type of regulations will differ from Protected Area to Protected Area. However, as a general principle the width of the Eco-sensitive Zone could go up to 10 Kms around a Protected Area as provided in the Wildlife Conservation Strategy-2002.*

**4.2** *In case where sensitive corridors, connectivity and ecologically important patches, crucial for landscape linkage, are even beyond 10 kms width, these should be included in the Eco-sensitive Zone.*

**4.3** *Further, even in context of a particular Protected Area, the distribution of an area of Eco-sensitive Zone and the extent of regulation may not be uniform all around and it could be of variable width and extent.”*

**(quoted verbatim from paperbook)**

**7.** In Clauses 6 and 7 of the said Guidelines, it has been specified:-

**“6. The procedure to be adopted:**

**6.1** *As has been indicated in the forgoing paras, the basic aim is to regulate certain activities around National Park and Wildlife Sanctuary so as to minimize the negative impacts of such activities on the fragile ecosystem encompassing the Protected Area. As a first step towards achieving this goal, it is a pre-requisite that an inventory of the different land use patterns and the different types of activities, types and number of industries operating around each of the Protected Area (National Parks, Sanctuaries) as well as important Corridors be made. The inventory could be done by the concerned Range Officers, who can take a stock of activities within 10 km of his range.*

**6.2** For the above purpose, a small committee comprising the concerned Wildlife Warden, an Ecologist, an official from the Local Self Government and an official of the Revenue Department of the concerned area, could be formed. The said committee could suggest the:

- (i) Extent of eco-sensitive zones for the Protected Area being considered.
- (ii) The requirement of such a zone to act as a shock absorber.
- (iii) To suggest the best methods for management of the eco-sensitive zones, so suggested.
- (iv) To suggest broad based thematic activities to be included in the Master Plan for the region.

**6.3** Based on the above, the Chief Wildlife Warden could group the activities under the following categories (an indicative list of such activities is attached as **ANNEXURE-1**):-

- (i) Prohibited
- (ii) Restricted with safeguards.
- (iii) Permissible

**6.4** Once the proposal for Eco-sensitive zones has been finalized, the same may be forwarded to the Ministry of Environment and Forests for further processing and notification. Here, it may be noted that, the State/ Union Territory Forest Department could forward the proposals to the respective authority in the State Government with copy to the Ministry of Environment and Forests, as and when the proposals (even if it is for single Protected Area) are complete. An indicative list of details that need to be submitted along with the proposals is at **ANNEXURE-2**.

**6.5** It is to mention here that in cases where the boundary of a Protected Area abuts the boundary of another State/Union Territory where it does not form part of any Protected Area, it shall be the endeavour of both the State/ Union Territory Governments to have a mutual consultation and decide upon the width of the ecosensitive zone around the Protected Area in question.

**6.6** The State Government should endeavour to convey a very strong message to the public that ESZ are not meant

*to hamper their day to day activities, but instead, is meant to protect the precious forests/Protected Areas in their locality from any negative impact, and also to refine the environment around the Protected Areas. A copy of the notification of the Sultanpur Eco-sensitive Zone issued by the Ministry is attached herewith at **ANNEXURE-3** for reference and guidance.*

*7. These guidelines are indicative in nature and the State / Union Territory Governments may use these as basic framework to develop specific guidelines applicable in the context of their National Parks, Wildlife Sanctuaries, important corridors, etc. with a view to minimizing and preferably eliminating any negative impact on protected areas.”*

**(quoted verbatim from paperback)**

**8.** As per the said Guidelines, commercial mining, setting up of saw mills and industries causing pollution, commercial use of firewood, establishment of major hydro-electric projects, use of production of any hazardous substances, undertaking activities related to tourism like over-flying the national park area by any aircraft, hot-air balloons, discharge of effluents and solid waste in natural water bodies or terrestrial areas have been proposed to be made prohibited activities. Certain other activities having lesser environment damaging potential have been proposed to be regulated.

**9.** By an order passed on 4<sup>th</sup> August 2006, this Court had, inter-alia, restrained grant of temporary working permits for

mining within safety zones around any national park/wildlife sanctuary declared under Sections 18, 26-A or 35 of the Wild Life (Protection) Act, 1972. As an interim measure, direction was issued to maintain one kilometre safety zone, which was subject to the orders that may be made in the present IA (I.A. No.1000 of 2003).

**10.** The second report of the CEC dated 20<sup>th</sup> September 2012 makes the following recommendations as regards identification and declaration of ESZ. This report entitled “**Note regarding safety zones (Eco-sensitive zones) around National Parks and Wildlife Sanctuaries**” makes the following recommendations:-

*“10. After considering that during the last ten years no significant progress has been made regarding identification and declaration of Safety Zones around protected areas and considering the matter in its totality, an implementable scheme has been prepared by the CEC and which has been dealt with in subsequent paragraphs.*

*11. For the purpose of identification and declaration of the Safety Zones around National Parks/Wildlife Sanctuaries (hereinafter referred to as protected areas), the protected areas based on their areas, are classified into four categories:*

*i) **CATEGORY-A** - the protected areas having an area of 500 sq. km. or more. The total number of such protected areas is 73 and their total area is about 1,01,389 sq. km (63.44 % of total area of protected areas);*

*ii) **CATEGORY-B** - the protected areas having an area between 200 sq. km. to 500 sq. km. The total number of such protected areas is 115 and their total area is about 38942 sq. km. (24.37 % of total area of protected areas);*

iii) **CATEGORY-C** - the protected areas having an area between 100 sq. km. to 200 sq. km. The total number of such protected areas is 85 and their total area is about 12,066 sq. km (about 7.55 % of total area of protected areas); and

iv) **CATEGORY-D** - the protected areas having an area up to 100 sq. km. The total number of such protected areas is 344 and their total area is about 7,422 sq. km (about 4.65 % of total area of all protected areas).

12. Wherever two or more protected areas are contiguous to each other, such protected areas will be placed in the appropriate category based on the sum total of their areas (and not on the basis of area of individual protected area). The details of some of the contiguous protected areas are given below:

i) Corbett National Park (520 sq. km.) and Sonanadi Sanctuary (301 sq. km) - total area is 821 sq. km and therefore both will fall in Category-A;

ii) Gir National Park (258 sq. km.) and Gir Sanctuary (1,153 sq. km.) - total area is 1,411 sq. km. and therefore both will fall in Category-A;

iii) Periyar National Park (350 sq. km.) and Periyar Sanctuary (427 sq. km.) - total area is 777 sq. km. and therefore both will fall in Category-A;

iv) Satpura National Park (585 sq. km.), Bori Sanctuary (485 sq. km.) and Pachmarhi Sanctuary (417 sq. km.) - total area is 1488 sq. km. and therefore all three will fall in Category-A;

iv) Valmiki National Park (335 sq. km.) and Valmiki Sanctuary (545 sq. km.) - total area is 880 sq. km. and therefore both will fall in Category-A;

vi) Tadoba National Park (116 sq. km.) and Andhari Wildlife Sanctuary (509 sq. km.) - total

area is 625 sq. km. and therefore both will fall in Category-A; and

vii) Sariska National Park (273 sq. km.) and Sariska Sanctuary (219 sq. km.) - total area is 492 sq. km. and therefore both will fall in Category-B;

13. The Safety Zone, in respect of protected areas falling in 'Category-A and Category-B, may comprise of all the areas including non-forest areas falling within a distance of two kilometers and one kilometer respectively from the boundaries of the protected area. Such distances, in respect of protected areas falling within Category-C and Category-D, may be kept at 500 meter and 100 meter respectively.

14. The grant/renewal of mining leases (excluding for collection of boulders, gravel and sand from river beds), setting up of hazardous industries, brick kilns, wood based industries (except MDF/Particle Boards Plants) will be treated as prohibited activities within the Safety Zone (eco-sensitive zones). The activities such as setting up of industries (other than those included in the list of prohibited activities), hotels and restaurants including resorts, commercial helicopter services, hydel projects, irrigations projects, canals, laying of transmission lines and distribution lines above 33 KV, roads of more than five meter width and collection of boulders, gravel and sand from the river beds will be treated as regulated activities and which will be permissible only after obtaining environment clearance and clearance of the Standing Committee, National Board for Wildlife. All other activities which are not prescribed as prohibited activities or regulated activities will be treated as permissible activities.

15. The concerned State/UT will be at liberty to shift a protected area from a lower category to higher category (say from Category-C to Category-B) after considering the importance of the protected area on account of:

i) presence of flagship species/endangered species such as Tiger, Lion, Elephant, Rhino, Snow Leopard, Red Panda, Hangul, Musk deer, Great Indian Bustard, Lion Tailed Macaque, floricans;

ii) *fragile eco-system such as Western Ghats, North Eastern States, areas having high altitude flora and fauna, rain forest, mangroves, marine eco-system;*

iii) *World Heritage sites; and*

iv) *Wetland eco-systems*

16. *The concerned State/UT Governments may after detailed examination of the status of habitation, existing industries and other activities and other relevant factors, and, if found desirable and in public interest forward the proposal(s) for shifting a protected area from a higher category to a lower category. They may also forward the proposal(s) for exclusion of the areas of cities falling within the Safety Zone. The MoEF thereafter will examine such proposals and place such proposals before the Standing Committee of the National Board for Wildlife for its consideration. The proposals cleared by the Standing Committee of the NBWL will be placed before this Hon'ble Court for seeking its permission. It is only after obtaining the permission of this Hon'ble Court that a protected area may be shifted from a higher category to a lower category.*

17. *The Safety Zones (eco-sensitive zones) around National Parks and Wildlife Sanctuaries will be in addition to the following eco-sensitive zones notified by the MoEF (and by other notifications, if any):*

i) *S.O. 20(E), (6/1/1989) - Prohibiting industries on Murud-Janjira, District Raigadh, Maharashtra;*

ii) *S.O. 102(E), (1/2/1989) - Restricting location of industries, mining & other activities in Doon Valley (UP);*

iii) *S.O. 416(E), (20/6/1991) - Dahanu Taluka, District Thane (Maharashtra) to declare as Ecologically Fragile Area, amended 1999;*

iv) *S.O.319(E), (7/5/1992) - Restricting certain activities causing environmental degradation at Aravalli Range;*

v) *S.O. 481 (E), (5/7/1996) - No Development Zone at Numaligarh, East of Kaziranga;*

vi) S.O. 884(E), (19/12/1996) - Dahanu Taluka Environment Protection Authority, 1996, amended 2001 ;

vii) S.O. 350(E), (13/5/1998) - Order constituting the Taj Trapezium Zone Pollution (Prevent and Control) Authority;

viii) S.O. 825(E), (17.9.1998) - Pachmarhi Region as an Eco-Sensitive Zone;

ix) S.O. 52(E), (17/1/2001) Mahabaleswar Panchgani Region as an Eco-Sensitive Zone;

x) S.O. 133 (E), (4/2/2003) - Matheran and surrounding region as an Eco-Sensitive Zone

1. S.O. 83 (E), (16/01/2004) - Amendments to S.O. 133(E) dated 4/2/2003;

xi) S.O. 1545(E), (25/06/2009), Mount Abu as Eco-Sensitive Zone.

xii) S.O. 1260(E), (31/05/2012) - Girnar Reserve Forest as Eco-Sensitive Zone.

18. *It is respectfully submitted that the above proposals are submitted in the back-drop of inordinate delay that has taken place in the identification and declaration of Safety Zones around National Parks/ Wildlife Sanctuaries and so as to ensure that the process of such declarations do not remain pending indefinitely.”*

**(quoted verbatim from paperbook)**

**11.** To the said report, another supplementary note dated 18<sup>th</sup> January 2013 has been submitted. This report is also in connection with notifying the ESZ around protected forests. The following passage from this report is relevant: -

*“4. After considering the inordinate delay which has already taken place in notifying the safety zone around National Parks/ Wildlife Sanctuaries and considering the ground situation as it exists, the CEC is of the considered*

*view that it may be appropriate that an early decision is taken regarding the safety zones around National Park/ Sanctuaries. The proposal submitted by the CEC while ensuring that effective restrictions and regulations are put in place immediately and implemented in an objective manner also, after detailed examination, provides for adequate flexibility to modify the areas of the safety zones.”*

**(quoted verbatim from paperbook)**

**12.** In connection with the I.A. No.1000 of 2003, several other applications have been filed, mainly by miners concerning the Jamua Ramgarh wildlife sanctuary. The order passed on 4<sup>th</sup> August 2006 by this Court [reported in (2010) 13 SCC 740] in relation to grant of temporary working permits was made subjecting them to compliance of certain pre conditions. These preconditions, inter-alia, were: -

*“19. (i) TWPs can only be granted for the renewal of mining leases, and not where the lease is being granted for the first time to the applicant user agency;*

*(ii) The mine is not located inside any national park/sanctuary notified under Sections 18, 26-A or 35 of the Wild Life (Protection) Act, 1972;*

*(iii) The grant of TWP would not result in any mining activity within the safety zone around such areas referred to in Precondition (ii) above (as an interim measure, one kilometre safety zone shall be maintained subject to the orders that may be made in IA No. 1000 regarding Jamua Ramgarh Sanctuary);*

*(iv) The user agency who has broken up the area of the mine (in respect of which TWP is being sought) has or had the requisite environmental clearances and at no time prior to the grant of the TWP was any mining being carried on by the user agency in relation to the mine in question, in violation of the provisions of the Forest (Conservation) Act*

*(for short “the FC Act”). In cases involving violation of the FC Act, a formal decision on merit should be taken under the FC Act after considering the gravity of the violation. However, the grant of a TWP may be considered where past violations have been regularised by the Ministry of Environment and Forests (for short “MoEF”) by the grant of an approval under the FC Act with retrospective effect;*

*(v) The conditions attached to the approval under the FC Act for the grant of the mining lease (or the renewal of the mining lease) have been fulfilled, particularly those in respect of (but not limited to) compensatory afforestation, reclamation plan and overburden dumping on the specified site;*

*(vi) The user agency has, within the stipulated time, already filed a proposal in conformity with the Forest (Conservation) Rules, 1980 for seeking an approval under the FC Act along with the complete details as are required to be furnished. An application for the grant of TWP in favour of the user agencies, who have either not filed a proper proposal and/or have not provided complete information, particularly in respect of (but not limited to) compensatory afforestation, phased reclamation plan, felling of trees, details of minerals extracted in the past, etc. should not be entertained;*

*(vii) A TWP shall be granted only limited to working in the area broken up legally and during the validity of the lease. No TWP can be granted in respect of, or extending to either unbroken area or the areas which have been broken after the expiry of the mining lease or have been broken in violation of the FC Act or any other law for the time being in force;*

*(viii) In no circumstances can the duration of a TWP extend beyond the period of one year. Where an application for the grant of permission under the FC Act is not disposed of during the currency of TWP, the applicant, on the strength of the same TWP, may continue to operate for a period not exceeding three months unless specific orders are obtained from this Court; and*

*(ix) A valid lease under the MMRD Act exists [including by way of a deemed extension in terms of Rule 24-A(6) of the Mineral Concession Rules] in respect of the area of the TWP.”*

**13.** We shall now briefly refer to the individual I.A.s filed in connection with I.A No. 1000 of 2003:-

(i) Applicants in I.A. Nos. 982-984 of 2003, 1026-1028 of 2004, 1123-1124 of 2004, 1197-1199 of 2004, 1210-1211 of 2004, 1250-1251 of 2004 and 1512 of 2006 are firms who claim to be mining lease holders or their representative bodies seeking impleadment in I.A. No. 1000 of 2003 as also other reliefs. All these applicants (barring the applicant in I.A. No.1512, i.e. M/s. Andhi Marbles) seek impleadment in the present proceeding. All of them also seek certain direction that might allow them to carry on mining activities. Among them, M/s. Jaipur Mineral Development Syndical Private Limited (I.A. Nos.1123-1124 of 2004) has taken a plea that Section 66(4) of the Wild Life (Protection) Act, 1972 was not applicable to it and in that regard a pending Writ Petition instituted by them in the High Court of Rajasthan (Writ Petition No. 570 of 2002) has been cited. In the said application permission has been sought for restarting the mining activities in non-forest area.

Directions have also been asked to prevent initiation of penal proceedings against the applicant under the Wild Life (Protection) Act, 1972.

(ii) The applicant in I.A. Nos.982-984 of 2003 is one Smt. Magan Devi Meena. Her case is that she was allotted mining area which is outside the reserve forest/sanctuary in Thali village and falls outside Pillar no. 407 (the demarcation point of forest/sanctuary area). She essentially questions legality of the letter dated 30<sup>th</sup> May 2003 issued by the Mining Engineer Jaipur, office of Mining Engineer & Geology Department, Jaipur, Rajasthan stopping mining operation in the disputed area of Jamua Ramgarh Wildlife Sanctuary and pending completion of demarcation.

(iii) In I.A. Nos. 1210-1211 of 2004, the applicant is Madhu Agarwal. Her prayer is for fresh demarcation of the Pillar no.1 to Pillar no.428 around the said sanctuary and she has also sought directions on the State Government to release the excess land from the reserve forest area after fresh demarcation. The applicant in this

case has been involved in mining of dolomite in Jamua Ramgarh Tehsil in the area known as Rayanwala of Digota Forest Block 61.

(iv) I.A. Nos. 1250-1251 of 2004 has been taken out by Bhushan Sharma, successor in interest of one Sharda Devi, who was the original allottee of mining around the Jamua Ramgarh Wildlife Sanctuary. It is the case of the applicant that his operations have been stopped by letter dated 30<sup>th</sup> May 2003 issued by the Mining Engineer Jaipur, office of Mining Engineer & Geology Department, Jaipur, Rajasthan in the disputed area of Jamua Ramgarh Sanctuary. Survey had revealed that mining activities were being carried on inside the wildlife sanctuary. The report of CEC dated 27<sup>th</sup> May 2003 found number of mines operating around or in two villages, Sankotda and Thali, which were within the sanctuary and the CEC also found that the earlier finding of a Committee could not be taken as conclusive proof that the area involved was a non-forest land and fell outside the sanctuary. The State of Rajasthan, however, has

taken a stand in their affidavit affirmed on 15<sup>th</sup> April 2004 that delineation and demarcation of the boundaries have already been done.

(v) In I.A. No. 1512 of 2006, M/s. Andhi Marbles Pvt. Ltd are the applicants. They have prayed for permission to resume mining operations excluding the land to the extent of 100 metres from the forest/sanctuary.

(vi) In I.A. No. 3880 of 2015, the applicant is the State of Rajasthan. Prayer has been made in this application for appropriate direction for issuing the ESZ of wildlife sanctuaries and national parks and to keep in abeyance a letter issued by CEC on 21<sup>st</sup> October 2014 by which one kilometre distance has been required to be maintained in respect of mining activities from the boundaries of the National Parks and Wildlife Sanctuaries. Certain other clarifications have also been sought as regards the order of this Court passed on 4<sup>th</sup> August 2006 and we shall deal with the said issues later in this judgment. The State of Rajasthan has filed several other affidavits and the common theme of these affidavits is for lifting the

restrictions and permit mining activities in and around the protected forests to energise the economy of the State. The State seeks permission for subsisting mining activities to operate outside the protected forests and ESZ. It is also their stand that most of the mining areas in Jamua Ramgarh Sanctuary were sanctioned prior to coming into operation of Forest (Conservation) Act, 1980 and declaration of the said sanctuary on 31<sup>st</sup> May 1982.

**14.** Apart from mining activities in the Jamua Ramgarh Sanctuary, applications have also been taken out in relation to the CEC reports as the said reports deal with protected forests all across the country and contemplate uniform ESZ norms for their protection. On 14<sup>th</sup> July 2003, the recommendations of CEC dated 27<sup>th</sup> December 2002 were accepted by this Court in I.A. No.887 of 2003. The said application related to wood based industries in the State of Maharashtra, and, inter-alia, concerned 64 saw mills. That application was disposed of with a direction for consideration of their cases within a period of two months and if they were found eligible, their applications were directed to be sent to the CEC. The latter was to submit a report

and the State of Maharashtra was directed to abide by the aforesaid recommendations.

(i) In I.A. No.1412 of 2005, the applicants are Maharashtra Timber Laghu Udyog Mahasangha alongwith the Poona Timber Merchant (owners of saw mills in the State of Maharashtra). They want clarification of the order of this Court passed in I.A. No.887 of 2003 for consideration of the cases of 64 saw mill owners for grant for grant of license as per notification dated 16<sup>th</sup> July 1981 issued by the State of Maharashtra amending the Bombay Forest Rules, 1942. This Court had directed in the aforesaid order (of 14<sup>th</sup> July 2003) that the cases of the applicants may be examined by the State Government within a period of two months and if they are found eligible, their applications could be sent to the CEC who might submit a report to this Court. In the present application the applicants want grant of license considering condition no.3 of the Government's Notification dated 16<sup>th</sup> July 1981.

(ii) Applicants in I.A. No. 117831 of 2019 are Maharashtra Timber Laghu Udyog Mahasangha alongwith the Poona

Timber Merchant (64 saw mills owners) in connection with grant of licenses for operating saw mills. In the present order, we are confining our examination of proceedings arising out of I.A. No.1000 of 2003. As such, the aforesaid applications ought to be listed independently before the appropriate Bench.

**15.** The applicant in I.A. No. 96949 of 2019 is the State of Maharashtra. On 11<sup>th</sup> December 2018, this Court had passed an order in respect of 21 National Parks and Wildlife Sanctuaries, which included Thane Creek Flamingo Sanctuary.

This order, inter-alia, records and directs: -

*“It is submitted by the learned Amicus that this issue has been pending since sometime in December, 2006. 12 years have gone-by but no effective steps have been taken by the State Governments in respect of the National Parks and Wildlife Sanctuaries mentioned above.*

*Under the circumstances, we direct that an area of 10 Kms around these 21 National Parks and Wildlife Sanctuaries be declared as Eco Sensitive Zone by the MoEF. The declaration be made by the MoEF at the earliest.*

*Liberty is granted to the State Governments to move an application for modification of this order along with proposal only two weeks after submission of the proposals to the MoEF.*

*List the matters at the end of February, 2019.*

*In the meanwhile, interim order to continue.”*

**(quoted verbatim from paperbook)**

The prayer of the State of Maharashtra in this application is to the following effect: -

*“A) This Hon’ble Court be pleased to modify its order dated 11.12.2018 directing that an area of 10 kilometers around Thane Creek Flamingo Sanctuary situated in the State of Maharashtra be declared as Eco Sensitive Zone by the Ministry of Environment and Forest; and*

*B) That this Hon’ble Court be pleased to direct that the area of 0-3.5 kilometers as proposed in the proposal submitted by the State Government on 22.05.2019 to the Ministry of Environment and Forest be declared as Eco Sensitive Zone in respect of the Thane Creek Flamingo Sanctuary; and*

*C) Pass any other order and or directions as this Hon’ble Court may deem fit and proper in the facts and circumstances of the present case.”*

**(quoted verbatim from paperback)**

**16.** The other applications in respect of the same sanctuary is by an association of real estate developers, CREDAI-MCHI registered as I.A. No.65571 of 2021. The main prayer in I.A. No.65571 of 2021 is:-

*“(a) Modify the order dated 11.12.2018 passed by this Hon’ble Court in I.A. No. 1000 in W.P. (C) No. 202 of 1995 inasmuch as it relates to the Thane Creek Flamingo Sanctuary and direct that the Eco Sensitive Zone around the said Sanctuary shall be in terms of the proposal dated 10.03.2021 submitted by the State Government and the Draft Notification dated 08.04.2021 published by the Ministry of Environment & Forests, Government of India; and / or*

*(b) Pass such other order(s) as this Hon’ble Court may deem fit and proper in the circumstances of the case.”*

**(quoted verbatim from paperback)**

**17.** The order on 11<sup>th</sup> December 2018 was passed by this Court as the proposals in respect of 21 National Parks and Wildlife Sanctuaries had not yet been received by the Ministry of Environment, Forest and Climate Change. Recommendations of CEC as regards maintaining ESZ were made in relation to wildlife sanctuaries and national parks on 20<sup>th</sup> September 2012. As per the order passed on 11<sup>th</sup> December 2018, the proposal of the State Government was to be made before the MoEF&CC and it appears that a draft notification dated 8<sup>th</sup> April 2021 concerning Thane Creek Flamingo Sanctuary has already been published by the MoEF&CC. Let the MoEF&CC take final decision in relation to such draft notification as per the provisions of law. Such decision, if already taken, may be placed before this Court one week after reopening of the Court on conclusion of the summer vacation. If such decision is not taken, then the decision may be taken as per law within a period of six weeks and be placed before us within the same timeframe. This Court shall consider passing appropriate direction thereafter, upon going through such decision.

**18.** In I.A. No.1992 of 2007, the M.P. State Mining Corporation Limited has applied for the following reliefs:-

*“i. grant permission to file present Application for Clarification;*

*ii. clarify that the directions as contained in interim Order dated 4.8.2006 of this Hon'ble Court in I.A. Nos.1413, 1414, 1454 in I.A. Nos. 1413, 1426, 1428, 1440, 1439, 1441 , 1444-1445, 1459 and 1460 in Writ Petition (C) No.202 of 1995 (T.N. Godavarman Thirumulpad Vs. UOI & Ors. Pertains only to mining activity in Temporary Working Permission (TWP) cases requiring approval under Forest Conservation Act, 1980 and that the said directions do not apply to the regular quarry lease on a revenue land particularly when such quarry lease is granted to the State owned Mining Corporation by the State Government itself.”*

**(quoted verbatim from paperbook)**

**19.** So far as this application is concerned, we repeat that in this order, we are dealing with the issues arising out of IA No.1000 of 2003. The scope of this application relates to mining and other activities within the national parks and wildlife sanctuaries and maintaining ESZ around individual protected forests. The reliefs asked for by the MP State Mining Corporation Limited in IA No. 1992 of 2007 do not come within the ambit of the subject we are addressing in this judgment/order. This application of the Mining Corporation company is in connection

with temporary working permits in non-forest areas. This application will also have to be addressed separately.

**20.** There are two affidavits of M/s. Andhi Marbles Pvt. Ltd affirmed on 19<sup>th</sup> February 2004 and 29<sup>th</sup> July 2004 pertaining to Jamua Ramgarh Sanctuary. Complaint against said M/s. Andhi Marbles is in relation to mining leases granted and operated by them. In the CEC report which has been transformed into I.A. No.1000 of 2003, it has been recorded that they were granted mining leases in violation of the Forest (Conservation) Act, 1980 as well as the Wild Life (Protection) Act, 1972. They had continued working on the temporary permits after the order of this Court dated 12<sup>th</sup> December 1996. In the Order of this Court reported in [(1997) 2 SCC 267] it has been inter-alia observed:-

*“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. This aspect has been made abundantly clear in the decisions of this Court in Ambica Quarry Works v. State of Gujarat [(1987) 1 SCC 213], Rural Litigation and Entitlement Kendra v. State of U.P. [1989 Supp (1) SCC 504] and recently in the order dated 29-11-1996 (Supreme Court Monitoring Committee v. Mussoorie Dehradun Development Authority [WP (C) No 749 of 1995 decided on 29-11-1996] ). The earlier decision of this Court in State of Bihar v. Banshi Ram Modi [(1985) 3 SCC 643] has, therefore, to be understood in the light of these subsequent decisions. We consider it necessary to reiterate this settled position emerging from the decisions of this Court to dispel the doubt, if any, in the perception of any State Government or authority. This has become necessary also because of the stand taken on behalf of the State of Rajasthan, even at this late stage, relating to permissions granted for mining in such area which is clearly contrary to the decisions of this Court. It is reasonable to assume that any State Government which has failed to appreciate the correct position in law so far, will forthwith correct its stance and take the necessary remedial measures without any further delay.”*

**21.** The CEC’s observation in I.A. No.1000 of 2003 is that no mining activity was permissible inside the sanctuary as per this Court’s Order dated 14<sup>th</sup> February 2000 and the temporary working permits were granted in violation of the applicable statutory provisions and guidelines as the area involved fell inside the sanctuary. M/s. Andhi Marbles Pvt. Ltd. have taken a defence that their mining activities were in terms of the temporary working permit issued and in compliance with the

specified conditions laid down by the MoEF&CC. A point has also been taken that the limits of the sanctuary was not notified and no notification under Section 26A of the Wild Life (Protection) Act, 1972 was issued to declare the said area as sanctuary. They have also taken a point that the mining lease covering forest has been deleted from the lease document and they seek to operate two quarries, on non-forest land beyond the safety zone of 25 metres, which has been specified as part of the Mineral Policy, 1994 of the State of Rajasthan. They also, in effect, seek resumption of mining activities in the area beyond 25 metres from the forest boundary.

**22.** As regards the Guidelines of 9<sup>th</sup> February 2011, which has been referred to in the affidavit of MoEF&CC affirmed/verified by Dr. Subrata Bose, Scientist 'F' Ministry of Environment, Forest and Climate Change, Government of India, stand of M/s. Andhi Marbles Pvt. Ltd. is that no consensus has been reached as regards notifying the areas within 10 kilometres of the boundaries of National Parks and Wildlife Sanctuaries as ESZ.

**23.** In the affidavit filed on behalf of MoEF&CC, which we have referred to in the preceding paragraph, it has been stated that the Guidelines for Declaration of ESZ have been notified by the Ministry of Environment, Forest and Climate Change, Government of India. For the purpose of formulation of ESZ in relation of individual protected forest area, Para 6 of the said Guidelines has been brought to our notice. A detailed hierarchy has been prescribed for declaration of ESZ. Referring to the case of the **Goa Foundation** (W.P. (C) No.435/2012), it has been stated in this affidavit that mining activity is prohibited within a distance of 1 kilometre or the specified ESZ, whichever is higher.

**24.** On the pleas of M/s. Andhi Marbles Pvt. Ltd. and another leaseholder, Munni Devi, in subsequent affidavit verified on 29<sup>th</sup> April 2004 the MoEF&CC had justified granting of working permit to the said firms.

**25.** The next affidavit of MoEF&CC was verified on 14<sup>th</sup> September 2005 and this affidavit deals with fixing of buffer zones for activities outside sanctuaries/forests. In this affidavit, it has been admitted that with respect to the details given in the earlier affidavit dated 29<sup>th</sup> April 2004 the decision taken by the

Ministry at that point of time while granting temporary working permission on already broken up area in Jamua Ramgarh could not incorporate all factual details and thus might not have been strictly compatible with the principles of the environmental conservation. It has further been stated in this affidavit that the Ministry directed the State Government to ensure phased closure of mines.

**26.** Altogether seven affidavits dated 15<sup>th</sup> April 2004, 17<sup>th</sup> September 2004, 9<sup>th</sup> December 2004, 13<sup>th</sup> October 2006, 10<sup>th</sup> May 2007, 12<sup>th</sup> August 2008 and 1<sup>st</sup> November 2012 filed by the State of Rajasthan are on record before us. The stand of the State of Rajasthan as reflected in these affidavits are primarily in relation to the creation of ESZ. It is their case that the decision of 25 metres safety zone in relation to Jamua Ramgarh sanctuary has been conceived by the State and the State Government has also taken a decision that in the vicinity of sanctuaries, national parks and reserve forests, mining activities should not be undertaken within 25 metres. As regards other forest areas, their position is that mining ought to be undertaken in the immediate vicinity of the forest areas. They

have expressed difficulties over taking over or acquisition of land around any sanctuary or other protected forest and their ESZ without proper proceeding. As regards mining operations within sanctuary area of Jamua Ramgarh, it has been stated that all mining activities within the sanctuary have been stopped. In their affidavit dated 12<sup>th</sup> August 2008, it has been disclosed by the State that mining activities in non-forest areas within 100 metres of the Jamua Ramgarh sanctuary has been closed. Their plea is for allowing mining activity in non-forest areas within protected forests and beyond the ESZ of 100 metres for economic activities, in the interest of local population as also the State's economy.

**27.** It has also been highlighted by the State that 25 sanctuaries, 2 national parks have been declared by the State comprising of a total area of 9,07,070 hectares and an area of 23,29,659 hectares of area as forest area or deemed forest is already existing as eco-sensitive/eco fragile/buffer/safety zones in that State within which no non-forest activities is allowed without proper permission under the Forest (Conservation) Act, 1980. The State of Rajasthan has opposed the proposal for

declaring 10 kilometres beyond the boundary of sanctuaries and national parks being declared as ESZ.

**28.** The role of the State cannot be confined to that of a facilitator or generator of economic activities for immediate upliftment of the fortunes of the State. The State also has to act as a trustee for the benefit of the general public in relation to the natural resources so that sustainable development can be achieved in the long term. Such role of the State is more relevant today, than, possibly, at any point of time in history with the threat of climate catastrophe resulting from global warming looming large. This Court has highlighted the Public Trust Doctrine in the case of **M.C. Mehta v. Kamal Nath and Others** [(1997) 1 SCC 388] and opined that the Public Trust Doctrine is part of the law of land. In Paragraph 25 of the said judgment, as reported, this doctrine has been explained with reference to writings of Joseph L. Sax, Professor of Law, University of Michigan, the proponent of Modern Public Trust Doctrine:-

*“25. The Public Trust Doctrine primarily rests on the principle that certain resources like air, sea, waters and the forests have such a great importance to the people as a whole that it would be wholly unjustified to make them*

*a subject of private ownership. The said resources being a gift of nature, they should be made freely available to everyone irrespective of the status in life. The doctrine enjoins upon the Government to protect the resources for the enjoyment of the general public rather than to permit their use for private ownership or commercial purposes. According to Professor Sax the Public Trust Doctrine imposes the following restrictions on governmental authority:*

*“Three types of restrictions on governmental authority are often thought to be imposed by the public trust: first, the property subject to the trust must not only be used for a public purpose, but it must be held available for use by the general public; second, the property may not be sold, even for a fair cash equivalent; and third the property must be maintained for particular types of uses.”*

**29.** Reliance has been placed on the said doctrine in earlier orders of this Court in this very writ petition, passed on 30<sup>th</sup> October 2002, 26<sup>th</sup> September 2005 and 13<sup>th</sup> February 2012. So far as the views of the State of Rajasthan is concerned, as reflected in their affidavits and written notes, their consideration for justifying mining in Jamua Ramgarh and its periphery primarily stems from the prospect of immediate economic gains and their role as a trustee of natural resources of the land has been largely overlooked.

**30.** The Ministry of Environment, Forest and Climate Change (MoEF&CC) is against having a uniform ESZ for all national parks and reserved forests. Their view is that the ESZ area ought to be site-specific. Our attention has been drawn to the

Comprehensive Guidelines formulated, to which we have referred earlier in this Order. In the case of **Goa Foundation v. Union of India and Others** [(2014) 6 SCC 590], the order passed in this proceeding [IA 1000 of 2003] on 4<sup>th</sup> August 2006 has also been referred to and relied upon. Affidavits have been filed by the State of Goa affirmed on 19<sup>th</sup> September 2012 and 31<sup>st</sup> October 2012. Main concern of the State of Goa is over creation of ESZ of 10 kilometres from the boundaries of protected forests as buffer zone and it is also contended on their behalf that such buffer zones should be site-specific. It is highlighted that in the State of Goa vegetative aerial cover of Goa is more than 59.99% (as per the Indian State Forest Report of 2011) and protected forest areas constitute over 20% of the total geographic area. On this basis, they seek appropriate directions. It has also been brought to our notice that notifications have been issued in respect of several sanctuaries stipulating the ESZ boundaries. Written submissions have also been filed by Goa Foundation [the petitioners in W.P. (C) 460/2004] and W.P. (C) 435/2012 in which it has been urged that minimum extent of ESZ ought to be as per the CEC recommendations incorporating

therein the modifications/suggestions by the learned Amicus Curiae. So far as State of Goa is concerned, the scope of mining activities is being dealt with in the case of **Goa Foundation** (supra). In the present I.A., we would not address issues specific to the said case. But the directives we shall make, as we have already indicated, which are not covered by the issues involved in the case of **Goa Foundation** (supra) shall apply to the protected forest and adjacent areas.

**31.** On the point of buffer zone for activities outside the sanctuaries/national parks, the National Board of Wildlife in its 21<sup>st</sup> meeting held on 21<sup>st</sup> January 2002 adopted National Wildlife Conservation Strategy. Paragraph 9 of the Strategy document concerns the buffer areas around the national parks and sanctuaries. It has been recorded therein:-

*“Lands falling within 10 kms of the boundaries of National Parks and Sanctuaries should be notified as Eco-fragile Zones under Section 3(v) of the Environment (Protection) Act and Rule 5, Sub-rule 5(viii) and (x) of the Environment (Protection) Rules.”*

**(quoted verbatim from paperbook)**

But it does not appear from the said affidavit that said proposal of notifying 10 kilometres as boundaries of the national parks and sanctuaries as Eco-fragile zone was finalised.

**32.** The MoEF&CC essentially has argued in favour of having ESZ to be site-specific and for that purpose they have invited proposals from individual State Government in the aforesaid Guidelines. In cases where such proposals have not come, they want 10 kilometres periphery of protected forests to be preserved as ESZ. As regards activities permissible within the buffer zone, certain works have been proposed to be regulated and certain activities to be permitted within the ESZ. This has been stipulated in Annexure-I to the Guidelines. We have already referred to the prohibited activities. Among the regulated activities, as per these Guidelines are:-

- (i) Felling of trees with permission from appropriate authority.
- (ii) Establishment of hotels and resort as per approved master plan, which takes care of habitats allowing no restriction on movement of wild animals.
- (iii) Drastic change in agricultural systems.
- (iv) Commercial use of natural water resources including ground water harvesting as per approved master plan, which takes care of habitats allowing no restriction on movement of wild animals.
- (v) Erection of electrical cables with stress on promoting underground cabling.
- (vi) Fencing of premises of hotels and lodges.
- (vii) Use of polythene bags by shopkeepers.

- (viii) Widening of roads with proper environmental impact assessment.
- (ix) Movement of vehicular traffic at night for commercial purposes.
- (x) Introduction of exotic species.
- (xi) Protection of hill slopes and river banks.
- (xii) Regulation of any form of air and vehicular pollution.
- (xiii) Putting up of sign boards and hoardings.

Within permissible activities fall:-

- (i) Ongoing agricultural and horticulture practices by local communities.
- (ii) Rain water harvesting
- (iii) Organic farming
- (iv) Use of renewable energy sources
- (v) Adoption of green technology for all activities.

**33.** In the affidavit of the Standing Committee of National Board of Wildlife, the views of the non-official members of the Standing Committee have been placed on record, which essentially contemplates continuation of the 10 kilometres buffer zone. Order passed by this Court on 4<sup>th</sup> December 2006 in the case of **Goa Foundation** (W.P. (C) 460/2004) proposes following such a course if there is delay in site-specific preparation of ESZ for individual States/Union Territories. On the aspect of having site-specific ESZ under the Environment (Protection) Act, 1986, the view of the National Board of Wildlife, appears to be

unanimous. It is their opinion that some protected areas, because of their smaller size, may require larger safety zone around it.

**34.** We shall deal first with the question of impleadment of firms and individuals who had some kind of permission for carrying on mining activities in Jamua Ramgarh sanctuary. The Interlocutory Applications which we are dealing with arise out of a public interest litigation and there is no doubt that orders passed in litigation of this nature could affect a large body of persons who may not be included in the array of parties at the time of institution of the proceeding. To an extent, litigations of this nature assume an *In-rem* character. Ideally, for such a public interest litigation, the procedure contemplated in Rule VIII of Order 1 of the Code of Civil Procedure, 1908 could be followed to the extent of issue of public notice or general intimation to public in such mode as the Court may consider fit and proper, having regard to the nature and scope of the proceeding. But in cases where such a course has not been taken, persons affected or likely to be affected by any order passed in the litigation would be entitled to join or participate in

the proceeding. Thus, the impleadment prayers in I.A. No. 984 of 2003, I.A. No. 1026 of 2004, I.A. No. 1123 of 2004, I.A. No. 1197 of 2004 and I.A. No. 1251 of 2004 are allowed.

**35.** The approach of the Court in dealing with complaints of environmental degradation has been laid down by this very Bench in this Writ Petition itself in an order passed on 9<sup>th</sup> May 2022 in connection with another set of applications. In this Order, it has been observed and held:-

*“15. Adherence to the principle of sustainable development is a constitutional requirement. While applying the principle of sustainable development one must bear in mind that development which meets the needs of the present without compromising the ability of the future generations to meet their own needs. Therefore, Courts are required to balance development needs with the protection of the environment and ecology. It is the duty of the State under our Constitution to devise and implement a coherent and coordinated programme to meet its obligation of sustainable development based on inter-generational equity. 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 and vice versa, but there should be development while taking due care and ensuring the protection of environment.*

**16.** In *Vellore Citizens' Welfare Forum v. Union of India*, this Court held that the 'Precautionary Principle' is an essential feature of the principle of 'Sustainable Development'. It went on to explain the precautionary principle in the following terms: -

(i) Environmental measures — by the State Government and the statutory authorities — must anticipate, prevent and attack the causes of environmental degradation.

(ii) Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

(iii) The "onus of proof" is on the actor or the developer/industrialist to show that his action is environmentally benign.

**17.** The principle of precaution involves the anticipation of environmental harm and taking measures to avoid it or to choose the least environmentally harmful activity. It is based on scientific uncertainty. Environmental protection should not only aim at protecting health, property and economic interest but also protect the environment for its own sake. Precautionary duties must not only be triggered by the suspicion of concrete danger but also by justified concern or risk potential.

**18.** A situation may arise where there may be irreparable damage to the environment after an activity is allowed to go ahead and if it is stopped, there may be irreparable damage to economic interest. This Court held that in case of a doubt, protection of environment would have precedence over the economic interest. It was further held that precautionary principle requires anticipatory action to be taken to prevent harm and that harm can be prevented even on a reasonable suspicion. Further, this Court emphasises in the said judgment that it is not always necessary that there should be direct evidence of harm to the environment."

While dealing with the applications in the present set of proceedings, we shall follow the same principles.

**36.** We shall now examine the prayers of the applicants for continuing their mining activities within sanctuary. This relief has been asked for by Smt. Magan Devi Meena (IA Nos. 982-984 of 2003), M/s. Agarwal Marbles Centre Pvt. Ltd. & Ors. (IA Nos. 1026-1028 of 2004), M/s. Jaipur Mineral Development Syndicate Private Limited (IA Nos. 1123-1124 of 2004), Federation of Mining Associations of Rajasthan (IA Nos. 1197-1199 of 2004), Bhushan Sharma (IA Nos. 1250-1251 of 2004) and M/s. Andhi Marbles Pvt Ltd. (IA No. 1512 of 2006). We must point out here that in the affidavit of the State of Rajasthan, it has been stated that they had formulated a policy of maintaining a distance of 25 metre from the vicinity of important forest areas like game sanctuary, reserved forest, mining activities to be prohibited. In other forest areas, mining could be undertaken in the immediate vicinity of the forest area as per the policy. This has been stated in the affidavit of the State of Rajasthan filed on 9<sup>th</sup> December 2004 and such a stand appears to have had been taken from the Mineral Policy of 1994. It, however, appears that

a new Mineral Policy had been adopted by the State of Rajasthan in 2015.

**37.** There are also pleas for permitting some of the miners to continue mining activities within 25 metre zone conceived by the State of Rajasthan as Buffer Zone. In three applications, I.A. Nos.1123-1124 of 2004, I.A.Nos.1197-1199 of 2004 and I.A.Nos.1210-1211 of 2004, M/s. Jaipur Mineral Development Syndicate Pvt. Ltd., Federation of Mining Association of Rajasthan and Smt. Madhu Agarwal have taken a point that there was improper declaration of Jamua Ramgarh as a sanctuary. The notification made under Section 18 of the Wild Life (Protection) Act, 1972 bearing No. F.11(19) Raj.-8/81 Jaipur dated 31<sup>st</sup> May 1982 has been annexed to the I.A. Nos. 982-984 of 2003 the applicant therein, being Magan Devi Meena. Initially, there was declaration of the said sanctuary as reserved forest under the Rajasthan Forest Act, 1953. Thereafter, the notification of 31<sup>st</sup> May 1982 came into operation under the Wild Life (Protection) Act, 1972.

**38.** In I.A. No.1000 of 2003, it has been disclosed that the settlement of rights were completed by the District Collector

Jaipur under Sections 19 to 26 of the Wild Life (Protection) Act, 1972. So far as Section 26A is concerned, which deals with declaration of area as sanctuary the said provision was incorporated in the statute with effect from 2<sup>nd</sup> October 1991. That amendment came by way of Act 44 of 1991. After amendment, Section 18 of the Act stipulates:-

**“18. Declaration of sanctuary:—**

*(1) The State Government may, by notification, declare its intention to constitute any area other than an area comprised within any reserve forest or the territorial waters as a sanctuary if it considers that such area is of adequate ecological, faunal, floral, geomorphological, natural or zoological significance, for the purpose of protecting, propagating or developing wild life or its environment.*

*(2) The notification referred to in sub-section (1) shall specify, as nearly as possible, the situation and limits of such area.*

*Explanation.—For the purposes of this section it shall be sufficient to describe the area by roads, rivers, ridges or other well-known or readily intelligible boundaries.”*

Section 26A of the Act, which, again, was introduced by Act 44 of 1991 contemplates further declaration after compliance of certain formalities. No other amendment has been brought to our notice. Section 18 of the Wild Life (Protection) Act, 1972 as it originally stood, reads:-

*“18. (1) The State Government may, by notification, declare any area to be a sanctuary if it considers that*

*such area is of adequate ecological, faunal, floral, geomorphological, natural or zoological significance, for the purpose of protecting, propagating or developing wild life or its environment.*

*(2) The notification referred to in sub-section (1) shall specify, as nearly as possible, the situation and limits of such area.*

*Explanation.—For the purposes of this section, it shall be sufficient to describe the area by roads, rivers, ridges or other well-known or readily intelligible boundaries.”*

**39.** The declaration was made by the State of Rajasthan in 1982 and we do not find any flaw in such declaration. The amended provisions, thus, could not apply to the Jamua Ramgarh Wildlife Sanctuary. The plea taken that it did not have the status of a sanctuary because no declaration was there under Section 26A of the Wild Life (Protection) Act, 1972 is without any basis. We shall proceed in this order on the basis that Jamua Ramgarh is a subsisting sanctuary.

**40.** We have already indicated that CEC in I.A. No.1000 of 2003 has given a dreadful account of the condition of the sanctuary, ravaged by mining activities. CEC in the same document has also outlined the importance of the said sanctuary. These would appear from paragraphs 4 and 5 of the said I.A which read:-

“4. In stark contrast to the above during the site visits to the Jamua Ramgarh Sanctuary the CEC came across a horrible and unbelievable picture of devastated eco - system due to indiscriminate mining activity in blatant violation of the Forest (Conservation) Act, Wild Life (Protection) Act and even this Hon'ble Court's orders. The sanctuary is littered with hundreds of deep mining pits, randomly scattered "over burdens", scores of cranes and mined boulders and stones scattered all over the place. It is rare to see such a destruction even in a non forest area, least of all inside a sanctuary. It is a horror story that has to be seen to be believed. This is a site where all the laws and conventions that govern the natural world have been violated for commercial gains. Instead of being managed as a wild life sanctuary, it appears to have been managed as a mining sanctuary. In the present form it may be more appropriate to rename the area as "Jamua Ramgarh Wild Life Graveyard". A photographic report is appended hereto at  
ANNEXURE-A graphically showing the ground situation.

5. The forest of Jamua Ramgarh forms the critical catchment area of the lake which is the main source of water supply to the city of Jaipur. Notwithstanding this 69 mining leases were sanctioned from time to time in Jamua Ramgarh after enactment of the Forest (Conservation) Act 1980 i.e. 25.10.1980. Each and every mine was sanctioned in violation of the provisions of the F.C. Act as well as the Wild Life (Protection) Act. No perceptible attempt was made to regulate the mines as per the provisions of the F.C. Act and the W.P. Act. No valid and satisfactory explanation was given by the State Government for allowing the mining leases to operate for years together except that it was a common practice to allow mining leases in the forest area / sanctuary without obtaining specific approvals under the F.C.Act or the W.P.Act. The details of these mines are given in ANNEXURE-B.”

**(quoted verbatim from paperback)**

**41.** In their affidavits, the State of Rajasthan had referred to the Mining Policy of 1994 which stipulated 25 metres to be

safety zone around the periphery of Jamua Ramgarh Wildlife Sanctuary but subsequent thereto the Mining Policy of 2015 for the State of Rajasthan has come and they do not seem to have any specified safety zone. Moreover, in view of the order of this Court passed on 4<sup>th</sup> August 2006, 1 kilometre safety zone has been directed to be maintained as regards Jamua Ramgarh Wildlife Sanctuary. Beyond Jamua Ramgarh Wildlife Sanctuary, CEC itself has given its view on eco sensitive zone in their report dated 20<sup>th</sup> September 2012. The recommendations have been quoted in the earlier part of this order. In the affidavit of Standing Committee of National Board of Wildlife filed on 26<sup>th</sup> November 2012, the views of said Committee was expressed and the Committee was of unanimous opinion that each State ought to delineate the outer limits of ESZ on a site-specific, case by case basis, keeping in view the ecological imperatives and the grounds realities of the protected area. It was also the view of the said Committee that expert opinion and scientific inputs ought to be obtained from individuals and institutions in that regard. In substance the view of the Committee is that there should not be uniform ESZ. We have also referred to the

Guidelines dated 9<sup>th</sup> February 2011 which gives a detailed procedure for evolving ESZ and identification of activities that could be carried on in such zones. The order of this Court in the case of **Goa Foundation** [W.P. (C) No.460 of 2004] passed on 4<sup>th</sup> December 2006 also contemplated issue of direction for maintaining a 10 kilometre wide safety zone from the boundaries in respect of sanctuaries and national parks as there was lack of response from the States and Union territories in relation to queries on various aspects in respect of wildlife conservation. The proposal for having an ESZ of 10 kms from the boundaries of the national parks and wildlife sanctuaries was originally mooted on 21<sup>st</sup> January 2002 in the meeting of the Indian Board for Wildlife, as it appears from the order passed by this Court in the case of **Goa Foundation** [W.P. (C) No.460 of 2004] on 30<sup>th</sup> January 2006. We have to collate the views of these experts' bodies including the CEC, who have been assisting this Court through the different stages of this litigation.

**42.** In our opinion, the Guidelines framed on 9<sup>th</sup> February 2011 appears to be reasonable and we accept the view of the Standing Committee that uniform Guidelines may not be

possible in respect of each sanctuary or national parks for maintaining ESZ. We are of the opinion, however, that a minimum width of 1 kilometre ESZ ought to be maintained in respect of the protected forests, which forms part of the recommendations of the CEC in relation to Category B protected forests. This would be the standard formula, subject to changes in special circumstances. We have considered CEC's recommendation that the ESZ should be relatable to the area covered by a protected forest but the Standing Committee's view that the area of a protected forest may not always be a reasonable criteria also merits consideration. It was argued before us that the 1 km wide "no-development-zone" may not be feasible in all cases and specific instances were given for Sanjay Gandhi National Park and Guindy National Park in Mumbai and Chennai metropolis respectively which have urban activities in very close proximity. These sanctuaries shall form special cases.

**43.** Turning specifically to Jamua Ramgarh Sanctuary, the first report of the CEC proposed 100 metres as ESZ. In the second report, however, one kilometre width has been recommended for all protected forests falling under category 'B'.

Having regard to its area, the said sanctuary comes in that category. In the order of this Court passed on 4<sup>th</sup> August 2006, the same margin, i.e. one kilometre as buffer zone has been prescribed. In the given facts concerning the Jamua Ramgarh Sanctuary, in our opinion the margin of 25 metres as contemplated in the 1994 Mineral Policy of the State of Rajasthan is grossly inadequate. We, however, treat Jamua Ramgarh sanctuary as a special case for fixing the ESZ as in the past, the buffer zone varied from 25 metres to 100 metres. In our opinion, ESZ of 500 metres would be a reasonable buffer zone, within which subsisting activities which does not come within the prohibited list as per the Guidelines of 9<sup>th</sup> February 2011 could be carried on. But for commencing of any new activity which would be otherwise permissible, the ESZ norm of one kilometre shall be maintained for Jamua Ramgarh sanctuary.

**44.** We accordingly direct:-

- (a) Each protected forest, that is national park or wildlife sanctuary must have an ESZ of minimum one kilometre measured from the demarcated boundary of such protected forest in which the activities proscribed and

prescribed in the Guidelines of 9<sup>th</sup> February 2011 shall be strictly adhered to. For Jamua Ramgarh wildlife sanctuary, it shall be 500 metres so far as subsisting activities are concerned.

- (b) In the event, however, the ESZ is already prescribed as per law that goes beyond one kilometre buffer zone, the wider margin as ESZ shall prevail. If such wider buffer zone beyond one kilometre is proposed under any statutory instrument for a particular national park or wildlife sanctuary awaiting final decision in that regard, then till such final decision is taken, the ESZ covering the area beyond one kilometre as proposed shall be maintained.
- (c) The Principal Chief Conservator of Forests as also the Home Secretary of each State and Union Territory shall remain responsible for proper compliance of the said Guidelines as regards nature of use within the ESZ of all national parks and sanctuaries within a particular State or Union Territory. The Principal Chief Conservator of Forests for each State and Union Territory shall also

arrange to make a list of subsisting structures and other relevant details within the respective ESZs forthwith and a report shall be furnished before this Court by the Principal Chief Conservator of Forests of each State and Union Territory within a period of three months. For this purpose, such authority shall be entitled to take assistance of any governmental agency for satellite imaging or photography using drones.

- (d) Mining within the national parks and wildlife sanctuaries shall not be permitted.
- (e) In the event any activity is already being undertaken within the one kilometre or extended buffer zone (ESZ), as the case may be, of any wildlife sanctuary or national park which does not come within the ambit of prohibited activities as per the 9<sup>th</sup> February 2011 Guidelines, such activities may continue with permission of the Principal Chief Conservator of Forests of each State or Union Territory and the person responsible for such activities in such a situation shall obtain necessary permission within a period of six months. Such permission shall be given

once the Principal Chief Conservator of Forests is satisfied that the activities concerned do not come within the prohibited list and were continuing prior to passing of this order in a legitimate manner. No new permanent structure shall be permitted to come up for whatsoever purpose within the ESZ.

- (f) The minimum width of the ESZ may be diluted in overwhelming public interest but for that purpose the State or Union Territory concerned shall approach the CEC and MoEF&CC and both these bodies shall give their respective opinions/recommendations before this Court. On that basis, this Court shall pass appropriate order.
- (g) In the event the CEC, MoEF&CC, the Standing Committee of National Board of Wildlife or any other body of persons or individual having special interest in environmental issues consider it necessary for maintaining a wider or larger ESZ in respect of any national park or wildlife sanctuary, such body or individual shall approach the CEC. In such a situation

the CEC shall be at liberty to examine the need of a wider ESZ in respect of any national park or wildlife sanctuary in consultation with all the stakeholders including the State or Union Territory concerned, MoEF&CC as also the Standing Committee of National Board of Wildlife and then approach this Court with its recommendations.

- (h) In respect of sanctuaries or national parks for which the proposal of a State or Union Territory has not been given, the 10 kilometres buffer zone as ESZ, as indicated in the order passed by this Court on 4<sup>th</sup> December 2006 in the case of **Goa Foundation** (supra) and also contained in the Guidelines of 9<sup>th</sup> February 2011 shall be implemented. Within that area, the entire set of restrictions concerning an ESZ shall operate till a final decision in that regard is arrived at.
- (i) I.A. No. 1412 of 2005 and I.A.No.117831 of 2019 do not relate to the issues involved in I.A. No.1000 of 2003. These applications may be placed before the appropriate Bench to be heard independently.

- (j) For the same reason, I.A. No.1992 of 2007 shall also be dealt with independently by the appropriate Bench and no order is being passed concerning this application at this stage.
- (k) The application of the State of Rajasthan registered as I.A. No.3880 of 2015 relates to clarification of an order passed in the case of **Goa Foundation** (W.P.(C) No.460 of 2004). Let this application be placed before the Bench taking up the case of **Goa Foundation**.
- (l) I.A.No.96949 of 2019 and I.A.No.65571 of 2021 are disposed of with directions that the MoEF&CC as also CEC shall proceed to take a decision in regard to the draft proposal for ESZ made by the State of Maharashtra to the extent of 0-3.89 kilometres and the MoEF&CC shall take final decision on that basis within a period of three months, if said decision has not already been taken.
- (m) Prayers for impleadment of the applicants in I.A. Nos. 984 of 2003, 1026 of 2004, 1123 of 2004, 1197 of 2004

and 1251 of 2004 are allowed. Necessary amendments may be carried out in these regards.

- (n) For the reasons already given, however, prayers of the applicants in I.A. Nos.982 of 2003, 1027 of 2004, 1124 of 2004, 1198 of 2004, 1210 of 2004, 1250 of 2004 and 1512 of 2006 are rejected.
- (o) The CEC shall quantify the compensation to be recovered from each miner indulging in mining activities within the Jamua Ramgarh sanctuary in violation of any statutory provision or order of this Court. Specific recommendations for compensatory afforestation, reclamation, clearing overburden dumping as also compensation in monetary units for degradation of forest resources shall also be made. A further set of recommendations concerning confiscation of earth moving equipments and other machineries lying within or in the periphery of the said sanctuary shall be made by the CEC. Recommendations shall be made within a period of four months before this Court in the form of an application. This Court shall consider passing

appropriate order upon going through such application. The exercise concerning such reparation, including quantifying compensation shall be undertaken upon giving the mining operator, State and MoEF&CC opportunity of hearing.

- (p) In the event there is any subsisting order of any High Court or any Court subordinate to such High Court covering any of the issues dealt with by this Court in this order, this order shall prevail over any such order which may be contrary to these directions.
- (q) We have already observed that there are certain overlapping issues involved in this writ petition and the cases of **Goa Foundation** (Writ Petition (C) No.460 of 2004) and (Writ Petition (C) No.435 of 2012). We request the Hon'ble the Chief Justice of India to consider having the present writ petition i.e. **In Re: T.N. Godavarman Thirumulpad v. Union of India & Ors.**, W.P.(C) No.460 of 2004 (**Goa Foundation v. Union of India**) as also W.P. (C) No.435 of 2012 (**Goa Foundation v. Union of India &**

**Ors.)** be heard together before the same Bench. The registry may place this order before the Hon'ble the Chief Justice of India.

**45.** This order disposes of I.A. No.1000 of 2003 in the above terms.

**46.** Pending application(s), if any, shall stand disposed of.

....., **J.**  
**(L. NAGESWARA RAO)**

....., **J.**  
**(B.R. GAVAI)**

....., **J.**  
**(ANIRUDDHA BOSE)**

**NEW DELHI;**  
**3<sup>rd</sup> JUNE, 2022**

**REPORTABLE**

**IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION**

**I.A. NOS. 131377, 147102, 195467, 195468,  
205092 OF 2022,**

**I.A. NOS. 162283 AND 162284 OF 2022**

**IN**

**I.A. D. NO. 125746 OF 2022**

**WITH**

**I.A. NOS. 118604, 118606, 119400, 119401, 119404,  
137132, 137138, 137140 AND 137143 OF 2022**

**I.A. NOS. 5764, 6804 AND 10911 OF 2023**

**IN THE MATTER OF:**

**WRIT PETITION (CIVIL) NO. 202 OF 1995**

**IN RE: T.N. GODAVARMAN THIRUMULPAD**

**...PETITIONER(S)**

**VERSUS**

**UNION OF INDIA AND OTHERS**

**...RESPONDENT(S)**

**J U D G M E N T**

**B.R. GAVAI, J.**

**I.A. NO. 131377 OF 2022:**

1. The present I.A. is filed by the Union of India praying for modification/clarification of the order passed by this Court

dated 3<sup>rd</sup> June 2022<sup>1</sup> in I.A. No. 1000 of 2003 in WP(C) No. 202 of 1995.

2. The applicant specifically seeks modification of the directions contained in paragraphs 56.1 and 56.5 of the order dated 3<sup>rd</sup> June 2022 (supra). The said paragraphs are reproduced hereinbelow:

**“56.1.** Each protected forest, that is, national park or wildlife sanctuary must have an ESZ of minimum one kilometre measured from the demarcated boundary of such protected forest in which the activities proscribed and prescribed in the Guidelines of 9-2-2011 shall be strictly adhered to. For Jamua Ramgarh Wildlife Sanctuary, it shall be 500 m so far as subsisting activities are concerned.

.....

**56.5.** In the event any activity is already being undertaken within the one kilometre or extended buffer zone (ESZ), as the case may be, of any wildlife sanctuary or national park which does not come within the ambit of prohibited activities as per the 9-2-2011 Guidelines, such activities may continue with permission of the Principal Chief Conservator of Forests of each State or Union Territory and the person responsible for such activities in such a situation shall obtain necessary permission within a period of six months. Such permission shall be given once the Principal Chief Conservator of Forests is satisfied that the activities concerned do not come within the prohibited list and were

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<sup>1</sup> (2022) 10 SCC 544

continuing prior to passing of this order in a legitimate manner. No new permanent structure shall be permitted to come up for whatsoever purpose within the ESZ.”

3. The clarification/modification of paragraph 56.1 of the order dated 3<sup>rd</sup> June 2022 (supra) is sought to the extent that the Eco-Sensitive Zones (for short, “ESZs”) which have already been notified (final and draft) by the Ministry of Environment Forests and Climate Change (for short, “MoEF & CC”) or the proposals for which have been received in the Ministry be exempted from the directions therein. The applicant also sought modification to the extent that paragraph 56.1 of the order dated 3<sup>rd</sup> June 2022 (supra) may not be made applicable where National Parks and Wildlife Sanctuaries are located along inter-State boundaries and/or common boundaries. Modification/clarification of the directions in paragraph 56.5 of the order dated 3<sup>rd</sup> June 2022 (supra) in its entirety is additionally sought.

4. We have heard Ms. Aishwarya Bhati, learned Additional Solicitor General (for short, “ASG”) appearing on behalf of the applicant, Shri K. Parameshwar, learned *amicus curiae* as

well as Senior Counsel appearing on behalf of various State Governments.

5. It is submitted that the Government of India has already issued Guidelines on 9<sup>th</sup> February 2011 (hereinafter referred to as the “said Guidelines”) for declaration of ESZs around National Parks and Wildlife Sanctuaries. The said Guidelines were framed after consulting the National Board for Wildlife (hereinafter referred to as “NBWL”), and all the State and Union Territory Governments. The said Guidelines provide a detailed procedure for submitting a proposal for declaration of the areas around National Parks and Wildlife Sanctuaries as ESZs. It is further submitted that the said Guidelines itself contain various activities which have been categorized as prohibited, regulated and permitted.

6. It is further submitted that the direction as contained in paragraph 56.5 of the order dated 3<sup>rd</sup> June 2022 (supra) is likely to cause great hardship to the citizens residing in the ESZs. It is further submitted that the said directions provide that if any activity is already being undertaken within one kilometre or extended buffer zone (ESZ), and which does not

come within the ambit of prohibited activities as per the said Guidelines, such activities may continue with the permission of the Principal Chief Conservator of Forests (for short, "PCCF") of each State or Union Territory and the person responsible for such activities in such a situation shall obtain necessary permission within a period of six months. The said Guidelines further provide that such permission shall be given once the PCCF is satisfied that the activities concerned do not come within the prohibited list and were continuing prior to passing of this Court's order dated 3<sup>rd</sup> June 2022 (supra) in a legitimate manner. It is further submitted that the direction that no new permanent structure shall be permitted to come up for whatsoever purpose within the ESZs would also cause great hardship.

7. It is further submitted that insofar as the direction in paragraph 56.1 of the order dated 3<sup>rd</sup> June 2022 (supra) is concerned, it mandates that each protected forest, that is, National Park or Wildlife Sanctuary, must have an ESZ of minimum one kilometre measured from the demarcated boundary of such protected forest in which the activities

proscribed and prescribed in the said Guidelines shall be strictly adhered to. Insofar as Jamua Ramgarh Wildlife Sanctuary is concerned, it is directed that the ESZ shall be 500 meters so far as subsisting activities are concerned.

8. The learned ASG, *amicus curiae* and Senior Counsel appearing on behalf of various States submitted that in respect of various National Parks and Wildlife Sanctuaries, already final notifications had been issued, prescribing the boundaries for the ESZs. In some cases, the draft notifications are pending and in some other cases, the proposals for issuance of draft and final notifications are pending with the Government of India.

9. It is submitted that there cannot be a uniform boundary for all the National Parks and Wildlife Sanctuaries. It is further submitted that there cannot also be a uniform boundary for a particular National Park or Wildlife Sanctuary. At times, it may be longer on one side and shorter on the other side depending on various circumstances.

10. It is submitted that the rights of the citizens who are residing in the Protected Areas are settled under the

provisions of Sections 18 to 25A of the Wild Life (Protection) Act, 1972 (hereinafter referred to as “1972 Act”) whereas there is no settlement of rights of citizens residing in ESZs. The citizens therein continue to reside and are also continuing with their daily avocation like farming etc. It is submitted that various developmental activities like construction of schools, dispensaries, anganwadis, public health centres etc. are required to be undertaken in such areas. Not only that, but if the direction not to make any construction is continued, the persons residing therein would not be in a position to construct or reconstruct houses on their own land. It is submitted that the procedure prescribed for obtaining the permission of the PCCF is very tedious. If such a direction is issued, the PCCF would be left with no other work but to consider the applications for continuation of such activities.

**11.** It is further submitted that though this Court has observed in paragraph 54 of the order dated 3<sup>rd</sup> June 2022 (supra) that the said Guidelines are reasonable, it has

nevertheless issued directions which are in conflict with the said Guidelines.

**12.** It is further contended that the issue in I.A. No. 1000 of 2003 was restricted to prohibition of mining activities in and around Jamua Ramgarh Wildlife Sanctuary and prescribing ESZs for the said Wildlife Sanctuary only. As such, various State Governments did not have an opportunity to address this Court.

**13.** Having considered the rival submissions, we find it appropriate to refer to various orders passed by this Court on the issue of ESZs/Buffer Zones.

**14.** The first of such orders was passed by this Court on 16<sup>th</sup> September 2005<sup>2</sup>. It will be relevant to refer to paragraph 13 of the said order, which reads thus:

**“13.** We have perused the affidavit dated 14-9-2005 filed by Mr Anurag Bajpai on behalf of MoEF and the statement showing the grant of temporary working permit in the last two years i.e. from 1-1-2003 to 31-12-2004 in the national parks, sanctuaries and forest area. This is despite the order passed by this Court restraining the mining activities in these areas. Learned amicus curiae submits that the inspection of the government record shows a

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<sup>2</sup> (2006) 5 SCC 25

dismal picture and he would shortly file an application for taking appropriate action against the persons concerned. Pending filing of the said application and further orders, we again reiterate that without compliance with the environmental laws, in particular the permission under the Forest (Conservation) Act, 1980, no temporary working permission or temporary permit or any other permission by whatever name called shall be granted for mining activities in the aforesaid areas. ***We further direct that no mining activity would continue under any temporary working permit or permission which may have been granted. It appears from the chart filed with the affidavit of Mr Anurag Bajpai that no temporary working permission is in operation as of today. If it is otherwise, an affidavit to that effect shall be filed within two weeks giving the particulars of such permission.***

[emphasis supplied]

**15.** It can thus clearly be seen that this Court directed that no mining activity would be permitted to continue under any temporary working permit or permission which may have been granted.

**16.** It will further be relevant to refer paragraph 15 of the said order, which reads thus:

**“15.** MoEF is directed to place on record within three weeks its viewpoint on the question of area of buffer zone and other related matters such as should it be universal or place specific.

This should be done after also obtaining the viewpoint of the National Board of Wildlife.”

**17.** It can thus be seen from the said paragraph that this Court directed MoEF to place on record within three weeks its viewpoint on the question of area of buffer zone and other related matters such as should it be universal or place specific. The Court further directed that this should be done after obtaining the viewpoint of the NBWL.

**18.** The second of such orders is passed on 4<sup>th</sup> August 2006<sup>3</sup>. The said order basically pertains to banning the mining activities in the National Parks, Sanctuaries and forest areas. The Court laid down various pre-conditions wherein temporary working permits could be granted.

**19.** The next order is passed on 4<sup>th</sup> December 2006<sup>4</sup>. In the said order, the Court expressed its anguish towards the various State Governments for not responding to the letter issued by MoEF dated 27<sup>th</sup> May 2005 requiring them to initiate measures for identification of suitable areas and submit detailed proposals at the earliest. It will be relevant

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<sup>3</sup> (2010) 13 SCC 740

<sup>4</sup> (2011) 15 SCC 791

to refer to paragraphs 3 and 4 of the said order, which read thus:

**“3.** The order earlier passed on 30-1-2006 [*Goa Foundation v. Union of India*, (2011) 15 SCC 793] refers to the decision which was taken on 21-1-2002 to notify the areas within 10 km of the boundaries of national parks and sanctuaries as eco-sensitive areas. The Letter dated 27-5-2005 is a departure from the decision of 21-1-2002. For the present, in this case, we are not considering the correctness of this departure. That is being examined in another case separately. Be that as it may, it is evident that the States/Union Territories have not given the importance that is required to be given to most of the laws to protect environment made after Rio Declaration, 1992.

**4.** The Ministry is directed to give a final opportunity to all States/Union Territories to respond to its Letter dated 27-5-2005. The State of Goa also is permitted to give appropriate proposal in addition to what is said to have already been sent to the Central Government. The communication sent to the States/Union Territories shall make it clear that if the proposals are not sent even now within a period of four weeks of receipt of the communication from the Ministry, this Court may have to consider passing orders for implementation of the decision that was taken on 21-1-2002, namely, notification of the areas within 10 km of the boundaries of the sanctuaries and national parks as eco-sensitive areas with a view to conserve the forest, wildlife and environment, and having

regard to the precautionary principles. If the States/Union Territories now fail to respond, they would do so at their own risk and peril.”

**20.** It can be seen that this Court refers to its earlier order dated 30<sup>th</sup> January 2006 wherein a reference is made to the decision dated 21<sup>st</sup> January 2002 to notify the areas within 10 kilometres of the boundaries of National Parks and Sanctuaries as ESZs. Though the order records that the letter dated 27<sup>th</sup> May 2005 is a departure from the decision taken on 21<sup>st</sup> January 2002, the Court observes that, in the said case, the Court was not considering the correctness of the said departure. The Court therefore directed the Ministry to give a final opportunity to all States/Union Territories to respond to its Letter dated 27<sup>th</sup> May 2005. The said order states that the communication should mention that if the proposals were not sent within a period of four weeks from the receipt of the communication from the Ministry, this Court may have to consider passing orders for implementation of the decision that was taken on 21<sup>st</sup> January 2002, i.e., notification of the areas within 10

kilometres of the boundaries of the sanctuaries and National Parks as ESZs.

**21.** The next order of this Court is dated 21<sup>st</sup> April 2014 in the case of ***Goa Foundation v. Union of India and Others***<sup>5</sup>.

It will be relevant to refer to the following observations of this Court in the said order:

**“49.** .....The result is that the order passed by this Court saying that there will be no mining activity within one kilometre safety zone around national park or wildlife sanctuary has to be enforced and there can be no mining activities within this area of one kilometre from the boundaries of national parks and wildlife sanctuaries in the State of Goa.”

**22.** The Court has clarified that there shall be no mining activity within one kilometre of the safety zone around National Park or Wildlife Sanctuary and that this has to be enforced. It is also reiterated that there can be no mining activities within this area of one kilometre from the boundaries of National Parks and Wildlife Sanctuaries in the State of Goa.

**23.** The Court thereafter refers to the earlier order dated 4<sup>th</sup> December 2006 (supra) in the said case and observed thus:

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<sup>5</sup> (2014) 6 SCC 590

**“50.** .....It will be clear from the order dated 4-12-2006 [*Goa Foundation v. Union of India*, (2011) 15 SCC 791] of this Court that this Court has not passed any orders for implementation of the decision taken on 21-1-2002 to notify areas within 10 km of the boundaries of national parks or wildlife sanctuaries as eco-sensitive areas with a view to conserve the forest, wildlife and environment. By the order dated 4-12-2006 [*Goa Foundation v. Union of India*, (2011) 15 SCC 791] of this Court, however, the Ministry of Environment and Forests, Government of India, was directed to give a final opportunity to all States/Union Territories to respond to the proposal and also to refer to the Standing Committee of the National Board for Wildlife the cases in which environment clearance has already been granted in respect of activities within the 10 km zone from the boundaries of the wildlife sanctuaries and national parks. There is, therefore, no direction, interim or final, of this Court prohibiting mining activities within 10 km of the boundaries of national parks or wildlife sanctuaries.”

**24.** It could thus be seen that the Court has specifically observed that this Court had not passed any orders for implementation of the decision taken on 21<sup>st</sup> January 2002 to notify areas within 10 kilometres of the boundaries of National Parks or Wildlife Sanctuaries as ESZs with a view to conserve the forest, wildlife and environment. The Court therefore clarified that there is no direction, interim or final,

prohibiting mining activities within 10 kilometres of the boundaries of National Parks or Wildlife Sanctuaries.

**25.** It will be relevant to refer to paragraphs 87.3 and 88.1 of the said order, which read thus:

“**87.3.** Until the order dated 4-8-2006 [*T.N. Godavarman Thirumulpad v. Union of India*, (2010) 13 SCC 740] of this Court is modified by this Court in IA No. 1000 in *T.N. Godavarman Thirumulpad v. Union of India*, there can be no mining activities within one kilometre from the boundaries of national parks and sanctuaries in Goa.

**88.1.** MoEF will issue the notification of eco-sensitive zones around the national park and wildlife sanctuaries of Goa after following the procedure discussed in this judgment within a period of six months from today.”

**26.** It can thus be seen that this Court has held that until the order dated 4<sup>th</sup> August 2006 (*supra*) is modified by this Court in IA No. 1000 of 2003 in the case of ***T.N. Godavarman Thirumulpad v. Union of India***, there can be no mining activities within one kilometre from the boundaries of National Parks and Sanctuaries in Goa. The Court further directed MoEF to issue the notification of ESZs around the National Park and Wildlife Sanctuaries of Goa after following the procedure discussed in the said judgment.

The same was directed to be done within a period of six months from the date of the said order.

**27.** The next relevant order would be dated 11<sup>th</sup> December 2018. It will be relevant to refer to the following part of the said order:

“The learned ASG has informed us that there are 104 National Parks and 558 Wildlife Sanctuaries making a total of 662 National Parks and Wildlife Sanctuaries in the country.

The proposals for declaring areas around these National Parks and Wildlife Sanctuaries as Eco Sensitive Zone have been received from State Governments / UT Administrations for 641 National Parks and Wildlife Sanctuaries. No proposals have been received in respect of 21 National Parks and Wildlife Sanctuaries.

The proposals have been accepted and Notification has been issued in respect of 289 National Parks and Wildlife Sanctuaries as on 26.11.2018 and draft Notification has been prepared in respect of 206 National Parks and Wildlife Sanctuaries.

The declaration with regard to Eco Sensitive Zone is under process with the Ministry of Environment, Forests and Climate Change (MoEF) as well as with the State Governments in respect of 4 146 National Parks and Wildlife Sanctuaries.

We expect the Ministry of Environment, Forests and Climate Change to actively pursue the preparation of the draft Notification and to issue a final Notification at the earliest.

The proposals for 21 National Parks and Wildlife Sanctuaries in respect of which proposals have not yet been received by the MOEF are as follows:-

.....

It is submitted by the learned Amicus that this issue has been pending since sometime in December, 2006. 12 years have gone-by but no effective steps have been taken by the State Governments in respect of the National Parks and Wildlife Sanctuaries mentioned above.

Under the circumstances, we direct that an area of 10 Kms around these 21 National Parks and Wildlife Sanctuaries be declared as Eco Sensitive Zone by the MoEF. The declaration be made by the MoEF at the earliest.

Liberty is granted to the State Governments to move an application for modification of this order along with proposal only two weeks after submission of the proposals to the MoEF.”

**28.** It can be seen that this Court has recorded the submissions of the learned ASG that there were 104 National Parks and 558 Wildlife Sanctuaries making a total of 662 National Parks and Wildlife Sanctuaries in the country. It was further recorded that the proposals for declaring areas around these National Parks and Wildlife Sanctuaries as ESZs had been received from the State Governments/Union

Territories. It can further be seen that no proposals have been received in respect of 21 National Parks and Wildlife Sanctuaries. It further recorded that the proposals had been accepted and notification had been issued in respect of 289 National Parks and Wildlife Sanctuaries as on 26<sup>th</sup> November 2018 and draft notification had been prepared in respect of 206 National Parks and Wildlife Sanctuaries. The Court therefore expected the MoEF & CC to actively pursue the preparation of the draft Notification and to issue a final Notification at the earliest. The Court then recorded 21 National Parks and Wildlife Sanctuaries in respect of which proposals have not yet been received by the MoEF & CC alongside its anguish that though 12 years had been passed, no effective steps have been taken by the State Governments in respect of the National Parks and Wildlife Sanctuaries named in the said order. Therefore, the Court directed that an area of 10 kilometres around these 21 National Parks and Wildlife Sanctuaries be declared as ESZs by the MoEF & CC. Liberty was granted to the State Governments to move an application for modification of the said order. However, it

further directed that the application should be along with the proposal for declaration of ESZs.

**29.** It is to be noted that the learned Judges of this Court, in the case of **Goa Foundation**<sup>6</sup>, had directed that the MoEF & CC shall follow the procedure and issue notification of ESZs under Rule 5 of the Environment (Protection) Rules, 1986 (hereinafter referred to as “1986 Rules”). The relevant provisions of the 1986 Rules are reproduced hereinbelow:

**“5. Prohibition and restriction on the location of industries and the carrying on of processes and operations in different areas.—**(1) The Central Government may take into consideration the following factors while prohibiting or restricting the location of industries and carrying on of processes and operations in different areas:

(i) Standards for quality of environment in its various aspects laid down for an area.

(ii) The maximum allowable limits of concentration of various environmental pollutants (including noise) for an area.

(iii) The likely emission or discharge of environmental pollutants from an industry, process or operation proposed to be prohibited or restricted.

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<sup>6</sup> (2014) 6 SCC 590

(iv) The topographic and climatic features of an area.

(v) The biological diversity of the area which, in the opinion of the Central Government needs to be preserved.

(vi) Environmentally compatible land use.

(vii) Net adverse environmental impact likely to be caused by an industry, process or operation proposed to be prohibited or restricted.

(viii) Proximity to a protected area under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 or a sanctuary, National Park, game reserve or closed area notified as such under the Wild Life (Protection) Act, 1972 or places protected under any treaty, agreement or convention with any other country or countries or in pursuance of any decision made in any international conference, association or other body.

(ix) Proximity to human settlements.

(x) Any other factor as may be considered by the Central Government to be relevant to the protection of the environment in an area.

(2) While prohibiting or restricting the location of industries and carrying on of processes and operations in an area, the Central Government shall follow the procedure hereinafter laid down.

(3) (a) Whenever it appears to the Central Government that it is expedient to impose prohibition or restrictions on the location of an industry or the carrying on of processes and operations in an area, it may, by notification in the Official Gazette and in such other manner as the Central Government may deem necessary from time to time, give notice of its intention to do so.

(b) Every notification under clause (a) shall give a brief description of the area, the industries, operations, processes in that area about which such notification pertains and also specify the reasons for the imposition of prohibition or restrictions on the location of the industries and carrying on of processes or operations in that area.

(c) Any person interested in filing an objection against the imposition of prohibition or restrictions on carrying on of processes or operations as notified under clause (a) may do so in writing to the Central Government within sixty days from the date of publication in the notification in the Official Gazette.

(d) The Central Government shall within a period of one hundred and twenty days from the date of publication of the notification in the Official Gazette consider all the objections received against such notification and may [within [seven hundred and twenty-five days [, and in respect of the States of Assam, Meghalaya, Arunachal Pradesh, Mizoram, Manipur, Nagaland,

Tripura, Sikkim and Jammu and Kashmir in exceptional circumstance and for sufficient reasons within a further period of one hundred and eighty days,]) from such date of publication] impose prohibition or restrictions on location of such industries and the carrying on of any process or operation in an area:

[Provided that on account of COVID-19 pandemic, for the purpose of this clause, the period of validity of the notification expiring in the financial year 2020-2021 and 2021-2022 shall be extended up to [30th June, 2022] or six months from the end of the month when the relevant notification would have expired without any extension, whichever is later.]

[(4) Notwithstanding anything contained in sub-rule (3), whenever it appears to the Central Government that it is in public interest to do so, it may dispense with the requirement of notice under clause (a) of sub-rule (3).]

**30.** It is to be noted that Rule 5 of the 1986 Rules prescribes a detailed procedure for issuing notification prohibiting or restricting various activities in the specified areas. The said power flows from Sections 3(v) of the Environment (Protection) Act, 1986 (hereinafter referred to as “1986 Act”).

**31.** A perusal of clause (viii) of sub-rule (1) of Rule 5 of the 1986 Rules would reveal that one of the factors that has to be taken into consideration for declaring ESZ is the proximity to a sanctuary, National Park, game reserve or closed area notified, as such under the 1972 Act. Sub-rule 3(a) of Rule 5 of the 1986 Rules requires that whenever it appears to the Central Government that it is expedient to impose prohibition or restrictions, it is required to give notice of its intention to do so by notification in the Official Gazette and in such other manner as the Central Government may deem necessary from time to time. As per sub-rule 3(b) of Rule 5, every such notification is required to give a brief description of the area, the industries, operations processes in that area about which such notification pertains and also specify the reasons for the imposition of prohibition or restrictions on the location of the industries on carrying out of the processes or operations in that area. Accordingly, as per sub-rule 3(c) of Rule 5, any person interested in filing an objection is entitled to file an objection to the Central Government within sixty days from the date of publication in the notification in the Official

Gazette. The Central Government thereafter within the prescribed period provided under clause (d) of sub-rule (3) of Rule 5 of the 1986 Rules is required to issue a notification in the Official Gazette imposing such prohibition or restrictions in an area. This is required to be done only after considering all the objections received under clause (c) of sub-rule (3) of Rule 5 of the 1986 Rules. It can thus be seen that a detailed procedure is prescribed under the 1986 Rules for notifying ESZs.

**32.** It is to be noted that MoEF & CC has issued the said Guidelines for declaration of ESZs around the National Parks and Wildlife Sanctuaries.

**33.** The said Guidelines refer to a meeting of the Indian Board for Wildlife held on 21<sup>st</sup> January 2002, in which “Wildlife Conservation Strategy-2002” was adopted. Point No. 9 of the said Strategy envisaged that lands falling within 10 kilometres of the boundaries of National Parks and Sanctuaries should be notified as eco-fragile zones under Section 3(v) of the 1972 Act and clause (viii) of sub-rule (1) of Rule 5 of the 1986 Rules. It further states that when the

views were obtained from all the State Governments, some of the State Governments had raised concern over applicability of 10 kilometres range from the Protected Area boundary and informed that most of the human habitation and other areas including important cities in these States would come under the purview of ESZs and will adversely affect the development. The said Guidelines also refer to the National Wildlife Action Plan (2002-2016). The NBWL, in its meeting held on 17<sup>th</sup> March 2005, decided that the delineation of ESZs would have to be site specific and relate to regulation rather than prohibition of specific activities. The said decision was communicated to all the State Governments for compliance vide letter dated 27<sup>th</sup> May 2005.

**34.** The said Guidelines thereafter refer to the directions of this Court dated 4<sup>th</sup> December 2006. It also refers to the statutory provisions as contained in Section 5C (1) of the 1972 Act, Section 3 of the 1986 Act and Rule 5 of the 1986 Rules. The said Guidelines state that the purpose of declaring ESZs around National Parks and Sanctuaries is to create some kind of Shock Absorber for the Protected Areas.

They would also act as a transition zone from areas of high protection to areas involving lesser protection. It also reiterates the decision of the NBWL that the activities in the ESZs would be of a regulatory nature rather than prohibitive nature unless and otherwise so required. Paragraph 4 of the said Guidelines notes that many of the existing Protected Areas have already undergone tremendous development in close vicinity to their boundaries. It refers to the Guindy National Park, Tamil Nadu, Sanjay Gandhi National Park, Maharashtra, etc. and notes that the Protected Areas are lying in the urban set up. It therefore observes that defining the extent of ESZs around Protected Areas will have to be kept flexible and Protected Area specific. It notes that the width of ESZs and type of regulations will differ from one Protected Area to another Protected Area. It however notes that, as a general principle, the width of the ESZs could go up to 10 kilometres around a Protected Area as provided in the Wildlife Conservation Strategy-2002. It further notes that in case where sensitive corridors, connectivity and ecologically important patches, crucial for landscape linkage, are even beyond 10 kilometres width, these should be

included in the ESZs. It further notes that even in context of a particular Protected Area, the distribution of an area of the ESZ and the extent of regulation may not be uniform all around and it could be of variable width and extent. The said Guidelines notes that though the directions were issued by this Court to all the States/Union Territories, except a few States, several other States/Union Territories have not come forward with the proposals for declaration of ESZs. It was observed that this could be perhaps for want of guidelines in this regard. It further notes that this Court in its judgment and order dated 3<sup>rd</sup> December 2010 in a case relating to construction of park at Noida near Okhla Bird Sanctuary, observed that the ESZs around the Protected Areas had not been notified as the Government of India had not issued any guidelines in this regard.

**35.** It thereafter refers to the Committee under the Chairmanship of Shri Pronab Sen for identifying parameters for designating Ecologically Sensitive Areas in India.

**36.** The said Guidelines thereafter state in paragraph 6 that the basic aim of notifying ESZs is to regulate certain

activities around National Park and Wildlife Sanctuary so as to minimize the negative impact of such activities on the fragile ecosystem encompassing the Protected Area. It states that the first step towards it is to prepare an inventory of the different land use patterns and the different types of activities, types and number of industries operating around each of the Protected Area as well as important Corridors. It states that the inventory could be done by the concerned Range Officers, who can take a stock of activities within 10 kilometres of the range. It further notes that a Committee comprising of the concerned Wildlife Warden, an Ecologist, an official from the Local Self Government and an official of the Revenue Department of the concerned area, could be formed to suggest the following:

- (i) Extent of eco-sensitive zones for the Protected Area being considered.
- (ii) The requirement of such a zone to act as a shock absorber
- (iii) To suggest the best methods for management of the eco-sensitive zones, so suggested.

- (iv) To suggest broad based thematic activities to be included in the Master Plan for the region.

**37.** It further notes that based on the above, the Chief Wildlife Warden could group the activities under the following categories:-

- (i) Prohibited
- (ii) Restricted with safeguards.
- (iii) Permissible

**38.** The said Guidelines thereafter note that once the proposal for ESZs has been finalized, the same should be forwarded to the MoEF & CC for further processing and notification. An indicative list of details that need to be submitted along with the proposals is also appended to the said Guidelines.

**39.** The said Guidelines further note that where the boundary of a Protected Area abuts the boundary of another State/Union Territory where it does not form part of any Protected Area, it should be the endeavour of both the State/Union Territory Governments to have a mutual

consultation and decide upon the width of the ESZs around the Protected Area in question. The said Guidelines emphasize that the State Government should endeavour to convey a very strong message to the public that ESZs are not meant to hamper their day to day activities, but instead, are meant to protect the precious forests/Protected Areas in their locality from any negative impact, and also to refine the environment around the Protected Areas. It further notes that these guidelines are indicative in nature and the State/Union Territory Governments may use these as basic framework to develop specific guidelines applicable in the context of their National Parks, Wildlife Sanctuaries, important corridors etc. with a view to minimizing and preferably eliminating any negative impact on Protected Areas.

**40.** A list of the activities which are prohibited, regulated and permitted is contained in Annexure-I of the said Guidelines, which reads thus:

Sl. No.	Activity	Prohibited	Regulated	Permitted	Remarks
1.	Commercial mining	Y			Regulation sill not

					prohibit the digging of earth for construction or repair of houses for manufacture of country tiles or bricks for housing for personal
2.	Felling of trees		Y		With permission from appropriate authority
3.	Setting of saw mills	Y			
4.	Setting of industries causing pollution (Water, Air, Soil., Noise, etc.)	Y			
5.	Establishment of hotels and resorts		Y		As per approved master plan, which takes care of habitats allowing no restriction on movement of wild animals
6.	Commercial use of firewood	Y			For hotels and other business related establishment

7.	Drastic change of agriculture systems		Y		
8.	Commercial use of natural water resources including ground water harvesting		Y		As per approved master plan, which takes care of habitats allowing no restriction on movement of wild animals.
9.	Establishment of major hydroelectric projects	Y			
10.	Erection of electrical cable		Y		Promote underground cabling
11.	Ongoing agriculture and horticulture practices local communities			Y	However, excessive expansion of some of these activities should be regulated as per the master plan
12.	Rain Water harvesting			Y	Should be actively promoted
13.	Fencing of premises of hotels and lodges		Y		
14.	Organic farming			Y	Should be actively promoted

15.	Use of polythene bags by shopkeepers		Y		
16.	Use of renewable energy sources			Y	Should be actively promoted
17.	Widening of roads		Y		This should be done with proper EIA and mitigation measures
18.	Movement of vehicular traffic at night		Y		For commercial purpose
19.	Introduction of exotic species		Y		
20.	Use of production of any hazardous substances	Y			
21.	Undertaking activities related to tourism like over-flying the National Park are by any aircraft, hot-air balloons				
22.	Protection of hill slopes and river banks		Y		As per the master plan

23.	Discharge of effluents and solid waste in natural water bodies or terrestrial are	Y			
24.	Air and vehicular pollution		Y		
25.	Sign board & hoardings		Y		As per the master plan
26.	Adoption of green technology for all activities			Y	Should be actively promoted.

**41.** It is to be noted that this Court in paragraph 54 of the order dated 3<sup>rd</sup> June 2022 (supra) has, in fact, held the said Guidelines to be reasonable and also accepted the view of the Standing Committee of the NBWL that uniform guidelines may not be possible in respect of each sanctuary or National Park for maintaining the ESZs. It is also observed that the sanctuaries like Sanjay Gandhi National Park and Guindy National Park in Mumbai shall form special cases. The said paragraph 54 is reproduced hereinunder:

**“54.** In our opinion, the Guidelines framed on 9-2-2011 appear to be reasonable and we accept the view of the Standing Committee that uniform guidelines may not be possible in respect of each sanctuary or national park for maintaining ESZ. We are of the opinion, however, that a minimum width of 1 km ESZ ought to be maintained in respect of the protected forests, which forms part of the recommendations of CEC in relation to Category B protected forests. This would be the standard formula, subject to changes in special circumstances. We have considered CEC's recommendation that the ESZ should be relatable to the area covered by a protected forest but the Standing Committee's view that the area of a protected forest may not always be a reasonable criteria also merits consideration. It was argued before us that the 1 km wide “no-development-zone” may not be feasible in all cases and specific instances were given for Sanjay Gandhi National Park and Guindy National Park in Mumbai and Chennai metropolis respectively which have urban activities in very close proximity. These sanctuaries shall form special cases.”

**42.** It is to be noted that an elaborate and exhaustive list has been prepared by MoEF & CC of the activities which shall be prohibited, the activities which shall be regulated and the activities which shall be permitted.

**43.** In the application, it is stated that after the proposals are received from the State Governments/Union Territory

Administrations, they are scrutinized in consultation with the Wildlife Institute of India, Dehradun, and in case of tiger reserves, with the National Tiger Conservation Authority. They are thereafter published in the Official Gazette of the Central Government in both Hindi and English. They are also placed in the public domain for 60 days for seeking comments of concerned stakeholders. The comments so received are compiled and scrutinized and observation of the concerned State Government/Union Territory Administration is sought on the same. The aforesaid requirements are in tune with the provisions of Rule 5 of 1986 Rules.

**44.** The application further states that the proposal is thereafter placed before an Expert Committee constituted for ESZ within the MoEF & CC. The said Committee comprises of the following:

- (i) Indian Institute of Remote Sensing/Indian Space Research Organization,
- (ii) Ministry of Jal Shakti,
- (iii) Ministry of Rural Development,

- (iv) Forest Survey of India,
- (v) Town & Country Planning Organization,  
Government of India,
- (vi) National Tiger Conservation Authority,
- (vii) Wildlife Institute of India,
- (viii) GB Pant Institute of Himalayan  
Environment & Development,
- (ix) Indian Council of Forestry Research and  
Education,
- (x) World Wildlife Fund,
- (xi) Zoological Survey of India,
- (xii) Botanical Survey of India,
- (xiii) Salim Ali Centre for Ornithology and  
Natural History (SACON).

**45.** It is further stated in the application that based on the recommendation of the Expert Committee (ESZ), the Ministry finalizes the notification of ESZs and after due legal vetting by the Ministry of Law & Justice, final notifications specifying the ESZs around the Protected Areas are notified. It could thus be seen that an elaborate procedure including

consideration by a Committee of Experts coming from 13 organizations having expertise in wildlife ecology, forest etc. is followed before a final notification prescribing ESZs is notified.

**46.** In the application filed by the Union of India, various illustrations have been given to point out as to how if the directions issued in paragraph 56.5 of the order dated 3<sup>rd</sup> June 2022 (supra) are not modified, a severe hardship would be caused to the millions of people. We refer to the same hereunder:

- (i) “The ESZ around Nagarjunasagar Srisailam Tiger Reserve in Andhra Pradesh extends from 0 to 26 kilometres and 100 villages are situated within it (*Zero extent of ESZ is due to Krishna River and interstate boundary with Telangana*);
- (ii) The ESZ around Valmiki Wildlife Sanctuary, Valmiki National Park and Valmiki Tiger Reserve in Bihar extends from 0 to 9 kilometres and 323 villages are situated within it (*zero extent of ESZ is towards Western side sharing inter-state boundaries with Uttar Pradesh and*

*towards Northern side sharing international boundary with Nepal);*

- (iii) The ESZ around Betla National Park, Palamau Wildlife Sanctuary, and Mahuadanr Wolf Sanctuary in Jharkhand extends from 0 to 9 kilometres and 382 villages are situated within it (*Zero extent of ESZ is due to Inter-State boundary*);
- (iv) The ESZ around Cauvery Wildlife Sanctuary in Karnataka extends from 1 to 14.5 kilometres and 107 villages are situated within it;
- (v) The ESZ around Kanha National Park and Phen Wildlife Sanctuary in Madhya Pradesh extends from 0 to 30 kilometres and 168 villages are situated within it (*Zero extent of Eco-sensitive Zone is towards the eastern side having interstate boundary with Chhattisgarh*);
- (vi) The ESZ around Tadoba-Andhari Tiger Reserve in Maharashtra extends from 3 to 6 kilometres and 150 villages are situated within it;
- (vii) The ESZ around Jaisamand Wildlife Sanctuary in Rajasthan extends from 1.6

to 8.9 kilometres and 83 villages are situated in it;

- (viii) Even a small ESZ such as the one around Keoladeo National Park in Rajasthan which extends from 0.5 to 1.5 kilometres has 22 villages situated in it.”

**47.** It would thus reveal that in the ESZ around Nagarjunasagar Srisailam Tiger Reserve in Andhra Pradesh, 100 villages are situated within it. In the ESZ around Valmiki Wildlife Sanctuary, Valmiki National Park and Valmiki Tiger Reserve in Bihar, 323 villages are situated within it. In the ESZ around Betla National Park, Palamau Wildlife Sanctuary, and Mahuadanr Wolf Sanctuary in Jharkhand, 382 villages are situated within it. In the ESZ around Cauvery Wildlife Sanctuary in Karnataka, 107 villages are situated within it. In the ESZ around Kanha National Park and Phen Wildlife Sanctuary in Madhya Pradesh, 168 villages are situated within it. In the ESZ around Tadoba-Andhari Tiger Reserve in Maharashtra, 150 villages are situated within it. In the ESZ around Jaisamand Wildlife Sanctuary in Rajasthan, 83 villages are situated in it.

Even in a small ESZ around Keoladeo National Park in Rajasthan, 22 villages situated in it.

**48.** If the direction as issued by this Court in paragraph 56.5 of the order dated 3<sup>rd</sup> June 2022 (supra) is continued, then no permanent structure would be permitted to come up for whatsoever purpose in the aforesaid ESZs. As already pointed out from the aforesaid examples, hundreds of villages are situated within the ESZs in the country. If no permanent construction is to be permitted for any purpose, a villager who is desirous to reconstruct his house would not be permitted. Similarly, if there is an extension in their family and some additional construction is required for accommodating the enlarged family, the same would also not be permitted. Similarly, if the Government decides to construct schools, dispensaries, anganwadis, village stores, water tanks and other basic structures for improvement of the life of the villagers, the same would also not be permitted. The effect of the order will be to prevent the State or the Central Government from constructing roads and provide other facilities to the villagers.

**49.** If the order dated 3<sup>rd</sup> June 2022 (supra) is not modified, it will also be impossible for the Forest Departments to conduct eco-development activities around National Parks and Sanctuaries. The said activities are required with the dual objectives of protection of wildlife and provision of benefits for the local communities. MoEF & CC provides financial assistance to the States under the Centrally Sponsored Scheme-Integrated Development of Wildlife Habitats, which includes assistance for eco-development activities. These activities often involve construction of small structures which are permanent in nature in areas including ESZs. For example, the said activities which are likely to be prohibited are thus:

- (i) The construction of community halls, bridges, threshing floors, fish-drying platforms, drinking water storage, etc., for the benefit of local communities/villages;
- (ii) The construction of forest chowkies, watch towers, and other structures for protection of wildlife and forests;
- (iii) The construction of interpretation centres, toilets and other basic structures

for the environmental education of visitors to National Parks and sanctuaries.

**50.** It is further to be noted that there are various regulated and permissible activities. There are also certain projects of national and strategic importance such as construction of National Highways, Railways, Defence related infrastructure etc. The effect of the direction in 56.5 of the order dated 3<sup>rd</sup> June 2022 (supra) is that all such activities will be permanently prohibited. In this respect, it is to be noted that MoEF & CC has issued an Office Memorandum dated 17<sup>th</sup> May 2022 which required that any activity listed in Schedule of the EIA Notification 2006, when conducted in a notified ESZs, or in the case of National Parks and Sanctuaries for which no ESZ has been finally notified, when conducted within 10 kilometres of such National Park or Sanctuary, requires the consideration and recommendation of the NBWL or its Standing Committee in addition to the Environment Clearance under the 1986 Act. Additionally, activities which are regulated as per the specific ESZ notification, require

approval as per that notification. As such, we find that there are inbuilt safeguards for preventing rampant construction and abuse of process which may be detrimental to the development and maintenance of wildlife habitats. It is further to be noted that if the direction as contained in paragraph 56.5 of the order dated 3<sup>rd</sup> June 2022 (supra) that even for continuation of existing activities, the permission of the PCCF of each State or Union Territory would be necessary, remains unmodified, taking into consideration that in each State or Union Territory there will be hundreds of villages wherein millions of people would be residing, the PCCF would be left with no other job except to consider such applications for permission to continue such activities. Even a farmer desirous to continue farming activities would be required to seek such permission. We find that such a direction is impossible to be implemented.

**51.** We are of the view that if such a direction is continued, rather than avoiding man-animal conflict, it will intensify the same. As observed in the said Guidelines, the requirement of declaring ESZs is not to hamper day to day activities of the

citizens but is meant to protect the precious forests/Protected Areas from any negative impact, and to refine the environment around the Protected Areas.

**52.** As already discussed hereinabove, the necessity to have ESZs is to provide a buffer zone around the Protected Areas. The rights of the villagers residing in the Protected Areas are required to be settled in accordance with the provisions contained in the 1972 Act and such villagers are rehabilitated outside the Protected Areas. However, no such settlement of rights is available to the villagers residing in the ESZs areas. As stated in the said Guidelines, the purpose of declaring ESZs is not to hamper the day to day activities of the citizens. If the direction as issued is continued, it would certainly hamper the day to day activities of the citizens residing in ESZs. As such, we find that the said direction needs to be modified.

**53.** It is further to be noted that the NBWL, in its meeting dated 17<sup>th</sup> March 2005, has also recommended that the delineation of ESZs should project as regulation rather than prohibition of activities.

**54.** As was pointed out by the counsel for one of the States, the entire municipal area of the Sulthan Bathery Block Panchayat is situated within the ESZ area.

**55.** Insofar as direction in paragraph 56.1 of the order dated 3<sup>rd</sup> June 2022 (supra) is concerned, a perusal of various orders would reveal that this Court has not directed any minimum area from the demarcated boundary of such Protected Areas. The area to be declared as ESZ cannot be uniform and will be Protected Area specific. In some cases, it may be 10 kilometres on one side and 500 meters on the other side. In certain cases, it may not be possible to have a uniform minimum area by virtue of inter-state boundaries or a sea or a river beyond one side of the Protected Area. In any case, a detailed procedure is required to be followed as prescribed under Rule 5 of the 1986 Rules which we have already referred hereinabove. We find that once such a notification is issued after following the procedure prescribed under the 1986 Rules, the ESZs will have to be as per the said notification.

**56.** It is further to be noted that, as required under sub-rule (3) of Rule 5 of the 1986 Rules, before any final notification is issued, a draft notification is required to be published in the Official Gazette and in such other manner as the Central Government may deem necessary from time to time. Any person interested in filing any objection to such a draft notification is entitled to file objection within a period of 60 days from the date of publication of the draft notification in the Official Gazette. We find that the Central Government can be directed to give a wide publicity to the draft notification so that all persons interested have knowledge about issuance of such draft notification.

**57.** It is pertinent to note that after following the aforesaid procedure, the matter is placed before the Expert Committee consisting of 13 organizations having expertise in the relative field. As such, before an ESZ area is specified, various factors are taken into consideration. There are various factors which will determine the ESZs for a particular Protected Area. The circumstances may differ from one Protected Area to another Protected Area. As such, we find that the direction which

prescribes a uniform one kilometre ESZ requires to be modified.

**58.** It is further to be noted that on the date of filing of the present application, final notifications have been issued in respect of 474 Protected Areas whereas draft notifications have been issued in respect of 102 Protected Areas. 73 proposals are pending. As already discussed hereinabove, this Court has already found the said Guidelines to be reasonable and has accepted the same. The Court has also accepted the view of the Standing Committee of the NBWL that uniform guidelines may not be possible in respect of each Sanctuary or National Park for maintaining ESZs. Though the Court has observed that a minimum width of one kilometre in ESZ ought to be maintained, in paragraph 56.6 of the order dated 3<sup>rd</sup> June 2022 (supra) itself, it has observed that minimum width of the ESZ may be diluted in overwhelming public interest but for that purpose the State or Union Territory concerned is required to approach Central Empowered Committee (CEC) and MoEF & CC. It has further observed that both these bodies shall give their respective

recommendations before this Court and on that basis, the Court should pass appropriate order.

**59.** As already discussed hereinabove, the ESZs are required to be notified after following the procedure as prescribed under the 1986 Rules and the said Guidelines. Such notifications cannot be issued unless a close scrutiny at various levels including the scrutiny by Expert Committee consisting of experts from 13 organizations. As such, we find that the direction as contained in paragraph 56.6 of the order dated 3<sup>rd</sup> June 2022 (supra) also needs to be modified.

**60.** Insofar as the restriction on mining is concerned, we are of the considered view that it has been the consistent view of this Court that the mining activities within an area of one kilometre of the boundary of the Protected Areas will be hazardous for the wildlife. Though in the case of **Goa Foundation** (supra), the said directions were issued in respect of State of Goa, we find that such directions need to be issued on Pan-India basis.

**61.** We are therefore inclined to allow the present I.A. The direction in paragraph 56.1 of the order dated 3<sup>rd</sup> June 2022

(supra) is modified and clarified that the directions contained therein would not be applicable to the ESZs in respect of which a draft and final notification has been issued by the MoEF & CC and in respect of the proposals which have been received by the Ministry.

**62.** We, however, direct the Central Government that wide publicity should be given to the draft notification which is required to be published under the provisions of clause (a) of sub-rule (3) of Rule 5 of the 1986 Rules. We further direct that the final notification to be published under clause (d) of sub-rule (3) of Rule 5 of the 1986 Rules shall not be given effect for a period of 30 days from the date of issuance thereof.

**63.** It is further directed that any person who is aggrieved with such a final notification would be entitled to approach this Court directly by filing an application in the present proceedings.

**64.** We further clarify that the direction contained in paragraph 56.1 of the order dated 3<sup>rd</sup> June 2022 (supra) would not be applicable where the National Parks and

Sanctuaries are located on inter-State borders and/or share common boundaries.

**65.** We also modify the direction contained in paragraph 56.4 of the order dated 3<sup>rd</sup> June 2022 (supra) and direct that mining within the National Park and Wildlife Sanctuary and within an area of one kilometre from the boundary of such National Park and Wildlife Sanctuary shall not be permissible.

**66.** We also modify the directions contained in paragraph 56.5 of the order dated 3<sup>rd</sup> June 2022 (supra) and replace the same as under:

- (i) The MoEF & CC and all the State/Union Territory Governments shall strictly follow the provisions in the said Guidelines dated 9<sup>th</sup> February 2011 and so also the provisions contained in the ESZs notifications pertaining to the respective Protected Areas with regard to prohibited activities, regulated activities and permissible activities;

(ii) We further direct that while granting Environmental and Forest Clearances for project activities in ESZ and other areas outside the Protected Areas, the Union of India as well as various State/Union Territory Governments shall strictly follow the provisions contained in the Office Memorandum dated 17<sup>th</sup> May 2022 issued by MoEF & CC.

**67.** All the other present I.As shall stand disposed of in terms of the above. No costs.

.....**J.**  
**[B.R. GAVAI]**

.....**J.**  
**[VIKRAM NATH]**

.....**J.**  
**[SANJAY KAROL]**

**NEW DELHI;**  
**APRIL 26, 2023**