

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI**

(Under Section 16(e) National Green Tribunal Act, 2010 and Section 2A of the Forest
(Conservation) Act, 1980)

APPEAL NO. 29 OF 2021

IN THE MATTER OF

Citizens for Green Doon

...Appellant

Versus

Union of India & Ors.

...Respondents

WRITTEN SUBMISSIONS FILED ON BEHALF OF THE APPELLANT

INDEX

S.NO.	PARTICULARS	PAGE NO.
1.	Written Submissions filed on behalf of the Appellant	1-16

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PRELIMINARY SUBMISSION

“Enactment of a law, but tolerating its infringement, is worse than not enacting law at all. The continued infringement of law, over a period of time, is made possible by adoption of such means which are best known to the violators of law. Continued tolerance of such violations of law not only renders legal provisions nugatory but such tolerance by the Enforcement Authorities encourages lawlessness and adoption of means which cannot, or ought not to, be tolerated in any civilized society”

(Indian Council for Enviro Legal Action v Union of India (1996) 5 SCC 281)

This Appeal is an instance where the provisions of the Forest (Conservation) Act, 1980, the National Forest Policy and the Guidelines have been violated in both letter and spirit. **The Forest (Conservation) Act, 1980 was enacted with a view to prevent deforestation which leads to ecological imbalance. The strict compliance with the provisions is therefore imperative if forest is to be conserved. However, as the sequence of events shows with respect to the felling of nearly 11,000 trees in an area which adjoins a National Park and Tiger Reserve and forms part of an Elephant Reserve, no agency/ authority of the government considered either the ecological**

impact of the proposed felling or ways in which the forest could be conserved by considering alternatives.

The manner in which the clearance has been granted reflects a casual and lackadaisical approach on the part of the authorities. The Forest Clearance is based on the submission of wrong, misleading and false information. There has been no assessment of the ecological impact due to the felling of nearly 11, 000 Sal trees and the consequent ecological loss. The approval is based on the wrong and faulty premise that every instance of ecological loss can be compensated by compensatory afforestation. This is despite the fact that natural forest cannot be recreated through compensatory afforestation.

The entire manner in which the Forest Clearance has been granted for the four laning of the Ganeshpur -Dehradun stretch is one of gross illegality and impropriety which cannot by any stretch of imagination be termed as 'sustainable development'. The project proponent, in order to exempt itself from the requirement of Environment Impact Assessment process, illegally segmented the project into smaller stretches despite the fact that it is clearly part of the Delhi - Dehradun Economic Corridor. **The sole purpose of segmentation is to escape from the mandatory requirement of EIA. The contention that EIA has been prepared is of no consequence since an EIA has to comply with the requirement of law i.e the EIA Notification, 2006.**

The Regional Empowered Committee has a statutory responsibility to ensure that the forest are conserved and not diverted for non -forest purposes. This is the aim and objective of the Forest (Conservation) Act, 1980. **It is the statutory responsibility of the REC and the Ministry of Environment, Forest and Climate Change to ensure that forest land are diverted only after other options are not available. The record of the REC meetings clearly reveal that no such exercise has been carried out.** The manner in which all the officers of the forest department as well as the members of the REC dealt with the proposed felling of trees, reveal that the Forest Clearance process was reduced to a mere formality. There is nothing to show that the members of the REC even took into cognizance the fact that this area is critically important from the point of view of wildlife. The REC abdicated its role when it accepted the faulty cost-benefit

assessment done by the user agency. The REC did not verify how the figure of 70% Crown density could be achieved under Compensatory Afforestation when the survival rate under compensatory afforestation itself is very poor across the country. **The decision is liable to be set aside on the ground that the REC did not take into consideration relevant facts which it ought to have taken into consideration. An area which already has dense forest has been chosen for compensatory afforestation which is completely contrary to the aim and objective of compensatory afforestation.** Planting more trees in an already dense forest land cannot be termed as compensatory afforestation.

The proposal for forest diversion was placed before the REC to present a fait accompli situation. The highway construction commenced before seeking approval under the FCA. Under Guideline 4.4 of the Forest (Conservation) Act, 1980, if a project involves forest and non-forest land work cannot begin in non-forest land till approval for forest land has been obtained. Clearly, the Delhi-Dehradun Economic Corridor involved forest and non-forest land. Yet the project developers commenced with the work on the non-forest part so that the decision makers (REC) were left with no option but to approve the diversion of forest land. This approach undermines the whole aim and objective of Environmental law. Unfortunately, this leads to a situation where economic interest takes precedence over both environmental law and rule of law. **A project can be termed as sustainable only if the same has been appraised strictly in consonance with the provisions of environmental laws. The provisions are mandatory in nature and not directory. The principal aim of the project developers as well as the regulatory agencies (REC) has been to undermine the ecological impact due to the proposed diversion.** There has been no discussion on how the proposed mitigation measures (Overpass/ Underpass) will lead to enhanced connectivity between the forest patches. The REC in its haste failed to deliberate on any of the issue of concern and proceeded to recommend the diversion of forest land without considering any of the relevant facts.

The further act of illegality is the fact that tree felling started even before the working permission was made available in public domain.

The decision to grant Forest Clearance is thus contrary to the provisions of the Forest (Conservation) Act, 1980 and the National Forest Policy, 1988. The various authorities and officers concealed vital information to undermine the ecological impact of the project in order to grant speedy approval to the proposed project.

INTRODUCTION:

1. The present Appeal has been filed under Section 16(e) of the NGT Act, 2010 and Section 2A of the Forest (Conservation) Act, 1980 to challenge the order granting working permission for tree cutting and commencement of work issued by the State of Uttar Pradesh dated 27.08.2021 issued by the Divisional Forest Officer (DFO), Shivalik Forest Division, Saharanpur for the project involving the improvement, upgradation and expansion of the existing 20 km stretch of NH72A between Ganeshpur and Dehradun.
2. The project in question is admittedly part of a larger project, the Delhi-Dehradun Economic corridor, which is a highway project of 210 km which has been divided into four segments. The segment in question involves the upgradation and expansion of the existing 20 km stretch of the NH72A. The project has been further divided into two stretches by the user agency (the National Highways Authority of India),
 - a. The Uttar Pradesh Stretch which runs from km 00+00 to km 16+115 (Ganeshpur to the Daat Kali Mandir)
 - b. The Uttarakhand Stretch which runs from Km 16+115 to km 19+746 (Daat Kali Mandir to Dehra Dun)
3. The impugned order dated 27.08.2021 granting working permission pertains to the stretch of the NH72A in the State of Uttar Pradesh (km 00.00-km 16.160), and was passed pursuant to the grant of the Stage I and Stage II Forest clearances (dated 23/24.12.2020 and 20.7.2021 respectively) by the MoEF&CC under the Forest (Conservation) Act, 1980, and has been challenged on the grounds stated below.

I. Forest clearance granted based on wrong, incorrect, false and misleading information

4. For the Uttar Pradesh stretch of the road, under Part II of Form A for grant of Forest Clearance, the concerned Divisional Forest Conservator clearly noted under the heading of "Details of wildlife present in and around the forest land proposed to be diverted" the following:

"Common Leopard 93 Nilgai 306 Sambhar 5398 Chital 2633 Barking Deer 958 Goral 2 Wild Pig 395 Jackal 22 Indian Crested Porcupine 352 Leopard Cat 8 jungle Cat 4 51 Asian Palm Civet 28 Masked Palm Civet 3 Yellow Throated marten 9 Indian Grey mongoose 30 Asian Elephant 55 Gray Langur 538 Rhesus macaque 2499 Monitor Lizard 7 Red Junglefowl 145 Kalij Pheasant 39 Peafowl 435 Indian Hare 39 Rusty spotted cat 3".

5. Several of the species of wildlife mentioned in Part II of the Form A by the Divisional Forest Conservator are listed as Endangered/ Vulnerable/ Near Threatened in the IUCN Red List of Threatened Species, and are also protected under Schedule I of the Wildlife (Protection) Act, 1972.
6. In November 2020, the Divisional Forest Officer ("DFO"), Saharanpur visited the site in question and reported that the area **does not have any rare/endangered/unique species of flora fauna. This is clearly misleading as is clear from the preceding paragraphs.** Thus, on such a misleading assessment, recommended the project "in public interest", without giving any further reason or justification.
7. The Conservator of Forests, Saharanpur Circle, in site inspection report dated 11.11.2020, despite noting that the stretch of the road had "extraordinarily rich wildlife", also made a contradictory statement that "*rare/endangered/unique species of fauna have not been reported in the area so far*", and merely agreed with the recommendation given by the Divisional Forest Officer.
8. Therefore, the site inspections by the forest officials were clearly fraudulent and contrary to the Forest (Conservation) Act, 1980 and Rules. As these site inspections are the basis for the grant of forest clearance, the entire process would be vitiated.

II. Ecological impact and value has not been considered while granting approval

9. That the proposal was considered by the Regional Empowered Committee ('REC') of the Ministry of Environment, Forest and Climate Change in its meeting dated 15.12.2020, wherein the REC merely recommended the project without any discussion on the serious issues arising out of the destruction of forest proposal and without recording any reasons.

10. Under Rule 7(e) of the Forest (Conservation) Rules, 2003, the REC, among other obligations, is required to consider:

(vi) whether the State Government or the Union territory Administration, as the case may be, before making their recommendation has considered all issues having direct and indirect impact of the diversion of forest land on forest, wildlife and environment.

11. The Regional Empowered Committee is supposed to be an expert body which undertakes the careful scrutiny of the proposals. However, it is clear from the minutes that the REC failed to meet its statutory obligations under the Forest (Conservation) Rules, 2003. The REC did not independently examine the implication of the proposed widening on the wildlife of the area, nor the ecological impact that will arise due to the felling of such a large number of trees in an ecologically sensitive area.

12. On the basis of the recommendation of the REC, the Ministry of Environment Forest and Climate Change granted Stage-I Clearance on 23/24.12.2020 for the proposal of the UP segment of the road in question, and Stage-II Clearance on 20.7.2021.

13. Therefore, the project has been granted approval at all stages without any proper application of mind by the concerned authorities, and without any proper scrutiny of the claims given by the user agency – NHAI. There has been no consideration of the actual impact of the project by any of the authorities in the process of granting clearance, therefore the impugned order ought to be set aside. In the case of Sandeep Desai & Ors. v. State of Goa & Ors. reported in 2012 SCC OnLine NGT 72, this Ld. Tribunal held as follows:

10. Thus, the information submitted by the project proponent was accepted as a gospel truth by the MoEF. The MoEF on its recthe Respondent no. 6.....So also, the Forest Clearance is based on incorrect information about the distance between the Wildlife Sanctuaries/National Park and the mining project in question. It also does not correctly indicate the forest density. The Forest Clearance is based on observation that the canopy is of 0.4 whereas Dy. Conservator of Forest, Goa in his report suggested that it is 0.5 whereas Inspection Report shows it to be between 0.5 to 0.7. Needless to say, everything appears to be fishy, based on untrue facts and inaccuracies.

13. Considering the deficiencies mentioned above and the fact that the averments in the application are not controverted by the project proponent, all the three (3) impugned orders of EC, FC and Chief Warden of Wild life are invalid, illegal and improper. All the 3 communications will have to be therefore, quashed as prayed by the applicants. We are further of the opinion that MoEF and the other authorities casually granted the clearances /approvals without verification of the necessary facts and without following the due procedure.Under these circumstances, we deem it proper to allow the application with the following reliefs

.....

D. The MoEF (the competent authority for grant of EC and FC) and the State Government of Goa (in respect of approval by Chief Wildlife Warden) shall initiate departmental proceedings within period of two months against the concerned officers, if any of them is still in service for dereliction in duty and misconduct in granting of the said permission/clearance without following procedure of law and on basis of erroneous statement of facts. If such responsible officers are no more in service, then the estimated loss or an amount of Rs. 5 Lacs (for each approval/clearance) shall be recovered from such officers who participated in the grant of EC/FC and permission by the Chief Warden of wild life by taking proper proceedings against them and after hearing them. The amount shall be deposited with Registrar, NGT within 9 (nine) months.

III. The approval given is contrary to the National Forest Policy, 1988

14. It may be noted that the National Forest Policy of 1988 clearly states that the diversion of forest land must be subjected to "the most careful examination by specialists". The relevant extract of the policy is reproduced hereunder:

"4.4 Diversion of Forest Lands for Non-forest purposes

4.4.1 Forest land or land with tree cover should not be -treated merely as a resource readily available to be utilised for various projects and

programmes, but as a national asset which requires to be properly safeguarded for providing sustained benefits to the entire community. Diversion of forest land for any non-forest purpose should be subject to the most careful examinations by specialists from the standpoint of social and environmental costs and benefits. Construction of dams and reservoirs, mining and industrial development and expansion of agriculture should be consistent with the needs for conservation of trees and forests."

15. There is nothing to show the either the proceedings before the REC nor the MoEF even considered the National Forest Policy.
16. The forest clearance granted in the present case is also in violation of the judgement of the Hon'ble Supreme Court in the case of *Lafarge Umiam Mining (P) Ltd. v. Union of India*, reported in **(2011) 7 SCC 338**, the Hon'ble Supreme Court discussed the principal aim of the National Forest Policy, which was to maintain ecological balance and the diversion of forest land would have to be subject to the most careful examination by experts.

"122. (i.1.) The time has come for this Court to declare and we hereby declare that the National Forest Policy, 1988 which lays down far-reaching principles must necessarily govern the grant of permissions under Section 2 of the Forest (Conservation) Act, 1980 as the same provides the road map to ecological protection and improvement under the Environment (Protection) Act, 1986. The principles/guidelines mentioned in the National Forest Policy, 1988 should be read as part of the provisions of the Environment (Protection) Act, 1986 read together with the Forest (Conservation) Act, 1980. This direction is required to be given because there is no machinery even today established for implementation of the said National Forest Policy, 1988 read with the Forest (Conservation) Act, 1980. Section 3 of the Environment (Protection) Act, 1986 confers a power coupled with duty and, thus, it is incumbent on the Central Government, as hereinafter indicated, to appoint an appropriate authority, preferably in the form of regulator, at the State and at the Central level for ensuring implementation of the National Forest Policy, 1988."

IV. The cost benefit analysis is erroneous and is intended to undermine the ecological cost of felling and exaggerates the benefit arising out of the proposed plantations

17. The evaluation of the Net Present Value (NPV) in the Cost Benefit Analysis shared by the user agency (NHAI) in the online proposal application Form A for Forest Clearance is incorrect and misleading. That in 'Serial Number 1- Ecosystem

services losses due to proposed forest diversion' under 'Table B – Estimation of cost of forest diversion', it has been stated that the NPV value of the forest land is between Rs 6,99,000 to Rs 10,43,000 per hectare.

"Both sides along 1.262 km road length, there is PF land (Eco Class III, Tropical Dry Deciduous Open Forest (OF)) and NPV rate considered Rs. 6,26,000. Remaining length (14.898 km) of project road pass through Reserve Forest Area (Eco class-III (Tropical Dry Deciduous) Forest having density 0.4 (Dense Forest) and per hectare NPV rate is considered Rs 8,03,000."

This means the calculation of the NPV has been done separately for 5.1893 ha of Protected Forest land considering the value Rs 6,26,000 of Class III Open Forest, and the value for the remaining portion of 42.5161 ha of the forest has been calculated using Eco Class III Dense Forest vale of Rs. 8,03,000. **This calculation has been misleading because as per Part II of the Forest Clearance Form A filled by the Deputy Conservator of Forest, the entire length of the road (47.7054 ha) has 0.4 density for forest.** Therefore, the calculation cannot be done using open forest value.

18. Further, it is to be noted here that the above-mentioned Reserve Forest area is part of the Shivalik Forest Division as per Shivalik RF Land Notification (DFO Signed Copy) as Compliance of EDS(NODAL) 10/05/2020 shared by the user agency. The Eco-Class of the forest used for calculation of NPV is Eco Class III which means Tropical Dry Deciduous Forest. It is submitted that the Shivalik forest range falls under the **Eco Class V** which means "**Sub-tropical Broad-Leaved Hill Forests, Sub-Tropical Pine Forests and Sub-Tropical Dry Evergreen Forests**".
19. Therefore, the forest land to be diverted would fall under the category of Eco Class V, and should have been calculated accordingly. The value of Dense Forest of Class V is Rs 8,45,000 which should have been used to calculate the NPV of entire 47.7054 ha of project area.
20. **That the user agency deliberately used the wrong Eco Class of the forest, i.e. "dry deciduous" to undermine the ecological value of the area,** which is a mixed deciduous area (Sub-tropical Broad-Leaved Hill Forests, Sub-Tropical Pine Forests and Sub-Tropical Dry Evergreen Forests) falling under Eco Class V.

21. **Attaining 0.7% density is impossible to attain. Further cost benefit Analysis assumes increase from 0% density to 70% density which is faulty:** Further, the user agency has claimed that "*The compensatory afforestation will be done on 95.4108 hectare of degraded forest land, which is down the line would be having a density of minimum 0.7.*" and has calculated the value of the forest land based on such basis. **It is submitted that this is extremely misleading and highly exaggerated as achieving a 0.7 density on forest land already having moderately dense forests (0.4) would not be possible.**

V. The compensatory afforestation scheme proposed has unrealistic targets and involves planting trees in areas which are not degraded

22. The scheme of compensatory afforestation for the Uttar Pradesh stretch is completely erroneous, **as the parcels of land allotted for compensatory afforestation are in places where forests already exist, not on degraded land.** This has been made clear from the details shared for the patches for Compensatory Afforestation by the user agency.
23. The identification of the abovementioned patches of land was carried out by the Deputy Conservator of Forests. It is submitted that this is a completely erroneous identification of land for compensatory afforestation as the land does not fulfill the criteria of 'degraded' forest area. **The areas identified are those which have similar density to the forest land sought to be diverted, i.e., dense forests (0.4 density), or in the middle of the river or next to habitation, where the claimed 0.7 density is impossible to achieve.**
24. **Compensatory afforestation cannot be carried out on dense forest land,** this goes against the entire purpose of compensatory afforestation which is to compensate for the loss of forest land and trees. This will lead to an absurd and impractical situation of creating plantations where dense forests already exist.
25. Under Serial 5 of Table-C of the cost benefit analysis, it is also stated that "*The compensatory afforestation will be done on 95.4108 hectare of degraded forest land, which is down the line would be having a density of minimum 0.7.*" and have calculated the value of the forest land based on such evaluation. It is

submitted that this is extremely misleading as achieving a 0.7 density on forest land already having moderately dense forests (0.4) would not be achievable, or able to be monitored.

26. Further, the value of forest land that has been calculated is based on an assumption that the land was covered by degraded forests, however this is not the case. As may be seen from the images of the patches of land identified, most of the land is already covered by moderately dense forests.
27. The parcels of land identified for compensatory afforestation are smaller, fragmented parcels of land compared to the contiguous forest land of 47.7054 ha which is sought to be diverted for the project. It is submitted that no ecological purpose is served by creating forests on small patches of land, especially in the project area which is an important habitat for endangered species such as the tiger, elephant etc. and serves as a wildlife corridor.

VI. No carrying capacity of Doon Valley has been conducted in view of increasing traffic

28. It is submitted that the justification for the proposed expansion of the highway is the reduction in travel time and increased convenience. However, mere expediency cannot be a reason implementing a project in an ecologically sensitive area which would require the felling of 11,000 trees.
29. The carrying capacity of the Doon Valley, which was declared an eco-sensitive area in 1989 under the Environment (Protection) Act, 1986 has not been taken into consideration. The city is already overburdened and its resources are severely depleted. Dehradun is ranked 31st in the 100 most polluted cities of the world as declared by the WHO and 5th most polluted city in India. Due to the funnel effect, the traffic congestion will grow even more pronounced due to the due to the 4-laning of the Delhi-Dehradun highway.

VII. Environmental Impact Assessment should have been carried out in accordance with EIA Notification, 2006

30. It is an admitted fact that the present project i.e. the improvement and expansion of the 20 km stretch of the NH72A between Ganeshpur and Dehra Dun, is part of

a larger project, the Delhi-Dehra Dun Economic Corridor, the total length of which is 210 km.

31. No environmental impact assessment has been carried out for the project. It is submitted that the EIA Notification, 2006 only exempts expansion of National Highways less than 100 km involving additional right of way or land acquisition less than 40 m (on existing alignments) and 60m (on realignments/ bypasses). The Delhi- Dehra Dun highway project, being an expansion project of 210 km, would clearly attract the provisions of the EIA Notification, 2006. Therefore, the failure to conduct an EIA would be a violation of the conditions of the forest clearance obtained by the user agency.
32. The user agency cannot seek to escape the rigours of the EIA process by breaking up the project into smaller segments, as the environmental impact remains the same. This was made clear by the Hon'ble Supreme Court in *Deepak Kumar v. State of Haryana*, reported in **(2012) 4 SCC 629**, where the Court held that due to the significant collective impact of leases of minor minerals for an area of less than five hectares on the environment (which were excluded from the EIA Notification, 2006), it would necessary for such leases to obtain an EC as well.
33. It is submitted that any EIA/ EMP prepared by the Respondent-NHAI as part of the DPR of the project (as was claimed in their counter) would not be a valid EIA/ EMP for the purpose of the EIA Notification, 2006. The Respondent-NHAI would be required to carry out an EIA as per the statutory requirements under the EIA Notification, 2006 in order to obtain an Environment Clearance.

VIII. Mandatory requirement for Biodiversity Impact Assessment under the Biological Diversity Act, 2002

34. Section 36(4) of the Biological Diversity Act, 2002 will also be applicable that requires the Central Government to conduct a biodiversity impact assessment:

"36. (1) The Central Government shall develop national strategies, plans, programmes for the conservation and promotion and sustainable use of biological diversity including measures for identification and monitoring of areas rich in biological resources, promotion of in situ, and ex situ, conservation of biological resources, incentives for

research, training and public education to increase awareness with respect to biodiversity.

...

*(4) The Central Government shall undertake measures, -
(i) wherever necessary, for assessment of environmental impact of that project which is likely to have adverse effect on biological diversity, with a view to avoid or minimize such effects and where appropriate provide for public participation in such assessment;"*

35. That the Hon'ble Supreme Court in *T. N. Godavarma Thirumulpad v. Union of India and Ors.*, reported in **(1997) 2 SCC 267** vide order dated 7.09.2017 had mandated a Biodiversity Impact Assessment study through Assam State Biodiversity Board for a proposal by OIL India Limited seeking to extract hydrocarbon beneath 3900-4000 metres of the Dibru Saikhowa National Park. Such a Bio-Diversity Impact Assessment was mandated to measure the impact on the rich biodiversity of the region and carry out mitigation measures accordingly, and the same ought to be conducted in the case of the present project as well.

IX. Mitigation proposed is unscientific and contrary to the MoEF's own guidelines on linear projects

36. The mitigation proposed by the user agency is not in consonance with the guidelines for linear projects, which requires that the height of underpasses in areas which are elephant habitats/ corridors should be at a height of 7 metres. In the present case, the proposed height of the underpasses is 6 metres, in contravention of the MoEF's own guidelines. Given the fact that the area proposed for diversion is part of an Elephant Reserve, the low height of the flyovers show that the REC was oblivious to the presence of elephants.

X. The REC accepted the mitigation proposed without verifying the efficacy of earlier mitigation measures undertaken by NHAI

37. That there was no independent assessment carried out as to whether the Mitigation Measures proposed will be functional or not. The REC did not deliberate on the effectiveness of the mitigation measures proposed. There has been no discussion as to whether the proposed mitigation will work or not. There is not

single sentence in the minutes of the meeting which reveals that this critical issue was discussed by the members of the REC

38. It has been the experience that existing mitigation measures undertaken by NHAI across the country have not been successful.

- a. For example, in the stretch of the National Highway 7 in Maharashtra adjoining the Pench Tiger Reserve, rather than constructing an elevated road/ overpass for vehicles, NHAI has merely dug on the ground level to create an impression that it has constructed an underpass. The said underpass gets flooded with water after every rain.
- b. In the case of *Centre for Wildlife and Environment Litigation v. Union of India & Ors.* (Original Application No. 920/ 2018), this Ld. Tribunal noted that in spite of an order of the Hon'ble Supreme Court in 2008 directing the NHAI to carry out the widening of a flyover at Chilla Motichur Corridor, Uttarakhand in order to combat the increase in vehicular traffic over the stretch of the road on the elephant corridor, the direction had still not been implemented nine years after said order had been passed.
- c. In the case of *Amresh Singh v Union of India & Ors.* [OA No. 295/2016 with Execution Application No. 32/2016], this Ld. Tribunal on 29.10.2021 directed the NHAI to set apart an amount of Rs. 129 crores as cost of restoration of damage to the environment, due to the rampant and illegal dumping of muck (an NHAI report itself admitted dumping 200% muck in some locations) in blatant violation of the conditions of the Environment Clearance, in the course of four-laning of the National Highway from Udhampur to Banihal in Jammu and Kashmir.

39. In view of the above, the Appellant seeks to reiterate the prayers in the Appeal, and this Ld. Tribunal may be pleased to pass the following directions:

- i. Set aside the order dated 27.08.2021 granting working permission for tree cutting and commencement of work issued by the Divisional Forest Officer, Shivalik Forest Division, Saharanpur, Uttar Pradesh;
- ii. Direct an independent audit to be conducted on the implementation of the mitigation measures by NHAI in important wildlife areas, specifically in the NH7 stretch in Maharashtra and the NH72 in Uttarakhand, among others; This

should include experts from institutions such as Nature Conservation Foundation, Wildlife First as well as independent experts as Dr M.K Ranjitsinh, Asad Rahmani, Biswajit Mohanty, Sanjay Gubbi, Milind Parimwakam.

- iii. Direct the REC to carry out an independent assessment on the success of compensatory afforestation in the State of Uttarakhand and the State of Uttar Pradesh;
 - iv. Direct action to be taken against the concerned forest officials for providing misleading information in the reports submitted in the present case in accordance with the provisions of law;
40. It is also submitted on behalf of the Appellant that an order was passed under Section 2 of the Forest (Conservation) Act, 1980 on 27.11.2021 by the Respondent State of Uttar Pradesh, only two days after this Ld. Tribunal had issued notice in the present appeal. The Respondent State passed the said order in unseemly haste, despite being aware of the matter being sub-judice before this Ld. Tribunal, solely with the intention to defeat the purpose of the present Appeal. The Appellant submits that in view of the same, they may be permitted to file a separate challenge to the Section 2 order passed by the State of Uttar Pradesh dated 27.11.2021.

THROUGH


SRISHTI AGNIHOTRI

ADVOCATES FOR THE APPELLANT


SANJANA GRACE THOMAS