

**BEFORE THE NATIONAL GREEN TRIBUNAL PRINCIPAL
BENCH, NEW DELHI**

O.A. No. 622/2023

Hemant Sharma

...Applicant

Versus

Narender Nath Gaur & Ors.

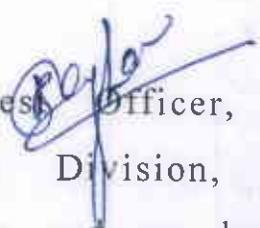
...Respondents

INDEX

S.No	Particulars	Dated	Pages
1.	Written Statement of Divisional Forest Officer, Morni-Pinjore Forest Division, Pinjore (Panchkula) on behalf of respondents No. 9,13 and 14.	06.11.2023	1-15
2.	Annexure R-14/1 (Notification)	28.11.1997	16-17
3.	Annexure R-14/2 (Reply)	03.10.2023	18-20
4.	Annexure R-14/3 (order)	27.08.2023	21

PLACE: CHANDIGARH:

DATED: 06.11.2023


 Divisional Forest Officer, Morni-Pinjore Forest Division, Pinjore (Panchkula) for and on behalf of respondent No. 9, 13 and 14.

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**Reply of Divisional Forest Officer, Morni-Pinjore
Forest Division, Pinjore (Panchkula), on behalf of
respondents No. 9, 13 and 14.**

**RESPECTFULLY SHOWETH:
PRELIMINARY SUBMISSIONS:**

1. That the present original application has been filed for issuing directions to the Respondent Authorities to take appropriate legal action against all the persons involved in illegal cutting down of trees without seeking proper permission from the competent authorities. Further to direct the Respondent Nos. 1-08 to immediately stop the felling of trees on the land parcel comprising 21 acres bearing Khasra Nos. 32/26/4, 32/26/3, 32/9, 32/10, 32/11, 32/12, 32/19, 32/21, 32/22 and 32/24 at village GhariKotah, Tehsil Raipur Rani, District Panchkula, Haryana- 134204. And further to direct the Respondent Authorities to conduct a cumulative impact study of

cutting down of green trees in large number over the ecology of the concerned area.

2. That Section 3 of the Punjab Land Preservation Act, 1900 (here-in-after referred to as Act, 1900) makes provision for notification of areas under the said Act. Further, the Act, 1900 empowers the State Government under Section 4 to regulate, restrict or prohibit, by general order or special order, within notified areas, certain matters. Similarly, under Section 5 of the above Act, the State Government is empowered to regulate, restrict or prohibit, by general order or special order, within notified areas, certain other matters. The provisions of Section 3, Section 4 and Section 5 & 5-A of the Punjab Land Preservation Act, 1900 are reproduced hereunder for kind perusal of this Hon'ble Tribunal:-

*“Section 3 Notification Areas: It reads as
“Whenever it appears to the State Government that
it is desirable to provide for the conservation of
subsoil water or the prevention of erosion in any
area subject to erosion or likely to become liable to
erosion, such Government may-by notification make
a direction accordingly.*

*Section 4 Power to regulate, restrict or
prohibit, by general or special order, within notified*

areas, certain matters. It reads as "In respect of areas notified under section 3 generally or 'the whole or any part of any such area the State Government may by general or special order, temporarily regulate, restrict or prohibit-

- (a) The clearing or breaking up or cultivating of land not ordinarily under cultivation prior to the publication of the notification under section;*
- (b) The quarrying of stone or the burning of lime at places where such stone or lime had not ordinarily been so-quarried or burnt prior to the publication of the notification under section 3;*
- (c) The cutting of trees or timber, or the collection or removal or subjection to any manufacturing process, otherwise than as described in clause (b) of this subsection of any forest-produce other than grass, save for bona fide domestic or agricultural purposes of right-holder in such area;*
- (d) The setting on fire of trees, timber or forest produce;*

- (e) *The admission, herding, pasturing or retention of sheep goats or camels;*
- (f) *The examination of forest-produce passing out of any such area; and*
- (g) *The granting of permits to the inhabitants of towns and villages situated within the limits or in the vicinity of any such area, to take any tree, timber or forest produce for their own use therefrom, or to pasture sheep goats or camels or to cultivate or erect buildings therein and the production and return of such permits by such persons,*

Section 5, Power in certain cases, to regulate, restrict or prohibit by special order, within notified areas, certain further matters- It reads as "In respect of any specified village or villages, or part or parts thereof, comprised within the limits of any area notified under section 3 the State Government may, by special order temporarily regulate, restrict or prohibit-

- (a) *The cultivating of any land ordinarily under cultivation prior to the publication of the notification under section 3;*

- (b) *The quarrying of any stone or the burning of any lime at places where such stone or lime had ordinarily been so quarried or burnt prior to the publication of the notification under section 3;*
- (c) *The cutting of trees and timber or 'the collection or removal or subjection to any manufacturing process, otherwise than as described in clause (b) of this sub-section of any forest-produce for any purposes; and*
- (d) *The admission, herding, pasturing or retention of cattle generally other than sheep, goats and camels, or of any or description of such cattle.*

Section 5-A: It reads as "In respect of areas notified under section 3 generally or the whole or any part of any such area, the State Government, may, by general or special order, direct-

- (a) *The leveling, terracing, drainage and embanking of fields;*
- (b) *The construction of earthworks in fields and ravines;*
- (c) *The provision of drains for storm water;*

- (d) *The protection of land against the action of wind of water;*
- (e) *The training of streams; and*
- (f) *The execution of such other works and the carrying out of such other measures as may, in the opinion at the State Government, be necessary for carrying out the purposes of this act."*

3. That it is further submitted that, the Govt. of Haryana issued notification No. S.O.121/PA.2/1900/S4/97 dated 28 November 1997 under section 4 of the Act, 1900 prohibiting the following acts for a period of 15 years in the areas lying on north side of metalled and un-metalled road from Kalka connecting Chandigarh, Panchkula, Ramgarh, Raipur Rani, Naraingarh, Sadhoura, Bilaspur, Chhachhrouli, Dadupurupto the Yamuna river near villages Nathanpur and Lakur falling in Tehsils Kalka, Naraingarh and Jagadhari for giving effect to the purposes of the Act, 1900:-

"The cutting of trees or timber except Eucalyptus and Poplar or the collection or removal or subjection to any manufacturing process, of any forest produce other than flower, fruit and honey, save for bonafide domestic or agricultural purposes

or for purpose of the right Solders in the land, provided that the owners of the land may sell trees or timber after obtaining a permit to do so from the Divisional Forest Officer, of the concerned division, such permit will prescribe such conditions for sale as may from time to time appear necessary in the interest of forest conservancy."

A copy of Notification dated 28 November 1997 issued Under Section 4 of the Act, 1900 is enclosed herewith as **Annexure R-14/1**.

4. That it would be further necessary to state that after expiry of the above mentioned notifications dated 17 November 1997 under Section 3 and 28 November 1997 under Section 4, fresh notifications dated 19 December 12 under Section 3 and 04 January 2013 under Section 4 have been issued by the State Government which are verbatim same to the earlier notifications dated 17 November 1997 and 28 November 1997 and are issued for a period of 15 years. The said notification continued till date only for the area specified therein. The land comprised in Khasra Nos. 32/26/4, 32/26/3, 32/9, 32/10, 32/11, 32/12, 32/19, 32/21, 32/22 and 32/24 at village GhariKotah, Tehsil Raipur Rani, District Panchkula does not fall under the above mentioned area specified Under Section 4 of the Act, 1900.

5. That the instant application is totally misconceived and the applicant is trying to misuse the process of law by settling his personal scores by filing instant application. The answering respondents time and again while responding to the applications filed by the applicant under RTI stated that there is no application of section 4 of the Act, 1900 on the land in question and there is no permission required for felling of trees on the said land. In this regard a copy of reply to the application submitted by the counsel for the applicant is appended here as **Annexure R-14/2**.
6. That the land on which the trees are alleged to have been removed does not fall within the definition of 'forest' under any of the enactment. Thus, the answering respondents are not having any authority or jurisdiction to stop private individuals from felling the trees from the land owned by them, except wherever there is a specific provision to seek prior permission from the competent authority.
7. That in compliance of the order dated 01 July 2022 passed by this Tribunal in O.A. No. 374 of 2022 titled as 'Green Earth Vs. Deputy Commissioner, Kurukshetra and others', the Development and Panchayats Department, Haryana has issued order dated 27 August 2023, whereby mechanism has been notified for felling of trees on private lands

under the rural area of Gram Panchayats. A copy of order dated 27 August 2023 is annexed herewith as **Annexure R-14/3**. Further, in case of the land falls under jurisdiction of Forest Department the felling of trees is regulated as mentioned in foregoing paras. The felling of trees in the present case is covered by the order dated 27 August 2023 issued by the Development & Panchayat Department vide endst. dated 05 September 2023. Therefore, the permission under the said order from the Gram Panchayat concerned was necessary before felling of the trees.

8. That the instant application is bad for nonjoinder and misjoinder of the parties. The answering respondent No. 9 and 14 has no role to play in view of the abovementioned notification and they could only take action when the trees are removed from the area mentioned in the notification. The land in question as stated by the applicant does not fall within the area notified under Section 4 of the Punjab Land Preservation Act, 1900, therefore the instant application is not maintainable against the respondents No. 9 & 14.

REPLY ON MERITS:

1. That the contents of para No. 1 of the application are matter of record and hence need no reply.
2. That the contents of para No. 2 of the application are matter of record and need no reply.
3. That the contents of para No. 3 of the application are denied for want of knowledge. It is submitted that the Forest Department is not responsible for taking any action in case the alleged fruit bearing green trees are being cut as there is no requirement of taking any permission from the answering respondents No. 9 & 14 prior to the removal of such trees. Besides, the submissions made in para 6 & 7 above of the preliminary submissions are also reiterated herein to avoid repetition.
4. That the contents of para No. 4 of the application are denied for want of knowledge. The applicant has failed to annexed a copy of authorisation letter whereby he has authorised Sh. Harinder Sharma, Resident of A-11/38, Sector-18, Rohini, New Delhi to file the present application on behalf of the applicant. Submissions made in para 4 to 7 above of the preliminary submissions are reiterated herein to avoid repetition.
- 5.1 That the contents of para No. 5.1 of the application to the extent the land falls in various Khsra Nos. of the Revenue Estate, Village GarhiKotah, Tehsil Raipurrani, District,

Panchkula and is recorded as Bagh in Jamabandi Register are matter of record. Similarly, the contents regarding respondents No. 9 to 14 are matter of record. Rest of the contents are denied for want of knowledge. It is further submitted that the Forest Department is concerned with the protection of environment only for the area under their jurisdiction and authority. The land comprised in Khasra Nos. 32/26/4, 32/26/3, 32/9, 32/10, 32/11, 32/12, 32/19, 32/21, 32/22 and 32/24 at village GhariKotah, Tehsil Raipur Rani, District Panchkula does not fall within their jurisdiction and therefore, the Forest Department cannot take any action in case the green trees were removed from the private land by the respondent No. 1 to 6. The area of the village GhariKotah falls within the jurisdiction of Gram Panchayat and is governed by the provisions of the order dated 27 August 2023, issued under endorsement dated 05 September 2023 by the Forest Department, Haryana regulating the felling/cutting of trees.

- 5.2 That the contents of para No. 5.2 of the application are denied for want of knowledge. Submissions made in para 4 to 7 above of the preliminary submission are reiterated herein to avoid repetition.
- 5.3 That the contents of para No. 5.3 of the application are matter of record and thus, call for no reply. However it is submitted that in response to the application under Right

to Information Act, the specific reply has been forwarded to Sh. Manish Mishra counsel for the applicant vide letter dated 03 October 2023, stating that the land comprised in Khasra Nos. 32/26/4, 32/26/3, 32/9, 32/10, 32/11, 32/12, 32/19, 32/21, 32/22 and 32/24 at village GhariKotah, Tehsil Raipur Rani, District Panchkula does not fall within the area of the operation of notification under section 4 of the Punjab Land Preservation Act and therefore, there is no requirement to take any permission from the Forest Department for cutting/felling of trees. As already explained in para 7 above of the preliminary submissions the Development & Panchayats Department has issued order dated 27 August 2023 issued under endorsement dated 05 September 2023 regulating the felling/cutting of trees within the area falling under the jurisdiction of Gram Panchayat concerned.

- 5.4 That in reply to the contents of para No. 5.4 of the application it is again submitted that since the land in question does not fall within the area specified under section 4 of Act, 1900 as per the notification issued by State Government, therefore there is no requirement for obtaining NOC/permission from the Forest Department for cutting down green trees on the land owned by private individuals. The counsel for the applicant has been informed repeatedly that the land does not fall within the

purview of section 4 notifications under the Act, 1900 therefore, no action is required to be taken by the Forest Department to take action in the matter. Submissions made in para 4 to 7 above of the preliminary submission are reiterated herein to avoid repetition.

5.5 That in reply to the contents of para No. 5.5 of the application, it is submitted that the Forest Department tried their level best to respond each and every letter addressed to its officers and it has been conveyed to the applicant/his counsel in clear terms that once the land is situated out of the preview and jurisdiction of section 4 notification under the Act, 1900 therefore, the Forest Department could not take any action against the cutting down of green trees situated on the private land of the individuals. Submissions made in para 4 to 7 above of the preliminary submission are reiterated herein to avoid repetition.

6. That in reply to the contents of para 6 of the application, it is submitted that the submissions made in para 4 to 7 above of the preliminary submissions and the contents of the reply on merits above are reiterated herein to avoid repetition.

Apart therefrom it is pertinent to mention here that in compliance of order dated 01 July 2022 passed in O.A. No. 374 of 2022 titled as Green Earth Vs. Deputy

Commissioner, Kurukshetra and others, the Development and Panchayat Department, Haryana has issued order dated 27 August 2023, whereby mechanism for felling of trees in private lands within the rural areas (of village). Further, in case the land falls under the jurisdiction of Forest Department, the felling of trees is regulated as mentioned in foregoing paras. The area of the village GhariKotah falls within the jurisdiction of Gram Panchayats and the Development & Panchayats Department has issued order dated 05 September 2023 regulating the felling/cutting of trees in the department.

7.1 That the contents of para 7.1 need no reply being legal in nature.

In view of the above made submissions, the present O.A. is devoid of any merits and deserves dismissal. It is, therefore, respectfully prayed that the present original application may kindly be dismissed.

PLACE: CHANDIGARH:
DATED: 06.11.2023

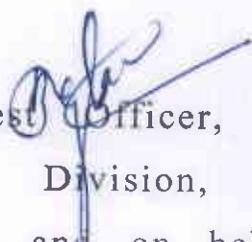
Divisional Forest Officer, Morni-
Pinjore Forest Division, Pinjore
(Panchkula) for and on behalf of
respondent No. 9, 13 and 14.

VERIFICATION:-

Verified that the contents of paras No.1 to 9 of the preliminary objections and that of paras No.1 to 7 of the reply

on merit of the above written statement are true and correct to my knowledge based on the information derived from office record. No part of it is false and nothing has been concealed therein.

PLACE: CHANDIGARH :
DATED: 06.11.2023


Divisional Forest Officer, Morni-
Pinjore Forest Division, Pinjore
(Panchkula) for and on behalf of
respondent No. 9, 13 and 14.

HARYANA GOVT GAZ. (EXTRA.), NOV. 28, 1997
(AGIN. 7, 1919 SAKA)

1565 - 36

[Authorised English Translation]

HARYANA GOVERNMENT
FOREST DEPARTMENT

Order

The 28th November, 1997

No. S.O. 121/P.A. 2/1900/S.4/97.—Whereas, the Governor of Haryana is satisfied, after due enquiry, that the regulations, restrictions and prohibitions hereinafter contained are necessary for the purpose of giving effect to the Punjab Land Preservation Act, 1900.

Now, therefore in exercise of the powers conferred by section 4 of the said Act, and in suppression of Haryana Government, Forest Department Order No. S. O. 130/P.A. 2/1500/S. 4/1995, dated the 16th November, 1995, the Governor of Haryana hereby prohibits the following acts for a period of fifteen years with effect from the date of publication of this order in the Official Gazette, in the areas more particularly specified in the Schedule given below, which has been notified under section 3 of the said Act,—*vide* Haryana Government, Forest Department, Notification No. S.O. 113/P.A. 2/1900/S. 3/97, dated the 17th November, 1997 :—

(a) The cutting of trees or timber except Eucalyptus and Poplar or the collection or removal or subjection to any manufacturing process, of any forest produce other than flower, fruit and honey, save for *bona fide* domestic or agricultural purposes or for purpose of the rightholders in the land, provided that the owners of the land may sell trees or timber after obtaining a permit to do so from the Divisional Forest Officer, of the concerned division, such permit will prescribe such conditions for sale as may from time to time appear necessary in the interest of forest conservancy. In notified areas of Panchkula District, Ambala District and Yamuna Nagar District of the State of Haryana, specified in the below mentioned Schedule, Khair trees (*Acacia Catechu*) shall be purchased solely by Haryana Forest Development Corporation Limited at the prices fixed by the Board of Directors of the Haryana Forest Development Corporation Limited.

SCHEDULE

District	Tehsil	Villages
Panchkula	Kalka	Areas lying on North side of metalled & unmetalled road connecting Chandigarh, Panchkula, Ramgarh, Raipur Rani, Naraingarh, Sadhaura, Bilaspur, Chhaehtrauli, Dadupur and reaching Jemuna river near villages Nathanpur and Lakur.
Ambala	Naraingarh	
Yamuna Nagar	Jagadhri	


Divisional Forest Officer
Morni-Pinjore Forest Officer
Pinjore

1566

HARYANA GOVT. GAZ. (G.O. No. 23)
(G.O. No. 23)

District	Tehsil	Villages
Faridabad	Ballabgarh	Areas lying on western side of Delhi-Ballabgarh road and northern side of Ballabgarh-Sohna road.
Gurgaon	Nuh	Areas lying on western side of Delhi-Alwar road.
	Ferozpur Jhirka	All revenue estates of Ferozpur Jhirka Tehsil.
	Gurgaon	All revenue estates of Gurgaon Tehsil.
	Sohna	All revenue estates of Sohnā Tehsil.
	Pataudi	All revenue estates of Pataudi Tehsil.
Mohindergarh	Narnaul	All revenue estates of Narnaul Tehsil.
	Mohindergarh	All revenue estates of Mohindergarh Tehsil.
Rewari	Rewari	All revenue estates of Rewari Tehsil.
	Bawal	All revenue estates of Bawal Tehsil.
	Kosli	All revenue estates of Kosli Tehsil.
Bhiwani	Dadri Bhiwani Loharu	Areas lying on western side of Dadri, Bhiwani, Tosham & Hisar road.

S. K. MAHESHWARI,

Commissioner and Secretary in Government, Haryana,
Forest Department.

Boyer
Divisional Forest Officer
Morni-Pinjora Forest Offices
Pinjora



110

Annexure 12-14/2 18

FOREST DEPARTMENT HARYANA GOVERNMENT
Office:- Divisional Forest Officer,
Morni-Pinjore Forest Division, Pinjore
Forest Complex Pinjore, Telephone / Fax
No. 01733-230537

Registered

Serial Number:- 7953 Date:- 03-10-2013

To,

Shri Manish Mishra Office
Address-18, LGF, Jangpura
Extension Market, New Delhi-
110014

**Subject:- Application for providing
Information under RTI Act,
2005 sought by applicant Sh.
Manish Mishra**

**Reference:- letter number RTI-4227/1036
dated 31.08.2023 issued by
State Public Information
Officer, Office of Principal
Chief Conservator of Forests,
Haryana, Panchkula**

The RTI information sought by you
regarding the above subject is hereby
sent point wise as follows:-



1. Whether any permission/NOC has been issued with respect to felling of green trees standing on land parcel comprising of area around 21 acres bearing Khasra Nos. 32/26/4, 32/26/3, 32/9, 32/10, 32/11, 32/12, 32/19, 32/21. 32/22 and 32/24 at village Ghari, Tehsil Raipur Rani, Distt: Panchkula, Haryana- 134204.

Ans. With regard to the above mentioned information it has been informed by the Range Forest Officer, Raipur Rani vide its letter No. 639 dated 12.09.2023 that the area from here the trees has been removed is situated outside the Notification Under Section 4 of the Punjab Land Preservation Act, 1900 and there is no requirement to get permission from forest department for cutting down the trees. A copy of the Notification issued by the Government is attached.

Sd/-

State Public Information Officer
and Divisional Forest
Officer Morni-Pinjore



A copy is forwarded to the State Public Information Officer Office, Principal Chief Conservator of Forests, Haryana, Panchkula for information and necessary action with reference to their letter number RTI-4227/1036 dated 31.08.2023.

Sd/-

State Public Information Officer
and Divisional Forest
Officer Morni-Pinjore

CERTIFIED TO BE TRUE TRANSLATION

DFO, Morni-Pinjore (Panchkula)


Divisional Forest Officer
Morni-Pinjore Forest Officer
Pinjore

ORDER

Development of Social Forestry is one of the duties of a Gram Panchayat as provided in Section 21(V) of the Haryana Panchayati Raj Act, 1994. Gram Panchayats are required to promote and develop social forestry within their jurisdiction. To regulate the cutting of trees on private land in such areas, it has been decided by State Government that the Gram Panchayat may allow cutting of trees on private land only in the manner prescribed hereinafter.

The applicant may submit an application to the Gram Panchayat or Gram Sachiv for cutting of tree. The Sarpanch shall immediately get the preliminary inspection done. In case the proposal is not found to be justified, the same is to be rejected at this level itself and if it is found to be a fit case or if it falls within the categories of trees detailed below, it shall be considered and decided by the Gram Panchayat. The Gram Panchayat shall be competent to approve the cutting of such tree. The entire process shall be completed within 10 days:-

- a. Diseased (name of disease and extent) Tree.
- b. Dead / dry Tree.
- c. Road blockage and constitutes obstruction to traffic.
- d. Leaning and posing danger to life or property.
- e. Over mature (if estimated age is beyond tree rotation period).
- f. Critical root zone is covered with concrete (root asphyxiation)
- g. Hollowness in Tree
- h. Lacks mechanical strength
- i. Decay in the main trunk due to fungi.
- j. Termite infestation in tree.
- k. Silviculturally mature trees.
- l. Uneven canopy weights.
- m. Suitable for transplantation.
- n. Threatens life or property or effects public safety.

In case the tree does not fall in any of the above mentioned categories, the Gram Panchayat will have to seek the opinion of the Biodiversity Management Committee (BMC) constituted at the Panchayat level on the ecological value of the tree before allowing its cutting. If required a joint inspection can be done by the Gram Panchayat and the BMC. On the basis of joint inspection report, the Gram Panchayat shall consider and may allow the request of the applicant for cutting of tree subject to the conditions that the person on whose land the tree stands, shall commit to plant atleast 3 trees of the indigenous species / variety and also protect and ensure their conservation for atleast 3 years. In case the request of the applicant is rejected by the Gram Panchayat, the applicant may approach the BDPD concerned.

Permission for felling of trees within the jurisdiction of the Forest Department shall be given exclusively by the Forest Department only.

Chandigarh
Dated: 27.08.2023

Anil Malik, IAS
Additional Chief Secretary Government of Haryana
Development & Panchayats Department, Chandigarh
dated: 3/9/23

Encls. No. GA-2/2023/ 97615-874

- A copy of the above is forwarded to the following for information and necessary action:
1. The Additional Chief Secretary, Govt. of Haryana, Environment, Forest and Wildlife Department.
 2. The Principal Chief Conservator of Forest (HoFF), Haryana, Panchkula.
 3. All the Deputy Commissioners, Haryana.
 4. All the Chief Executive Officers, Zila Parishad, Haryana.
 5. All the District Development and Panchayat Officers, Haryana.
 6. All the Block Development and Panchayat Officers, Haryana.
 7. All the Sarpanch in the State Haryana.
 8. All Gram Sachiv in the State Haryana.

Bully
Deputy Superintendent (General)
Additional Chief Secretary Government of Haryana
Development & Panchayats Department, Chandigarh


Morni-Pinjore Forest Officer
Pinjore