

BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH AT KOLKATA
ORIGINAL APPLICATION NO.18 OF 2019/EZ

IN THE MATTER OF:

JORJO TANA TARA

...APPLICANT

VERSUS

UNION OF INDIA & ORS

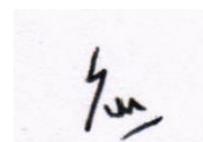
...RESPONDENTS

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OBJECTIONS TO THE STATUS REPORT DATED 07.12.2021 FILED BY PCCF & PRINCIPAL SECRETARY, DEPARTMENT OF ENVIRONMENT AND FORESTS, GOVERNMENT OF ARUNACHAL PRADESH

MOST RESPECTFULLY SHOWETH:-

PRELIMINARY OBJECTION

1. That vide it's Order dated 09.11.2020 this Hon'ble Tribunal had observed that:-

"2.Without going much into further into the facts and circumstances of the case, it is quite apparent that there has been hardly any progress made after the order dated 30.08.2019 passed by the Tribunal. By that order, we had pointed out serious lacunae in the administration of the forest area by the State. Even the directions of the Hon'ble Supreme Court do not appear to have been complied with. Although by the report filed on behalf of the State, it has been pointed out that certain actions have been taken, no tangible result appears to have emerged."

...

4...The Applicant has made useful suggestion of identifying hotspots where the illegalities are rampant. The State may take measures to make use of forest cover map prepared with the help of satellites imageries by Forest Survey of India, Dehradun of the very affected districts (hot spots) to observe the change in forest cover that has occurred over a time period of 10 years

which will be helpful in evolving an action plan to deal with this issue.”

2. That on 06.01.2021 this Hon'ble Tribunal observed that nothing tangible appears to have resulted after it's Order dated 09.11.2020 and observed and directed that:-

“3.It is quite obvious from the above that all the actions are just proposals and nothing tangible appears to have resulted. However, it is quite heartening to note that Hot Spots of illegal logging have been identified and to prevent illegal logging and felling, Range Squads and Divisional Squads have been formed to be assisted by Mobile Squads under the supervision of the Chief Conservator of Forests. It is informed that after the formation of the squads, there has been no report of illegal logging from the field thus far.

4.Although Mr. Anil Shrivastava, learned Additional Advocate General for the State of Arunachal Pradesh, submits that efforts are being made by the State to comply with the directions, we find that nothing much appears to have been done by the State. Actions appear to be mostly mere proposals. Specific directions passed by us in paragraph 4 of the order dated 09.11.2020 in taking up interim measures like induction of retired personnel of the Forest Department and the State Armed Police have not been complied with. The direction upon the State to take measures to make use of forest cover map prepared with the help of satellites imageries by the Forest Survey of India, Dehradun of the affected districts (Hot Spots) to observe the change in forest cover occurring over a period of 10 years, has also not been complied with.

3. That it is stated that it was only after successive Order from this Hon'ble Tribunal that certain interim measures were said to have been taken and a Status Report dated 07.12.2021 has been filed by PCCF & Principal Secretary, Department of Environment and Forests, Government of Arunachal Pradesh.
4. However, inspite of identification of Hot Spots where illegal logging has been identified and for prevention of illegal logging Range Squads and

Divisional Squads were said to have been created alongwith Mobile Squads under the supervision of the Chief Conservator of Forests, the Forest Department in it's Status Report dated 07.12.2021 has failed to identify illegal logging as a driver of Forest degradation in Arunachal Pradesh. The Applicant has filed a number of Reports, Articles, letters, representation, FIR with his Original Application as evidence of illegal logging in Papum Reserved Forest, Khellong Forest Department and other Forest Divisions of Arunachal Pradesh. The Applicant also filed an Additional Affidavit dated 27.11.2019 placing photographic evidence of illegal logging from 30-31 October, 2019 in the village of Sele, Panior Reserve Forest, Banderdewa Forest Division, photographs of seizure of logs from village Sele. The Applicant further filed a Response to the Report dated 20.11.2019 wherein photographs and articles were produced on record showing logging being done by M/s Yun Saw Mill at the Hot Spot Sele Pchi, Sher area, under Kimin Administrative circle, in the Panior Reserve Forest under Banderdewa Forest Division. Newsaer articles were also filed as an evidence of logging with this Response. It was in this background that this Hon'ble Tribunal passed it's Orders dated 09.11.2020 and 06.01.2021 but with the filing of Status Report dated 07.12.2021 the Forest Department has gone back in denial mode on the issue of logging being responsible for any forest degradation.

5. That the Status Report dated 07.12.2021 filed by PCCF & Principal Secretary, Department of Environment and Forests, Government of Arunachal Pradesh. is accompanied with a Division wise Forest Cover Report submitted by State Remote Sensing Application Centre, Department of Science and Technology, Government of Arunachal Pradesh. The Applicant is filing his Objections to the said Reports which is as follows:-

India State of Forest Report (ISFR) 2021

6. That Arunachal Pradesh is the second largest forested State in India. Analysis of the State of Forest Report (ISFR) 2021 shows that Arunachal

Pradesh is losing its primary forests and that, too, on a large scale every passing year.

7. As per the ISFR 2021, brought out by the Forest Survey of India (FSI) and released on January 13, 2022, Arunachal Pradesh that has a geographical area (GA) of 83,743 sq kms with its 16 hill districts, (total number 25, the recently bifurcated not shown separately in the report) has witnessed a loss of 257 sq kms of forest cover compared to the 2019 assessment.

The Status Report identifies that there has been considerable loss of forest cover

8. It is stated that the Status Report identifies that there has been considerable loss of forest cover. There has been an increase in non-forest area from 2009 to 2019 of 844 km², an annual increase of 84 km² per year.
9. If all the types of forest cover based on canopy density (from scrub to VDF) are incorporated – the total loss of forest cover over the 10-year period has been 545 km². If forest cover is considered to incorporate only the VDF (70% and above), MDF (40 to 70%) and Open forest categories (10 to 40%), then the loss in forest cover is 661 km², while if just consider the VDF and MDF as the primary forest cover categories, the loss is of 691 km². This works out to an annual loss of 69 km² of forests.
10. However, it is stated that the biggest problem is the definition of forest cover based on canopy density only without distinguishing natural forests from man-made plantations, and other kinds of green cover and without any ecologically meaningful definition of forest. But even going by the flawed definition and methods used, the Status Report and analysis acknowledges a substantial loss of forest cover in the state in the last 10 years, especially in the MDF – of 944 km².
11. The data is showing that there has been an overall increase of VDF in the last 10 years from 244 km². However, if one plots the data biennially and looks at when this increase has happened, it shows that there was no

increase from 2009 to 2017, in fact there was a marginal decrease. Suddenly, from 2017 to 2019, there was been an increase of 462 km², which is ecologically impossible in natural forests.

12. Given the kinds and magnitude of development, the state is undergoing in terms of road-building, growth of cities/towns, increase in area under crop plantations, and the reports of illegal logging, this increase in VDF seems unrealistic. In any case, it is impossible for natural forest cover to increase in the VDF category to such a large degree in just 2 years. This analysis needs to be re-examined.
13. The total area in each assessment year also varies and it is hard to understand, why this should be so. It is 82143.98 sq. km in 2009, 82129.35 in 2011, and 82201.11 in 2013 and so on. Every year, the total area is different. If that is the case, the comparisons between classes and years are not valid.
14. In addition, the total area of the state of Arunachal is 83743 sq. km. This means that in the overall analysis – the remaining area was not analysed. It is not clear what areas/habitats were left out of the analysis. If these were areas above a certain elevation and the permanent snow areas, this should be explicitly stated. It is known that 23% of Arunachal is above 3000 m (an area of 5470 sq. km) and these areas have alpine/temperate habitat, not all of which is naturally 'forest'. This is also not incorporated into the analysis of forest cover change.
15. There has been a marginal increase in open forest/scrub over the last 10 years which could point towards degradation. However, in the absence of ecological information on these areas, it is not clear whether these are all truly degraded areas or whether they constitute other kinds of more open natural habitats. Non-forest areas have also increased – however, non-forest may also constitute areas under permanent snow and other categories, and not necessarily due to conversion of forest.

Graphs depicting Non-Forest area, Moderately Dense Forest and Very Dense Forest as per the Status Report dated 07.12.2021_is annexed herewith as **ANNEXURE-1**:

IDENTIFYING THE DRIVERS OF FOREST LOSS IN ARUNACHAL PRADESH

16. In the letter accompanying the report – the Forest Department indicates that *'221.11 km² has been diverted for non-forestry activities after clearance under Forest (Conservation) Act, 1980 during the period under consideration from these 10 divisions which is one of the causes for decrease in forest area'*. These are the official figures. It is well documented that much greater areas have been diverted due to violations.
17. Shifting cultivation is often cited as the main driver of forest loss in Arunachal Pradesh (and in the North-east region), however there has been no real in-depth evidence-based analysis of the drivers or causes of forest loss based on rigorous ground-truthing. Several of the forest divisions covered in this report pertain to areas which are in the lower tropical forest areas of the state which are mainly Reserved Forests, where shifting cultivation is not an important land-use.
18. Arunachal has seen a major push for horticulture and many types of cash crop plantations – such as kiwi, orange, pineapple, tea, coffee, rubber, oil palm to name a few. All these have led to conversion of natural forests, especially more so in the low-elevation foothill tropical forests. Some of this loss of natural forest cover has happened within the forest divisions. This is possibly another driver of forest loss that has not been identified. However, because of the definition of forest cover based only on canopy density, some of these plantations would also end up being recorded as forest cover. It is possible that the so-called increase in VDF that is being shown maybe due to the growth of these plantations – some of which like rubber, orange may have high canopy density and similar signatures to that of dense natural forests.

19. The regular reporting of illegal timber felling in various media reports, and of some seizures sometimes reported also by the Forest Department indicates the occurrence of illegal logging. This pressure has contributed to forest loss and degradation but has not been acknowledged or identified as a driver by the Forest Department for reasons best known to the Forest Department.

FOREST COVER CHANGE IN FOREST DIVISIONS

20. The data presented shows the change in forest cover over a 10 year period in ten forest divisions. However, the data does not provide **the total area under each of these divisions**. This number is expected to be static and the area/boundaries of a forest division would be marked and well-defined. The change in forest/vs non-forest area should have been represented in terms of the % or proportion lost/changed in terms of the total defined area falling under each division to understand better the quantum of change in relation to the total area. Additionally, it is also strange that the total area of each division changes in every assessment year. It is not clear why this is so and in such a case, it is not comparable between classes and assessments.
21. It would also be important to provide the break-up of the areas under each legal category of forests under each of these divisions – for example, in each division how much area is under Reserved Forests, how much under Unclassed State Forests (which are under *de facto* ownership of indigenous people and use regulated by community institutions), and the other forest categories such as Protected Forests/VRF. In addition, it is not clear whether these forest divisions also included the Tiger Reserves, National Parks and Wildlife Sanctuaries. The analysis of forest cover change in Arunachal would be more meaningful if the change was also assessed based on legal categories within these forest divisions.
22. In Arunachal Pradesh, the Reserved Forest areas are mainly located in the lower elevation foothill forests and face the maximum forest loss due to

various pressures, one of which is illegal logging and it is important to analyse the change in forest cover in these Reserved Forests and identify the existing drivers in this legal category which is under the management of the Forest Department.

23. It would also be important to analyse the change in terms of elevational gradient in these forest divisions. Most of these 10 divisions fall in the tropical forest category, while some like the Bomdilla and Dibang Forest Division would include higher elevation subtropical/temperate forest areas, where the management of forests is regulated primarily by local communities and are mainly under USF. It is also not clear why only these particular 10 divisions were selected. Several other forest divisions are left out of this analysis – for example, Hapoli FD, Shergaon FD, Yinkiong FD, and Upper Subansiri FD.

CERTAIN ADDITIONAL POINTS IN RESPONSE TO THE DIVISION WISE FOREST COVER REPORT SUBMITTED BY STATE REMOTE SENSING APPLICATION CENTRE

24. The Report clubs the scrub area with degraded forests. It is stated that scrub areas are shrub and short-tree dominated ecosystems which cannot be clubbed with "degraded" forests. There is no definition, justification and rationale behind calling a forest degraded.
25. The Report fails to explain as to which area were considered non-forest while categorising. There is no supplementary material showing example areas of these classes in the Report.
26. The Report fails to explain as to how were shifting cultivation areas mapped. historical shifting cultivation has likely to have high variation canopy density, woody cover and above ground biomass across forests in Arunachal.
27. It is stated that over and above all methodological issues, Khellong Forest Division has detectable losses in Very dense forest. It is stated that this landscape needs to be conserved immediately from logging and uncontrolled development

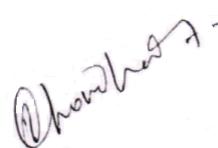
28. It is stated that the Report fails to explain as to why is total area of all classes is varying every year. It is stated that because of such variation, the class areas are not comparable from every year given that a constant geographical area wasn't studied that also means any losses or gains are uninterpretable.

It is therefore, prayed that in view of the above objections, averments and evidence already filed by the Applicant in the Original Application, Additional Affidavit dated 27.11.2019 and Response to the Report dated 20.11.2019, the prayer in the Original Application may be allowed.

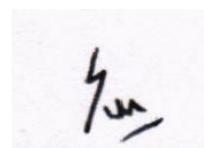
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DATED:22.02.2022

ANNEXURE – 1

Graphs depicting Non-Forest area, Moderately Dense Forest and Very Dense Forest as per the Status Report dated 07.12.2021

