

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN BENCH AT PUNE
APPEAL NO. 144 OF 2025**

IN THE MATTER OF:

Vijaykumar Karsanbhai Gadhavi & Ors. ...Appellant (s)

-Versus-

Union of India and Others ...Respondent (s)

INDEX

NDoH: 08.01.2026

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Place: Pune

Date: 05.01.2026

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[Senior Advocate]

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN BENCH AT PUNE
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IN THE MATTER OF:

Vijaykumar Karsanbhai Gadhavi & Ors. ...Appellant (s)

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SUR REJOINDER ON BEHALF OF RESPONDENT NO. 05, GHCL LTD.

TO THE REJOINDER OF THE APPELLANT

MOST RESPECTFULLY SHEWETH:

1. That this Hon'ble Tribunal is currently seized of the above-mentioned Appeal challenging the legality and correctness of the Order granting commencement of work dated 21.03.2025 by the Deputy Secretary of Forest, Gandhinagar, as well as the Grant of Stage I Forest Clearance dated 18.07.2023 and Stage II Forest Clearance dated 04.01.2024 by Ministry of Environment , Forest and Climate Change (hereinafter referred to as 'MoEF&CC') under the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 (hereinafter referred to as 'VSSA 1980'), for the diversion of 0.9689 ha of forest land for laying part of the seawater intake and effluent disposal pipeline and passage for related construction equipment movement in Mandvi Village, Kachchh District, Gujarat in favor of the Respondent No. 5, Greenfield Chemical Complex Ltd. (hereinafter referred to as 'Answering Respondent or GHCL Ltd.').
2. That it is alleged in the Appeal, albeit wrongly, that the Stage I Forest Clearance dated 18.07.2023, Stage II Forest Clearance dated 04.01.2024 and the Order granting commencement of work dated 21.03.2025 by the Deputy Secretary of Forest, Gandhinagar, are not in accordance with the Forest Conservation Rules 2022, which has been replied to in the subsequent paragraphs.

3. That on 04.09.2025, this Hon'ble Tribunal issued Notice and granted four weeks to the Answering Respondent to file their Reply Affidavit. On 10.09.2025, the Answering Respondent filed their Reply Affidavit, clarifying that the Appeal raises frivolous and baseless grounds among others, and should be dismissed for want of merit. Thereafter, the Appellant, on 14.11.2025, filed their Rejoinder objecting to the application of the Forest Conservation Rules, 2003 and stating that the Forest Conservation Rules, 2022 will be applicable for processing the application for Forest Clearance of the Answering Respondent.
4. That on the last date of hearing on 17.11.2025, this Hon'ble Tribunal *inter alia* granted liberty to the Answering Respondent to file its Sur Rejoinder to the Rejoinder of the Appellants. Accordingly, the present Sur Rejoinder is being filed to put on record clarifications vis a vis the incorrect factual and legal submissions made by the Appellants in their Rejoinder.

Preliminary Objections on the applicability of the Forest Conservation Rules, 2022

5. That in response to the above contention that the Forest Conservation Rules, 2022 will be applicable for processing the application for Forest Clearance, it is made clear that the proposal was submitted by the User Agency/GHCL Ltd. on 21.09.2021. It is pertinent to submit that the Forest Conservation Rules-2022 were enacted on 28.06.2022. Thus, it is factually incorrect to state that the Answering Respondent has submitted their application under the Forest Conservation Rules, 2022. Although the said Application for diversion was eventually processed under the Forest Conservation Rules, 2003 and later under the 2023 Rules, it would be important to set out the chronology of the enactment of the proceedings for a holistic adjudication of the case.
6. That the Application for the grant of Stage I Forest Clearance was submitted on 21.09. 2021, under the Forest Conservation Rules of 2003 and not under Forest

Conservation Rules of 2022. The subsequent processing of the Application has also taken place under the Forest Conservation Rules, 2003. Thus for example, the Inspection by the DFO was carried out on 29.11.2021. The clarifications were sought by the DCF on 24.11.2021 and 01.12.2021. The queries of the CCF to DCF was dated 11.01.2022 and the response of DCF was dated 12.01.2022. Thereafter, the forwarding of the proposal to the Nodal Officer was on 28.01.2022 and the approval of the proposal by the Nodal Officer was on 31.01.2022. Thereafter, the Nodal Officer forwarded the said Application to the State Government for recommendation on the same date i.e. 31.01.2022. Clearly till this stage of Approval, the Application was being processed under the Forest Conservation Rules, 2003 and not under the Forest Conservation Rules, 2022.

7. That during the pendency of the proposal with the State Government, the Forest Conservation Rules of 2022 were enacted about five months later i.e. on 28.06.2022. The Ministry of Environment, Forest and Climate Change however, issued a clarification on 18.07.2022, with respect to the applicability of the Forest Conservation Rules, 2022 specifically for pending proposals. The said Letter clarified that the provisions of Forest Conservation Rules, 2003, shall apply to proposals submitted online through the Parivesh portal and which have been accepted by the Nodal Officer before 28.06.2022. Clearly, in this case, the Nodal Officer had accepted the proposal of the Answering Respondent on 31.01.2022, i.e. before 28.06.2022, as stated by the Forest Department also in their Affidavit dated 11.12.2025. Hence, the proposal for Stage I Forest Clearance was submitted and processed under the Forest Conservation Rules, 2003. Thus, in view of the said Letter, the subsequent recommendation of the State Government dated 16.05.2023 and the MoEF&CC recommendation dated 18.07.2023, is under the Forest Conservation Rules, 2003. In fact, another letter dated 14.07.2022, by the District Collector submitting that the process of settlement of rights under the

Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 is complete and that the said forest clearance is under the Forest Conservation Rules, 2003 (Refer Page 94 of the Affidavit of the Environment and Forest Department, Respondent No. 03)

8. That further, even Stage II Forest Clearance dated 04.01.2024 has been processed under the Forest Conservation Rules, 2003 in view of the Letter dated 18.07.2022 of the Ministry of Environment, Forest and Climate Change which simply states that the proposals which have obtained approval of the Nodal Officer prior to 28.06.2022 *shall* be processed under the Forest Conservation Rules, 2003 and impliedly not under 2022 Rules. In the humble submission of the Answering Respondent, subsequent provisions of the law cannot be applied retrospectively to a proposal that was processed under the erstwhile Forest Conservation Rules, 2003.

Para -wise Response on Merits to the Submissions in the Rejoinder

9. That the Contents of Para(s) 1 to 5 to the extent that they are matters of record, do not merit any response. It is, however, pertinent to submit at the outset that the Appellants have filed the present Appeal merely to delay the implementation of the GHCL Greenfield Chemical Complex. The Appeal fails to substantiate the allegations on merits, apart from not being maintainable and failing to satisfy the limitation period under Section 16 as well as the Aggrieved Person test under Section 18 of the NGT Act, 2010.

Response to Rejoinder to Para 'I (A)' of the Reply Affidavit -

10. That the contents of para 6 to 8 pertain to submissions of the Appellants on the maintainability of the Appeal under Section 16(e) of the NGT Act, 2010. The Appellants were aware and had ample opportunity for challenging the Stage I Forest Clearance dated 18.07.2023 and Stage II Forest Clearance dated 04.01.2024, however, the same was not undertaken within the validity period of

30 days as per the NGT Act, 2010. Infact, the EC of 12.12.2024, which has been challenged by the Appellants in Appeal No. 19/2025 had also clearly mentioned the grant of Forest Clearances to the Answering Respondent herein. Again, the Appellants did not challenge the same and filed the Appeal only after the Answering Respondent raised objections to their allegations of impact of forest diversion in their Appeal No. 19/2025 challenging the Environmental Clearance dated 12.12.2024. It is reiterated that this Hon'ble Tribunal in numerous coordinate benches Judgments/Orders have held that Stage I and Stage II Forest Clearance can be challenged before this Hon'ble Tribunal much later than the cases relied on by the Appellant. A case in point is the order dated 30.09.2021 of the Southern Bench of this Hon'ble Tribunal in the case of Daniel Sukumardas v. Union of India and Others [O.A. No. 129 of 2021], whereby the Applicants (coincidentally filed by the same Counsels for the Appellant herein) therein were granted liberty to challenge Stage I Forest Clearance or any other subsequent order of the forest department. It is also pertinent to highlight that Section 16(e) states that any "Order or decision" made, on or after the commencement of the NGT Act, 2010 by the "State Government or any authority" under Section 2 of the Forest Conservation Act, 1980. Stage I and Stage II Forest Clearances would clearly satisfy the test of any order or decision under Section 2 of the Forest Conservation Act, 1980. The latest Van Sanrakshan Amendment Rules of 2025 have also defined Stage I and Stage II Forest Clearances to be approvals under Section 2(1) of the NGT Act, 2010. Thus, the Stage I and Stage II Clearances being Orders/Decisions under Section 2 of the Forest Conservation Act, 1980, could clearly be challenged under Section 16(e) of the NGT Act, 2010 in the prescribed period of limitation. However, the Appellants cannot now challenge the same at a belated stage, without any application for condonation of the delay and this Hon'ble Tribunal does not have the power to condone delay beyond the

limitation period and the discretionary period as prescribed in the NGT Act, 2010. Further the same principle should be applied of the later precedents of coordinate benches as relied on by the Appellant herein. True Copy of the Judgment of the NGT dated 30.09.2021 in Daniel Sukumardas v. Union of India and Others is marked and annexed as **ANNEXURE R/1**.

True Copy of the Van Sanrakshan Amendment Rules, 2025 is marked and annexed as **ANNEXURE R/2**.

11. That the contents of para 9 are denied as wrong, false and devoid of all merit. The RTI responses being relied upon by the Appellants have not even been filed /sent by the Appellants herein and refer to a third party. Further, the Hon'ble Supreme Court in a catena of cases has clarified that RTI responses cannot be the sole ground for drawing conclusions. [State of Odisha v. Arati Mohapatra & Ors [Civil Appeal No. 5963-64 of 2021]. Thus, the RTI responses annexed are not verifiable. Moreover, the information obtained is generic and fails to substantiate the allegations of presence of the turtles in the forest or around the forest area.

Response to Para 'I (B)' of the Reply Affidavit

12. That the contents of Para 10 are wrong, false and devoid of all merit. The Appellants by raising the issue of presence of turtles 3-6 km away from the project site have raised issues pertaining to CRZ Clearance and have no relevance with Forest Clearance. Even under the Forest Conservation Rules, 2022, the direct and indirect impact of forest clearance has to be determined. In the present case, the Appellants have on one hand failed to prove the presence of turtles inside the forest area and on the other hand, have alleged that clearing of the forest would impact turtles in the ocean without establishing the link between the clearing of forest and the ocean or the coastline situated few kms away from the forest area. Moreover in this Project, there is no clearing of forest as the tunnels are

underground as stated earlier in the Reply Affidavit. The contents of the Reply Affidavit are reiterated and are not being repeated for the sake of brevity.

Response to contents of Rejoinder to Para 'I (C) of the Reply Affidavit

13. That the contents of paragraphs 11 to 19 pertain to the applicability of Forest Conservation Rules, 2022 and are denied as wrong, false and devoid of all merit. The Appellants' reliance of Forest Conservation Rules, 2022, for an application filed under the Forest Conservation Rules of 2003 is based on the submission that the letter accompanying the Forest Conservation Rules 2022 clearly states that the said Rules will be effective from the date of their publication. Hence, the Forest Conservation Rules, 2022 will be applicable from 26.06.2022 and should have governed the Stage I Forest Clearance recommendation of 16.05.2023. Further, the Appellants have wrongly stated that the subsequent Office Memorandum dated 18.07.2022 clarifying the applicability of the Forest Conservation Rules, 2022 cannot be relied upon as an Office Memorandum cannot alter the scope of the law. At the outset, it is reiterated that the Forest Conservation Rules, 2022 are no longer applicable and the Forest Conservation Rules of 2003 are now applicable. Thus, any submissions based on Forest Conservation Rules, 2022 are without any merit as a repealed law cannot be the basis for arguing alleged illegality. Further, with respect to the applicability of Forest Conservation Rules, 2003, the office memorandum dated 18.07.2022 clearly states that all applications for Stage I Forest Clearance which have been recommended by the Nodal officer before the enactment of the Forest Conservation Rules, 2022. will be governed by the 2003 rules and not by the Forest Conservation Rules, 2022. In this case, it was only the State Government which had to consider and scrutinise the proposal by the series of officials down the line from the sub division to the Nodal Officer.

14. That the Appellants arguments pertaining to the non-applicability of the said OM as it aims to alter the law is incorrect as the Hon'ble Supreme Court in the case of Sree Sankaracharya University v. Union of India and Others [2023 19 SCC 30] has clarified that for a subsequent order/provision/amendment to be considered as clarificatory of the previous law, the pre- amended law ought to have been vague or ambiguous. In the present case, since the Forest Conservation Rules of 2022 failed to clarify their applicability vis a vis pending applications which had been approved at the pen ultimate level by the Nodal Officer, under the erstwhile Forest Conservation Rules, 2003, the same is merely clarificatory in nature and does not amend the scope of the Forest Conservation Rules, 2022. Arguendo, the said Forest Conservation Rules of 2022 are applicable, there are six reports which have duly looked into the impact of the project holistically on the presence of turtles and other marine plant and animal life. Thus, the allegations of the Appellants are without any merit, and the Appeal accordingly deserves to be dismissed. The contents of the Reply Affidavit are reiterated and are not being repeated for the sake of brevity.

Response to Rejoinder to Para 'I (D)' of the Reply Affidavit

15. That the Appellants in Para 20 have wrongly submitted that since there is no distance criterion for application of Forest Clearance thus the information submitted in the form for Environmental Clearance and Forest Clearance cannot be different. The Appellants also submitted that the Divisional Forest Officer in his Form had recommended GHCL to conduct a detailed study or assessment on sea turtles within a 10 km radius. The Appellants on one hand contend that the presence of sea turtles has not been looked into either by the Forest Department or by the Answering Respondent, and on the other hand, have submitted that the Forest Department has recommended conducting a study for a 10km radius regarding the same. It is reiterated that, unlike the application for Environmental

Clearance, where the technical guidance manual as well as the application form clearly mandate the study to be undertaken in a 10km radius, the form for forest clearance did not mandate any such requirement. However, in pursuance of the recommendation of the Divisional Forest Officer, due turtle conservation and mitigation measures and through studies have been conducted by the Answering Respondent. The contention of the Appellant is therefore contradictory and frivolous.

16. That in fact, the Answering Respondent had engaged six different experts of national and international repute to undertake detailed studies, including the environmental impact assessment, the marine impact assessment, presence as well as possible impact on turtle nesting, coral reefs as well as impact on sand dunes. The list of expert institutions and individuals who have undertaken detailed studies since 2018 till 2024 (over a period of six years) include –

- i. Council of Scientific and Industrial Research- National Environmental Engineering Research Institute ('CSIR-NEERI') - prepared the Environment Impact Assessment Report containing comprehensive assessments and studies on the impact of the project on nearby wildlife, sand dunes, marine biodiversity.
- ii. Council of Scientific and Industrial Research -National Institute of Oceanography ('CSIR-NIO') – prepared the Marine Impact Assessment, which has analyzed in detailed any impact which the underground inflow and outfall pipelines might have on marine biodiversity, including sand dune mapping.
- iii. The Zoological Survey of India ('ZSI') prepared a specific report on status of survey and conservation plan for sea turtles.

- iv. The Gujarat Institute of Desert Ecology ('GUIDE') has prepared a detailed plan for the conservation of significant species & GUIDE report Status survey and Site-specific Conservation Plan for Sea Turtles for entire year.
- v. TR Associates have prepared an addendum to the EIA Report prepared by CSIR NEERI and reconfirmed the findings of CSIR – NEERI
- vi. Dr. Bharat Jethwa from Bhagwati Enviro Care Private Ltd., a functional area expert for ecology and biodiversity, also prepared a ecological study and wildlife conservation plan.

It is pertinent to mention that many of the abovementioned Institutes are relied upon by this Hon'ble Tribunal as well as the Hon'ble Supreme Court for fact-checking and confirming allegations of pollution as well as remedial measures. Thus, the allegations of failure to conduct studies by the Appellants is baseless and without any merit in facts or law.

Response to contents of Rejoinder to Para I (E) of the Reply Affidavit

17. That the contents of paragraphs 21 to 24 are denied as wrong, false and devoid of all merit. The Appellants are clearly not Aggrieved Persons within the meaning of Section 18 of the NGT Act, 2010. The same is established by the purchase of land by Appellant No. 3 right in the middle of the project layout of the Answering Respondent. Thus there is clearly more than what meets the eye as the same Appellant No. 03 was also present before the High Court of Gujarat, which was again hidden and misrepresented before this Hon'ble Tribunal. Infact, the Appellants are not even residing in Bada Village but have their place of work and residence in Mumbai. Thus, the interest of the Appellants in restricting the implementation of the present project is clearly not related to any bonafide environmental concern. The Appellants herein are forum shopping and raising multiple issues pertaining to the same project in different Appeals and in different forums, merely to delay the implementation of the project for reasons best known

to them. The contents of the Reply Affidavit are reiterated and are not being repeated for the sake of brevity.

Response to Rejoinder to Para II (A) and II (B) of the Reply Affidavit

18. That the contents of paragraphs 25 to 28 are denied as wrong, false and devoid of all merit. The Appellants in the said paragraphs have wrongly alleged that the movement of machinery through the treeless passage would adversely impact the surrounding wildlife, including turtles as well as the sand morphology of the area. It is reiterated that the tunnelling will be undertaken 15mts below the forest area and the said area will not be cleared of any vegetation. Further, the machinery is not being moved through the treeless passage but will be moved through another passage outside the forest area. Thus, there will be no impact on the said forest or any wildlife therein. Moreover, there cannot be any presence of turtles in the said area, as has been verified by six different Institutes, including the Forest Department. For any impact on nearby areas, detailed conservation and mitigation measures have been included in the Conservation Plan, which was also approved by the PCCF. The contents of the Reply Affidavit are reiterated and are not being repeated for the sake of brevity.
19. That the contents of paras 29 to 32 again reiterate the adverse impact of the project on the sea turtles and sand dune morphology by relying upon the RTI responses as well as allege discrepancy in the six reports relied upon by the Answering Respondent. At the outset, the Appellants are put to strict proof for challenging the discrepancy of the said reports based on RTI responses that do not pertain to the project area. Further, the Hon'ble Supreme Court itself has stated that the RTI response cannot be a sole ground for adverse conclusions. The Appellants have failed to highlight a single discrepancy in the said reports either in the present Appeal or in Appeal No. 19/2025. The Appellants themselves have admitted that the Google images do not pertain to the project site but are located 2.6-6 kms

away from the project site. All the six reports have undertaken detailed studies and recommended measures to ensure there is no impact on the presence of turtles even 2.6-6 km away from the project site. The Appellants have also wrongly stated that GUIDE has not undertaken any study of the impact on sand dunes. There is a detailed GUIDE study of 2022, which not only assesses impacts but also recommends conservation measures to reduce any anticipated impact from micro-tunnelling activities. There are two GUIDE studies dated June 2022 and the other is in January 2023, which has clearly been missed by the Appellant. Thus, all possible measures have been undertaken to ensure that the project of the Answering Respondent is compliant with all environmental norms.

Response to Rejoinder to Para III of the Reply Affidavit

20. That the contents of 33 to 57 reiterate the submissions of the Appellant pertaining to the alleged impact of micro tunnelling on sand dunes, the presence of sea turtle nesting on the project site and the reliance on RTI responses regarding the same. The contents of the Reply Affidavit along with the contents in the above-mentioned paragraphs of the Sur Rejoinder are reiterated and are not being repeated for the sake of brevity. It is however pertinent to emphasise that the MoEF&CC's Turtle Action Plan from 2021-2026 itself does not record Gulf of Kutch as an important sea turtle nesting site. The six reports undertaken by different Institutes over a period of five years from 2019 to 2024 clearly highlights that not a single turtle was found by the experts during their study period. Infact, the EAC members themselves had visited the site and did not find any turtles during the said visit. Hence, the content of the Appellants with respect to the presence of turtles on forest land is not only factually baseless but also scientifically not possible due to the inaccessibility of the terrain for undertaking nesting, this was also reviewed by the EAC Sub-committee during site visit. In fact the RTI responses and the Google Photographs establish that sporadic nesting

takes place 2.6-6 kms away from the project site. It is reiterated at the cost of repetition that to ensure there is no impact to such sporadic nesting, 2.6-6 km away from the project site, a detailed conservation and mitigation plan has been prepared and approved by the Forest Department and will be duly implemented by the Answering Respondent.

21. That specifically with respect to the contents of Para 57, wherein the Appellants have stated that the direct and indirect impacts should be assessed at the time of In- Principle Approval based on the principle of *setentia legis*, it is humbly submitted that the Regulatory Authorities and the Answering Respondent have ensured that the said direct and indirect impacts are not only duly assessed and identified but have also constituted remedial measures for mitigating any such impact from the implementation of the project. The Answering Respondent has engaged and undertaken numerous studies, including specific studies for wildlife, sand morphology impact, marine assessments, to ensure the environmental impact of the project is holistically assessed. The said studies have been undertaken over a period of almost six years and by Institutes of national and international repute, regularly relied upon by this Hon'ble Tribunal as well as the Supreme Court for conducting detailed environmental impact studies. Thus, the present project is being implemented after detailed site assessments, for facilitating soda ash production in an environmentally sustainable manner while at the same time increasing developmental and job opportunities for the members of the village community residing in Mandvi Taluka/Town. The Appellants should be put to strict proof for challenging such a project, for reasons which are clearly financially motivated and do not pertain to environmental considerations. In the humble submission of the Answering Respondent, the present Appeal should be dismissed with costs for wasting this Hon'ble Tribunal's time in adjudicating issues which are barred by limitation and were being adjudicated upon by this

Hon'ble Tribunal in Appeal No. 19/2025 as well as in Appeal No. 26/2025 titled Go Green Foundation v. Union of India and Others, apart from being filed by persons who are clearly not aggrieved under Section 18 of the NGT Act, 2010.

Place: Pune

Date: 05.01.2026

DRAWN & FILED BY:

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Mr. Sanjay Upadhyay

[Senior Advocate]

IN THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH AT PUNE
APPEAL NO. 144 OF 2025

IN THE MATTER OF:

Vijaykumar Karsanbhai Gadhavi & Ors. ... Appellant (s)

-Versus-

Union of India & Ors. ...Respondent (s)

AFFIDAVIT

I, Mr. Ranjan Tiwari, S/o Late Shri H.C. Tiwari, aged about 55 years, Office of B-38, Institutional Area, Sector - 01 Noida, Uttar Pradesh – 201301, do hereby solemnly affirms and declares as under:

1. That I am fully conversant of the facts and circumstances of the matter and am competent to swear this affidavit.
2. The contents of the accompanying Sur- Rejoinder are true and correct to the best of my knowledge and have been drafted by the counsel on my instructions and nothing material has been concealed therefrom.
3. That the Annexures in the accompanying Sur- Rejoinder are true and correct to the best of my knowledge.

For GHCL LIMITED

Ranjan Tiwari
Authorised Signatory

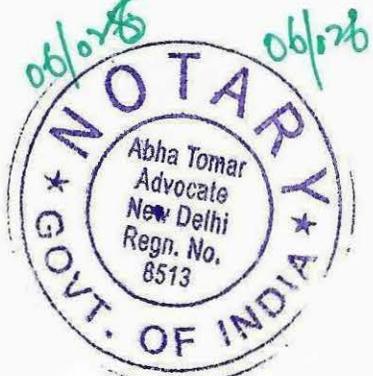
DEPONENT

G. K. Singh
9/1/2029
Identity of the deponent who has signed this affidavit is verified by me on 03/01/2026

VERIFICATION:

03 JAN 2026

Verified at.....on this.....day of....., 2026 that the contents of the above affidavit are true and correct to my knowledge and belief and nothing material has been concealed there from.



Certified that the foregoing statement was declared on solemn affirmation before me which has been read over to the deponent who has admitted

It is correct Notary DELHI

03 JAN 2026

For GHCL LIMITED

Ranjan Tiwari
Authorised Signatory

DEPONENT

Item No.3:**BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI****Original Application No. 129 of 2021 (SZ)****&****I.A. No. 88 of 2021(SZ)**

(Through Video Conference)

IN THE MATTER OF

Daniel Sukumardas

....Applicant

Versus

Union of India & Ors.

...Respondent(s)

Judgment Pronounced on: 30th September, 2021.**CORAM:****HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER****HON'BLE DR. K. SATYAGOPAL, EXPERT MEMBER**

For Applicant(s):

Mr. Ritwick Dutta

For Respondent(s):

Mr. G.M. Syed Nurullah Sheriff for R1 & R2.

Mr. Rajat Jonathan Shaw for Mr. Darpan K.M for R3
& R4

Mr. Sanjay Upadhyay for R5

ORDER

Judgment pronounced through Video Conference. Application is disposed of with directions vide separate Judgment. All pending interlocutory application(s), if any, also stands disposed of, in view of the disposal of the Application.

.....J.M.
(Justice K. Ramakrishnan)

.....E.M.
(Shri. Dr. K. Satyagopal)

O.A. No129/2021(SZ)&
I.A. No. 88 of 2021(SZ)
30th September, 2021. AM.

BEFORE THE NATIONAL GREEN TRIBUNAL
SOUTHERN ZONE, CHENNAI

Original Application No. 129 of 2021 (SZ)

&

I.A. No. 88 of 2021(SZ)

(Through Video Conference)

IN THE MATTER OF:

Daniel Sukumardas
Aged about 52 years,
42, 3rd Mail Road, Kengeri Satellite Town,
Bangalore- 560060

... Applicant(s)

With

1. Union of India,
Through the Secretary,
Ministry of Environment, Forest and Climate Change,
Indira Paryavaran Bhavan,
Jor Bag Road,
New Delhi- 11003
2. MoEF Regional Office (SZ)
Through Additional Principal Chief Conservator of Forest (C)
Ministry of Environment, Forest and Climate Change
4th Floor, E&F, Wings, Kendriya Sadan
17th Main road, Kormangala II Block
Bangalore- 560034
3. State of Karnataka
Through Chief Secretary
Room No. 320
3rd Floor, Vidhanasoudha
Bangalore- 560001
4. Karnataka Forest Department
Through the Principal Chief Conservator of Forests (HoEF),
Aranya Bhavan
Malleswaram
Bengaluru
5. Rail Vikas Nigam Limited
Through Chairperson
Opposite Railway High School (EM),

Gadag Road, Hubli,
Dharwad, Karnataka- 580020

..Respondent(s)

For Applicant(s): Mr. Ritwick Dutta

For Respondent(s): Mr. G.M. Syed Nurullah Sheriff for R1 & R2.

Mr. Rajat Jonathan Shaw for Mr. Darpan K.M for R3
& R4

Mr. Sanjay Upadhyay for R5

Judgment Reserved on: 23.09.2021

Judgment Pronounced on: 30.09.2021

CORAM:

HON'BLE MR. JUSTICE K. RAMAKRISHNAN, JUDICIAL MEMBER

HON'BLE DR. K. SATYAGOPAL, EXPERT MEMBER

JUDGEMENT

1. The grievance in this application is regarding cutting of huge number of trees along the forest land without complying with the provisions of Forest (Conservation) Act, 1980 for Kulem-Mudgoan Railway Doubling Track in Karnataka State by the 5th respondent.
2. It is alleged in the application that the 5th respondent had applied for conversion of 14.045 ha. forest land in Devalli, Kalambuli and Konaset Villages Joida Taluk of Uttara Kannada district, Karnataka State (Haliyal Forest Division and Kali Tiger Reserve) for doubling of Tanaighar-Castlerock-Carzon railway line and 1.9089 ha. of private land for Kulem Madgaon Railway Doubling track and 120.875 ha. of forest for Castlerock to Kulem Railway Doubling track and 15.6077 ha. of forest land for Kulem-Mudgoan railway doubling track.
3. According to the applicant, the conversion of land cumulatively for this purpose would come to 148.8416 ha. across Karnataka and Goa States for

doubling the track of Tanaighar-Castlerock-Carzon railway of South Western railways in the pristine wet evergreen Western Ghats forest and the MoEF&C had issued four stage-I Forest Clearance dated 04.02.2021 for this purpose which was produced as Annexure-A-1 series. Out of this 148.8416 of forest land 10.45 ha. is situated in State of Karnataka and the remaining area is situated in Goa State.

4. According to the Learned Counsel for the applicant the destruction of Castlerock landscape which is the water catchment of many rivers like Mahadayi (Mandovi), Dhudhganga, Malaprabha and Ghataprabha and this will have impact on millions of people in North Karnataka and Goa. The proposed construction of this railway lines passes through Bhagawan Mahaveer National park and Wildlife Sanctuary in Goa and Kali Tiger Reserve in Karnataka (declared as World Heritage Site as per UNESCO under Man and the Biosphere Programme) and both are protected areas under the Wildlife (Protection) Act, 1972. As per the notification issued by MoEF&CC under Forest Conservation Act, 1980 dated 14.03.2014, Regional Office shall seek prior clearance of MoEF&CC whenever the proposal involves clear-felling of forest land involving tree felling above 10ha. in hilly region and consent of the grama sabhas under the Forest Rights Act, 2006. Since, the project is passing through notified Eco Sensitive Areas of the Western Ghats, the said project requires clearances under the Forest Conservation Act, 1980.
5. The granting of Stage-I clearance dated 04.02.2021 under the Forest Conservation Act, 1980 does not confer any right upon the project proponent to fell and clear trees. As per the Guidelines issued by the MoEF&CC vide letter dated 28.08.2021, linear projects after Stage-I clearance still require an order of the State Government before commencing work of felling trees. So,

according to the applicant mere granting of Stage-I clearance granted to the project would not entitle the project proponent to fell over 1.2 lakhs heritage trees from the project area across Karnataka and Goa by using articulated machineries to enable the double tracking of the railway line.

6. It has been held by this Tribunal in *Milind Pariwakam Vs. Union of India and Ors-* O.A. No. 52 of 2015 that “no non-forest activity in the Forest Area that is covered under Section 2 of the Forest Conservation Act, 1980 would be permitted to be carried on in any manner whatsoever unless an order has been passed by the Competent Authority of the State Government and put in the public domain by putting it on its website and complying with other requirements in accordance with law”. In *Vimal Bhai & Ors. Vs. Union of India and Ors.-* Appeal No. 7 of 2012 vide order dated 07.11.2012 has stated that activities carried out without the order of the State Government are void ab initio and observed as follows:

However, a party cannot be remediless, a person who is aggrieved by the Approval/Clearance granted by the Central Government has to avail an opportunity to assail the same. In the aforesaid scenario it can safely be concluded that after receiving a Stage – I and/or Stage – II Clearance, thereby granting a consent 35 to permit use of forest land for non-forest purposes, from the Central Government, it is incumbent upon the State Government to pass a reasoned order transferring and/or allowing the land in question for being used for non forest purpose. It is needless to be said that bereft or such order no forest lands can be put to use for non-forest purpose. Further, all activities done without such orders would be ab initio void. An Appeal can be filed against the said order of the State Government under Section 2 (A) of FC Act and/or under Section 16 (e) of the NGT Act. In the event such an Appeal is filed it would be open for the person aggrieved, to assail the order/Clearances granted by the Central Government under Section 2 of the Act which forms an integral part and sole basis of the order passed by the State Government.

(Emphasis Added)

7. According to the applicant, permission granted was in violation of the National Forest Policy of 1988 and against the orders in *T.N. Godavarman Thirumalpad Vs. Union of India and Ors.* (M.A. No. 1167 of 2015 (I.A. No. 3620/2013) in *W.P. (C) No. 202 of 1995*) the authorities have not considered the impact of the project on the eco-sensitive zones and also the directions issued by the

Government in respect of the ecological sensitive areas of Western Ghats in the year 2013 produced as Annexure- A-5.

8. According to the applicant the forest clearance was granted against the provisions of the Forest (Conservation) Act, 1980. So, the applicant filed this application seeking following reliefs:

- i. Direct the respondents to not commence felling of trees until the concerned authority of the State Government has passed an order.*
- ii. Direct the respondents to undertake a study of the cumulative impact of the entire project.*
- iii. Direct respondent no. 5 to conduct a survey to identify alternative sites for the project.*
- iv. Pass any other orders as the Hon'ble Tribunal may deem fit and proper in facts and circumstances of the case.*

9. Respondents 1 and 2 filed their counter affidavit contending that in order to protect and conserve the forest and the matter connected therewith or ancillary or incidental thereto, the Parliament has passed the Forest (Conservation) Act, 1980 which came into force from 25.10.1980. As per Section 2 of the Act for the purpose of conversion of forest land for non-forest purpose, prior clearance from the MoEF&CC has to be obtained even for the projects envisaged by the State Governments. The Hon'ble Apex Court in W.P. No. 202/1995 by order dated 12.12.1996 observed that the word 'Forest' must be understood according to the dictionary meaning and also the term 'Forest Land' occurring in Section 2 of the Forest (Conservation), 1980 will not only include forest as understood in the dictionary sense, but also any area recorded as forest in the Government records irrespective of ownership or classification thereof. As per Sub Rule 4 (a) of Rule 6(4) of Forest (Conservation) Rule, 2003 (as amended in 2017) proposal involving forest land up to forty hectares and all proposals related to linear projects irrespective of the area of forest land involved, shall be

forwarded by the concerned State Government or the Union Territory Administration, as the case may be along with its recommendations to the concerned Regional Office.

10. The subsequent rule says that Regional Office shall refer all proposals involving forest land above 5 hectares and up to forty hectares, proposals relating to mining, encroachments, and hydel projects involving forest land up to 5 hectares, and all proposals related to linear projects which are complete in all respects, including site inspection report, wherever required, to the Regional Empowered Committee within ten days of receipt of proposal from the State Government or the Union Territory Administration, as the case may be. The Regional Empowered Committee shall within a period of thirty days examine the proposal referred to it and after such further enquiry as it may consider necessary, grant in principle approval to the proposals other than proposals relating to mining, encroachment and hydel projects subject to fulfilment of stipulated conditions, or reject the same and the Regional Office shall communicate the decision of the Regional Empowered Committee to the Concerned State Government or the Union Territory Administration, as the case may be within next five working days. On the basis of the report submitted by the Regional Empowered Committee of Regional Office, Bangalore and as per the recommendations and approval of Regional Empowered Committee, the 1st respondent had granted in principle approvals (Stage-I) for the following projects vide letter dated 04.02.2021:

1. *Diversion of 1.9089 ha of forest land for Kulem-Madgaon Railway Doubling Track under South Goa Forest Division in favour of (South Western Railways) Rail Vikas Nigam Ltd.*
2. *Diversion of 15.6077 ha of forest land for Kulem-Madgaon Railway Doubling Track under Wildlife & Eco-Tourism (North) and North Goa Forest Division in favour of (South Western*

Railway) Rail Vikas Nigam Ltd.

3. *Diversion of 120.875 ha of forest land for Castlerock to Kulem Railway Doubling Track under Wildlife & Eco-Tourism (North) and North Goa Forest Division in favour of (South Western Railway) Rail Vikas Nigam Ltd.*
4. *Diversion of 10.45 ha of forest land in Devalli, Kalambuli and Konashet villages in Kyasalaraka Hobli, Joida Taluk, Uttara Kannada District (Haliyal Forest Division and Kali Tiger Reserve) for doubling of Tinaighat-Castlerock-Carzon Railway Lane (Southern Western Railways) in favour of Chief Engineer (Construction), Club Raod, Keshwapur, Hubbali, Dharwad District.*

11. The action taken by this respondent is based on the delegation of power conferred in Forest (Conservation) Rules, 2003 as mentioned above. Though, three different proposals were submitted by the Government of Goa and one proposal by Government of Karnataka, these proposals were considered in its entirety during the Regional Empowered Committee meeting held on 25.02.2020 and 27.01.2021. As per para 11.2 of comprehensive guidelines issued by this respondent, consequent to grant of stage-I approval in respect of linear projects such as laying of new roads, widening of existing highways, transmission lines, water supply lines, optic fiber cabling, railway lines etc. by the Central Government under Forest Act, the State Government or a Senior Officer not below the rank of a Divisional Forest Officer, having jurisdiction over the forest land proposed to be diverted, duly authorized in this behalf by the State Government can pass an order for tree cutting and commencement of work of a linear project in forest land for a period of one year subject to full realization of funds for compensatory afforestation, net present value, wildlife conservation plan, plantation of dwarf species of medicinal plants, and all such other compensatory levies, specified in the Stage-I (in-principle) approval from the User Agency, and wherever applicable, transfer and mutation of non-forest/revenue forest land in favour of State Forest Department.

12. So, the tree felling can be carried only with permission of the designated officer authorised by the State Government and with the fulfilment of the conditions stated above. If the project proponent had commenced the operation without obtaining the necessary permission, then they will be liable for the prosecution under relevant State Act and Rules. The Regional Empowered Committee in its meeting dated 27.01.2021 noted that the existing railway line is more than 100 years old and is in need of upgradation not only from Railway's perspective to cater to emerging needs, but also to incorporate needs of wildlife passage. So, while approving the projects, Regional Empowered Committee had stipulated following additional conditions:

- *The mitigation measures as proposed by Wildlife Institute of India (WII) in Tinaighat to Caranzol stretch of the forest needs to be strictly adhered to.*
- *The mitigation measures as proposed by CES, IISc in Caranzol to Kulem stretch of the railway track must be implemented for safe passage of animals.*
- *Suitable soil moisture conservation works needs to be taken up on either side of the track, wherever vulnerable.*
- *To address the apprehensions of the people as well as to prevent spillage of ore, coal, etc, all the rakes of the freight trains shall have a spill proof/sealed cover, while being transported.*
- *The Management Plan of the National Park and Wildlife Sanctuary, which is under preparation, shall include the implementation and monitoring of the mitigation measures suggested by the CES, IISc, Wildlife Institute of India and CWLW based on which approval of NBWL has been accorded.*
- *Further, provision for long term monitoring of the impact of the project, the effectiveness of the mitigation measures under taken and analysis of course-corrections required if any should be part of the Management Plan to ensure long time well-being of the forest & Wildlife.*
- *The Railway authorities shall issue standing instructions to its staff and officers concerned to closely co-ordinate and co-operate with the local State Forest Department officials during and after the project implementation.*

13. The Standing Committee of National Board for Wildlife in its 56th meeting held on 17.12.2019 had recommended the proposal for doubling of railway passes through Bhagavan Mahaveer Wildlife

Sanctuary and National Park subject to certain conditions. Further, the 60th meeting of Standing Committee of National Wildlife Board held on 05.01.2021 has recommended the railway doubling project passes through Kali Tiger Reserve subject to certain conditions. They have stipulated additional mitigative measures including soil moisture conservation on either side of the track, wherever vulnerable to minimize negative impacts on hydrology of the area. In pursuance to the order of National Green Tribunal dated 15.02.2016 in M.A. No. 1167 of 2015, the respondent had constituted a Committee vide O.M. No. 11/04/2016-RE-ESZ dated 15.09.2017 to conduct a comprehensive study to assess the carrying capacity of the Western Ghat Region in the State of Karnataka to sustain the projects proposed in the region. Accordingly, Committee has conducted the study and submitted its report to the respondent for further action. While granting Stage-I approval, this respondent had stipulated that suitable mitigation measures are to be undertaken in vulnerable areas on either side of the track. As per EIA Notification, 2006 railway projects are exempted from requirements of environment clearance. Railway line/upgradation is not prohibited as per the notification dated 13.11.2013 issued by this respondent.

14. The Standing Committee of National Board for Wildlife in its meeting held on 05.10.2020 has considered the recommendations made by the National Tiger Conservation Authority and based on the recommendation of National Tiger Conservation Authority, the Standing Committee for National Board for Wildlife has decided to request Director, Wildlife Institute of India to conduct a detailed study for prescribing mitigation measures in the terrain. Wildlife

Institute of India has conducted a study and proposed certain mitigation measures which is part of the condition stipulated while according Stage-I approval. The total number of trees enumerated in the forest in Karnataka portion is 5639 (3542 trees in area proposed for diversion and 2097 trees existing of right way of the present railway line) and in Goa portion, it is 22,882. As per the tree enumeration carried out by the State Forest Department number of trees existing in the project area is 28,8521 only. Though, the proposal were given in different applications for the same projects, all these were comprehensively considered by the Regional Empowered Committee and it is thereafter, recommendation were made taking into consideration the mitigation measures and recommended the project on the basis of which Stage-I clearance was granted by the 1st respondent. So, there is no illegality committed and they prayed for dismissal of the application.

15. 5th respondent filed counter affidavit contending that the application is not maintainable. The allegation that the 5th respondent has indulged in illegal felling of trees subsequent to the grant of Stage I approval dated 04.02.2021 is without any merit and without referring to any evidence in corroboration of the same.

16. The 5th respondent had sought diversion of forest land of an area of 10.45 ha from the three villages of Devalli, Konashet and Kalambuli for undertaking doubling of the railway line. The permission for felling trees was granted by the State Government dated 28.04.2021 for the villages of Devalli and konashet which amounts to an area of 0.88 ha falling within the Reserve Forest pursuant to acquiring stage-I clearance on 04.02.2021 by the Regional Office of MoEF&CC. The said permission was granted in compliance with the office

memorandum of MoEF&CC dated 28.08.2015 which clearly says that this can be treated as a permission under Section 2 of the Forest Conservation Act, 1980 for the purpose of tree felling and this is liable to be challenged under Section 16(e) of the National Green Tribunal Act, 2010 by way of an appeal and not filing application under Section 14 and 15 of the Act. Since, the respondent had already obtained permission for felling of trees for an area of 0.88 ha, the instant original application has become in fructuous to that extent and that order was produced as annexure-R1.

17. The order of the State Government of Karnataka in accordance with MoEF&CC letter dated 28.08.2015 is pending for the remaining area of 9.57 ha that falls in the village of Kalambuli within Dandeli Wildlife Sanctuary for which no tree felling has been undertaken by the respondent. So, there is no merit in the application in respect to this portion of the area regarding the allegation of felling of trees.

18. The Competent Authority, Assistant Forest Conservator Officer, Dandeli passed an order permitting felling of 2097 trees standing on railway land between Channel 21/900 to 30/020 in Kalambuli village located within Dandeli Wildlife Sanctuary vide order No. B4/Land/Railway Doubling/Cr-8/2021-22 dated 30.04.2021. The above order pertains to trees standing on railway land within Dandeli Wildlife Sanctuary, but it does not include the trees standing on proposed 9.57 ha of Forest land under diversion within Dandeli Wildlife Sanctuary and the order dated 30.04.2021 of the Assistant Forest Conservator Officer, Dandeli was produced as annexure R-2. The said order dated 30.04.2021 has now been put on hold by the Assistant Conservator of Forest and Director, Kali Tiger Reserve, Dandeli vide letter dated 06.05.2021 where he advised

a complete status quo for both forest and non-forest land that comes within the doubling project which is produced as annexure R-3. This order is also under challenge before the Hon'ble High Court of Karnataka by way of writ petition (PIL) No. 8607/2021. The allegations that they are proceeding with the cutting of trees without obtaining necessary permission under Forest (Conservation) Act, 1980 and without obtaining permission from the Forest Department after obtaining Stage-I approval are all not correct and hence denied.

19. The application has been filed without impleading State of Goa through which major portion of the railway line passes. There is no merit in the application and the same is not maintainable and the remedy of the applicant is to challenge the same before this Tribunal by way of an Appeal and not by way of an application. No felling of trees has been undertaken on forest land where no permission has been granted and also in view of the letter dated 06.05.2021.

20. This being a public project intended for providing ease access the 5th respondent had deposited the amounts as required under the National Forest Policy as net present value and compensation afforestation in CAMPA account of both State of Karnataka and Goa. The allegation regarding its impact on wildlife etc are not correct as the concerned authorities have considered these aspects and issued necessary recommendations and clearances and they will be cutting trees strictly in accordance with law. The Hon'ble Apex Court constituted Expert Committee is yet to submit its report regarding the criteria or parameter for assessment of undertaking for felling of trees. They already deposited the amount as directed by the authorities. The Tribunal in Hira Singh Markam & Ors. Vs. Union of

India¹ by order dated 14.08.2018 dismissed the challenge to the order of the State Government of Chhattisgarh granting Forest Clearance on the ground that the consent of the Gram Sabha has not been obtained by stating inter alia, that Forest Rights Act, 2006 does not fall under the Schedule of the Acts in the National Green Tribunal Act, 2010.

21. According to the respondent, there is no bonafide on the part of the applicant in filing the application and they prayed for dismissal of the application.
22. When the matter came up for hearing on 23.09.2021 both the Learned Counsel for the applicant and the 5th respondent submitted that in view of the latest development, there is no possibility of cutting trees arises and the Learned Counsel appearing for the applicant as well as 5th respondent submitted that the matter can be disposed of accordingly leaving open the right of the parties to challenge the subsequent orders or including the Stage-I approval granted in accordance with law.
23. There is no dispute regarding the fact that the 5th respondent had applied for conversion of forest land for non forest purposes for their project mentioned in the application which falls within the jurisdiction of State of Karnataka and State of Goa. It is also in a way admitted that the Regional Office of MoEF&CC has granted stage-I approval subject to certain conditions as per order dated 04.02.2021 by proceedings no. F.No.4-KRC1227/2020-BAN/1171 in respect of Karnataka area and as per proceeding no. F. No. 4-GOB/205/2019-BAN-1182 dated 04.02.2021 in respect of Goa area. According to the 5th respondent certain permission has been granted

¹ Appeal No. 83 of 2014

in respect of 0.88ha of land by the forest department in two villages and as regards the Kali Tiger Reserve project area is concerned permission was granted by the Assistant Conservator of Forest by order dated 30.04.2021. The question as to whether the Stage-I approval granted is appealable or not by virtue of the Office Memorandum issued by the MoEF&CC. The 5th respondent also produced certain documents to prove that they have deposited the respective amount for afforestation under the respective CAMPA account for State of Goa and Karnataka. We are not concerned about the dispute in respect of felling of trees in State of Goa but we are only concerned about felling of trees for this project in State of Karnataka alone.

24. It is an admitted fact that as per order dated 28.04.2021, the Deputy Conservator of Forest, Haliyal Division granted permission in respect of 0.88 ha of land alone and Assistant Conservator of Forest by order no.B4/Bhoomi/Railway doubling/CR-8/2021-22 dated 30.04.2021 granted permission for removal of 2097 trees falling in railway lines for this project with certain conditions. It is also an admitted fact later, the office of the Deputy Conservator of Forest, Haliyal Division, Haliyal by their proceedings no. 01/GFL/Tinaighat Railway doubling/CR/2021-22 dated 06.05.2021 passed the following order:

No. 01/GFL/Tinaighat Railway doubling/CR/2021-22 Dated: 06.05.2021

*To,
Range Forest Officer,
Tinaighat Division,
Tinaighat*

*Subject: Stop felling of trees for Railway doubling work from
Tinaighat to Castlerock Chainage from 21+550 to 21+900.*

*Reference, (1) General Manager, Civil, rail Vikas Nigam Ltd, Hubballi,
Letter No. RVNL/PIU/UBL/Belgavi Works/Forest Department
dated 23.04.2021.
(2) Letter from this officer No.D1/GFL/Railway Line*

*doubling/CR/2021-22/223 dated 28.08.2021.
(3) Central Empowered Committee Letter No. F. No. 1-
19/CFC/SC/2020-pt(5) dated 23.04.2021*

As per reference (1) Additional General Manager, Civil, Rail Vikas Nigam Ltd, had asked for permission to cut down the trees which are obstacle at Tinaighat-Caranzol route. The letter from our officer reference No. (2) had given permission to cut 181 trees which are obstacle for railway route.

But the report of CEC, reference (3) in its recommendation to the honourable Supreme Court had stated " to revoke the permission granted by the Standing Committee of National Board of Wildlife for doubling of the railway track passing through ecologically sensitive western ghats from Tinaighat-Castlerock in Karnataka to Kulem in Goa".

In this regard it is directed to stop removal of trees and maintain the status quo until further order is issued by the Supreme Court.

*Deputy Conservator of the Forest,
Haliyal Division, Haliyal*

Copy to,

- 1. Assistant Conservator of Forest, Ganeshgudi, for information and further necesation action.*
- 2. Additional General Manager, Civil Railway Vikas Nigam limited, Hubli for information and further necessary action.*

25. So, it is clear from this that all orders passed in respect of this project were directed to be kept in abeyance and the project proponent was directed to maintain status quo until further orders are passed by the Hon'ble Supreme Court. According to the Learned Counsel for the 5th respondent, it is not known as to when the Hon'ble Apex Court will pass orders in this regard on the basis of the recommendations of the Central Empowered Committee appointed by the Hon'ble Apex Court in this regard in Goa Foundation case. But he fairly conceded that without getting modification of the order dated 06.05.2021 mentioned above, they may not be able to proceed with the project and submitted their liberty to challenge the same before the appropriate forum may be left open. The Learned Counsel for the applicant also submitted that their right to challenge the orders passed in respect of felling trees or any conversion permission granted under Section 2 of the Forest (Conservation) Act, 1980 including Stage-I approval may be left open in view of the subsequent developments, the 5th respondent cannot proceeding with the project. So under such circumstances, the Tribunal feels

that without going into the merits of the case and also going into the contentions raised by the applicant as well as the 5th respondent, the application is disposed of by giving following directions:

- (i) The 5th respondent is directed not to proceed with the felling of trees in view of the directions issued by the Deputy Conservator of Forest, Haliyal Division, Haliyal vide their proceedings nos. 01/GFL/Tinaighat Railway doubling/CR/2021-22 dated 06.05.2021 till it is modified or set aside by subsequent order by appropriate authority.
- (ii) The right of the 5th respondent to challenge the same or apply for necessary modification in accordance with law is left open.
- (iii) The right of the applicant to challenge the Stage-I approval granted or any subsequent order passed by the Forest Department in this regard before appropriate forum in accordance with law is also left open.
- (iv) Considering the circumstances, we direct the parties to bear their respective costs in the application.
- (v) The Registry is directed to Communicate this order to the official respondents for their information and compliance of the directions.

26. With the above directions and observations, the application is disposed off.

.....J.M.
(Justice K. Ramakrishnan)

.....E.M.
(Shri. Dr. K. Satyagopal)

O.A. No.129/2021(SZ)&
I.A. No. 88 of 2021(SZ)
30th September, 2021. AM.



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असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)
PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित
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पर्यावरण, वन और जलवायु परिवर्तन मंत्रालय

अधिसूचना

नई दिल्ली, 31 अगस्त, 2025

सा.का.नि. 593(अ).—केंद्रीय सरकार, वन (संरक्षण एवं संवर्धन) अधिनियम, 1980 की धारा 4 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, वन (संरक्षण एवं संवर्धन) नियम, 2023 में और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात् :-

- (1) इन नियमों का संक्षिप्त नाम वन (संरक्षण एवं संवर्धन) संशोधन नियम, 2025 है।
(2) ये राजपत्र में इनके प्रकाशन की तारीख को प्रवृत्त होंगे।
- वन (संरक्षण एवं संवर्धन) नियम, 2023 (जिसे इसमें इसके पश्चात उक्त नियम कहा गया है) के नियम 2 में, उप-नियम (1) में,
(क) खंड (ट) के पश्चात, निम्नलिखित खंड अंतःस्थापित किये जाएंगे, अर्थात्, :-

“(टक) 'अंतिम या चरण-2 अनुमोदन' से राज्य सरकार से सैद्धांतिक या चरण-1 अनुमोदन में निर्धारित शर्तों के संतोषजनक अनुपालन की प्राप्ति के पश्चात अधिनियम की धारा 2 की उपधारा (1) के अधीन प्रदत्त केन्द्रीय सरकार का पूर्व अनुमोदन अभिप्रेत है;

(टख) 'सैद्धांतिक या चरण-1 अनुमोदन' से अधिनियम की धारा 2 की उपधारा (1) में विनिर्दिष्ट प्रयोजन के लिए वन भूमि का उपयोग, उसमें अनुबद्ध शर्तों के अनुपालन के अध्याधीन केन्द्रीय सरकार की प्रारंभिक अनुमति अभिप्रेत है।”

(ख) खंड (प) के स्थान पर निम्नलिखित खंड रखा जाएगा, अर्थात्, :-

“(प) "कार्य की अनुमति" से सैद्धांतिक अनुमोदन या चरण-1 के पश्चात रैखिक परियोजनाओं को संसाधन जुटाने या सड़कों की ब्लैक टॉपिंग और कंक्रीट बिछाने, रेलवे ट्रैक बिछाने, पारेषण लाइनों की चार्जिंग आदि से भिन्न प्रारंभिक परियोजना कार्यों को शुरू करने के लिए दी गई अनुज्ञा या केन्द्रीय सरकार द्वारा यथा विनिर्दिष्ट अनुज्ञा अभिप्रेत है।”

3. उक्त नियमों में, नियम 4 में,-

(क) उप-नियम (3) के पश्चात् निम्नलिखित उप-नियम अंतःस्थापित किया जाएगा, अर्थात्, :-

“(3क) समिति का कोई गैर-सरकारी सदस्य किसी भी समय केन्द्रीय सरकार को लिखित सूचना देकर अपने पद से त्यागपत्र दे सकेगा और तत्पश्चात उस सदस्य का स्थान रिक्त हो जाएगा।”

(ख) उप-नियम (4) में, शब्द, कोष्ठक और अंकों “(2) और (3)” के स्थान पर शब्द, कोष्ठक और अंक “(2), (3) और (3क)” रखे जाएंगे।

4. उक्त नियमों में, नियम 6 में, उपनियम (5) को नियम 6क के रूप में पुनः संख्यांकित किया जाएगा और इस प्रकार पुनः संख्यांकित नियम 6क में,-

(क) उपनियम (3) के पश्चात् निम्नलिखित उपनियम अंतःस्थापित किया जाएगा, अर्थात्, :-

“(3क) समिति का कोई गैर-सरकारी सदस्य किसी भी समय केन्द्रीय सरकार को लिखित सूचना देकर अपने पद से त्यागपत्र दे सकेगा और तत्पश्चात उस सदस्य का स्थान रिक्त हो जाएगा।”;

(ख) उपनियम (4) में, शब्दों, कोष्ठकों और अंकों “(2) और (3)” के स्थान पर शब्द, कोष्ठक और अंक “(2), (3) और (3क)” रखे जाएंगे।

5. उक्त नियमों में, नियम 9 में,

(क) उपनियम (1) में, कोष्ठक, अक्षर और शब्द “(i) सैद्धांतिक अनुमोदन; और '(ii) अंतिम अनुमोदन” के स्थान पर, कोष्ठक, अक्षर और शब्द “(i) सैद्धांतिक या चरण-1 अनुमोदन” और “(ii) अंतिम या चरण-2 अनुमोदन” रखे जाएंगे;

(ख) उप-नियम (2) में निम्नलिखित परंतुक अंतःस्थापित किया जाएगा, अर्थात्:-

“परंतु यह कि रक्षा, सामरिक और राष्ट्रीय महत्व से संबंधित परियोजनाओं या लोक हित या आकस्मिक प्रकृति से संबंधित असाधारण मामलों में, प्रयोक्ता अभिकरण को पूर्व अनुमोदन के लिए आवेदन ऑफलाइन प्रणाली में प्रस्तुत करने की अनुमति दी जा सकती है।”

6. उक्त नियमों में, नियम 10 में, उप-नियम (10) के स्थान पर निम्नलिखित उप-नियम रखा जाएगा, अर्थात्:-

“(10) राज्य सरकार या संघ राज्य क्षेत्र प्रशासन, यदि ऐसा चाहे, तो रैखिक प्रस्ताव का 'सैद्धांतिक या चरण-1' अनुमोदन प्राप्त करने और प्रतिपूरक उपग्रहणों जैसे प्रतिपूरक वनरोपण और शुद्ध वर्तमान मूल्य और शमन योजनाओं जैसे वन्यजीव प्रबंधन योजना और मृदा एवं आर्द्रता संरक्षण योजना की लागत, यथा लागू, जमा करने के पश्चात्, प्रतिपूरक वनीकरण के लिए चिन्हित भूमि को वन विभाग के पक्ष में वन भूमि के रूप में हस्तांतरण और नामांतरण प्रभावी करने या प्रतिपूरक वनीकरण के लिए चिन्हित भूमि को भारतीय वन अधिनियम, 1927 (1927 का 16) या स्थानीय अधिनियम के अधीन संरक्षित वन के रूप में अधिसूचित करने और अनुसूचित जनजाति और अन्य पारंपरिक वन निवासी (वन अधिकारों की मान्यता) अधिनियम, 2006 (2007 का 2) सहित अन्य सभी यथालागू विधि का अनुपालन करने के पश्चात्, 'अंतिम' अनुमोदन प्रदान करने से पहले परियोजना कार्य प्रारंभ करने के लिए कार्य की अनुज्ञा प्रदान कर सकते हैं।”

7. उक्त नियमों में, नियम 11 में,

(i) उप-नियम (9) में, निम्नलिखित परंतुक अंतःस्थापित किया जाएगा, अर्थात्:-

“परंतु यह कि रक्षा, सामरिक और राष्ट्रीय महत्व से संबंधित परियोजनाओं या लोक हित या आकस्मिक प्रकृति से संबंधित असाधारण मामलों में, प्रयोक्ता अभिकरण को पूर्व अनुमोदन के लिए आवेदन ऑफलाइन प्रणाली में प्रस्तुत करने की अनुज्ञा दी जा सकती है।”

(ii) उप-नियम (10) में,

(क) 'दो वर्षों से अधिक समय से प्रतीक्षित है, उनमें सैद्धांतिक अनुमोदन को अकृत और शून्य समझा जाएगा;', शब्दों के स्थान पर 'पाँच वर्षों से अधिक समय से प्रतीक्षित है, उनमें सैद्धांतिक या चरण-1 अनुमोदन केन्द्रीय सरकार द्वारा वापस लिया जा सकेगा:' शब्द रखे जायेगे।

(ख) परंतुक में, "परन्तु केन्द्रीय सरकार" शब्दों के स्थान पर निम्नलिखित रखा जाएगा, अर्थात्, :-

"परन्तु केन्द्रीय सरकार, अभिलिखित किए जाने वाले कारणों को लेखबद्ध करके कि परिस्थितियाँ ऐसी थीं जिनके कारण, राज्य सरकार या संघ राज्य क्षेत्र प्रशासन, जैसा भी मामला हो, पाँच वर्ष की निर्धारित अवधि के भीतर अनुपालन रिपोर्ट प्रस्तुत नहीं कर सके, तो समाधान हो जाने पर सैद्धांतिक या चरण-1 अनुमोदन की वैधता ऐसी अवधि के लिए बढ़ा सकेगी, जो वह उचित समझे:

परन्तु यह और कि केन्द्रीय सरकार”

8. उक्त नियमों में, नियम 12 के उपनियम (3) में,-

(क) हिन्दी पाठ में संशोधन की आवश्यकता नहीं है;

(ख) उपनियम (3) के पश्चात् निम्नलिखित परंतुक अंतःस्थापित किया जाएगा, अर्थात्, :-

"परन्तु यह कि उस अवधि के लिए अनुमोदन, जिसके दौरान वन क्षेत्र में अनुमोदित कार्य योजना या कार्य योजना के बिना कार्य किया गया था, संबंधित क्षेत्रीय कार्यालय द्वारा क्षेत्रीय सशक्त समिति के परामर्श से निपटाया जाएगा।"

9. उक्त नियमों में, नियम 13 में,

(क) उप-नियम (3) में, कोष्ठक, अक्षर और शब्द 'भारतीय वन अधिनियम, 1927 या स्थानीय अधिनियमों के अधीन 'अंतिम' अनुमोदन से पूर्व संरक्षित वन (पी एफ) के रूप में अधिसूचित किया गया है" के स्थान पर निम्नलिखित कोष्ठक, अक्षर और शब्द प्रतिस्थापित किए जायेंगे, अर्थात्, :-

“‘अंतिम’ अनुमोदन से पूर्व राज्य सरकार या संघ राज्य क्षेत्र प्रशासन द्वारा वन विभाग के पक्ष में वन भूमि के रूप में हस्तांतरण और नामांतरण किया गया हो या 'भारतीय वन अधिनियम, 1927 या स्थानीय अधिनियमों के अधीन संरक्षित वन (पी एफ) के रूप में अधिसूचित किया गया हो;”;

(ख) उप-नियम (4) में,

(i) उप-नियम (4) में, खंड (ग) के स्थान पर निम्नलिखित को रखा जाएगा, अर्थात्, :-

“(ग) भूमि के ऊपर टेलीफोन लाइन, ऑप्टिकल फाइबर लाइन, पाइपलाइन और अन्य सार्वजनिक उपयोगिता परियोजनाएं जिनमें पेड़ों की कटाई सम्मिलित हो या ना हो और ये सड़कों के मार्गाधिकार क्षेत्र में स्थित न हो”.

(ii) खंड (छ) में, शब्द "अपयोजित किया जाता है" के स्थान पर, शब्द "अपयोजित किया जाता है, जैसा भी मामला हो,;" रखे जाएंगे;

(iii) खंड (छ) के पश्चात्, खंड (छक) अंतःस्थापित किया जाएगा, अर्थात्, :-

““(छक) खान और खनिज (विकास एवं विनियमन) अधिनियम, 1957 (1957 का 67) की प्रथम अनुसूची के भाग-घ में विनिर्दिष्ट महत्वपूर्ण एवं सामरिक खनिज, तथा खान मंत्रालय, भारत सरकार द्वारा खान और खनिज (विकास एवं विनियमन) अधिनियम, 1957 (1957 का 67) की सातवीं अनुसूची के अंतर्गत विनिर्दिष्ट खनिज तथा परमाणु ऊर्जा अधिनियम, 1962 (1962 का 33) के अंतर्गत परिभाषित विहित पदार्थ:

परंतु यह कि खान मंत्रालय द्वारा विनिर्दिष्ट सातवीं अनुसूची के उन खनिजों, जो खान एवं खनिज (विकास एवं विनियमन) अधिनियम, 1957 (1957 का 67) की प्रथम अनुसूची के भाग-घ में विनिर्दिष्ट महत्वपूर्ण एवं सामरिक खनिजों की सूची में सम्मिलित नहीं हैं और जो उन राज्यों एवं संघ राज्य क्षेत्रों के प्रशासनों में नहीं आते हैं, जिनका वन क्षेत्र उनके भौगोलिक क्षेत्र के 33% से अधिक है, से संबंधित वन भूमि के अपयोजन के बदले अवक्रमित वन भूमि, जो कि प्रस्तावित वन क्षेत्र का तीन गुना हो, पर प्रतिपूरक वनीकरण किया जाएगा;”;

(ग) उपनियम (5) में, खंड (ग) का लोप किया जाएगा।

(घ) उपनियम (6) के स्थान पर निम्नलिखित रखा जाएगा, अर्थात्, :-

“(6) खनन पट्टों अनुमोदन के नवीकरण, भूमिगत खनन सहित भूमिगत कार्यों से संबंधित प्रस्तावों के संबंध में, प्रतिपूरक वनरोपण के निम्नलिखित उपबंध लागू होंगे, अर्थात्, :-

(क) खनन पट्टे के लिए अधिनियम के तहत दिए गए अनुमोदन के नवीकरण के लिए, प्रतिपूरक वनरोपण लागू होगा यदि इसके लिए पहले प्रावधान नहीं किया गया था;

(ख) भू-तल पर अधिकार रहित भूमिगत खनन और विभिन्न विकास परियोजनाओं में सम्मिलित भूमिगत कार्यों के बावत प्रतिपूरक वनरोपण नहीं लिया जाएगा।"

10. उक्त नियमों में, नियम 14 में,

i. उप-नियम (1) में, शब्दों, अंकों और कोष्ठकों "भारतीय वन अधिनियम, 1927 (1927 की अधिनियम संख्या 16) की धारा 29 के अधीनया तत्समय प्रवृत्त किसी अन्य विधि के अधीन," के स्थान पर, "उसे वन विभाग के पक्ष में वन भूमि के रूप में हस्तांतरण और नामांतरण किया जाएगा या भारतीय वन अधिनियम, 1927 (1927 की अधिनियम संख्या 16) की धारा 29 के अधीनया तत्समय प्रवृत्त किसी अन्य विधि के अधीन, राज्य सरकार या संघ राज्य क्षेत्र प्रशासन द्वारा, जैसा भी मामला हो, " प्रतिस्थापित किया जाएगा;

ii. उपनियम (1) में, निम्नलिखित परंतुक को अंतःस्थापित किया जाएगा, अर्थात्, :-

परंतु कि राज्य सरकारें या संघ राज्य क्षेत्र प्रशासन प्रधान मुख्य वन संरक्षक और वन बल प्रमुख को भारतीय वन अधिनियम, 1927 या किसी स्थानीय अधिनियम के अधीन प्रतिपूरक वनरोपण भूमि के संबंध में अधिसूचना जारी करने के लिए प्राधिकृत कर सकते हैं, जो नियम 13 के उपनियम (1) और उपनियम (3) के अधीन वन भूमि के अपवर्तन के बदले में प्रदान की गई है,

iii. उपनियम (4) में, -

(क) खंड (क) के स्थान पर निम्नलिखित को रखा जाएगा, अर्थात्, :-

"(क) राज्य सरकार या संघ राज्य क्षेत्र प्रशासन, जैसा भी मामला हो, प्रतिपूरक वनरोपण के प्रयोजनों के लिए, 0.4 तक कैनोपी घनत्व वाली अवक्रमित वन भूमियों, सरकारी भूमि, सरकारी अभिलेखों में वन के रूप में दर्ज भूमि जो या तो वन विभाग या अन्य सरकारी विभाग या इकाई के प्रशासनिक नियंत्रण में है, का भूमि बैंक बना सकता है;"

(ख) खंड (ग) के पश्चात् निम्नलिखित खंड को अंतःस्थापित किया जाएगा, अर्थात्, :-

"(घ) समयबद्ध तरीके से प्रतिपूरक वनरोपण करने के लिए भूमि की पहचान सुनिश्चित करने के उद्देश्य से, केंद्र सरकार की किसी भी योजना, कार्यक्रम या नीतियों के तहत सरकारी विभाग या किसी अन्य इकाई द्वारा अवक्रमित वन भूमि, राजस्व वन भूमि या वनेतर भूमि पर किए गए वनीकरण का उपयोग सरकारी विभाग या उसकी एजेंसियों या अन्य इकाइयों की प्रतिपूरक वनरोपण की आवश्यकता को पूरा करने के लिए किया जा सकता है, जैसा कि नियम 13 के अधीन स्वीकार्य है और ऐसे नियमों और शर्तों के अधीन है जो इस उद्देश्य के लिए केन्द्रीय सरकार द्वारा विनिर्दिष्ट किए जा सकते हैं।"

iv. उप-नियम (5) में,

(क) हिन्दी पाठ में संशोधन की आवश्यकता नहीं है;

(ख) खंड (छ) में, शब्दों अंकों और कोष्ठकों "भारतीय वन अधिनियम, 1927 (1927 का 16) या तत्समय प्रवृत्त किसी अन्य विधि के अधीन संरक्षित वन के रूप में अधीनसूचित किया जाएगा" के स्थान पर शब्द अंक और कोष्ठक "वन विभाग के पक्ष में वन के रूप में हस्तांतरण और नामांतरण किया जाएगा या भारतीय वन अधिनियम, 1927 (1927 का 16) या तत्समय प्रवृत्त किसी अन्य विधि के अधीन संरक्षित वन के रूप में अधीनसूचित किया जाएगा", अंतःस्थापित किए जाएंगे;

11. उक्त नियमों में, नियम 15 के स्थान पर निम्नलिखित नियम रखा जाएगा, अर्थात्,-

“15. अधिनियम के अधीन अपराधों के दोषी व्यक्तियों के विरुद्ध कार्यवाही,- (1) ऐसी तारीख से, जिसे केन्द्रीय सरकार, राजपत्र में अधिसूचना द्वारा, इस संबंध में नियुक्त करे, राज्य सरकार या संघ राज्य क्षेत्र प्रशासन में प्रभागीय वन अधिकारी या उप वन संरक्षक या राज्य सरकार या संघ राज्य क्षेत्र प्रशासन में उससे ऊपर के पद को धारण करने वाले अधिकारी या केन्द्रीय सरकार के क्षेत्रीय कार्यालय में सहायक वन महानिरीक्षक या उससे ऊपर के पद को धारण करने वाले अधिकारी, जिसके पास उस वन भूमि पर अधिकार क्षेत्र है जिसके संबंध में वन (संरक्षण एवं संवर्धन) अधिनियम, 1980 (1980 का 69) के अधीन कोई अपराध हुआ है या उक्त अधिनियम के उपबंधों का उल्लंघन किया गया है, को इस मामले में अधिकार रखने वाले न्यायालय में वन (संरक्षण एवं संवर्धन) अधिनियम, 1980 के अधीन प्रथम दृष्टया दोषी पाए जाने या उक्त अधिनियम के अधीन बनाए गए नियमों का उल्लंघन करने वाले ऐसे व्यक्ति, प्राधिकारी या संगठन के विरुद्ध विधिक कार्यवाही आरंभ करेंगे और शिकायत दर्ज करेंगे।

(2) केन्द्रीय सरकार या केन्द्रीय सरकार के अधीन क्षेत्रीय कार्यालय, राज्य सरकार या संघ राज्य क्षेत्र प्रशासन या प्राधिकारियों या किसी अन्य स्रोत या स्वप्रेरणा से किए गए अपराध या किए गए उल्लंघनों के संबंध में सूचना प्राप्त करने के पश्चात्, जांच करके, उसे उस राज्य सरकार या संघ राज्य क्षेत्र और संबंधित प्राधिकारियों को, जिनके अधिकार क्षेत्र में अधिनियम के अधीन अपराध किया गया है या उक्त अधिनियम के किसी उपबंध का उल्लंघन किया गया है, सूचित करेंगे ताकि अपराधियों के विरुद्ध अधिकार क्षेत्र वाले न्यायालय में शिकायत दर्ज की जा सके और यह उप-नियम (1) के अधीन प्राधिकृत अधिकारी के लिए ऐसी शिकायत दर्ज करने से पहले ऐसी सूचना प्राप्त होने के पैंतालीस दिनों की अवधि के भीतर एक पूर्वापेक्षा के रूप में कार्य करेगा।

(3) राज्य सरकार या संघ राज्य क्षेत्र प्रशासन और संबंधित प्राधिकारी उप-नियम (2) के अधीन दायर शिकायतों के ब्यौरे के संबंध में क्षेत्रीय कार्यालय को एक आवधिक रिपोर्ट प्रस्तुत करेंगे।

(4) उप-नियम (1) में केन्द्रीय सरकार द्वारा प्राधिकृत अधिकारी, जैसा भी मामला हो, राज्य सरकार या संघ राज्य क्षेत्र प्रशासन के किसी अधिकारी या किसी व्यक्ति या किसी अन्य प्राधिकारी से, अधिनियम या उसके अधीन बनाए गए नियमों के उल्लंघन से संबंधित कोई रिपोर्ट, दस्तावेज और कोई अन्य जानकारी, जो अधिकार रखने वाले किसी न्यायालय में शिकायत करने के लिए आवश्यक समझी जाए, विनिर्दिष्ट अवधि के भीतर उसे प्रस्तुत करने की अपेक्षा कर सकेगा और ऐसे प्रत्येक अधिकारी या व्यक्ति या प्राधिकारी ऐसा करने के लिए बाध्य होगा।

12. उक्त नियमों में, अनुसूची-1 में, -

(क) प्रविष्टि “डीसीएफ/सीएफ/नोडल अधिकारी द्वारा स्थल का निरीक्षण” के समक्ष, स्तंभ शीर्षक “40 से 100*” के अंतर्गत आने वाले अंक “20” के स्थान पर अंक ‘5’ रखा जाएगा;

(ख) प्रविष्टि “नोडल अधिकारी/पीसीसीएफ द्वारा कारवाई” के समक्ष, स्तंभ शीर्षक “40 से 100*” के अंतर्गत आने वाले अंक “15” के स्थान पर अंक “10” रखा जाएगा;

(ग) प्रविष्टि “कुल (क + ग)” के समक्ष, -

(अ) स्तंभ शीर्षक “5* तक” के अधीन आने वाले अंक “85” के स्थान पर अंक “80” रखा जाएगा;

(ब) स्तंभ शीर्षक “40 से 100*” के अधीन आने वाले अंक “160” के स्थान पर अंक “130” रखा जाएगा;

13. उक्त नियमों में, अनुसूची-II में, -

- (क) क्रम संख्या 4 के समक्ष, स्तंभ 2 के अंतर्गत प्रविष्टियों में, "बीस वर्ष" शब्दों के स्थान पर, "कम से कम दस वर्ष" शब्द रखे जाएंगे;
- (ख) क्रम संख्या 5 के समक्ष, स्तंभ 2 के अंतर्गत प्रविष्टियों में, "बीस वर्ष" शब्दों के स्थान पर, "कम से कम दस वर्ष" शब्द रखे जाएंगे।

[फा. सं. एफसी- 11/104/2025-एफसी]

आर. रघु प्रसाद, वन महानिरीक्षक

MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE

NOTIFICATION

New Delhi, the 31st August, 2025

G.S.R. 593(E).— In exercise of the powers conferred by sub-section (1) of section 4 of the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980, the Central Government hereby makes the following rules, further to amend the Van (Sanrakshan Evam Samvardhan) Rules, 2023, namely: -

1. (1) These rules may be called the Van (Sanrakshan Evam Samvardhan) Amendment Rules, 2025.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Van (Sanrakshan Evam Samvardhan) Rules, 2023 (hereinafter referred to as the said rules), in rule 2, in sub-rule (1), -
 - (i) after clause (k), the following clauses shall be inserted, namely:-

‘(ka) “final or Stage-II approval” means the prior approval of the Central Government granted under sub-section (1) of section 2 of the Adhiniyam after receipt of satisfactory compliance report of the conditions stipulated in the in-principle or Stage-I approval from the State Government;

(kb) “in-principle or Stage-I approval” means the preliminary approval of the Central Government to allow the use of forest land for a given purpose specified under sub-section (1) of section 2 of the Adhiniyam subject to the compliance of conditions stipulated therein;’;
 - (ii) for clause (v), the following clause shall be substituted, namely: -

“(v) “working permission” means permission granted to linear projects after in-principle or Stage -I approval to mobilise resources or to commence the preliminary project works other than black topping and concretisation of roads, laying of railway tracks, charging of transmission lines, etc. or as specified by the Central Government.”.
3. In the said rules, in rule 4, -
 - (i) after sub-rule (3), the following sub-rule shall be inserted, namely: -

“(3A) A non-official Member may resign from his office at any time by giving notice thereof in writing, to the Central Government, and the seat of that Member shall thereupon become vacant.”;
 - (ii) in sub-rule (4), for the words, brackets and letters “clauses (b) and (c)”, the words, brackets, figures and letter “sub-rules (2), (3) and (3A)” shall be substituted.

4. In the said rules, in rule 6, sub-rule (5) shall be re-numbered as rule 6A and in rule 6A as so renumbered, –

(i) after sub-rule (3), the following sub-rule shall be inserted, namely: –

“(3A) A non-official member of the Committee may resign from his office at any time by communicating the same in writing, to the Central Government, and the seat of that member shall thereupon become vacant.”;

(ii) in sub-rule (4) for the words, brackets and figures “(2) and (3)”, the brackets, figures, word and letter “(2), (3) and (3A)” shall be substituted.

5. In the said rules, in rule 9, –

(i) in sub rule (1), for the brackets, letters and words “(i) In-Principle’ approval; and ‘ (ii) Final’ approval, the brackets, letters and words “(i) in-principle or Stage -I approval” and “(ii) final or Stage-II approval” shall be substituted;

(ii) in sub-rule (2), the following proviso shall be inserted, namely: –

“Provided that for projects related to defence, strategic and national importance, exceptional cases related to public interest or emergent nature, the user agency may be permitted to submit an application for prior approval through offline mode.”.

6. In the said rules, in rule 10, for sub-rule (10), the following sub-rule shall be substituted, namely: –

“(10) The State Government or the Union territory Administration, if so desire, after obtaining the ‘in-principle or Stage-I approval’ of linear project proposals and deposition of compensatory levies such as compensatory afforestation and Net Present Value and cost of mitigation plans such as Wildlife Management Plan and Soil and Moisture Conservation Plan, as applicable, transfer and effect mutation of land identified for raising compensatory afforestation as forest land in favour of the Forest Department or notify the land identified for raising compensatory afforestation as protected forest under the Indian Forest Act, 1927 (16 of 1927) or local Act, as the case may be, and on compliance of the provisions of other applicable statutes including the Scheduled Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007), may grant 'working permission' for the commencement of project work before grant of final or Stage-II approval.”.

7. In the said rules, in rule 11, –

(i) in sub-rule (9), the following proviso shall be inserted, namely: –

“Provided that for projects related to defence, strategic and national importance, exceptional cases related to public interest or emergent nature, the user agency may be permitted to submit an application for prior approval through offline mode.”;

(ii) in sub-rule (10), –

(a) for the words “the ‘two years, the In-Principle’ approval shall be deemed null and void”, the words “five years, the in-principle or Stage -I approval may be revoked by the Central Government”, shall be substituted;

(b) in the proviso, for the words “Provided that the Central Government” the following shall be substituted, namely: –

“Provided that the Central Government may, for the reasons to be recorded in writing, extend the validity of in-principal or Stage -I approval for such period as it deems fit, if it is satisfied that the circumstances were such which prevented the State Government or Union territory Administration, as the case may be, from submitting the compliance report within the stipulated period of five years:

Provided further that the Central Government”.

8. In the said rules, in rule 12, in sub-rule (3), –

(i) for the word “Adiniyam”, the word “Adhiniyam” shall be substituted;

(ii) in sub-rule (3), the following proviso shall be inserted, namely: –

“Provided that the approval for the period during which work was carried out in the forest area without an approved Working Plan or Working Scheme, shall be dealt and disposed of by the concerned Regional Office in consultation with the Regional Empowered Committee.”.

9. In the said rules, in rule 13, –

(i) in sub-rule (3) for the words “prior to ‘Final’ approval”, the following shall be substituted, namely:–

“or transferred and mutated as forest land in favour of the Forest Department by the State Government or Union territory Administration, as the case may be, before the final or Stage - II approval is granted under the Adhiniyam;”;

(ii) in sub-rule (4), –

(a) for clause (c), the following clause shall be substituted, namely: –

“(c) aerial cabling of telephone, optical fibre lines, pipelines, and other public utility projects with or without felling of trees not falling within the right of way of roads;”;

(b) in clause (g), for the word “diversion”, the words “diversion, as the case may be;” shall be substituted;

(c) after clause (g), the following clause shall be inserted, namely: –

“(ga) mining of Critical and Strategic Minerals, as specified in Part-D of the First Schedule of the Mines and Minerals (Development and Regulation) Act, 1957 s(67 of 1957) and minerals specified by the Ministry of Mines out of the list of minerals included in the Seventh Schedule of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957), and prescribed substance, as defined under the Atomic Energy Act, 1962 (33 of 1962):

Provided that compensatory afforestation over degraded forest land, three times the forest area proposed for diversion, shall be raised in respect of those minerals of the Seventh Schedule as specified by the Ministry of Mines which are not included in the list of Critical and Strategic Minerals as specified in Part-D of the First Schedule of the Mines and Minerals (Development and Regulation) Act, 1957 (67 of 1957) and not falling in the States and Union territory Administrations, having forest area more than 33% of their geographical area ;”;

(d) in clause (h), for the words “conservation of wildlife; and”, the words “conservation of wildlife.” shall be substituted.

(iii) in sub-rule (5), clause (c) shall be omitted;

(iv) for sub-rule (6), following sub-rule shall be substituted, namely: –

“(6) In respect of proposal involving renewal of approval of mining leases, underground works including underground mining, following provisions of raising compensatory afforestation shall be applicable, namely: –

(i) for renewal of approval granted under the Adhiniyam to a mining lease, compensatory afforestation shall be applicable if the same was not provided earlier;

(ii) no compensatory afforestation shall be charged in respect of underground mining and underground works involved in the various developmental projects without surface rights.”;

10. In the said rules, in rule 14,—

(i) in sub-rule (1), for the words, figures and brackets “same shall be notified as protected forest under section 29 of Indian Forest Act, 1927 (16 of 1927) or under any other law for the time being in force”, the words, figures and brackets “same shall be transferred and mutated as forest land in favour of the Forest Department or notified as protected forest under section 29 of Indian Forest Act, 1927 (16 of 1927) or under any other law for the time being in force by the State Government or Union territory Administration, as the case may be,” shall be substituted;

(ii) in sub-rule (1), the following proviso shall be inserted, namely: -

“Provided that the State Government or the Union territory Administration, as the case may be, may authorise the Principal Chief Conservator of Forests and Head of Forest Force to issue notification under the Indian Forest Act, 1927 (16 of 1927) or under any local Act in respect of compensatory afforestation land provided *in lieu* of diversion of forest land under sub-rule (1) and sub-rule (3) of rule 13.”;

(iii) in sub-rule (4),—

(a) for clause (a), the following clause shall be substituted, namely: -

“(a) A State Government or Union territory Administration, as the case may be, for the purposes of compensatory afforestation, may create a land bank of degraded forest land having canopy density up to 0.4, Government lands, lands recorded as forest in Government records which are either under the administrative control of Forest Department or other Government Department or entity;

(b) after clause (c), the following clause shall be inserted, namely: -

“(d) With a view to ensure identification of land for raising compensatory afforestation in a time bound manner, afforestation raised by the Government Department or any other entity over degraded forest lands, revenue forest lands or non-forest lands under any schemes, programme or policies of the Central Government, may be utilised to meet the requirement of raising compensatory afforestation by the Government Department or its agencies or by any other entities, as admissible under rule 13 and subject to such terms and conditions as may be specified by the Central Government for this purpose.”;

(iv) in sub-rule (5),—

(a) in clause (b), for the word “Ahiniyam”, the word “Adhiniyam”, shall be substituted;

(b) in clause (g), after the words “being in force”, the words “or transferred and mutated as forest land in favour of the Forest Department by the State Government or Union territory Administration, as the case may be,” shall be inserted;

11. In the said rules, for rule 15, the following rule shall be substituted, namely: -

“15. Proceedings against persons guilty of offences under Adhiniyam.— (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, officer holding the rank of Divisional Forest Officer or Deputy Conservator of Forests or above in the State Government or Union territory Administration or an officer holding the rank of Assistant Inspector General of Forests or above in the Regional Office of the Central Government, having jurisdiction over the forest land in respect of which any offence under the Van (Sanrakshan Evam Samvardhan) Adhiniyam, 1980 (69 of 1980) is committed or violation of the provisions of the Adhiniyam has been made, shall initiate legal proceedings and file complaints against such person, authority or organisation, *prima-facie* found guilty of offence under the said Adhiniyam or the violation of the rules made thereunder, in the court having jurisdiction in the matter.

(2) The Central Government or the Regional Offices under the Central Government, after receiving the information with respect to offence committed or violations made, shall, after examination, communicate the same to the State Government or Union territory Administration and the authorities concerned under whose jurisdiction the offence under the

Adhinyam has been committed or any provision of the said Adhinyam has been violated, for filing the complaint against the offenders before the court having jurisdiction within a period of forty five days from the receipt of such communication.

(3) The State Government or the Union territories Administration and authorities concerned shall submit a periodic report to Regional Office regarding the details of complaints filed under sub-rule (2).

(4) The officer authorised by the Central Government in sub-rule (1) may require any officer or any person or any other authority of the State Government or Union territory Administration, as the case may be, to furnish to it within a specified period any reports, documents, and any other information related to contravention of the Adhinyam or the rules made thereunder, considered necessary for making a complaint in any court of jurisdiction and every such officer or person or authority shall be bound to so furnish.

12. In the said rules, in Schedule-I, -

(i) against the entry "Site inspections by DCF/CF/Nodal Officer", for the figures "20" occurring under the column heading "40 to 100*", the figure '5' shall be substituted;

(ii) against sub-item "Processing by Nodal Officer/PCCF", for the figures "15" occurring under the column heading "40 to 100*", the figures "10" shall be substituted;

(iii) against the entry "**Total (A+C)**", -

(a) for the figures "85" occurring under the column heading "Up to 5*", the figures "80" shall be substituted;

(b) for the figures "160" occurring under the column heading "40 to 100*", the figures "130" shall be substituted;

13. In the said rules, in Schedule-II, -

(i) against sl. No. 4, in the entries under column 2, for the words "twenty years", the words "at least ten years" shall be substituted;

(ii) against sl. No. 5, in the entries under column 2, for the words "twenty years", the words "at least ten years" shall be substituted.

[F. No. FC- 11/104/2025-FC]

R. RAGHU PRASAD, Inspector General of Forests



Service in Vijaykumar Karsanbhai Gadhavi Vs. Union of India & Ors. [OA. No. 144 of 2025/WZ]

1 message

ELDF <eldflegal@gmail.com>

Mon, Jan 5, 2026 at 6:39 PM

To: RAHUL CHOUDHARY <litigation@dclawchambers.com>, maulik@nanavatico.com, STATE OF GUJARAT <chiefsecretary@gujarat.gov.in>, ps2secfed@gujart.gov.in, pccf-forest@gujarat.gov.in, projectsodaash@gmail.com, MOEF <secy-moef@nic.in>

Cc: Mansi Bachani <mansi@eldfindia.com>, Gitanjali Sanyal <gitanjali@eldfindia.com>

Dear Sir/Ma'am

Please find attached the copy of Reply & Sur- Rejoinder filed on behalf of Greenfield Chemical Complex, GHCL Ltd, Respondent No. 5 in the abovementioned case.

Thanks & Regards

--

Sameer Manher

Clerk

Enviro Legal Defence Firm

29, Presidential Estate LGF,

Nizamuddin East New Delhi – 110013

Ph. No. 011-40573181

2 attachments**Reply.pdf**

1062K

**Sur Rejoinder.pdf**

2344K