

**BEFORE THE NATIONAL GREEN TRIBUNAL**  
**WESTERN ZONE BENCH AT PUNE**  
**ORIGINAL APPLICATION NO. 92 OF 2019**

**IN THE MATTER OF:**

**DETHADIYA RAJENDRA KHODABHAI**

**... APPLICANT**

**VERSUS**

**UNION OF INDIA AND & ORS.**

**...RESPONDENTS**

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**THROUGH**

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**Place:** New Delhi

**Dated:** 25/09/2020

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**MOST RESPECTFULLY SHOWETH:**

1. That the applicant had filed the present Original Application for the protecting and preservation of vultures within the Girnar Wildlife Sanctuary with the following prayers:

*"a. Direct the Respondents to ensure compliance of condition nos. (i) and (ii) of the environment clearance dated 9.09.2016 before the Ropeway is made functional;*

*b. Direct the Respondents to initiate an inquiry into this lapse and direct payment of environment compensation by the Project Proponent and the officers responsible;*

***c. Direct that further measures be taken by the Forest Department, Junagadh to preserve the wild habitat of vultures within the Girnar Wildlife Sanctuary;***

*d. Pass any other orders as the Hon'ble Tribunal may deem fit and proper in facts and circumstances of the case."*

***(emphasis supplied)***

2. That at the outset it is submitted that the claim of Respondent No. 1, MoEFCC that this is a challenge to the Environment Clearance granted for the project is patently incorrect and false. The Ld. Tribunal has both Original Jurisdiction and Appellate Jurisdiction, and the Appeal to an EC under Section 16 is completely separate from a violation of the conditions of the EC filed under Sections 14 and 15. Further, even if the challenge to the Environment Clearance granted is dismissed by the Hon'ble High Court of Gujarat, it will not affect the jurisdiction of this Hon'ble Tribunal to consider the present matter on merits.
3. That it is also submitted that the Applicant had also sought *"for further measures be taken by the Forest Department, Junagadh to preserve the wild*

*habitat of vultures within the Girnar Wildlife Sanctuary*" which is within the jurisdiction of the Hon'ble Tribunal under Sections 15 and 20 of the NGT Act, 2010.

4. The Applicant had submitted that the Project Proponent i.e. Respondent No. 8 was violating conditions of the Environment Clearance dated 9.09.2016 granted for the 'Udankhatola' ropeway being set up within the Girnar Wildlife Sanctuary, Gujarat. The Ropeway is cutting across the only existing Vulture Breeding colony in Kathiyawad, Saurashtra and one of the last in India. Because of the sensitivity of the region, certain mitigation measures were proposed to reduce the impact of the project on the nesting sites.
5. That the Applicant submitted that condition nos. (i) and (ii) of the Environment Clearance proposed to mitigate the impact on the vulture colony had not been complied with namely:

*"(i) The height of the 9<sup>th</sup> and 10<sup>th</sup> tower will be increased to avoid disturbance to the vulture resting sites located in this area.*

*(ii) A cafeteria for vultures will be constructed at an appropriate location, to be decided in consultation with the experts, to provide for supplemental food to the vultures apart from attempting to divert the movement of vultures from the ropeway."*

6. That the Applicant had also submitted that these mitigation measures were essential to prevent the destruction of the nesting sites of the vulture colony. One Ms. Perna Bindra had also opposed this project when it was granted wildlife clearance as it could lead to the extinction of the long-billed vulture:

*"The ropeway will pass through a known breeding site of the long billed vulture (69 vultures in 2010, an increase from the last count of 41, suggesting an increase in numbers, as against a massive decline in the state, and indeed India.) The report by Shri Divyabhanusinh and Dr Nita Shah placed before the committee on January 24th clearly states that the ropeway, if constructed, would lead to the local extinction of the long-billed vulture Gyps indicus in North Gujarat. **The critically endangered long billed vulture has seen a collapse of nearly 99% of its population, and is categorised as Critically Endangered. Ironically, the vulture is part of MoEF's species recovery programme.** I record my dissent on the committee's decision to clear the above proposal."*

**(emphasis supplied)**

Thus, the area was clearly ecologically sensitive and was required to be preserved for the nesting vultures and also to ensure that the least impact of the project is felt by the species.

7. That the Applicant had also submitted that as per the National Action Plan for conservation of vultures (**Annexure A-3 of the Original Application**) prepared by the Ministry of Environment, Forests and Climate Change, State Governments have to monitor populations in the wild and conduct population surveys to ensure that the nesting and survival of the vultures continues, further the State of Gujarat was identified as one of the States to undertake these measures:

*"1. All States have been advised to set up State level Committees to continuously monitor the vulture population and conservation efforts. These State level committees would periodically report to the National Level Vulture Conservation Advisory and Steering Committee. A set up exists informally, but it is proposed to set up a formal multi agency national committee with a mandate for working out strategies for vulture conservation by identifying priority areas for focus for the future.*

***2. Conduct population surveys (nesting, recruitment, survival) and review them periodically till self sustaining populations are established. All Chief Wildlife Wardens have been directed to carry out systematic and continuous evaluation of the population of the status of vultures in their States. Some of the States where surveys have already been conducted include Assam, West Bengal, Madhya Pradesh, Himachal Pradesh, Gujarat, Rajasthan, Uttaranchal and Uttar Pradesh. National level surveys have been carried out by BNHS. The MoEF in collaboration with GEER Foundation, Gujarat is to take up a project for survey of the vulture population in Gujarat.***

***3. The population estimation studies together with studies on the ranging patterns, foraging movements and identification and protection of the existing colonies of the three species of vultures to ensure breeding success in the wild that are being conducted by the State governments have to be collated on a periodic basis."***

8. That based on these submissions, this Hon'ble Tribunal by order dated 19.12.2019 sought a report from the State Pollution Control Board and the PCCF Wildlife.
9. Thereafter the Report was submitted and it states that all the conditions of the Environment Clearance are being complied and monitored i.e. the height of the

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towers of the Ropeway were increased and the vulture cafeteria was set up at Barbara Vidi. Further the report also states that the *"facility may be modified, if needed, in the future for any facilitation to the vultures that may utilise the cafeteria"*.

10. That the Applicant filed a response to this Report raising the following issues:

- a) That the cafeteria in question has been built 40 kilometres away from the Ropeway site, and by a visual estimation, the vulture nests have reduced dramatically since the construction of the ropeway by almost 60%;
- b) That the Report does not give any scientific reason for the selection of the site, merely that the Monitoring Committee found the same as *"satisfactory"*;
- c) That the purpose of the mitigation measure i.e. the creation of the vulture canteen is not being served as the population of vultures within the area has been reducing dramatically due to the construction of the ropeway;
- d) Thus, further mitigation measures should be imposed for the protection of the vulture nesting sites and population as per the National Action Plan (2016).

11. That the Applicant is thus, seeking further measures to protect the vultures as per prayer 'c' of the Original Application and direct the State of Gujarat to follow the National Action Plan, 2016 and orders be passed by this Hon'ble Tribunal accordingly.

**THROUGH**

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