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TO

06.07.2020

THE DISTRICT FOREST OFFICER
MANDI, HIMACHAL PRADESH

SUBJECT: (O.A No. 13/2020; "Sunder Singh &Anr. V/s State of H.P &Ors.)

Illegal and unauthorized construction activities on the government/forest land ('Protected Forests' by virtue of the 1952 notification under section 29 of the Indian Forest Act, 1927) comprised in Khasra No. 488.

Sir,

This is in continuation to myearlier letter dated 12.06.2020, on the subject cited above, and non-compliance of the order dated 21.01.2020, passed by the Hon'ble National Green Tribunal, in O.A No. 13 of 2020 (titled as "Sunder Singh &Anr. V/s State of H.P &Ors.).

I take this opportunity to again bring the following 'vital facts' to your kind notice:

- i. The nature of the land comprised in Khasra No. 488, is a government "waste-land" ('charagahbiladrakhtan' i.e. 'grazing land without trees') which is a "protected-forest" in view of the 1952 notification and section 29 of the Indian Forest Act, 1927;

The notification of 1952 is still in existence in the State of H.P, as is also evident from the subsequent notifications issued by the Himachal Pradesh Forest Department dated 24.08.1998 and 09.09.2003. Furthermore, these notifications form part of the Forest Manual released by the Government of Himachal Pradesh, which incorporates all the Acts, Rules, Notifications, Government Orders etc. (Issued by Govt. of H.P. and Govt. of India) that are applicable to the Forest Department of Himachal Pradesh.

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Sunder Singh

- (5)
- ii. In a similar case involving 'Gian Chand' and pertaining to village Takoli, itself, the Hon'ble National Green Tribunal, in O.A No. 344 of 2018, titled as "Rajesh Kumar v/s State of H.P &Ors.; vide its order dated 24.04.2019, had directed:
- "the Regional Office of the Ministry of Environment, Forest and Climate Change, Dehradun to depute an officer, not below the rank of Conservator of Forest, to visit the site at Village Takoli, Post Office Panarsa, Tehsil Aut, Distt. Mandi, HP and submit a report about the present status of the land and whether there is any violation of Forest Conservation Act, 1980";*
- iii. Pursuant to this order the Competent Authority in Regional Office (North Central Zone), Ministry of Environment, Forest and Climate Change, Dehradun; appointed Dr. S.C. Katiyar, Additional Director (Scientist- E), Regional Office (NCZ) MoEF, who visited the site on 16.05.2019, and subsequently filed a detailed report before the Hon'ble National Green Tribunal, new Delhi;(Copy of the report is annexed herewith as **Annexure A**)
- iv. Dr. S.C. Katiyar, in his report, *supra*, took note of the various government notifications, issued by department of forest (on 25.02.1952, 24.08.1998 & 09.09.2003) and concluded that these notifications apply to government waste-land and the said construction was in violation of Forest (Conservation) Act, 1980;

Surender Singh

- (6)
- v. Notably, the Hon'ble National Green Tribunal, accepted this report and *vide* its order dated 11.10.2019, directed your-good self to undertake the work of restoration of the government land/forest land, involved as it was in violation of Forest (Conservation) Act, 1980;(Copy of the order dated 11.10.2019 is annexed herewith as **Annexure B**)
- vi. The land comprised in Khasra No. 488 (in the instant case) and the land comprised in Khasra No. 494 (i.e. in case of Rajesh Kumar, *supra*) are both government "waste-land" i.e. "protected-forest" in view of the 1952 notification and section 29 of the Indian Forest Act, 1927 and thus, are required to be dealt similarly;

Note: {In the case of Khasra No. 494, the forest department, undertook and completed the work of restoration, however, in the instant case no action has been taken, till date, in spite of a specific order (dated 21.01.2020) by the Hon'ble National Green tribunal.}

Sir, all these above-noted facts, are part of my application/complaint, (i.e. O.A No. 13/2020) filed before the Hon'ble National Green Tribunal and the same was duly served upon the Forest Department in compliance of the directions of the Hon'ble Tribunal. However, it seems, that the Forest Department has completely & deliberately overlooked, the law and the indisputable facts and circumstances of the instant case, as no action has been taken, *hitherto* and 'Gian Chand' (the wrongdoer) is still continuing with his illegal acts of construction and has been illegally/unauthorizedly, dumping/throwing 'malbha' in the 'Nallah' on the same piece of government/forest land.

Such inaction on part of the Forest department, is surprising and has left all common people of our village/panchayat helpless, bewildered and shocked. Sir, I know and

Sandeep Singh

understand that 'Gian Chand' is a very influential person, having a strong social and political/administrative clout in the region, which seems to be the only and obvious reason, for such delay/inaction, on your part.

However, I still hope (as a common man) and beseech, that proper action, in accordance with law would be taken, forthwith; in compliance with the orders passed by then Hon'ble National Green Tribunal and applicable law/rules/notifications.

This is for your information and necessary action at your end.

Thanking you,



Sunder Singh

Up-Pradhan Gram Panchayat Takoli

P.O Panarsa, Tehsil Aut, District mandi (H.P)

Copy to:

- ✓ 1. The Chairperson, National Green Tribunal, Principal Bench, New Delhi;
2. PCCF, Department of Forest, Go. H.P.
3. Deputy Commissioner, Mandi, Distt. Mandi (HP).
4. SDM, Sadar Mandi, distt. Mandi (HP).
5. Tehsildar, Tehsil Aut, Distt. Mandi (HP).
6. R.O, Panarasa, Tehsil Aut, distt. Mandi (HP).

INSPECTION REPORT OF THE REGIONAL OFFICE (NORTH CENTRAL ZONE),
MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE, GOVERNMENT OF
INDIA, DEHRADUN IN PURSUANCE TO HON'BLE NATIONAL GREEN TRIBUNAL'S
ORDER IN O.A. NO. 334/2018 (TITLED RAJESH KUMAR VERSUS STATE OF
HIMACHAL PRADESH & ORS.) DATED 24.04.2019

Introduction :- Hon'ble NGT vide order dated 24.04.2019 in O.A. No- 334/2018 titled Rajesh Kumar versus State of Himachal Pradesh & Ors. has directed the Regional Office of the Ministry of Environment, Forest and Climate Change, Dehradun to depute an officer, not below the rank of Conservator of Forest, to visit the site at Village Takoli, Post Office Panarsa, Tehsil Aut, Distt. Mandi, HP and submit a report about the *present status of the land and whether there is any violation of Forest Conservation Act, 1980*. If need arises the officer may take assistance from the revenue officials for the purpose of identifying the land in question and its measurement.

In pursuance to the above, the Competent Authority in Regional Office (North Central Zone), Ministry of Environment, Forest and Climate Change, Dehradun deputed the undersigned to undertake the inspection and submit the report.

Accordingly, a visit to the Village Takoli, Post Office Panarsa, Tehsil Aut, Distt. Mandi, HP has been made 16th May, 2019. The following officials of State Forest Department, H.P and State Revenue Department were present during the said visit:

1. Shri S. S. Kashyap, D.F.O., Mandi
2. Shri Anu Thakur, Range Officer, Panarsa Range.
3. Shri Karam Chand, Nayab Tehsildar, Tehsil Aut, Mandi.
4. Shri Dinanath, Field Kanoongo.
5. Shri Pankaj Bardhan, Patwari, Circle Panarsa.

Besides the above officials, Shri Chena Ram, Gram Panchayat Pradhan, Susan Takoli (Takoli), and Shri Rajesh Kumar Rao, applicant and other habitants of Village Susan Takoli were also present during the said inspection.

Observations: - It was informed by the State Forest Department officials that Khasra Nos- 495 & 472 are Forest Land as per their records. Both these Khasra Nos. were found secured with barbed wire fencing. It was also informed by these officials that Khasra No- 494 is a waste land and as per Himachal Pradesh Forest Department Notification dated- 25th February, 1952. Waste lands are also included as Forest Land. A copy of this notification is placed herewith as Annexure- I.

It was further informed by the forest officials that Khasra No- 494 is not recorded as forest in their records. However, the Revenue Department Officials informed that as per revenue records Khasra No- 494 covering an area of 00-12-05 (in metric area) is "Gair Mumkin Gohar" and Share-Aam Land presently used as Kachha Rasta/Road used by the public. The revenue record (Nakal Jamabandi) and the map of the area depicting Khasra No- 494 is placed at Annexure Nos- II&III respectively.



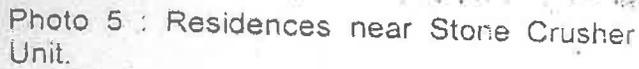


Photo 5 : Residences near Stone Crusher Unit.

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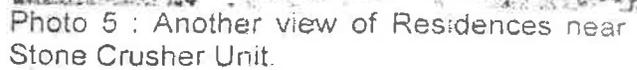


Photo 5 : Another view of Residences near Stone Crusher Unit.

It was observed that the Stone Crushing Unit, of Shri Rajesh Kumar Rao has been installed at Khasra No- 493/1 which is just adjacent to Khasra No- 494. Some residences were found constructed close to this Stone Crusher Unit on western and southern directions. Agricultural fields on eastern directions also exist there. It was informed by Shri Rajesh Kumar Rao that he has installed this Stone Crushing Unit as per Order of Hon'ble NGT in O.A No. 335 of 2013 (M.A. No- 633 of 2014), (Annexure- VI) and after clearing of this site by a joint inspection (Annexure- VII). and obtaining consent to establish under relevant Pollution Control Act from H.P State Pollution Control Board (Annexure- VIII).

Conclusion:-

- i. On the basis of the observations made above it is summarized that Khasra No-494 is a "Gair Mumkin Gchar" and Share-Aam Land presently used as Kachha Rasta/Road used by the public.
- ii. By virtue of the notification of 25th February, 1952 and which is applicable as on-date too, the provisions of section 29 of Indian Forest Act, 1927 are applicable on Khasra No- 494 and the construction of Kachha road is in violation of Forest (Conservation) Act, 1980.
- iii. The close proximity of Stone Crushing Unit of Shri Rajesh Kumar Rao to the residences and agricultural fields of Sunam Takoli Village is not advisable due to highly polluting nature of this industry.

Date: 18.05.2019


Dr. S.C. Katiyar, Additional Director (Scientist- E)
Regional Office (NCZ)
Ministry of Environment, Forest & Climate Change
Dehradun - 248001

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Original Application No. 334/2018

Ramesh Kumar

Applicant(s)

Verus

State of Himachal Pradesh & Ors

Respondent(s)

Date of hearing: 11.10.2019

GORAM

HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER

For Applicant(s)

Mr. Aditya Dhawan, Advocate

For Respondent(s)

Mr. Divya Prakash Pandey,
Advocate
Mr. Manish Kumar, Advocate
Mr. Rajendra Beniwal, Advocate

ORDER

We have heard the learned counsel for the parties at length. We have perused the record including the report of the RO, MoEF, Dehradun. In the facts and circumstances of the case, before passing appropriate order in respect of relief sought by the petitioner, we deem it proper to direct District Forest Officer, respondent no. 1 to undertake the work of restoration of the forest land in Khasra No. 494 where digging has taken place. After restoration of the land to its original form he should submit a report, with photographs, about the status of the site at that time and also mention the total amount of expenditure incurred.

We direct the DFO, Dehradun to do the needful by

15.11.2019